

STANDARD TERMS AND CONDITIONS
OF DEN ENGINEERING (PTY) LTD

1. QUOTATIONS

- 1.1. Quotations shall be valid only if given in writing.
- 1.2. All quotations shall hold good for a period of 30 days from the date thereof.
- 1.3. A binding contract will come into existence immediately upon acceptance by the customer of this quotation.
- 1.4. Quotations are based on the currency exchange rates and government levies and taxes prevailing at the date of the quotation. (Subject to specific details in quotations on imported goods)
- 1.5. If after the date of quotation:
 - 1.5.1. There is a change in the relevant foreign currency exchange rates; or
 - 1.5.2. The government levies or taxes are increased or new taxes are imposed; which has the effect of increasing the cost to the Company of manufacturing the equipment then the Company shall be entitled to adjust the prices of the equipment to recover such additional costs.
 - 1.5.3. This does not apply to items that have already been ordered.
- 1.6. Unless otherwise stated all prices quoted are ex factory, un-crated.

2. PAYMENT

- 2.1. Unless otherwise specifically agreed to by the Company in writing, all sums shall be paid to the Company within 30 days of date of first statement. Payment may not be withheld or deferred on account of any counter-claim or set off.
- 2.2. Any amount not paid on due date, shall at the discretion of the Company, bear interest from due date until payment thereof in full at a rate 3 per cent per annum above the prime overdraft rate charged from time to time by Nedbank, a division of Nedcor Bank Ltd, Registration Number 51/00009/06.

3. WARRANTY

3.1. Component Manufacture

- 3.1.1. Provided the customer has, in writing, prior to the date of relevant quotation, furnished the Company with:
 - 3.1.1.1. Material specifications;
 - 3.1.1.2. Component sizes and tolerance specifications;
 - 3.1.1.3. Details of where and how the component is to be used;
 - 3.1.1.4. Any other information which is relevant to how the component is to be manufactured; the Company warrants that all components manufactures or supplied by it will, under normal use and service, remain free from defects arising from faulty workmanship for a period of one month from date of delivery.
- 3.1.2. Subject to the proviso contained in 3.1.1. the Company will make good by repair or, at its discretion, by replacement, defects other than as relate to the materials, which under proper use appear in such components within a period of one month after delivery and which arise solely from faulty workmanship, provided the defective components have been returned to the Company, if it so requires.

3.2. Equipment Manufacture

- 3.2.1. The Company warrants that the mechanical parts contained in the equipment manufactured by it will under normal use and service remain free from defects of design and workmanship for a period of 3 months from the date of delivery.
- 3.2.2. The Company will, therefore at its option, repair or replace any mechanical part in the equipment which under normal use and service proves to be defective provided the defect arises solely as a result of faulty workmanship and/or design. The Company's liability shall not extend to any labour costs involved in the removal and replacement of the defective parts or costs of collection from or delivery to the customer.
- 3.2.3. The Company's liability under this warranty shall be dependent upon: -
 - 3.2.3.1. The equipment having been maintained and serviced in accordance with Company's applicable service specifications;
 - 3.2.3.2. The equipment having been operated on a single shaft basis in a normal workshop environment;
 - 3.2.3.3. The equipment not having been altered or modified in any way;
 - 3.2.3.4. The equipment not having been damaged as a result of neglect accident or improper use;
 - 3.2.3.5. The defective part being returned to the Company, if it so requires.
- 3.3. Any goods, machinery and or components supplied but not manufactured by Den Engineering (Pty) Ltd, will be covered by the warranty (if any) of the original manufacturer.
 - 3.3.1. Den Engineering (Pty) Ltd. undertakes to give all reasonable assistance to the purchaser to resolve any issues concerned with the product supplied. Subject to the following: -
 - 3.3.2. The company must be advised of the problem in writing.
 - 3.3.3. The company reserves the right to charge the purchaser for any costs incurred in determining the cause of the problem.
 - 3.3.4. The company reserves the right to charge the purchaser for any work done in order to rectify the problem.
 - 3.3.5. These costs will be claimed from the original supplier and the purchaser compensated if the original supplier reimburses all or any of these costs but not otherwise.
- 3.4. It is the responsibility of the purchaser to provide all details of the problem, and any documentary proof as per 3.2.3.1, 3.2.3.2, 3.2.3.3, and 3.2.3.4. This must be done in writing, without cost to the company.

