

## Terms and Conditions of Sale

Revision: October 2018

SMF-33b

Except as otherwise agreed in writing, all transactions, quotations, tenders, offers and contracts (whether written or oral) for the supply of the products (standard and customised) by the Company to the Applicant, should be subject to these standard terms and conditions of sale.

### 1. DEFINITIONS:

Unless clearly inconsistent with the content, the following words, shall bear the following meaning:

- 1.1 "Agreement" means this Agreement, together with any quotation and/or invoice provided by the Company to the Applicant.
- 1.2 "Applicant" or "Customer" means the Purchaser of the products from the Company.
- 1.3 "Company" means Hutz Hospi-tec (Pty) Ltd.
- 1.4 "Consumer" means a person defined as such in terms of Section 1 of the CPA.
- 1.5 "CPA" means the Consumer Protection Act 68 of 2008 and any regulations and guidelines published in terms of the Act.
- 1.6 "Products" means the goods, products and services of the Company as indicated on any Company forms, price lists, quotations, orders or invoices, including the documents of any of the transport agents of the Company
- 1.7 "Customised products" means products that are not carried as standard inventory items, and have been customised in accordance with Customer requirements and/or specifications.
- 1.8 "Standard products" means products that are produced or carried as standard inventory items by the Company.
- 1.9 "CGIC" means Credit Guarantee Insurance Company;
- 1.10 "Haylett Formula" – a composite index of labour, materials, plant and fuel. It represents the input costs of building contractors, but does not include contractors' profit margins.
- 1.11 "Incoterms" means the International Commercial Terms 2010 as created by the International Chamber of Commerce for use in sale contracts.
- 1.12 "Ex works" means 'named place of delivery', in this case the Seller's warehouse on the Seller's premises.
- 1.13 "CIP" means Carriage and Insurance Paid by Seller for delivery of the goods to an agreed place of destination.
- 1.14 "CIF" means Cost, Insurance and Freight paid by the Seller for delivery of the goods to an agreed port of destination (Sea freight).
- 1.15 "FOB" means Free On Board, goods to be delivered to named port of shipment, in this case means Port Elizabeth – South Africa
- 1.16 "Installation" means the fixing/mounting of the unit in position, ready for connection by another to the gas / vacuum / scavenging, electrical, nurse call, telephone and data services.

### 2 INTERPRETATION:

Unless the context otherwise requires, words importing the singular shall include the plural and vice versa (the other way around), a natural person shall include a juristic person and vice versa (the other way around) and one gender shall include the other gender.

### 3 APPLICABLE LAW:

This agreement and all modifications and amendments to this agreement shall be governed by and construed under and in accordance with the laws of the Republic of South Africa.

### 4 DOMICILIUM:

The Applicant chooses its *domicilium citandi et executandi* (place of notice) for all purposes arising out of these terms and conditions of sale and application for trade facilities at its registered company address or office.

### 5 CHANGE OF ADDRESS AND EMAIL ADDRESS:

- 5.1. The Applicant undertakes to notify the Company immediately in writing of any change of address.
- 5.2. The Applicant undertakes to notify the Company immediately in writing of any change of email address.
- 5.3. The parties agree that they will accept service of all process, notices, documents, monthly statements and invoices at the email address, and/or registered address, and/or registered office as stipulated on page 1 of this application, and that the sending, by the Company, of all process, notices, documents, monthly statements and invoices to the Applicant's email address, and/or registered address and/or registered office, as provided above, shall be regarded as received by the Applicant, unless otherwise agreed in writing between the parties.

**6 CHANGE OF OWNERSHIP IN THE APPLICANT:**

The Applicant undertakes to notify the Company, in writing, within 7 (seven) days of any change of ownership of the Applicant. The Applicant acknowledges that upon any change of ownership in the Applicant any outstanding amount whether due or not shall be deemed to be immediately payable by the Applicant to the Company.

