

## Terms & Conditions of Sale

### 1. DEFINITION

For the purpose of these terms the following words shall have the meanings given to them hereunder:

1.1 'Company'- means EMVAfrica (Pty) Ltd (registration no. 1968/007765/07) and/or Multi Alloys (Pty) Ltd (registration no. 2014/279973/07)

1.2 'Customer'- means the party whose order is accepted by the Company.

1.3 'Goods'-means the materials, products and/or services, described in any company form, price list, quotation, delivery note, order invoice or acceptance order.

### 2. CREDIT FACILITIES

2.1 The decision to grant credit facilities to the Customer shall be the sole discretion of the Company, which shall be entitled to withdraw, amend or vary such facility at any time without prior notice.

2.2 The Customer consents to the Company conducting a credit enquiry in respect of the Customer and to the transmitting of any information to a credit bureau regarding the Customer's performance or non-performance.

### 3. ORDER/ACCEPTANCE

3.1 Orders by the Customer may be oral or in writing and shall constitute an irrevocable offer by the Customer to the Company for goods.

3.2 The Company may require the Customer to provide an order number prior to acceptance of the order.

3.3 Acceptance of an order is at the Company's Sole Discretion and may be made orally, or in writing, or commencing work in response to the order, or the tendering of actual delivery of the goods.

3.4 No variation or cancellation of an order shall be binding on the Company unless the Company consents thereto in writing.

### 4. PRICE

4.1 The Company's quotations furnished from time to time are for information only and do not constitute an offer for sale and may be varied at any time without notice.

4.2 The price of the goods shall be the Company's current ruling price at the time of delivery of the goods to the Customer.

### 5. DISCOUNTS

5.1 The granting of any discount shall be at the sole discretion of the Company which shall be entitled to withdraw, amend or vary such discount at any time without prior notice.

5.2 No discount shall be binding on the Company unless the Company has granted that discount in writing to the Customer.

5.3 Settlement discount is generally not awarded, in this regard the Customer acknowledges the onus of ensuring timeous payment and the basis for determination of the time of payment is stipulated in 6.6.

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## **6. PAYMENTS**

6.1 Subject to any credit facility granted to the Customer, payment of goods shall be made in advance of delivery.

6.2 In the event of the Customer being granted a credit facility, payment for the goods shall be on or before the last working day of the month, following the month in which the goods were delivered.

6.3 The Customer shall not be entitled to claim, set-off or deduct any amount in respect of any payment due to the Company, nor to claim any reduction or interest in respect of any payment made before due date.

6.4 If a Customer pays by cheque, banking, electronic or similar services, such service providers shall be the agent of the Customer.

6.5 The Company may in its sole discretion, appropriate any payments to any accounts held by the Customer.

6.6 The onus of making all payments shall be on the Customer and payments shall be regarded as having been made:

6.6.1 if payment is made in cash against such receipt;

6.6.2 if payment is made by cheque or direct deposit, when the proceeds of that cheque or payment have been cleared in the Company's bank account; and

6.6.3 if payment is made by electronic transfer, when the proceeds of that transfer reflect in the Company's bank account.

## **7. INTEREST**

The Customer shall pay compound interest on all overdue amounts, such interest to be calculated at the higher of 3% above the prime rate specified by the Company's bankers or the rate specified in terms of the prescribed Rate of Interest Act No. 55 of 1975.

## **8. DELIVERY**

8.1 Delivery shall be effected when the goods are off loaded at the address specified by the Customer, or collected by the Customer or the Customer's agent.

8.2 In the event that the goods are to be collected by the customer or its agent and either fails to collect the goods from the Company after having received 5 (five) days notice, the goods shall be deemed to have been delivered to the Customer and the Company shall be entitled to raise a reasonable administration charge.

8.3 A delivery note or invoice signed by the Customer or the Customer employee, agent or carrier shall constitute prima facia proof that the goods have been delivered by the Customer in good condition.

## **9. DEFECTIVE DELIVERY**

9.1 The Customer shall specify any alleged defective delivery in the delivery note.

Notification of defective delivery will be remedied by the Company.

9.2 The Company may elect to remedy a defective delivery by replacing the goods within 30(thirty) days of delivery or crediting the Customer with the invoiced value of the defective goods.

9.3 The Customer's claim for defective delivery shall be limited to the remedies referred to in 9.2.

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#### 10. DELAY IN DELIVERY

10.1 Dates for delivery are approximate and time of delivery is not an essential term. 10.2 The Company shall not be liable for any damages resulting in delay in delivery and the Customer shall not be entitled to cancel any order by reason of delay.

