

These are the terms and conditions of sale which apply to all goods sold by the **manufacturer** to the **customer**. These terms and conditions shall take precedence over any terms and conditions which may be contained in the **customer's** order or other documentation and may only be altered with the express written agreement of the **manufacturer**.

## 1. DEFINITIONS

"customer": means the person/institute that has made an inquiry to Cor-Tech Engineering (Pty) Ltd or the person/institute reflected on the purchase order directed to Cor-Tech Engineering (Pty) Ltd.

"goods": means the subject of the price estimations or inquiry.

"purchase order": means the order form that institutes a binding contract and mandate to Cor-Tech Engineering (Pty) Ltd to complete the subject description there on at an agreed upon price.

"manufacturer": means COR-TECH ENGINEERING (PTY) LTD.

"these terms and conditions": refer to the below terms and conditions of sale, the contents of the customer's orders and any written acceptance of the customer's orders by the seller.

"invoice": means the tax document containing the price summary to be payed for deliverable goods.

## 2. GENERAL

All goods supplied by the **manufacturer** shall be supplied subject to these terms and conditions only. These terms and conditions shall take precedence over any terms and conditions which may be contained in the **customer's** order, or other **customer** documentation, and may only be altered with the express prior written agreement of the **manufacturer**. Any conflicting statements or special terms contained in any acceptance order or other documentation issued by the **customer** shall not be effective, unless such conflicting statement or special terms have been expressly agreed to in writing by the **manufacturer**.

## 3. ORDERS

The **customer** shall purchase goods from the **manufacturer** by completing an order form specifying the quantities and particulars of the goods required and, if applicable, the address to which the goods must be delivered. No order for any goods shall be binding on the **manufacturer** unless and until the **manufacturer** has accepted such order in writing. The **manufacturer** shall be entitled in its sole discretion to decline any order placed. Each order accepted by the **manufacturer** shall be and constitute a separate contract.

## 4. MINIMUM ORDER

The **manufacturer** may put forth a minimum charge for consultation fees/engineering fees/**manufacturer** contact or acquisition if these services are provided prior to receiving a Purchase Order or when a Manufacturing Contract is signed by the **customer**. Charges are not limited to the aforementioned actions but could extend to any exertion that the **manufacturer** may have endured in favour of the **customer**.

## 5. PRICES

The prices payable by the **customer** to the **manufacturer** for the goods shall be the ruling prices stipulated on the tax invoice-issued by the **manufacturer** at the time the goods are ready for dispatch or as previously communicated in writing by the **manufacturer** to the **customer** in terms of clause, and such prices shall include Value Added Tax. Should the **manufacturer** agree to deliver the goods to the **customer**, then in addition to the purchase price payable for the goods, the **customer** shall pay to the **manufacturer** all costs of delivery of the goods to the address stipulated in the **customer's** order, including, without limiting the generality of the foregoing, the cost of insurance.

## 6. DRAWINGS

Prices are quoted as per informative documents and information supplied by the **customer**; should there be any additional mandate that come to light after the antecedent quotation, the **manufacturer** reserves the right to make price adjustments on receipt thereof. Any Engineering change, ECM or lack of information on drawings discovered during the manufacturing process to an item(s) purchased from the **manufacturer** will be subject to re-evaluation by the **manufacturer**. This can constitute the re-quoting of costs and revising of delivery dates where necessary.

## 7. MATERIALS & TREATMENTS

The Order is conditional upon the **manufacturer's** ability to obtain the necessary raw materials at a reasonable price and favourable delivery time. Items that are free issued by the **customer** will be accepted as adhering to the specification and quality requirements of the **customer**. Additional testing or procedures to establish/meet compliance to such requirements will be for the account of the **customer**. For any free issue material that require supplementary treatments; an additional test piece with the same chemical and mechanical properties, that will allow the **manufacturer** to achieve satisfactory test results, must be provided by the client, should the treatment procedure require specific form treatment the test piece must be an exact replica of the product form. The supplied test piece is subject to acceptance by the **manufacturer**.