**7 OWNERSHIP OF GOODS:**

Until such time as the Applicant has paid the purchase price in full in respect of any purchase of goods from the Company, the ownership of all such goods shall irrevocably remain with the Company. Subject to any applicable law, the Company shall in its sole discretion without notice to the Applicant be entitled to take possession of any such goods (wherever they may be found) which have not been paid for, in which event the Applicant shall be entitled to a credit in respect of the goods so returned at the price at which the goods are sold or the value of the goods as determined by the Company. The Applicant indemnifies the Company in respect of any claim against the Company arising from this clause. In the event that the Company exercises its rights in terms of this clause, the Applicant authorises the Company to seize and remove any such goods which have not been paid for from any location.

**8 ORDERS:**

8.1 Subject to any applicable law, in the event of any order being given to the Company on an order form reflecting the Applicant's name as the entity from which the order arises, such order shall be deemed to have emanated from the Applicant, despite the fact that such order may have been given or signed by a person not authorised by the Applicant and such order will be deemed to constitute a valid order.

8.2 Order confirmation documentation will be e-mailed to customers on receipt of order. These must be completed, signed and returned as soon as possible.

**9 DELIVERY OF GOODS:**

9.1 The Company will make every reasonable endeavour to ensure timeous delivery of the goods on the terms and conditions agreed between the Applicant and the Company. The Company shall not be liable for late deliveries due to circumstances which are beyond the Company's control such as, but not limited to, the events set out in clause 31.

9.2 Signature by the Applicant or by any representative of the Applicant of the Company's delivery note, shall be regarded as acceptance by the Applicant that the goods reflected in such delivery note have been properly and completely delivered.

9.3 Delivery dates are usually 6-8 weeks from receipt of the Customer's Order Confirmation, and is subject to the receipt of approved drawings and financial approval, where applicable.

9.4 Should the Customer require goods with a shorter lead time than that stated in 9.3 above, an additional charge may apply

9.5 Claims for transit damage must be in writing within 3 days from receipt.

9.6 The customer is responsible for receiving and signing for all goods sent to site.

**9.7 Goods will be insured against transit damage in line with shipping terms and defined per Incoterms 2010, viz a viz:**

(a) Ex Works – Seller's responsibility: None; Buyer's responsibility: From collection at Seller's Warehouse to end destination; or

(b) CIP – Seller's responsibility: Insurance carried by Seller for delivery of the goods to an agreed place of destination, e.g. CIP Mombasa, or CIP OR Tambo Airport; Buyer's responsibility: From agreed place of destination to final destination; or

(c) CIF – Seller's responsibility: Insurance carried by the Seller until the goods have been offloaded from the vessel at the nominated destination port; Buyer's responsibility: To insure the goods from point of offloading from the vessel until final destination; or

(d) FOB – Seller's responsibility: To insure the goods until they cross the ship's rail of the vessel at the nominated local port; Buyer's responsibility: To insure the goods from point of offloading onto the vessel until final destination.

**10 RISK IN AND TO THE GOODS:**

The risk in and to the goods shall pass from the Company to the Applicant on the date of delivery to the Applicant (or its nominee) despite the fact that ownership will not pass to the Applicant until full payment of the purchase price has been made to the Company. Risks and rewards of ownership are as defined per Incoterms 2010.

**11 FAILURE TO OBJECT TO ANY ITEM APPEARING ON THE COMPANY'S STATEMENT:**

If the Applicant should fail to object to any item appearing on the Company's statement of account within 10 (ten) days of date of the dispatch of the statements, the account shall be deemed to be in order and correct in all respects.

