

**BLASTRITE (PTY) LTD**  
("the Supplier")

**TERMS AND CONDITIONS OF SALE**  
("conditions of sale")

**[to be used for credit applicants only]**

1. All orders accepted by the Supplier shall be subject to the conditions of sale specified herein, unless otherwise agreed to in writing by the Supplier.
2. In these conditions of sale:
  - (a) "CPA" means the Consumer Protection Act 68 of 2008 including, without limitation thereto, all amendments thereto in force from time to time;
  - (b) "customer" means the purchaser of services and/or goods from the Supplier;
  - (c) "month" means a named month of the Gregorian Calendar (e.g. April);
  - (d) "special-order goods" means goods that the Supplier expressly or implicitly was required or expected to procure, create or alter specifically to satisfy the customer's requirements; and
  - (e) "excluded transactions" means any accepted orders to which the CPA does not apply by virtue of section 5 of the CPA or anything done in terms of section 5 of the CPA.
3. Unless otherwise specifically agreed to by the Supplier in writing, all sums owing to the Supplier in respect of the supply of services and/or goods shall be paid, without deduction, within 30 days net from date statement (the 30<sup>th</sup> day being the "due date").
4. Interest will be payable by the customer at the maximum permissible rate allowed by law on accounts not settled within the agreed terms of credit set out in paragraph 3 above or otherwise agreed to by the Supplier in writing.
5. No excluded transaction may be cancelled except with the Supplier's written consent. Where the CPA applies:
  - (a) orders for special-order goods that have been accepted by the Supplier may not be cancelled except with the Supplier's written consent; and
  - (b) the cancellation of any other order after it has been accepted by the Supplier must be in writing and will be subject to a cancellation charge calculated by the Supplier and payable on demand, and no settlement discount will apply to the cancellation charge.
6. Delivery dates for all transactions are quoted on an ex-works basis and are estimates only.
7. Accordingly estimated delivery dates are not binding on the Supplier unless the Supplier expressly agrees in writing that a particular delivery date is or a series of particular delivery dates are binding upon it in relation to a particular supply or supply transaction or a particular series of supplies or supply transactions. Failure by the Supplier to adhere rigidly to any delivery date estimate does not give rise to any obligations on the part of the Supplier, nor does it entitle the customer to cancel the transaction or to withhold or delay payments becoming due to the Supplier. Should it become apparent that an estimated delivery date cannot be achieved the Supplier will take reasonable steps to inform the customer accordingly as soon as it is practicable to do so in the circumstances and will give the customer sufficient notice of the anticipated delivery date.
8. Although the estimated delivery dates are given in good faith and are not binding, the Supplier will take reasonable precautions to avoid or reduce delays, the Supplier will not be responsible for loss resulting from delays in delivery occasioned by strikes, lock-outs, delays of carriers, electrical power outages, or other causes reasonably beyond the Supplier's control, and no order may be cancelled by the customer for such reasons.
9. Goods will be regarded to have been received by the customer or its agent against signature of the Supplier's delivery note, or of the Supplier's freight agent's waybill or the carrier's waybill if the goods are delivered using a freight agent or carrier other than the South African Transport Services, or upon the issue to the Supplier of proof of posting if the goods are posted to the customer, or upon the issue of documentary proof of delivery to the South African Transport Services if the goods are railed to the customer.
10. Ownership in the goods sold remains vested in the Supplier until the purchase price shall have been paid in full except where and to the extent that –
  - (a) for reasons of public health or otherwise, a public regulation prohibits the return of those goods to their supplier once they have been supplied to, or at the direction of, a customer; or

