

GENERAL TERMS & CONDITIONS OF SALE

The conditions set forth herein shall apply to all transactions for the supply of goods and/or services entered into, or to be entered into, between Eltherm SA (PTY) LTD, hereinafter referred to as the "Company" and the purchaser being any legal person, firm, partnership, close corporation or company or a natural person in his or her own right, hereinafter referred to as the "Buyer":

1. Orders

After acceptances, may not be cancelled, in whole, or in part, or varied in any manner whatsoever, unless confirmed in writing by the Company and subject to clause 8 below

2. Prices

Quoted prices are net and exclusive of VAT, unless otherwise stated. Where quotations are based in foreign currencies the Company reserves the right to change these prices to South African currency at the forward cover purchased by the Company.

3. Payment

3.1 Shall be in South African Currency, without deduction or set off.

3.2 Shall be made in cash or by way of electronic funds transfer (EFT). No other form of payment will be accepted and any and all overdue accounts shall bear interest at 2% above prime lending rates as published by First National Bank from time to time..

3.3 The Buyer agrees and undertakes to notify the Company immediately of any material factor which could or might have a bearing on the credit facilities extended to the Buyer by the Company, and furthermore undertakes to notify the Company immediately of any material change of or concerning the Buyer, including any change of ownership, shareholding, status, name and address.

3.4 The Buyer acknowledges that any payment made by EFT will only be deemed to have been made on the day that the amount so paid clears and becomes available as accessible funds into the banking account of the Company.

4. Delivery

4.1 Time shall not be of the essence in the contract.

4.2 Any time or date specified for delivery by the Company or the Buyer, in respect of any sale, shall be approximation and guide only.

4.3 If the Company is unable to effect delivery of any part of the goods on the date or time stipulated by it or the Buyer, the Buyer shall be obliged to take delivery as and when the Company can reasonably effect such delivery.

4.4 The Company endeavours to effect delivery on any date specified by it or agreed upon by it, but does not give any warranties of whatsoever nature or kind and it shall not be held responsible for any damages of whatsoever nature, or loss of profit, or any consequential or indirect damages which the Buyer may suffer as a result of such late delivery.

4.5 The Company is entitled to charge storage costs where the Buyer requests the Company to withhold or postpone deliver, and the Company agrees thereto, and the Buyer undertakes to pay any and all storage costs related to goods not taken, at the prevailing storage rates charges by the Company.

4.6 The risk in and to the goods purchased shall pass to the Buyer upon delivery. Such delivery will be deemed to have been effected upon tender of the goods for acceptance by the Buyer within normal business hours, at the Buyers place of business or such other place nominated by the Buyer, or the Company's place of business, if the Buyer elects to collect the goods.

4.7 In the event of the Company, for any reason whatsoever, not being able to effect delivery of the goods, the Company may, in its discretion, effect delivery of such goods as it can, and the Buyer is obliged to accept such partial delivery of goods, and such delivery shall be deemed to be a sale for such listed quantity of goods, concluded in terms of these terms and conditions.

4.8 Should the Buyer have any claim whatsoever, arising out of a partial delivery of the goods, the Buyer shall, notify the Company within 24 hours of receiving or tendering of possession of the goods by the Company or the carrier of the goods, where the carrier is the Company's agent; and endorse the delivery note accordingly.

4.9 Unless the Buyer gives timeous notice of the partial delivery, in terms of 4.8 above, the Buyer shall be deemed to have received the goods as set out in the delivery note and relevant invoices.

4.10 notwithstanding anything previously contained herein, no carrier, as agent of the Company, shall be obliged to enter the premises of the Buyer to enable offloading to be effected. However, if such vehicle should enter the Buyer's premises, it shall be deemed to do so at the Buyer's specific instance and request, and in that event the Company and/or its servants and/or agents shall accept no liability for damage or loss occasioned to the Buyer or any third party, arising in any way form such entry or for that matter, exiting from the Buyer's premises, or from the offloading thereof, or from any negligent act or omission of the Company of its agent carrier during the course of entering, exiting or offloading. Further, the Buyer hereby indemnifies and holds the Company harmless against liability for any such damage or loss.

5. Reservation of Ownership and Appropriation of Payments

5.1 Notwithstanding anything herein before or elsewhere contained, ownership of the goods shall, at all times, remain vested in the Company, until the Buyer has made full payment of the purchase price. No latitude or extension of time given to the Buyer shall in any way vitiate or novate the Company's rights hereunder. In the event of any default on the part of the Buyer, the Company shall, without prejudice to any other rights it may have, and without notice, be entitled, on demand, to obtain return of the goods, in so far as payment for the goods has not been made in full. The Buyer also consents to a Court Order against it for the attachment and removal of such goods by the Sheriff of the relevant Court.