**12 PAYMENTS:**

- 12.1 Unless otherwise agreed in writing, payment terms are strictly 30 (thirty) days from statement date. The Applicant as set out on the first page of this document may not withhold or defer payment to the Company for any reason whatsoever.
- 12.2 If the Applicant defaults in making payment of any amount that has become due, owing and payable to the Company, then the full balance outstanding (whether due or not) will immediately become due and payable to the Company without notice to the Applicant.
- 12.3 All amounts not paid by the Applicant in full on the due date for payment shall bear interest at the Prime Overdraft Rate plus 4% per annum.
- 12.4 The Company does not appoint the Post Office or any other body as its agent for payments by post or otherwise. All payments shall be transferred directly to the Company's nominated bank account.
- 12.5 It is the policy of the Company to insure all debt with Credit Guarantee Insurance Company (CGIC); all orders are accepted subject to this requirement. In the event of CGIC cover not being available it is the customer's responsibility to make alternate arrangements with the Company before production/delivery can be made. Such alternative arrangements will usually require advance payments but all options will be considered, e.g. cession of debt, personal sureties, etc.
- 12.6 The Company is required to advise CGIC of any overdue amounts in accordance with CGIC's insurance policy.
- 12.7 Pro forma invoices will be issued to facilitate payment in advance when necessary.

**13 PROOF OF AMOUNT DUE, OWING AND UNPAID TO THE COMPANY:**

A certificate signed by the Company secretary, any manager or any director of the Company reflecting the amount owing by the Applicant to the Company in relation to the Applicant's dealings with the Company and the fact that such amount is due, owing and unpaid shall be *prima facie* (on the face of it) proof of such facts for the purpose of any action (whether by way of provisional sentence or otherwise), proof of debt on insolvency or for any purpose where the amount of such claim is required to be established and it shall rest entirely with the Applicant to prove that such amount is not owing, due and/or unpaid.

**14 RETURN OF GOODS:**

- 14.1 In circumstances where the Applicant is entitled to return goods to the Company, the Applicant shall be obliged to furnish adequate proof of having purchased such goods from the Company as well as furnish adequate proof that the goods were returned to the Company.
- 14.2 Customized products are not returnable.
- 14.3A 10% handling charge will be levied on the return of all standard products.
- 14.4 In the event of an order cancellation, a penalty will be levied of 20% of the order value which is payable within 7 days of cancellation.

**15 CESSION OF COMPANY'S RIGHTS AND DELEGATION OF COMPANY'S OBLIGATIONS:**

The Company shall be entitled to cede all or any of its rights and delegate all or any of its obligations to any third party without prior notice to the Applicant at any time.

**16 NON WAIVER / NOVATION OF COMPANY'S RIGHTS:**

Any condonation of any breach of any of the provisions of these terms and conditions of sale or other act or relaxation, indulgence or grace on the part of the Company shall not in any way operate as or be deemed to be a waiver by the Company of any rights or be construed as a novation of any rights.

**17 WITHHOLDING OF TRADE FACILITIES & CANCELLATION OF AGREEMENT:**

Without notice to the Applicant, the Company shall be entitled to withhold any trade facilities at any time and cancel this agreement.

**18 WINDING UP OF APPLICANT:**

- 18.1 If the customer commits any breach of the contract or becomes insolvent or unable to pay its debt or commits any act of bankruptcy or (being a limited company) enters into liquidation other than a voluntary liquidation for the purpose of amalgamation or reconstruction only or has a receiver appointed to its undertaking or assets or a substantial part thereof, the Company may without notice suspend or determine the contract of the unfulfilled part thereof and stop any goods in transit, without prejudice to any other right of remedy which the Company may lawfully enforce or exercise.

18.2 Should the Applicant at any time be wound up, whether provisionally or finally, (which liquidation or sequestration, whether provisional or not, shall be deemed to be a material breach by the Applicant of this contract) or commence steps to enter into business rescue proceedings, or in the event of the Applicant being an individual or partnership and having his/its estate sequestered, whether provisionally or finally, any goods delivered by the Company to the Applicant and in respect of which payment has not been made at the date of the winding up or sequestration (whether payment in respect thereof be due or not) shall immediately be returned to and recoverable by the Company, wherever such goods may be found.

