

STANDARD TRADING TERMS AND CONDITIONS

The Company's quotation or tender for the sale of Goods and the provision of Services and any contract resulting therefrom shall be subject to the following terms and conditions as well as the terms and conditions as set out on the reverse side of the Company's invoices, which shall apply to the exclusion of all other terms and conditions, whether express or implied, unless the Company specifically agrees in writing to accept any variation hereto. The Applicant, by accepting delivery of any Goods or the rendition of any Service pursuant hereto, acknowledges that no terms and conditions which the Applicant purports to attach to its acceptance, nor any terms and conditions which might have been attached to the Applicant's order, shall be binding on the Company and the Applicant agrees that all such conditions shall be deemed to have been substituted by these terms and conditions.

STANDARD TERMS AND CONDITIONS APPLICABLE TO ALL TRANSACTIONS

(GOODS AND SERVICES)

1. DEFINITIONS

- 1.1. **"Agreement"** means this Credit Application including these terms and conditions, the terms and conditions that may exist on the reverse side of the Company's invoices, as well as Section C and any additions or amendments to this Agreement;
- 1.2. **"Applicant"** means the name of the customer as set out in Section A of the credit application form;
- 1.3. **"Application"** means this Credit Application by the Applicant to purchase Goods on credit or on non-credit terms from the Company and that is attached to these terms and conditions;
- 1.4. **"Company"** means Supreme Mouldings (Pty) Ltd, a Company duly incorporated and registered in terms of the Laws of the Republic of South Africa, with registration number 1994/001540/07, having its principal place of business at 108 Katrol Avenue, Robertsville, Roodepoort;
- 1.5. **"CPA"** means the Consumer Protection Act 68 of 2008 and any promulgated regulations thereto and as amended from time to time;
- 1.6. **"Customer"** means any person, including a Consumer with whom the Company concludes an Agreement for the sale of any Goods or the provision of any Services.
- 1.7. **"Goods"** means any tangible object supplied by the Company to the Applicant in terms of this Agreement;
- 1.8. **"NCA"** means the National Credit Act, Act 34 of 2005, as amended, from time to time;
- 1.9. **"Personal Information"** means information relating to the applicant and any surety's(ies):
 - 1.9.1. information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health,

well-being, disability, religion, conscience, belief, culture, language and birth of the applicant and/or surety(ies);

- 1.9.2. information relating to the education or the medical, financial, criminal or employment history of the applicant and/or surety(ies);
 - 1.9.3. any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the applicant and/or surety(ies);
 - 1.9.4. the biometric information of the applicant and/or surety(ies);
 - 1.9.5. the personal opinions, views or preferences of the applicant and/or surety(ies);
 - 1.9.6. correspondence sent by the applicant and/or surety(ies) that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
 - 1.9.7. the views or opinions of another individual about the applicant and/or surety(ies); and
 - 1.9.8. the name of the applicant and/or surety(ies) if it appears with other personal information relating to the applicant and/or surety(ies) or if the disclosure of the name itself would reveal information about the applicant and/or surety(ies);
- 1.10. **"POPIA"** means the Protection of Personal Information Act, Act 4 of 2013;
 - 1.10. **"Price"** means the amount indicated on the tax invoice of the Company together with value added tax thereon;
 - 1.11. **"Services"** means the Services provided by the Company to the Applicant, if any, in terms of this Agreement.

2. COMMENCEMENT AND DURATION OF THIS AGREEMENT

- 2.1 By placing an order with the Company or making an Application, the Applicant agrees to enter into an Agreement with the Company for the supply of Goods and/or Services. If so, this Agreement will begin and be binding on the Applicant when the Company:
 - 2.1.1 accepts the order or the Application as the case may be; and/or
 - 2.1.2 supplies the Goods or Services to the Applicant.
- 2.2 This Agreement shall, subject to the provisions of clauses 6, continue for an indefinite period.