## 8. DELIVERY

All deliveries are ex-works unless a written agreement has been established between the **manufacturer** and the **customer**. The **customer** shall be obligated to accept the delivery of the goods at the date specified or requested by the **customer** in writing in the order of the **customer** referred to in clause and which has been accepted by the **manufacturer** in terms

of clause. Should the **customer** fail to accept delivery on such date, the risk of loss or damage to the goods together with all and any expenses pursuant thereto, including but not limited to insurance, storage and further delivery charges shall be borne by the **customer** and paid to the **manufacturer** by the **customer** on request. When delivery of the goods is spread over a period, each separate delivery thereof shall be invoiced when dispatched. Each statement shall be treated as a separate account and payable in terms of clause. Where there is a shortage in any goods delivered to the **customer** or where the goods so delivered are delivered in a damaged condition, the **customer** shall give written notice to the **manufacturer** of such shortage or damage within 5 (five) days of delivery to the **customer's** premises. Should the **customer** fail to give such notice, the **customer** shall have no claim in respect of any alleged shortages or damage and the goods shall be deemed to have been delivered in a complete and undamaged state. The **manufacturer** shall endeavour to deliver the goods at the earliest possible time but in no instance can the **manufacturer** accept liability for any loss or damage arising from the late delivery of the goods and time shall not be of the essence of the contract. No liability shall attach to the **manufacturer** as a result of the failure to deliver if such failure is due to circumstances beyond the **manufacturer's** control. It is recorded that delivery dates shall be regarded as indicative only and whereas the **manufacturer** will do everything possible to keep to such dates, the **manufacturer** cannot be held responsible for any failure to do so. Notwithstanding anything to the contrary in these terms and conditions, but always subject to the provisions of clauses the **manufacturer's** liability in respect of any failure by it to deliver the goods, or to deliver the goods timeously, shall be limited to an amount equal to the amount of the purchase price of such goods and, in any event, the **manufacturer** shall not be liable for any consequential loss, loss of profit, special damages or any indirect loss of the **customer**.

## 9. TERMS OF CASH ON DELIVERY PAYMENT (COD)

Unless otherwise agreed in writing by the **manufacturer**, the purchase price for the goods together with the costs of delivery of the goods, if applicable, shall be paid by the **customer** to the **manufacturer** into a bank account indicated at the bottom of the Proforma Invoice. Unless agreed otherwise a 50% (fifty percent) cash deposit will be due on placement of an order by the client to the **manufacturer**. Payment of the purchase price balance for the goods shall be made on receipt of an invoice for the goods, without set-off or deduction. Should the **customer** be unable to take delivery of the goods, payment shall nevertheless fall due. The terms of payment set out above, shall apply equally to price variation claims. The **manufacturer** shall be entitled to charge interest at two percentage points above the ruling prime overdraft business banking rate quoted by Nedbank (Pty) Ltd in respect of any period during which payments are overdue. No goods will be dispatched from the **manufacturer's** premises before full payment for purchased goods reflect in the **manufacturer's** nominated bank account.

## 10. TERMS OF ACCOUNT PAYMENTS

Unless otherwise agreed in writing by the **manufacturer**, the purchase price for the goods together with the costs of delivery of the goods, if applicable, shall be paid by the **customer** to the **manufacturer** into a bank account indicated at the bottom of the Proforma Invoice. Payment of the purchase price for the goods shall be made within 30 (thirty) days from the date on which the **customer** received an invoice for the goods, without set-off or deduction, and free of exchange. Should the **customer** be unable to take delivery of the goods, payment shall nevertheless fall due. The terms of payment set out above, shall apply equally to price variation claims. The **manufacturer** shall be entitled to charge interest at two percentage points above the ruling prime overdraft business banking rate quoted by Nedbank (Pty) Ltd in respect of any period during which payments are overdue.

## 11. DELAYS - Force Majeure

The **manufacturer** will not be liable for any delay in the performance of its obligations under the Order, or for any damages suffered by the **customer** due to such delay, if the delay is, directly or indirectly, caused by a fire, flood, accident, civil unrest, act of God, war, governmental interference or embargo, labour strike, shortage of materials, or any other cause beyond the **manufacturer's** control.

## 12. CANCELLATIONS

The **customer** may not cancel or change an Order without the written consent from the **manufacturer**. If the **customer** desires to cancel or change an Order, the **customer** must deliver a written request for cancellation of the Order to the **manufacturer**. If the **manufacturer** consents to the **customer's** written request for cancellation of the Order the **customer** shall pay to the **manufacturer** the percentage of the total Order price which equals the percentage of the Order completed by the **manufacturer** at the time of cancellation.

## 13. NONCONFORMING GOODS

The **customer** shall inspect all goods upon tender and delivery from the **manufacturer**, and should any of the goods be nonconforming goods, the **customer** must notify the **manufacturer**, in writing, within ten (10) days of the **manufacturer's** tender or delivery of the goods describing the nature of any nonconformity. The **manufacturer** shall have the right and option to repair or replace any nonconforming goods. The failure of the **customer** to notify the **manufacturer** in writing that the goods are nonconforming within ten (10) days

of the *manufacturer's* tender and delivery of the goods, shall constitute acceptance of the goods and the *customer* shall be liable to the *manufacturer* for the total Order price.