#### 19 CONVERSION OF APPLICANT:

The Applicant and any guarantor acknowledge that in the event of the Applicant being a sole proprietorship, partnership, or a close corporation and converting from a sole proprietorship, partnership, to a Company at any time, any guarantor or signatory of these terms and conditions of sale shall remain bound as a guarantor.

#### 20 CONSUMER PROTECTION ACT:

- 20.1 "CPA" means the Consumer Protection Act 68 of 2008 and any regulations or guidelines published in terms of the CPA.  
20.2 If any provisions of this agreement is contrary to or conflicting with the provisions of the CPA, such provision in this agreement shall be null and void to the extent that it is inconsistent with the provisions of the CPA.  
20.3 The remainder of this agreement shall remain enforceable.  
20.4 The CPA is only applicable in the Republic of South Africa.

#### 21 INDEMNITY:

The Applicant hereby indemnifies and holds the Company harmless from and against:

- 21.1 Any and all claims, actions, liabilities, damages, costs and expenses asserted against, imposed upon or incurred by the Company as a result of or arising out of any Harm alleged or proven by any Consumer or other person contemplated in section 4(1) of the CPA, to the extent such Harm was attributed to the gross negligence, negligence or intentional conduct of the Applicant;  
21.2 Any and all actions, liabilities, damages, costs and expenses asserted against, imposed upon or incurred by the Company as a result of or arising out of any claim made against the Company by a Consumer arising from the Applicant having supplied Goods to the Consumer in breach of the warranties in Section 55 and 56 of the CPA, unless such non-conformance existed at the time the Goods were supplied by the Company to the Applicant or was caused due to the gross negligent or intentional conduct on the part of the Company; and  
21.3 A failure by the Applicant to provide adequate instructions or warnings with the supply of Goods regarding any hazard arising from or associated with the use of Goods in accordance with the specifications of the Company.

#### 22 WARRANTY

Except to the extent otherwise provided for in terms of any Product Warranty (which can be obtained from [service@hutz.co.za](mailto:service@hutz.co.za)), this Clause by statute or the CPA, the Company:

- 22.1 Makes no representations whatsoever and gives no guarantees against latent or patent defects in the Goods. All conditions and warranties whatsoever in respect of the Goods flowing from common law, are excluded; and  
22.2 Shall not incur any liability, loss or damage to any person or property arising from the use of the Goods, unless due to the gross negligence or intentional conduct on the part of the Company.

Other than to the extent provided for in this Agreement and the CPA the Company:

- 22.3 Makes no representations whatsoever and gives no guarantees against latent or patent defects in the Goods. All conditions and warranties whatsoever in respect of the Goods, whether flowing from statute, the common law or otherwise, are excluded; and  
22.4 Shall not incur any liability or whatever nature for any injury, loss or damage to any person or property arising from the use of the Goods.

#### 23 JURISDICTION:

- 23.1 The parties consent to submit to the jurisdiction of any court of competent jurisdiction located in the Republic of South Africa, in any action proceeding arising out of or relating in any manner to this agreement. Despite any clause in these terms and conditions of sale to the contrary, despite any delivery to a place outside the Republic of South Africa, the Applicant consents to the jurisdiction of the appropriate Court of South Africa having jurisdiction over the Company's branch from which the goods were delivered to the Applicant. The provisions of this clause are inserted solely for the benefit of the Company who may exercise the provisions in its sole and absolute discretion.

23.2 Whatever the amount owing by the Applicant to the Company, the parties consent, in terms of section 45 of the Magistrates Court Act 32 of 1944, to the jurisdiction of the magistrate's court having jurisdiction for the determination of any action or proceeding otherwise beyond the jurisdiction of the court which may be brought by the Company against the Applicant arising out of any transaction between the parties, it being recorded that the Company shall be entitled, but not obliged, to bring any action or proceeding in any other Court.

#### 24 **ARBITRATION:**

The parties agree that the Company, in its sole and absolute discretion, may refer any dispute arising out of or relating in any manner to this agreement, including non-payment of any indebtedness by the Applicant, to arbitration in accordance with the Rules of the Arbitration Foundation of Southern Africa.