3. PAYMENT TERMS

- 3.1. In return for the supply of the Goods and/or Services the Applicant agrees to pay the Company the Price as set out in the invoice delivered to the Applicant by the Company.
- 3.2. The Price shall be paid by the Applicant, without deduction or set-off of any claims of the Applicant against the Company, within 30 (thirty) days from the date of the Company's

invoice. However, if the 30th (thirty) day falls on Saturday, Sunday or public holiday, payment must be made on or before the preceding business day.

- 3.3. In the event of non-credit sales or cash sales the Price shall be paid by the Applicant by way of electronic bank transfer or cash deposit into the bank account of the Company or, at the sole discretion of the Company without deduction or set-off, prior to dispatch or collection of the Goods or provision of the Service. The Applicant must provide the Company with proof of payment within 48 (forty eight) hours before deliveries or collections of the Goods will be allowed. Where payment is made by means of electronic funds transfer, a cheque or any other negotiable instrument, the delivery of the Goods shall only be made or collections of the Goods will only be allowed once the funds have been cleared by the Company's bank.
- 3.4. The Company reserves the right to withdraw or amend any credit facilities at any time which may have been granted to the Applicant and to require the Applicant to furnish guarantees and/or suretyships that are acceptable to the Company for its current or future obligations.
- 3.5. The Company may charge the Applicant interest on any overdue amount at a rate of 2% per month calculated from the due date to date of final payment of the overdue amounts.
- 3.6. Should the Applicant fail to clearly indicate to the Company which items appearing on the Company's invoice it is paying, the Company reserves the right to apply such payment by the Applicant to those items in respect of which payment has been overdue for the longest time.
- 3.7. Payment must be made for the total amount that the Applicant owes the Company as set out on the invoice(s) issued to the Applicant.
- 3.8. Should any amount not be received by the Company on or before due date, all other amounts payable and due by the Applicant to the Company, shall immediately (and without notice to the Customer) become both due and payable.
- 3.9. The Applicant shall not be entitled to withhold payment for any reason whatsoever notwithstanding that any dispute may be pending between the parties nor shall the Applicant be entitled to make any deduction from the Price or to set off any alleged claim against the amounts due by the Applicant to the Company.
- 3.10. The Applicant shall be liable to pay the Company the full amount of the order in advance if the Company has not completed its credit risk assessment of the Applicant and the Applicant requires urgent or immediate delivery of the Goods or provision of the Services.
- 3.11. In addition to the rights of the Company above, if the Applicant:
 - 3.11.1. does not pay the Company on time;
 - 3.11.2. commits a material breach of this Agreement;
 - 3.11.3. does not pay the required full amount in advance;

then the Company may suspend any supply of Goods or provision of Services until the Applicant has paid or remedied the breach to the satisfaction of the Company.

4. QUOTATIONS

- 4.1. Any quotation by the Company is open for acceptance for a period of 7 (seven) days from the date appearing on the quotation, unless revoked earlier in terms of written notice to the Applicant or otherwise agreed to in writing between the Company and the Applicant.
- 4.2. The Price quoted for the Company's Goods or Services will, upon acceptance by the Applicant, whether such acceptance is tacit or written, constitute the Price, save for what is stated in clause 4.4. hereunder.
- 4.3. The Price quoted by the Company is based on the site location as provided by the Applicant. The Company reserves the right to amend the Price quoted should the site location be different from the initial site location provided by the Applicant.
- 4.4. The Applicant understands that the Price Quoted by the Company to the Applicant is based on the National Price for the goods as at date of quotation and the Applicant herewith accepts that the price quoted for goods by the Company to the Applicant may be increased by the Company should the National Price for such goods increase, without notice to the Applicant. The amount as indicated on the tax invoice, after the increase, shall be deemed to be the accepted Price.

5. CERTIFICATE

The Applicant acknowledges that a certificate signed by any director or Manager of the Company (whose authority and appointment shall not be necessary to prove) shall be prima facie proof (sufficient evidence) of the amount of such indebtedness to the Company by the Applicant. Such certificate shall be sufficient proof of the Applicant's indebtedness for the purposes of provisional sentence and/or summary judgment proceedings against the Applicant, or for any other purpose whatsoever.