4. **SCOPE OF CONDITIONS**

These conditions shall govern all business dealings by the Company whether in respect of advice given, services rendered or goods manufactured, repaired or supplied and each condition deemed to be incorporated in any agreement between the Company and its customer.

5. **LIMITATION OF LIABILITY**

- 5.1. Subject to the provisions of 3 above, neither the Company nor any of the Company's suppliers, associate companies, officers, employees, or agents shall be liable for any loss or damage whether direct, indirect, consequential or otherwise, suffered by the customer as a result of any cause arising in connection with any business as contemplated in 4 above (including without limitations, late delivery for whatever reason and any cause arising from anything done or not done pursuant to the contract) whether such loss or damage results from breach of contract (whether fundamental/ material or otherwise) delict, negligence or any other cause without limitation.
- 5.2. If a customer sells, leases or disposes of any equipment supplied to it by the Company or in respect of which the Company has undertaken any business as contemplated in 4 above to a third party, or otherwise permits a third party to use such equipment, the customer shall include in the customer's agreement with the third party a provision in terms of which the third party grants similar protection to the Company and the Company's suppliers, associate companies, officers, employees and agents and is entitled to no more in the form of guarantees or warranties other than as provided any the Company in terms thereof.

6. **RISK**

- 6.1. Where a customer collects equipment from the Company's premises risk in the equipment shall pass to that customer immediately the equipment is delivered to him. The signature of the employee shall be prima facie proof of delivery.
- 6.2. Where delivery is made by means of the Company's transport, then in such event risk in the equipment whilst in the Company's vehicle and whilst in transit shall remain with the Company until the equipment in question is delivered to the customer.
- 6.3. When a delivery is made by the Company to the customer through the medium of the South African Railways or any other carrier, then and in such event all risk in and to the equipment in question shall pass to the customer against delivery of the equipment by the Company to the South African Railways or such other carrier at the point of delivery by the Company.

7. **DELIVERY**

- 7.1. Subject to 7.2, the Company will make all reasonable efforts to deliver the equipment by the delivery dates recorded in any quotation.
- 7.2. Each delivery date recorded in quotation is approximate only and is not to be construed as a material term. The customer shall not be entitled to cancel this contract or refuse to accept delivery because delivery dates have not been met.
- 7.3. If delivery is to be made by installments then:
 - 7.3.1. Each installment shall constitute a separate contract; and
 - 7.3.2. The Company shall be entitled to withhold delivery of any undelivered installments until monies payable for delivered installments have been paid.

8. **OWNERSHIP**

The ownership of all plans, diagrams, jigs, tools and templates and patterns prepared by or on the instructions of the Company and all copyright or patents therein, whether registrable or not, shall remain vested in the Company and no copies of any of these items shall be made without the Company's prior written consent.

9. **MISCELLANEOUS**

- 9.1. The agreement wherever made shall be governed and construed according to the Laws of the Republic of South Africa.
- 9.2. In the event of the Company deciding to institute legal action for the enforcement of any of its rights against a customer, the customer consents to the jurisdiction of the Supreme Court of Southern Africa (Cape Town Division).
- 9.3. Notwithstanding the provisions of 9.2, the Company shall be entitled to institute proceedings against the customer in the Magistrates Court which would, but for the amount involved, have jurisdiction.
- 9.4. All equipment sold in terms of this quotation remains the property of the Company until paid for in full and until such time may not be alienated, pledged or hypothecated in any way.
- 9.5. No agent or employee of the Company, other than the Directors, has the Company's authority to alter or vary these conditions by an undertaking or promise given before or after receipt of these conditions.
- 9.6. No agreement varying, adding to, deleting from or canceling any of these conditions and no waiver of any rights under these conditions, shall be effective unless reduced to writing and signed by one of the Directors of the Company.
- 9.7. Any complaint regarding equipment delivered by the Company to a customer must be communicated to the Company in writing within 10 (ten) days of the date reflected on the Company's delivery note.
- 9.8. If any debt owed to the Company becomes overdue and is handed to the attorneys for collection the customer agrees to bear all the legal costs incurred including the collection commission on the attorney's own client scale.