#### 25 **PRICING:**

25.1 Unless otherwise stated, prices are quoted in South African Rand and exclude VAT.

25.2 Prices include delivery to site within the borders of South Africa, and also to the capital cities of neighbouring countries (Botswana, Lesotho, Namibia, Swaziland) unless otherwise specified.

25.3 Prices are valid for 60 days from date of quote/tender; thereafter they are subject to escalation based on the Haylett Formula (work group 160).

25.4 Any deviation in the order from the quantities quoted may result in a revised quotation.

25.5 Any variations in the order from the product quoted will result in a revised quotation.

25.6 Imported product prices are linked to the Rate of Exchange at time of payment. Ruling rates at time of quotation will be specified; subsequent variations may be for the account of the purchaser.

#### 26 **EXPORTS:**

26.1 Pricing and delivery arrangements for all exports, excluding those to neighbouring countries (ref. clause 27.2 above) are prepared on an ad hoc basis.

26.2 Prices ex works are preferred, however FOB and CIF quotations are also offered.

26.3 All orders are subject to advance payment; production will only commence on receipt of funds.

26.4 Irrevocable Letters of Credit which are confirmed with the Standard Bank of South Africa are also acceptable from certain international destinations.

**26.5 All duties, VAT or other local taxes payable to the authorities in the international country will be for the Customer's account.**

#### 27 **INSTALLATION (I.E. MOUNTING OF THE UNIT READY FOR CONNECTION TO SERVICES BY ANOTHER PARTY, AND COMMISSIONING):**

27.1 Refer to the Annexure to the Terms and Conditions of Sale for full details and all requirements in respect of installation.

27.2 In line with International Standard for Medical Device Quality Management Systems ISO 13485, installation of the Company products should be the responsibility of an ISO 9001 or ISO 13485 certified organization. Therefore, it is strongly recommended that installation is performed by the Company, or their appointed subcontractors. The Company does not accept any responsibility for any problems as a result of incorrect installation by other parties.

27.3 In the event that installation is not performed by the Company, the installation is to be performed only by suitably competent persons, and according to the relevant Product Data Sheet (obtainable from the website [www.hutz.co.za](http://www.hutz.co.za) or [service@hutz.co.za](mailto:service@hutz.co.za)), the relevant Installation Manual (supplied with the product, and also obtainable from [service@hutz.co.za](mailto:service@hutz.co.za)), and the relevant building / construction regulations.

27.4 Due to the complexity and potential risks associated with **pendants** and **theatre lights**, installation by the Company technicians is mandatory.

27.5 Please refer to the Annexure to Quotation for details on the provision/installation of medical gas, nurse call, and telephone and data service.

#### 28 **STANDARDS:**

The Company's products are designed, manufactured and tested in accordance with the requirements of ISO 13485, relevant international and / or South African standards pertaining to medical devices, and the relevant requirements of EU Council Directive 93 for Medical Devices.

#### 29 **COSTS:**

All costs incurred in any action against the Applicant, including costs on an attorney and own client scale and attorney's collection commission, will be paid by the Applicant should the Company be successful in such action proceeding. The Applicant will reimburse the Company for all costs incurred in recovering any amount owing by the Applicant to the Company, including but not limited to its legal costs incurred in proceeding against the Applicant, howsoever those costs are incurred and whether they are incurred prior to the institution of action, after the entry of judgment or at any other time.



**30 FORCE MAJEURE:**

No failure by either party to perform in accordance with any provision of this agreement shall constitute a breach of this agreement if the failure arose as a result of *force majeure*, including acts of God, war, strike, sanctions or changes in laws, regulations, ordinances or the like made by any competent authority or other circumstances outside the control of the parties.

**31 SENSITIVE MATERIAL:**

Neither party shall be required to supply any material or information in violation of any law, regulation, ordinance or other official decree, if such supply or distribution can only be made with the approval of a governmental authority, without approval of that authority.