5.2 The Company shall be entitled, at its discretion, to appropriate any payments made towards the reduction of any indebtedness to it by the Buyer as well as interest, at the Company Bank's prevailing prime rate.

6. Limitation of Company's Liability

6.1 The Company does not give any warranty against defects in the goods supplied, be they patent or latent. The Company does not give any warranties or guarantees of any other nature or make any representations whatsoever in respect of the goods, or of its fitness for any particular purpose, whether or

not that particular purpose is, or could be, deemed to be known to the Company, other than any warranty or guarantee that may have been expressly given in writing. The Company shall be deemed to be unaware of the particular purpose for which the goods or any product made there from is required.

6.2 Before dealing in any manner with the goods supplied against any order; the Buyer must satisfy itself that the goods are suitable for the purpose for which they are to be used, and are free from any defects of whatsoever nature, against any claim brought against the Company by any Third Party arising out of the unsuitability of the goods for any particular purpose whatsoever.

6.3 The Company shall not be liable under any circumstances whatsoever, for any loss of profit or other special damages, out of any of its obligations under this contract, or any act of negligence and or omission on the part of the Company and/or its employees or for any other reason, whether of the same kind, with the foregoing, or otherwise howsoever.

6.4 No agreement, warranty, condition, representation, promise, statement or undertaking, whether made before the sale, shall be binding on the Company unless contained herein or confirmed officially in writing under the Company's signature.

7. General

7.1 No variation, amendment or alteration of these Conditions of Sale shall be of any force or effect unless reduced to writing and signed by a duly authorized representative of the Company and the Buyer.

7.2 Wherever, in these conditions, provision is made for the amendment or variation thereof between the Buyer and the Company, in writing, the onus shall be on the Buyer to establish that the representative of the Company, in entering into such variation or amendment to the terms hereof, was authorized to do so.

7.3 In the event of any order from the Buyer providing for the delivery of the goods at/in various stages, then each delivery shall be deemed to be a separate and divisible contract and the terms and conditions herein contained shall apply to each delivery as if the same were the subject of an independent contract. No dispute arising from any such one delivery shall affect the balance of the contract between the Company and the Buyer arising from prior deliveries. The Company shall have the right to claim pro rata payment in respect of each consignment delivered to the Buyer.

7.4 The Buyer agrees that its signature of its employees or any person purporting to represent it on the official delivery note or waybill of the Company, be sufficient proof of delivery of the goods from time to time.

8. Warranty Period

8.1 The Company's manufacturer warrants that the goods sold by the Company will be free from defects in materials or workmanship, under normal use and service, for the appropriate warranty period. The Company's sole obligation under this warranty shall be, at its option, to repair or replace, without charge, any defective component part of such product, within a reasonable time period, or to credit the Buyer's account with the market related value, provided such faulty goods are returned in terms of this clause and not found to be defective, will be returned to the Buyer at the Buyer's expense, and be subject to a charge equal to 20% of the invoice value of such goods to cover the costs of testing and other time spent by the Company.

8.2 The Company shall not be liable under this warrant for any goods that the Buyer alleges are defective where those goods have been repaired or altered by some other person than the Company's designated

personnel or authorized representative, unless such repair or alteration was effected pursuant to prior written approval of the Company, or where the Buyer fails to notify the Company of any alleged defect within the period of the warranty, or where the goods have been altered or damaged in any way which the Company reasonably determines to personally effect the performance and reliability, or where the goods have been subjected to misuse, neglect or accident.

8.3 Subject to the conditions hereinafter contained, the Supplier guarantees all products that have been manufactured by itself for a period of 12 months (based on ordinary calendar days) from the date of delivery or settlement of the Invoice (whichever shall occur first) against any defect attributable to faulty material or workmanship and for any product of the Company except measuring and control equipment. For measuring and control equipment the Company provides a warranty of 6 months and calculated in the same manner as set out above. Should any defect develop within that period the Company will repair or (at its sole option) replace the defective product or defective part at the Company's factory without charge provided that:

- a) The buyer shall have reported any defect to the Company immediately upon the defect manifesting itself:
- b) The product was not subjected to abnormal use, or to use under abnormal conditions, or beyond its capacity as rated and recommended by the Company:
- c) The defect was not caused by direct weather conditions or by operation in abnormal atmospheric conditions.
- d) No repairs or alterations to the product were carried out by the Buyer or any third party: and
- e) The Buyer has fulfilled its obligations under the contract

8.4 The onus of showing that the conditions set out above have been complied with shall rest on the buyer. The Buyer shall at its own expense return the defective product or part to the Company's factory and shall meet all other incidental expenses however incurred. The Company shall have a reasonable period of time during which to affect the repairs (or at its opinion make the replacement), and the guarantee period stated above shall not be extended by that time. Due to the nature of the products supplied; the Company offers no guarantee on any or all electric or electronic components.

