

**DELTEC POWER DISTRIBUTORS
PROPRIETARY LIMITED****TERMS AND CONDITIONS OF SALE**

The sale of goods by Deltec is subject to the following terms and conditions:

1. DEFINITIONS

For the purpose of this Agreement the following words shall have the following meanings ascribed to them:

- 1.1. "Agreement" means the terms and conditions of sale of the Goods entered into between Deltec and the Purchaser;
- 1.2. "Deltec" means Deltec Power Distributors (Pty) Ltd with company registration number 1979/001476/07 or any of its associated or subsidiary companies or divisions;
- 1.3. "Goods" means the products supplied or to be supplied by Deltec to the Purchaser in accordance with these terms and conditions.; and
- 1.4. "Purchaser" means the party who has placed a verbal or written order with Deltec and to whom the goods were invoiced.

2. ORDER AND DELIVERY

- 2.1. No order addressed by the Purchaser to Deltec shall result in a contract between Deltec and the Purchaser until accepted by Deltec in accordance with this Agreement.
- 2.2. Acceptance by the Purchaser of the Goods supplied by Deltec shall constitute acceptance of this Agreement.
- 2.3. Deltec shall endeavour to effect delivery of the Goods promptly and within the period indicated by Deltec; however Deltec does not accept any responsibility whatsoever for delays in delivery due to circumstances beyond its control.
- 2.4. Where Deltec undertakes to deliver the Goods to the Purchaser's premises, delivery and passing of risk shall be deemed to have taken place upon unloading of the Goods at the Purchaser's premises.
- 2.5. Any delay in delivery shall not entitle the Purchaser to cancel any order or to refuse acceptance of delivery at any time without Deltec's prior written consent.
- 2.6. The Purchaser shall inspect the Goods upon delivery and inform Deltec of any errors in the delivered products within ten (10) days of receipt of the Goods in order to entitle the Purchaser to return the Goods to Deltec, provided that the Goods have not been tampered with or used incorrectly.
- 2.7. Deltec is under no obligation to ensure that the Goods are correctly installed and should the Purchaser require assistance with the installation, the Purchaser is required to notify Deltec thereof in writing prior to acceptance of the Goods.
- 2.8. Risk in the Goods shall pass on delivery, but ownership of all Goods sold remains vested in Deltec until all monies owing to Deltec shall have been paid in full.

3. PAYMENT

- 3.1. All prices for the Goods shall be as quoted by Deltec to the Purchaser and shall include value added tax and delivery charges.
- 3.2. Payment in full without deductions or set-off in respect of the Goods sold shall be due and payable on presentation of the invoice.
- 3.3. Unless otherwise agreed to between the parties in writing, Deltec reserves the right to levy interest, calculated at two percent (2%) above the publicly quoted rate of interest as published from time to time by First National Bank Limited on the outstanding amount owed to Deltec per month.

4. WARRANTIES

- 4.1. Unless the Purchaser has specifically informed Deltec of the intended use of the Goods, Deltec does not warrant that the Goods purchases will be suitable for the purposes that the Purchaser intends on using the Goods for.
- 4.2. If the Purchaser notifies Deltec in writing of any defects in respect of the Goods within twelve (12) months, and after inspection Deltec determines that the Goods are in fact defective in workmanship or in respect of the material used, Deltec shall repair or replace such Goods.
- 4.3. Deltec shall not be liable to repair or replace any Goods where the Purchaser has not used the Goods in accordance with the instructions and additional comprehensive warranty provided with the Goods or there has been misuse or material neglect of the Goods.

5. PURCHASER'S OBLIGATIONS AND LIABILITY

- 5.1. The Purchaser understands and accepts that it is his responsibility to determine whether the Goods ordered are suitable for the purpose for which he intends using them before entering into any contract of sale with Deltec.
- 5.2. The Purchase undertakes to use the Goods only for the purpose for which they were sold and to maintain the Goods in accordance with any instructions provided.
- 5.3. The Purchaser hereby agrees that the order placed with Deltec is binding on the Purchaser and should the Purchaser cancel the order, Deltec shall be entitled to charge a reasonable cancellation fee based on expenses already incurred and commitments made by Deltec.
- 5.4. The Purchaser may not cede or assign any rights or obligations which the Purchaser may have in terms hereof without Deltec's written consent, which consent may not be unreasonably withheld.

6. DELTEC'S OBLIGATIONS AND LIABILITY

- 6.1. Deltec undertakes that Goods supplied will conform to the Goods' specifications.
- 6.2. In the event of the Goods supplied not being in accordance with specifications Deltec's liability shall be limited to the replacement of such Goods only and Deltec will not be liable for any consequential loss whatsoever.
- 6.3. Should any cause beyond the control of Deltec prevent the performance of its obligations, Deltec shall be entitled to cancel or suspend performance of its obligations without being liable for any loss or damage, consequential or otherwise, resulting from such cancellation or suspension.

7. NOTICES AND DOMICILIUM

- 7.1. The parties hereby choose as their *domicilium citandi et executandi* for all purposes in connection with or arising out of this Agreement, the addresses stated on any order form or invoice for Goods.
- 7.2. Any notice in terms of this Agreement shall be sent by telefax, electronic mail (with a delivery receipt request) or by hand and shall be deemed to have been received by the other party on the date of transmission/delivery.

8. GOVERNING LAW AND JURISDICTION

- 8.1. This Agreement shall be subject to the laws of the Republic of South Africa.
- 8.2. In terms of Section 45 of the Magistrate's Court Act No. 32 of 1944, having jurisdiction under section 28 of the said act, the Purchaser consents to the jurisdiction of the Magistrate's Court notwithstanding that the claim may exceed the jurisdiction of the Magistrate's Court as to amount. Deltec shall however in its discretion be entitled to proceed against the Purchaser in any other court of competent jurisdiction.
- 8.3. In the event of Deltec instructing attorneys in regard to any breach by the Purchaser of this Agreement or to collect from the Purchaser any amount owing to Deltec, the Purchaser agrees to pay all costs on the scale as between attorney and own client, including collection commission and tracing agent's fees.

9. GENERAL

- 9.1. No relaxation or indulgence granted to the Purchaser by Deltec at any time shall be deemed to be a waiver of any of Deltec's rights in terms of this Agreement.