**32 TRUSTS:**

In the event that the Applicant is a validly constituted trust, the Applicant warrants, irrevocably, that it is entitled to enter into these terms and conditions of sale, and that such undertakings contained in these terms and conditions of sale are to the benefit of the trust, its beneficiaries and the trustees. The Applicant warrants that these terms and conditions of sale are to the Applicant's benefit and there are no encumbrances or hindrances to the conclusion of these terms and conditions of sale (incorporating the personal guarantee and trade facilities).

**33 CONSENT CLAUSE:**

33.1 The Applicant understands that the personal information given under these terms and conditions of sale is to be used by the Company for the purposes of assessing the Applicant's credit worthiness. The Applicant confirms that the information given by the Applicant is accurate and complete and further agrees to update the information supplied as and when necessary in order to ensure the accuracy of the information, failing which the Company will not be liable for any inaccuracies.

33.2 The Company has the Applicant's consent and authority at all times to contact and request information from any persons, credit bureaux or businesses to obtain any information relevant to the Applicant's credit assessment including, but not limited to, information regarding the amounts purchased from suppliers per month, length of time Applicant has dealt with such supplier, type of goods or services purchased and manner and time of payment.

33.3 The Applicant agrees that information given in confidence to the Company by a third party concerning the Applicant will not be disclosed to the Applicant.

33.4 The Applicant consents to and authorises the Company at all times to furnish personal and credit information concerning the Applicant's dealings with the Company to any credit bureaux and to any third party seeking a trade reference regarding the Applicant.

**34 SEVERABILITY:**

Each clause of these terms and conditions of sale is severable, the one from the other and if any one or more clauses are found to be invalid or unenforceable, that clause(s) shall not affect the balance of these terms and conditions of sale, which shall remain of full force and effect.

**35 ENTIRE AGREEMENT:**

35.1 These terms of trade facilities, personal guarantees, cession and terms and conditions of sale contain the entire agreement between the parties and any other terms whether express or implied are excluded from these terms and conditions of sale and any variations, cancellations or additions shall not be of any force or effect unless reduced to writing and signed by the parties or their duly authorised signatories.

35.2 Accordingly, these terms and conditions of sale shall not be capable of being altered, amended or modified in any respect unless signed by the Company and by the Applicant (as well as any guarantor(s)).

35.3 The Applicant acknowledges that no terms at variance with the terms and conditions of sale and which have been sought to be introduced by the Applicant at any time shall be of any force or effect unless the Company has, in writing, expressly and unambiguously agreed that the terms so sought to be introduced by the Applicant shall apply.

35.4 Without limiting the above, the Company shall not be regarded as having so expressly agreed by virtue merely of the Company having agreed to execute an order in which inconsistent terms have been introduced by the Applicant and despite the fact that the Company has not rejected such inconsistent terms.

35.5 Where any form of security has been furnished, at any time, to the Company on behalf of the Applicant (including but not limited to any Deed of Suretyship and / or Deed of Cession), the provisions of these terms and conditions of sale shall in no way whatsoever affect or diminish the Company's rights in and to such security.

## ANNEXURE TO THE TERMS AND CONDITIONS OF SALE

### a. MEDICAL GAS PROVISION:

- i. The price as stated in the quotation is for a cut-out and mounting brackets to suit the specified outlet (gas terminal unit). Any fixing screws for the outlet are not included.
- ii. At the time of tender the type of gas terminal unit might not be confirmed, price for provision only will not change but type needs to be confirmed prior to manufacturing.
- iii. To prevent any unnecessary delays please confirm this item on date of drawing approval. For non-South African standard gas terminal unit, please forward a sample unit on date of order, or confirm the type of gas terminal unit required.