6. BREACH AND CANCELLATION OF THE AGREEMENT

- 6.1 If the Applicant does not pay any and/or all amounts due to the Company on or before the due date for payment, then, subject to the provisions of clause 6.2, the Company reserves the right to, on notice to the Customer:
 - 6.1.1 charge interest on the overdue amount at the interest rate referred to in clause 3.5 calculated from the due date of payment to the date that the actual payment is credited;
 - 6.1.2 take action in terms of clause 6.2 of this Agreement;
 - 6.1.3 inform any reputable credit bureau (s) of payment default; and
 - 6.1.4 suspend the supply of the Goods or provision of Services.
- 6.2 If the Applicant commits a breach or if there is a failure by the Applicant to comply with any of the terms and conditions of this Agreement and the Applicant remains in breach for a period of 7 (seven) working days after delivery of a written notice to the Applicant by the Company requesting the Applicant to remedy the breach:

- 6.2.1 the Company will be entitled to immediately cancel this Agreement;
- 6.2.2 the Company will be entitled to immediately charge the Applicant for the use of the Goods or Services up to the date of cancellation; and
- 6.2.3 the full outstanding amount shall immediately become due and payable.

6.3 In addition to the above remedies and any other rights that the Company has in terms of law, in the event that the Applicant does not remedy such breach, the Company shall be entitled to claim damages from the Applicant that it may have suffered due to the Applicant's breach of the terms and conditions of this Agreement.

6.4 Despite the provisions above, either party may cancel this Agreement immediately by giving each written notice to that effect.

6.5. The Applicant will only be entitled to terminate this Agreement, as set out in clause 6.4., if all monies that are owing or may be owing in future has been paid in full by the Applicant before termination of this Agreement.

7. USE OF APPLICANT'S INFORMATION

7.1. The applicant warrants and guarantees that all information supplied to the Company by the Applicant in the Application and in terms of this Agreement is true and correct.

7.2. The Applicant agrees to inform the Company immediately should there be any change of whatsoever nature in any of its information, including its physical address, previously supplied to the Company.

7.3. As and when necessary, the Applicant consents to the Company obtaining and/or disclosing the Applicant's information supplied to the Company as follows:

7.3.1. to either credit grantors and/or credit bureaux and/or banks and/or other financial institutions in order to ascertain information relating to the Applicant's creditworthiness (before acceptance of this Agreement) and for fraud prevention purposes in order to process any payment transactions necessary for and relative to this Agreement;

7.3.2. to attorneys and/or debt collection agencies in the event that the Applicant is in breach of this Agreement.

7.4. The Company will not disclose the Applicant's information to any other person or institution other than as stated under clause 7.3 unless the Company is compelled to do so in terms of law and/or a court of law. The Company hereby undertakes that it will only disclose such information as is required in terms of any law and or a court of law.

8. JURISDICTION

The Applicant hereby consents, in terms of Section 45 of the Magistrate's Court Act No. 32 of 1944 as amended, to the jurisdiction of the Magistrate's Court having territorial jurisdiction in respect of any action instituted against the Applicant by the Company for the recovery of monies or for legal action in terms hereof. It shall nevertheless be entirely within the discretion

of the Company as to whether to proceed against the Applicant in such Magistrate's Court or any other court having jurisdiction.

9. GENERAL

- 9.1. This Agreement together with the terms on the reverse side of the Company's invoices constitutes the whole Agreement between the parties and no variation, alteration, deletion or addition to these terms will bind the parties unless it is stipulated in writing and agreed to by both parties, including this clause.
- 9.2. On and with effect from the Effective Date (being the date of acceptance of this Agreement), this Agreement shall novate and supersede any previous agreement entered into between the Parties and any previous agreement between the Parties shall in its entirety lapse and cease to have any further force or effect.
- 9.3. Each Party has entered into this Agreement without relying on any representation by any other Party or any person purporting to represent that Party.
- 9.4. Subject to clause 13, no addition to or variation or consensual cancellation of this Agreement, including this clause, and no waiver of any right under this Agreement, has effect unless in writing and signed by the Parties.
- 9.5. No indulgence by a Party to another Party, or failure strictly to enforce the terms of this Agreement, is to be construed as a waiver or be capable of founding an estoppel.
- 9.6. The exercise of a power or right does not preclude either its exercise in the future or the exercise of any other power or right.
- 9.7. A waiver is not effective unless it is in writing.
- 9.8. Waiver of a power or right is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.
- 9.9. The Parties undertake to do everything reasonable in their power necessary for or incidental to the effectiveness and performance of this Agreement.
- 9.10. Save as is specifically provided in this Agreement, no Party is entitled to cede any of its rights or delegate any of its obligations under this Agreement.
- 9.11. Any illegal or unenforceable provision of this Agreement may be severed and the remaining provisions of this Agreement continue in force.