8.5 Guarantee of products not manufactured by company

The Company will use its best endeavors to pass to the Buyer the benefit (with the corresponding liabilities) of any guarantee received by the Company from the Supplier of goods not manufactured by the Company. Nothing herein contained shall, however, impose upon the Company a greater liability than would be imposed by its own guarantee set out above, nor shall the Company have any obligation to enforce that guarantee by litigation or other proceedings.

8.6 Return of goods

The Buyer shall be afforded a period of 21 days from the date of delivery of any Product or the payment of the Invoice for any Product (whichever shall occur first) in which to return the Product, on condition that the return of the Product fulfills one of the below mentioned criteria: a) The Buyer made a bona fide mistake in its order; or b) The Product is not suitable for the purpose for which it was purchased; or c) The Product's quality and standard of manufacture does not comply to the necessary specifications of the purpose for which the Product was purchased.

8.6.1 By his / her / its signature hereto, the Buyer confirms that the Company shall be entitled to make written representations as to why the mistake made in the order was not bona fide alternatively that the Product is suitable for the purpose for which it was purchased alternatively meets the specifications for which it was purchased and that such written representation shall be delivered to the Buyer within 10 days of the return of the Product in question.

Upon receipt of the written representations, the Buyer shall be obliged to take back and pay for the Product.

9. Force Majeure

If the agreement becomes wholly or partially impossible to perform due to causes beyond the control of the Company, such causes to include, but not limited to; war, civil insurrection, vis maior, Government action and industrial disputes, the Company shall be permitted to rescind the agreement at its discretion. If deliveries of goods or services shall be delayed as a result of such causes, the Company shall not be construed as being in breach of the agreement.

10. Breach

10.1 Where the buyer, in anyway, breaches the terms of this Agreement and fails to remedy such breach in a period of 7 (seven) days after delivery of written notice to the Buyer requiring him to remedy such breach; then the Company shall have the right without prejudice to any other rights which might thereupon be available to it, to:

10.1.1 enforce the relevant provisions of this Agreement; or

10.1.2 cancel this Agreement; and

10.1.3 proceed against the Buyer for the recovery of damages incurred by the Company.

11. Costs

If the Buyer is in anyway in breach of the agreement and the Company engages the services of an attorney to collect the whole or portion of the amount owing to it by the Buyer, or to sue for any other damages as a result of breach by the Buyer, the Buyer shall be liable to pay all costs occasioned as a result thereof, including collection charges and costs on an attorney and own client scale.

12. Domicilium Citandi Et Executandi

The Company hereby elects as its domicilium citandi et executandi, at which it will accept service of any process or notice:

Upper Grayston Office Park
150 Linden Road
Sandton

13. Installation and commissioning

13.1. Any installation or commissioning included in the offer, unless otherwise arranged, shall be performed by the Company on condition that the Buyer provides suitable foundations and structures ready and free for use when required, with satisfactory means of access to the site.

13.2. If the Company is prevented from proceeding with the work by circumstances beyond its control, and the Company's workmen are required to be sent back to complete the work, a charge will be made by the Company for addition expenses incurred. If the terms of installation and commissioning provide only for work by the Company's skilled staff, all necessary and adequate unskilled labour and tackle shall be provided free of cost by the Buyer as and when required, but such labour shall at all times be deemed to remain in the employ of the Buyer and the Buyer undertakes liability in respect of claims made under the Workmen's Compensation Act for those employees.

13.3. It is also the responsibility of the Buyer to provide electricity and compressed air (if required) for the purpose of any commissioning or installation. If work is required to be completed out of normal working hours an additional charge at the Company's usual rates for such work shall be added to the contract price.

14. Cession

The Buyer shall not be entitled to cede or assign this Agreement without the Company's consent. The Company shall however have the right to cede and assign this Agreement without the Buyer's consent.

15. Indulgence and waiver

No relaxation or indulgence that the Company may grant to the Buyer shall constitute a waiver of the rights of the Company nor shall it preclude the Company from exercising any of its rights that may have arisen in the past or that might arise in the future.

16. Applicable law

The proper law of this agreement is the law of the Republic of South Africa, and accordingly any dispute about this agreement, including any dispute about its validity, existence, interpretation, rectification, breach or termination or any dispute about any matter arising out of this agreement, its avoidance, interpretation, rectification, breach or termination shall be determined according to the laws of the Republic of South Africa.