### b. MEDICAL GAS INSTALLED:

- i. The price as stated is for the medical gas terminal unit and copper tubing to be installed in the service supply unit only. Should the service supply unit exceed permitted manufacturing length or length restrictions due to insufficient space to manoeuvre on site, units will have to be supplied in sections. Joining of the copper tubing is the responsibility of the nominated medical gas contractor and the Company cannot be held responsible for any costs occurred.
- ii. Service supply units which require a vertical service riser will only have medical gas terminal units and copper tubing installed in the horizontal section. Copper tubing and connection on the vertical supply riser is the responsibility of the nominated medical gas contractor.
- iii. All medical gas installations are factory pressure tested and supplied with pressurised lines. Test certificates are kept on record and are available on request.
- iv. Copper tubing will be identified with colour coded descriptive self-adhesive flow direction bands.

### c. MEDICAL GAS INSTALLED, WHERE SUPPLIED BY OTHERS:

- i. The price as stated is for the installation in the service supply unit only. Inclusive in this price are consumable items e.g.: gas for soldering, soldering rods, medical air for testing. All other materials for this installation e.g.: medical gas terminal unit/s, elbows/T-connectors, medical grade copper tubing, are to be a *free issue* to the Company.
- ii. At the time of tender the type of gas terminal unit may not be confirmed, price for *provision only* will not change but the type will need to be confirmed prior to manufacturing. To prevent any unnecessary delays, please confirm the gas terminal unit on date of drawing approval.

### d. NURSE CALL / TELEPHONE / DATA POINT INSTALLED:

- i. Nurse call, telephone, data points can be installed on request. Type and make will need to be specified prior to quotation. The Company only installs the unit in the service supply unit and connection to the reticulation is the responsibility of the nominated specialized contractor. The Company cannot be held responsible for any costs incurred therefor.
- ii. The factory fitted units are tested and a report is available on request. The installation is terminated at the service supply entry point.

### e. INSTALLATION OF SERVICE SUPPLY SYSTEMS:

- i. The installation cost as quoted includes:
  - Travelling, Accommodation and Installation

Should the site require unscheduled site visits from our installation team, the Company reserves the right to assess the additional costs incurred and receive compensation thereof if agreed by the parties.

The installation of service supply units does not include any civil activities or the connection of the medical gas, electrical, nurse call, and telephone and/or data services.

Where the installation is subcontracted to a contractor other than the Company, (this needs to be done by prior agreement with the Company's Service Department) a Company purchase order will be forwarded to the contractor on receipt of quotation for installation from that contractor. Payment terms would apply as mentioned on the order. Under no circumstances will the Company be able to accept an invoice without prior approval or official order issued.

**f. SITE AND STRUCTURAL READINESS**

- i. It shall be the responsibility of the Customer to ensure, prior to the installation of the Products by the Company, that the site has been properly prepared by the Customer and that the Customer has complied all of its obligations in respect of the site and structural requirements as may arise in terms of all laws in the country in which the Products are to be installed to ensure, *inter alia*, that the Company can safely and effectively install the Products; "laws" meaning any law of general application and includes the common law and any statute, constitution, decree, treaty, regulation, directive, ordinance, by-law, order or any other enactment of legislative measure of government, statutory or regulatory body which has the force of law;
- ii. The Company shall not be liable, in any manner whatsoever, to the Customer for any damage, claims, delays, liability, loss, penalty, expense or cost which the Customer may incur as a result of the failure of the Customer to ensure that the requirements of f(i) have been met and the Customer indemnifies the Company against and hold it harmless from all claims, liability, damage, loss, penalty, expense and cost (including legal costs as between attorney and own client) of any nature whatsoever which it may incur as a result of the Customer failing to comply with its obligations in terms of f(i);
- iii. The Customer shall, in writing, advise the Company when it has complied with its obligations in f(i) and that the site is ready for installation of the Products. Should the Company commence with the installation of the Products and it is found that the site and structural requirements have not been met as is required in terms of f(i), then the Customer shall be liable to the Company for all additional costs incurred by the Company and which the Company shall be entitled to raise in its sole discretion.