10. LEGAL COSTS

To the extent permitted by law, should the Company elect to take any legal action against the Applicant arising from breach of any terms and conditions of this Agreement where the Company hired the Services of an attorney and/or advocate and/or debt collector and/or tracing agent and/or expert witnesses then the Applicant will be liable for all the relevant legal cost and/ or expenses incurred on the scale as between attorney and own client, which may include any costs incurred pre- action to enforce the Company's rights in terms of this Agreement.

11. NOTICES

- 11.1. The Applicant chooses its physical address as reflected on Section A of the Application form as its *domicilium citandi et executandi* (physical address) for service upon it of all notices and process.
- 11.2. The Company chooses its *domicilium citandi et executandi* at 1008 Katrol Avenue, Robertsville, Roodepoort.
- 11.3. The parties undertake to notify the other expeditiously of any change to its address.
- 11.4. The Applicant specifically agrees that any Notice takes effect when received by the recipient (or on any later date specified in the Notice) and, unless the contrary is proved, is deemed to be received:
 - 11.4.1. on the day of delivery, if delivered by hand to a responsible person at the recipient's physical address as set out in Section A of the Application Form;
 - 11.4.2. on the date of transmission, if sent by fax to the recipient's fax number as set out in Section A of the Application form;
 - 11.4.3. on the date of transmission, if sent by email to the recipient's email address as set out in Section A of the Application Form, which will be sufficient notice to comply with any relevant laws, and
 - 11.4.4. in each case if delivery is not on a Business Day, or is after ordinary business hours on a Business Day, the Notice is deemed to be received on the Business Day after the date of delivery.
- 11.5. Despite anything to the contrary in this Agreement, a Notice actually received by a Party is effective even though it was not sent, or delivered, or sent and delivered to its address in this clause 11.

12. APPLICABLE LAW

The terms and conditions of this Agreement shall be governed by and interpreted in accordance with the Laws of the Republic of South Africa.

13. AMENDMENTS

The Company is entitled on written notice to the Applicant, to amend and/or vary the terms and conditions of this Agreement as a result of any new and/or amended law(s), tax (es) and regulation(s). If Company amends and/or vary the terms and conditions, the Company will notify the Applicant at its chosen address of such amended terms and conditions.

14. AUTHORITY AND INDEMNITY

The person signing this Agreement warrants that he or she has the necessary authority to enter into this Agreement and hereby indemnifies the Company against any liability, claim, damage or loss that a third party might have arising out of this Agreement.