#### 11. RETURN OF GOODS

Delivered goods may only be returned with the written approval of the Company subject to such conditions and charges as the Company may specify, including a minimum handling charge of 10% (ten percent).

#### 12. OWNERSHIP AND RISK

12.1 Risk in respect of the goods shall pass to the Customer on delivery.

12.2 Ownership in respect of the goods shall pass to the Customer on payment of the full purchase price, any interest, transportation, or other charges associated with the goods.

12.3 Until payment of all amounts due in respect of the goods have been made, The Company may enter the premises at which the goods are kept without a court order and repossess the goods, without incurring any liability for damages.

#### 13. BREACH

13.1 in the event that the Customer fails to make payment of any amount on due date, or commits any other breach of this agreement or otherwise, to:

13.1.1 claim immediate payment of all outstanding amounts whether due or not; and/or

13.1.2 cancel any order and retake possession of the goods; and/or

13.1.3 suspend further deliveries; and /or

13.1.4 give the Customer 7 (seven) days notice to remedy the breach.

#### 14. LEGAL PROCEEDINGS

14.1 Any dispute or claim arising in terms of or out of any order of this agreement shall, at the election of the Company, be resolved in the Magistrate's Court having jurisdiction (regardless of the amount) or the High Court of South Africa Witwatersrand Local Division.

14.2 A certificate issued and signed by any Director or Manager of the Company stating the amount owed by the Customer will be sufficient proof of the amount owed and the fact that the goods were delivered.

14.3 The Customer shall be liable for all legal costs incurred by the Company calculated on an attorney-and-own-client scale as well as any collection charges and tracing costs.

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Gauteng: 2 Brands Hatch Close,  
Kyalami Business Park, Midrand, South Africa.

Western Cape: Cnr Milan & London  
Circle, Brackengate Business Park, Eskom Rd,  
Brackenfell, 7560, South Africa.

**15. NOTICE AND SERVICE**

Notice and the service of any court process shall be made at the Customer’s physical address provided to the Customer in respect of any credit application or the Customer’s actual physical address specified on the latest delivery note, any one of which addresses the Customer chooses as an address for notice and serves on it.

**16. WARRANTY/DAMAGES**

16.1 The Company gives no warranties whatsoever, in respect of the goods.  
16.2 In event of the goods proving not to be accordance with specifications, the Company shall not be responsible for any claims or damages whatsoever (including consequential damages) and the Company’s liability to the Customer shall be limited to replacing the goods or crediting the Customer as specified in 9.2.  
16.3 The Company shall not be liable to the Customer for any claims or damages whatsoever (including consequential damage) however arising, including any delay in delivery, defective goods or shortfall in quantity.

**17. INTELLECTUAL PROPERTY RIGHT INFRINGEMENT**

The Customer indemnifies the Company against liability for infringement intellectual property rights where the goods are manufactured according to the Customer’s specification, design or instruction.

**18. GENERAL**

18.1 No amendment or variation of these terms will be binding on the Company unless reduced to writing and signed by the Company.  
18.2 No extension of time or other relaxation or indulgence shall constitute a waiver of any of the Company’s rights.

I/We the undersigned.....(full names of signatory/ies)

In my/our capacity as.....do hereby warrant

My authority to bind the Customer to these conditions.

***(PLEASE ATTACH RESOLUTION CONFIRMING AUTHORITY TO BIND YOUR COMPANY.)***

Please initial each page \_\_\_\_\_





Gauteng: 2 Brands Hatch Close,  
Kyalami Business Park, Midrand, South Africa.

Western Cape: Cnr Milan & London  
Circle, Brackengate Business Park, Eskom Rd,  
Brackenfell, 7560, South Africa.

The information provided by the Customer is true and correct.

**Signatory**

Signed at.....on this.....day of  
of.....20.....

Print Full Name.....

Signature .....

Capacity .....

I.D. No.....

(copy I.D. to be attached)

Residential Add.....

.....

**Signatory**

Signed at.....on this.....day of  
of.....20.....

Print Full Name.....

Signature.....

Capacity.....

I.D. No.....

(copy I.D. to be attached)

Residential Add.....

.....

**Witness**

Signed at.....on this.....day  
of.....20.....

Print Full Name.....

Signature .....

Capacity.....

I.D. No.....

(copy I.D. to be attached)

Residential Add .....

.....

**Witness**

Signed at.....on this.....day  
of.....20.....

Print Full Name.....

Signature .....

Capacity.....

I.D. No.....

(copy I.D. to be attached)

Residential Add .....

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