- (b) after having been supplied to, or at the direction of, the customer, the goods have been partially or entirely disassembled, physically altered, permanently installed, affixed, attached, joined or added to, blended or combined with, or embedded within, other goods or property; or
- (c) the goods have been supplied in terms of a transaction that is not an excluded transaction, and those goods are or are deemed to be unsolicited goods and are lawfully retained by the customer.
11. The Supplier has the right to inform the owner of the premises in which any goods are stored of the Supplier's retention of ownership of goods for which payment has not been made.
12. Risk in the goods shall pass to the customer when they are received or regarded as having been received by the customer or the customer's agent in terms of paragraph 9.
13. Where goods or services are supplied in terms of an excluded transaction:
- (a) no representations or warranties as to quality or freedom from latent defect or fitness for any particular purpose or otherwise shall be binding upon the Supplier unless made by the Supplier in writing;
- (b) no person other than a director of the Supplier has any authority to contract on the Supplier's behalf on any terms or conditions other than the conditions of sale contained herein and no terms or conditions contained in any order or other document issued by the customer shall be binding on the Supplier, nor shall any variation of these conditions of sale shall be binding upon the Supplier unless reduced to writing and signed by the financial director of the Supplier;
- (c) the Supplier shall not be liable, whether in contract, delict or otherwise, in respect of defects in goods delivered or for any injury, damage or loss resulting from such defect or from any work done in connection therewith;
- (d) in no circumstance shall the Supplier be liable for consequential damages;
- (e) no relaxation or indulgence which the Supplier may grant to the customer shall constitute a waiver of the Supplier's right to enforce strict compliance with these conditions of sale and the other terms, if any, applicable to any transaction between the Supplier and the customer;
- (f) if any dispute arises between the Supplier and the customer out of these conditions of sale the Supplier shall, at its option, be entitled, but not obliged, to institute proceedings in any magistrates court which otherwise has jurisdiction notwithstanding that the amount in issue may exceed the limits of such jurisdiction and in those circumstances the customer hereby consents to such jurisdiction;
- (g) claims for damaged or defective goods or services will only be considered if made in writing and sent by prepaid registered post to the Supplier within 7 days after receipt of the goods or services and if such notice is not given timeously the customer will be deemed to have received and accepted the goods and/or services in good order and in full compliance with the order/s placed for them and any variations thereto that have been agreed to in writing by the Supplier;
- (h) amounts payable to the Supplier may not be set off against or withheld on account of any such claims unless they have been admitted by the Supplier in writing; and
- (i) the customer shall pay any legal and other costs incurred by the Supplier as a result of any breach by the customer of these conditions of sale or any failure by it to pay any amount on due date on the scale as between attorney and own client, whether or not action is instituted, and such costs shall include any commission which the Supplier is required to pay to its attorneys as a result of any action taken by them.
14. Where services are supplied in terms of a transaction other than an excluded transaction the customer is afforded 10 business days after completion of the services to determine whether they have been properly performed in terms of the transaction. If the Supplier fails to perform the services to the standards to which the customer is entitled having regard to the circumstances of the supply and any specific criteria or conditions agreed upon before or during the performance of the services, then the Supplier will remedy, where practical, any defect in the services at the Supplier's expense or refund the customer a reasonable proportion of the price paid having regard to the extent of the failure, or if no payment has been made, reduce the price by such reasonable proportion.
15. Where goods are supplied in terms of a transaction other than an excluded transaction and the customer does not inspect the goods and accept delivery of them at the Supplier's business premises the customer will be -
- (a) regarded as having accepted delivery of the goods received by the customer or its agent on the earliest of the following circumstances:
- (i) when the customer communicates to the Supplier expressly or by implication that the customer has accepted delivery of such goods; or
- (ii) when the goods have been received by the customer and -
- the customer does anything in relation to the goods that would be inconsistent with the Supplier's ownership of them; or
  - after the lapse of a reasonable time, the customer retains the goods without intimating to the Supplier that the customer has rejected delivery of them; and

- (b) afforded a reasonable time of 10 business days after receipt of the goods, or such longer period as may be reasonable in unusual circumstances and agreed to in writing by the Supplier at the request of the customer before the customer receives the goods, to advise the Supplier in writing that the customer rejects the goods, failing which the customer shall be regarded as having accepted delivery of the goods.
16. The provisions of paragraphs 14 and 15 do not limit any other right the customer may have in terms of the CPA in relation to a transaction that is not an excluded transaction.
  17. The customer shall forthwith notify the Supplier in writing of any changes in the information set out in the customer's application for credit terms or facilities.
  18. Credit terms or facilities in relation to each individual transaction for the supply of goods and/or services are granted by the Supplier to the customer in the discretion of the Supplier and accordingly the Supplier is entitled to refuse to accept orders from the customer where the customer places the order on the basis that it wishes to avail itself of the credit terms or facilities which the Supplier is for any reason unwilling to extent to the customer either in respect of the order or generally.
  19. Such credit terms or facilities are subject further to the following conditions:
    - (a) if personal guarantees or other security is not provided by the directors, shareholders or partners, as the case may be, of the customer if and when requested by the Supplier at any time in relation to future transactions, or
    - (b) if the customer fails to make any payment due to the Supplier on the due date for payment thereof,the Supplier has the right to withdraw or suspend the grant of credit facilities to the customer and to refuse to re-instate them or to attach further conditions to any reinstatement of them and also has the right to suspend deliveries pending payment and/or to cancel any undelivered portion of any order if acceptable arrangements are not made for payment of amounts owing by the customer that are overdue.
  20. The Supplier shall not be liable for any damage, loss or injury resulting from any misuse of the goods or any use which is not in accordance with the prescribed manner or the purpose for which they were designed.
  21. If the customer packages or causes the goods to be packaged in such a way so as to make the goods defective then the customer shall indemnify the Supplier against all damage and loss caused by reason of the product being defective.
  22. The Supplier has available information and product literature concerning the conditions necessary to ensure that the goods supplied by the Supplier will be safe and without risk to health when properly used. If the customer is not already in possession of such literature or requires any information or advice in connection with the safe use of the goods the customer should immediately contact the Supplier.
  23. Where a customer wishes to enter into a transaction, other than an excluded transaction, with the Supplier for the supply of any goods and/or services, if the customer wishes to rely, in relation to the supply of those goods and/or services, on any representations, conditions or warranties in addition to those applicable in terms of the CPA, then the Supplier will only be bound by them if they are agreed in writing between the Supplier and the customer before or at the time of conclusion of the transaction in relation to such goods and/or services are to be supplied. Any other representation, condition or warranty as to quality or freedom from defect of the goods or services supplied or their fitness for any particular purpose is hereby excluded, but only to the extent that its exclusion is not prohibited by the CPA or any other public regulation.
  24. Where the Supplier enters in a transaction that is not an excluded transaction for the supply of goods and/or services the Supplier, subject to any contrary provision of the CPA, the Supplier shall only be liable for consequential losses or damages in relation to the supply of such goods and/or services which arise out of the gross negligence, recklessness or deliberate unlawful conduct of the Supplier or of any person acting for or controlled by the Supplier.
  25. No relaxation or indulgence which the Supplier may allow the customer in relation to a specific past incident or specific incidents of non-compliance with or breach by the customer of these terms and conditions and/or those of any transaction to which these conditions of sale apply shall constitute a waiver of the Supplier's right to enforce strict future compliance with all of these terms and conditions and those of any such transaction and any further transaction between the Supplier and the customer.
  26. In any dispute between the Supplier and the customer arising out of these conditions of sale with respect to any transaction other than an excluded transaction the Supplier shall, at its option, be entitled, but not obliged, to institute proceedings in any magistrates court which otherwise has jurisdiction notwithstanding that the amount in issue may exceed the limits of such jurisdiction. In those circumstances the customer hereby consents to such jurisdiction but does not thereby waive any right to rely on any of the dispute resolution or referral provisions of the CPA.
  27. No person other than the financial director of the Supplier has any authority to contract on the Supplier's behalf on any terms or conditions other than the conditions of sale contained herein. No terms or conditions contained in any order or other document issued by the customer that are at variance with the conditions of sale contained herein shall be valid and these conditions of sale shall not be capable of variation

