

# ANNEXURE TO CREDIT APPLICATION FORM

## KZN RESINS (PTY) LTD.

### STANDARD TERMS AND CONDITIONS OF SALE.

#### 1. DEFINITIONS AND INTERPRETATIONS

1.1 In interpreting these conditions the following words shall have the meaning ascribed to them hereunder:

- "Company" - shall mean KZN Resins (Pty) Ltd.  
"Buyer" - shall mean the person, firm or company purchasing the Goods from the Company  
"Goods" - shall mean all articles and things sold by the Company to Buyer in terms hereof but shall exclude returnable containers and/or pallets in or on which the Goods are supplied  
"Sale" - shall mean the Buyer's order and the Company's acceptance thereof as referred to in clause 2, which Sale shall always be subject to these Conditions of Sale.

#### 2. STATUS OF THESE CONDITIONS

- 2.1) These standard conditions of sale shall augment the specific terms of the sale as agreed to between the parties and shall, unless and only to the extent otherwise agreed in writing by the parties, apply to the exclusion of any standard conditions of purchase which may appear on any order or other similar such document of the Buyer or its agent
- 2.2) No statements or representations made by the Company or any of its agents, or employees, and which are not recorded herein, shall be binding upon the Company.
- 2.3) These Conditions of Sale and the Sale shall be governed by and construed and interpreted in accordance with the law of the Republic of South Africa.

#### 3. LIMIT OF LIABILITY

- 3.1) The Company shall in no circumstances be held liable to the buyer or to any other persons for any loss or damage, whether direct or consequential arising from the use of such goods or materials or any other portion thereof or from any alleged defects in them.
- 3.2) Any advice or assistance given whether concerning suitability, method of application, technical recommendations, plant or equipment recommendations, etc., relating to the products is given in good faith, but without obligation and subject specifically to the exclusion of any liability whatever on the part of the Company or its staff, for damages whether direct or consequential, or otherwise howsoever. All data, statements and recommendations made are based upon information believed to be reliable, but are made without representation or guarantee or warranty of accuracy. Company goods are sold on the condition that the buyer will examine the goods in relation to recommendations and the uses to which the goods are to be put, in order to assess their suitability before being used
- 3.3) In all cases where the goods are supplied to the specification, design or description of the buyer, the buyer indemnifies us, our servants, agents or any persons whom we may be liable in law against loss, damage or expense, including legal costs, which may be demanded from or sustained by one or more of us, our servant, agents or persons for whom we are liable in law, by reason of any claim brought by any third party (not restricted to claims contemplated in this clause), arising out of the implementation of this agreement or any act or omission on the part of the buyer, its servants, agents or persons for whom it is liable in law.
- 3.4) Without prejudice to the foregoing, the Company will be prepared to replace free of charge all goods or materials which in its sole and absolute discretion the Company considers to have been defective by reason of faulty material or workmanship provided that such goods and materials shall have been returned to the Company's factory, carriage paid within 14 (fourteen) days after delivery thereof to the buyer
- 3.5) No other conditions herein set forth shall be deemed to prejudice affect or derogate from the provision of this clause

#### 4. PRICING POLICY

The prices at which the goods are sold are our ruling prices as at date of delivery unless otherwise expressly agreed by us in writing. List prices exclude Value Added Tax.

Price lists and specifications distributed from time to time by the Company will serve as information bulletins only and will not constitute an offer to sell.

#### 5. NON-STANDARD ORDERS

- 5.1) In the case of orders placed in respect of products other than those reflected on the manufacturer's official price list, (i.e. where special orders are required to be prepared by the manufacturer to suit the specific requirement of the buyer), the buyer shall be obliged to accept and to pay for any quantity tendered for delivery which is within 20 (twenty) per cent (excess or shortfall) of the quantity ordered by the buyer.
- 5.2) In the case of special orders (such as is described in clause 3(a) hereof,) the product sold shall not be refundable at all.

#### 6. PASSING OF RISK

Unless otherwise agreed by the Company in writing, the risk in all goods sold shall pass to the buyer upon delivery of the goods to the buyer or to any carrier of such goods whether such carrier be the agent or nominee of the Company or the buyer.

#### 7. DELIVERY

Delivery of the goods sold shall be deemed to have been effected:

- 7.1) In the case of goods despatched by rail, ship or road carrier, upon consignment to the consignee;
- 7.2) In the case of products conveyed by the buyer's own mode of transport, upon the handing over of such goods to the purchaser or to his duly appointed agent;

#### 8. COMPLAINTS

The Company reserves the right to refuse to recognise any complaint from Buyer in respect of specification, quantity, package failure or short delivery of Goods unless such complaint is lodged in writing within 7 (seven) days of delivery of the Goods to Buyer, or such longer periods as may be agreed to between Buyer and the Company for certain specific Goods.