#### **14. WARRANTIES**

The *manufacturer* does not issue any warranty for services or goods that has been manufactured to the *customer's* specifications. The *manufacturer* constitutes no warranty to goods unless agreed otherwise in writing.

#### **15. INDEMNITY**

Products manufactured by the *manufacturer* to meet the *customer's* particular specifications or requirements; the *customer* shall indemnify and hold the *manufacturer* harmless from any and all claims arising from the purchase, use, or sale of the special goods, and from any related costs, attorneys' fees, expenses, or liabilities incurred by the *customer* or any other third party users therefrom.

#### **16. LIABILITY**

The *manufacturer* shall not be liable to the *customer* for any damages including, but not limited to, consequential loss or loss of profits arising from the performance or non-performance by the *manufacturer* of its obligations in terms of these terms and conditions. This exclusion of liability shall relate to claims for breach of contract as well as for alleged negligence on the part of the *manufacturer*. The *customer* further indemnifies the *manufacturer* against any claims that may be made against the *manufacturer* by any third party for any damages including, but not limited to, consequential loss or loss of profits arising from the performance or non-performance by the *manufacturer* of its obligations in terms of these terms and conditions or in connection with the use of the goods, whether such claims are in respect of damage to property, consequential loss, personal injury or death. The *customer* agrees that the *manufacturer* shall not incur any liability under the Occupational Health & Safety Act No. 85 of 1993 (specifically Section 10 of that Act). The *manufacturer* shall not be liable for any damage to or subsequent malfunctioning of goods as a result of work done on the goods or services rendered in connection with such goods by any unauthorised third party.

#### **17. NOTICES**

All notices required to be given under this Agreement shall be given in writing via electronic mail to Rafael.Sanchez@Cor-Tech.co.za and shall be effective on confirmation on receipt thereof.

#### **18. LAW AND PROCEDURE**

The Order, this Agreement and the transaction described therein shall be subject to, construed under and enforced according to the laws of South Africa. The parties shall attempt in good faith to resolve promptly any dispute arising out of or relating to this agreement. If the matter cannot be solved in the normal course of business, any interested party shall give the other party written notice of any such dispute not resolved, after which the dispute shall be referred to more senior executives of both parties, who shall likewise attempt to resolve the dispute. If the dispute has not been resolved by negotiation within forty-five (45) days of the disputing parties written notice, or such other time as may be mutually agreed by both parties, the parties shall endeavour to settle the dispute by mediation under supervision of and in accordance with the guidelines of the Arbitration Foundation of Southern Africa within ten (10) business days of such referral. The legal and physical seat of the arbitration will be Johannesburg, South Africa and the language of the arbitration will be English.

#### **19. REMEDIES**

In the event that the *customer* is in default or otherwise breaches the Order or this Agreement, the *manufacturer* shall be entitled to pursue any and all remedies, legal or equitable including an action to recover the total Order price, as well as its costs of enforcing the Order, including, without limitation, its attorneys' fees. In the event that the *manufacturer* is in default or otherwise breaches the Order, the liability of the *manufacturer* to the *customer* for such breach or default shall be limited to the replacement value of the goods under the Order which is the sole and exclusive remedy of the *customer* for any such breach or default.

#### **20. WAIVER**

The *manufacturer* shall not be deemed to have waived any rights under this Agreement or the Order unless such waiver is given in writing and signed by the *manufacturer*. No delay or omission on the part of the *manufacturer* in exercising any right shall operate as a waiver of such right or any other right. A waiver by the *manufacturer* of a provision of this Agreement or the Order shall not prejudice or constitute a waiver of the *manufacturer's* right otherwise to demand strict compliance with that provision or any other provision of this Agreement or the Order. Neither prior waiver by the *manufacturer* nor any course of dealing between the *customer* and the *manufacturer*, shall constitute a waiver of any of the *manufacturer's* rights or of any of the *customer's* obligations as to any future transactions. Whenever the consent of the *manufacturer* is required under this Agreement or the Order, the granting of such consent by the *manufacturer* in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of the *customer*.

#### **21. AGREEMENT OF TERMS**

This Agreement is intended by the parties as a final expression of the terms and conditions of the Order. No representations, understandings, or agreements have been made or relied upon in the making of this Agreement other than those specifically set forth herein. This Agreement can only be modified in a writing signed by both parties. No previous course of dealing between the parties or trade usage may be used to interpret, limit, or otherwise impair the operation of this agreement. It is assumed that the foregoing terms have been read and understood and that any Order received from the *customer* will be bind to hereto.