except by express written agreement signed by or on behalf of the customer and on behalf of the Supplier by any one of its directors or members.

28. A certificate signed by a Director of the Supplier, whose appointment as such shall require no proof, showing the amount due and owing and payable by the customer to the Supplier at any given time shall be sufficient *prima facie* proof of the facts therein stated for the purposes of all legal proceedings against the customer for recovery of any amounts outstanding, due, owing and payable, unless proved to the contrary by the customer.
29. The customer chooses the customer's address stated on the face of this Application for Credit Facilities as the address to which or at which all correspondence, notices and legal process may be sent or delivered to the customer, and the Supplier chooses the Supplier's address stated on the face of this Application for Credit Facilities as the address to which or at which all correspondence, notices and legal process may be sent or delivered to the Supplier.
30. The Supplier is entitled to make whatever enquiries necessary in assessing the credit application. If credit is approved, the Supplier is further entitled to register details about the conduct of your account at the credit bureaus.
31. The customer agrees to indemnify, defend and hold the Supplier harmless from and against any and all liability, claims, costs, expenses (including legal fees), judgments, settlements and/or liability of any kind, including, but not limited to, liability for injury, death or property damage, which arises out of, results from, or is in any way connected with the customer's use and/or operation of the goods and/or services, whether or not said liability arises as a result of any individual or concurrent acts or omissions of the customer, his/its subcontractors or employees, or any other person, but not as a result of the gross negligence of the Supplier.
32. If any particular provision and/or term of these condition of sale is found to be defective or unenforceable or is cancelled for any reason (whether by any competent Court or otherwise) then the remaining provisions and/or terms shall continue to be of full force and effect. Each provision and/or term of these conditions of sale shall accordingly be construed as entirely separate and separately enforceable in the widest sense from the other provisions and/or terms hereof.

**THE CUSTOMER ACKNOWLEDGES HAVING READ THE CONDITIONS OF SALE PRIOR TO EXECUTING IT. THE CUSTOMER FURTHER ACKNOWLEDGES HAVING BEEN ADVISED BY THE SUPPLIER TO HAVE THE CUSTOMER'S OWN ATTORNEY AND/OR ACCOUNTANT EXPLAIN THE CONTENTS AND OBLIGATIONS OF THIS CONDITIONS OF SALE TO THE CUSTOMER AND TO HAVE DONE THIS PRIOR TO EXECUTING THIS AGREEMENT.**

CUSTOMER NAME: \_\_\_\_\_

RESPONSIBLE PERSON	NAME	SIGNATURE
(authorised to represent customer in agreeing to these conditions of sale):	_____	_____

DATE: \_\_\_\_\_

Supplier's Stamp

Check List

- Each Page Initialled
- Signed by Duly Authorised
- Deed of Suretyship Signed

Documents attached

- Certificate of Incorporation
- Vat Certificate / Tax Clearance
- COR 15.2
- Director ID's