#### 9. RETURNS OF GOODS

The buyer may not return goods without prior consent of the manufacturer.

#### 10. OWNERSHIP

Ownership of all goods shall remain vested in the Company until paid for by the buyer in full.

#### 11. PAYMENT

- 11.1) Payment terms are strictly 30 (thirty) days nett computed from the date of statement unless agreed by the Company in writing and payment shall be made to KZN Resins (Pty) Ltd., 295 Balfour Road, Jacobs, P.O. Box 4242, Durban 4000. Notwithstanding the foregoing, payment within the said period shall not entitle the buyer to any discount on the purchase price.
- 11.2) Each delivery shall be deemed to constitute a separate contract and the price thereof shall be payable accordingly.
- 11.3) Non payment of any amount owing by the buyer shall nullify any discount concessions which might have been agreed between the Company and the buyer, and the buyer, in that event, will be liable for the Company's full price as reflected in the invoice.
- 11.4) The Company reserves the right to charge interest at the prevailing Bank's interest rate on all overdue accounts.

#### 12. BREACH

If the Buyer fails to effect timeous payment of any amount due to the Company or if it breaches any of its other obligations under the sale agreement and fails to make the relevant payment or remedy the relevant breach within five days of being called upon by the Company or its agent to do so or if it commits an act of insolvency or, being a corporate entity, is placed under provisional or final liquidation or judicial management or effects a compromise or composition with its creditors the Company may, without prejudice to its other rights, either suspend further deliveries under the sale agreement and require payment in advance for all and any such deliveries or terminate the sale agreement forthwith by way of written notice to the Buyer and, in addition to claiming damages, claim immediate payment for deliveries previously made notwithstanding any earlier agreement in terms of which the Buyer may have been granted credit in respect of those deliveries.

#### 13. CESSION AND ASSIGNMENT

Buyer shall not, without the written consent to the Company, cede or assign the Sale, or any part thereof

#### 14. TRADE MARKS

Where any goods are used by Buyer for any further processing, the use of any of the Company's trade marks in connection with all such processing stages shall be subject to the Company's express prior written consent. In the event that the Company granted such consent, Buyer shall comply with all applicable Trade Mark laws and process the Goods in manner approved of by the Company.

#### 15. RETURNABLE CONTAINERS AND PALLETS

In order to ensure continuity of supply of Goods which are supplied packed in returnable containers or on returnable pallets, it is a condition of sale of such Goods that such containers or pallets shall:

- 15.1) remain the property of the Company and shall not be used by Buyer other than for the storage of Goods delivered in such containers or on such pallets;
- 15.2) be returned by the Buyer, without undue delay and in good condition, carriage prepaid, to the factory or store from which they were despatched to Buyer.
- 15.3) Buyer shall pay to the company all deposit charges levied on such containers and/or pallets at the time of the Sale, but the company shall refund such deposit in full on the return by Buyer of such containers and/or pallets in accordance with clause 15.2.

#### 16. FORCE MAJEURE

The Company shall have the right to suspend delivery of any of the Goods to the extent and for as long as such delay is due to circumstances beyond its reasonable control including, but not limited to, war, sanctions, strikes, break down of machinery, civil unrest, inadequate supply of transport or labour or raw materials, floods, storms or acts of the State. The Company shall further have the right if any of the foregoing circumstances persist for 90 (ninety) days or longer and while those circumstances persist, forthwith to cancel the agreement of sale by way of written notice to the Buyer in respect of the Goods not delivered at the time of cancellation. The Company shall not be liable to the Buyer for damages as a result of such suspension or cancellation.

#### 17. WARRANTY OF AUTHORITY

The person contracting on behalf of the Buyer and any person who signs on behalf of the Buyer any of the documentation constituting part of the agreement with the Company in respect of the sale of the Goods shall be deemed, unless otherwise expressed to the Company, to have warranted his or her authority to represent the Buyer and similarly the Buyer shall be deemed to have held out to the Company that those individuals representing it in negotiating and concluding the sale agreement are duly authorised to do so and shall be stopped from denying their authority so to act.

#### 18. JURISDICTION

The Company shall be entitled to institute any proceedings against the buyer, arising out of the contract, for the full balance outstanding including current supplies in any Magistrate's Court notwithstanding that the claim or the value of the matter in dispute may exceed the jurisdiction of the Magistrate's Court. Further, the buyer agrees to be liable for all legal costs, including costs on the attorney and client scale and collection charges including tracing fees which may arise

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