DIRECTORS: M.A. FORMATO, N.J. MUKHEIBER

15. DELIVERY OF GOODS

- 15.1. A local transport charge will be added to the tax invoice for each delivery. In the event of more than one invoice being delivered on 1 particular day then only 1 delivery charge will be applicable.
- 15.2. All courier charges would be for the client's account.
- 15.3. Deliveries of Goods will take place between normal business hours, being 08h00 to 17h00 Monday to Friday, excluding public holidays. Deliveries outside normal working hours could be subject to an extra charge.
- 15.4. The Company shall endeavour to effect delivery of the Goods on the agreed date and time to the Applicant at the Applicant's premises or the Applicant's nominated delivery site address, provided that the Company receives a minimum of 48 hours' notice of the intended delivery date if the agreed date has changed or if no date has been previously agreed.
- 15.5. The Company shall not be responsible for delays in delivery or non-delivery of Goods whatsoever due to causes beyond the Company's control (eg. adverse weather conditions, road congestion, labour-related actions, shortage of stock, delays on the part of subcontracted transport Services), nor will the Company accept liability for damages or for any loss the Applicant may suffer pursuant thereto, of whatsoever nature arising from the late delivery or non-delivery of Goods.
- 15.6. Subject to the provisions of clause 15.3 the Applicant shall not be entitled to cancel or repudiate any order/s and/or purchase/s and/or refuse delivery and/or claim damages and/or set-off payment from the Company due to late and/or defective delivery. The Company's responsibility shall be to notify the Applicant expeditiously of the events giving rise to the delay in delivery or non-delivery in circumstances where such delay of delivery or non-delivery is expected to extend beyond one day after the time/date of the agreed delivery schedule.
- 15.7. The provisions of clause 15.4 shall not apply to a Consumer.
- 15.8. Should adverse weather conditions or site problems necessitate a change in the agreed delivery date of the Goods, the Applicant shall advise the Company as soon as possible thereof. The Applicant shall, in any event, be liable for the Price of any Goods already batched prior to notification of the delay.
- 15.9. The Applicant accepts responsibility and liability for whatever means or method it chooses to adopt for the handling, placing, storage and consolidation of the Goods after discharge from the delivery vehicle. Furthermore, the Applicant accepts responsibility and liability for any lack of quality, fault or failure of the Goods resulting from such handling, placing, storage or consolidation of the Goods.
- 15.10. The Applicant shall ensure that routes to and from the points of delivery of Goods on site are safe and suitable for the delivery vehicles, and that full and free access is available for the delivery vehicles of the Company or its transport service providers.
- 15.11. The Applicant shall ensure that the delivery vehicles of the Company or its transport service providers offload the Goods at the Applicant's desired point on the site. In the event of the Goods being offloaded at an incorrect point due to a fault on the part of the Applicant, the Company shall not be liable for any loss arising there from, whether direct, consequential, special or general.
- 15.12. The Parties hereby indemnify each other, their agents and employees and holds them harmless against any loss, damage or liability sustained or incurred by either party, agents or

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employees arising from any cause whatsoever while on the Applicant's site, provided the loss,damage liability was not occasioned by negligence of the other party.

- 15.13. The Applicant, its employees or agents shall sign the Company's delivery note and this shall constitute prima facie proof (sufficient evidence) that the type and quantity of Goods recorded thereon was delivered and accepted by the Applicant. In the event of a dispute regarding the delivery of the Goods and/or the quantity or quality, the onus of proving that the Goods was not delivered and/or that the quantity or quality thereof was not in accordance with the Applicant's order, shall rest with the Applicant.
- 15.14. Should the Applicant decide to utilise its own transport vehicles and or any third party, it shall not hold the Company liable for any damages that result as a result of the use of such transport.
- 15.15. If the Company has any reason in its absolute discretion to be concerned about the creditworthiness of the Applicant, the Company shall have the right to suspend and/or withhold deliveries of Goods to the Applicant.
- 15.16. Subject to any provision to the contrary herein contained, the Applicant shall be entitled to cancel the order or return the Goods only if so agreed to by Company and if so agreed, the Company shall be entitled to charge a cancellation fee or a reasonable fee for the return ofthe Goods.

16. OWNERSHIP AND RISK

- 16.1. The Company shall maintain ownership of the Goods, until such time as the full outstanding amount as set out in the relevant invoice, has been paid by the Applicant.
- 16.2. Risk in the Goods shall pass to the Applicant at the point of delivery of the Goods (i.e. where signed acceptance of the Goods takes place, or in the case of collection of the Goods, on despatch from the Company's premises)
- 16.3. Where the Applicant has appointed its own transport service provider to effect delivery of the Goods, the Company's responsibility for providing proof of delivery of Goods will be limited to proving that the Goods were accepted by a person purporting to be the transport service provider. In this case, risk shall pass to the Applicant on delivery of the Goods, as set out in clause 16.2., to the transport service provider.
- 16.4. The Company reserves the right to refuse to enter the Applicant's site if in the Company's view the Applicant's site is unsafe.