

Terms and Conditions

TERMS AND CONDITIONS OF SALE OF GOODS

Please note that this Contract requires you to take on risk or liability, limit the risk and liability of TURCK BANNER (PTY) LTD and to indemnify TURCK BANNER (PTY) LTD. Please read it carefully and ask if you have any questions

1.) CONTRACT

1.1) These terms and conditions of sale of goods (“Contract”) apply to all goods supplied via www.turckbanner.co.za (“Website”) or directly by TURCK BANNER (PTY) LTD, herein (“TURCK BANNER (PTY) LTD”) whose registered office is at 130 Boeing Road East, Bedfordview, Johannesburg, South Africa.

1.2) All references to “Customer” refer to the person or juristic person who the products are marketed or supplied to by TURCK BANNER (PTY) LTD, including Dealers and Retail Customers.

1.3) This Contract will come into force between the Customer and TURCK BANNER (PTY) LTD for the sale of any goods when TURCK BANNER (PTY) LTD has –

1.3.1) received the Customer’s order (“Order”) for the goods (“Goods”); and

1.3.2) accepted the Order by issuing the Customer with a proforma invoice (“Proforma Invoice”) or in the case where no Proforma Invoice is issued, a tax invoice (“Tax Invoice”).

1.4) Once the above requirements have been met, there is a legally binding contract between the parties.

1.5) TURCK BANNER (PTY) LTD reserves the right to vary or amend the terms of this Contract from time to time with regards to future sales. The Customer may request a free copy of the latest Contract from TURCK BANNER (PTY) LTD.

2.) PRICES AND AVAILABILITY OF GOODS

2.1) All prices are exclusive of Value Added Tax (“VAT”) and delivery charges.

2.2) The images of the Goods on the Website are for illustrative purposes only and may differ from the actual Goods.

2.3) The prices of the Goods are as per the TURCK BANNER (PTY) LTD prices at the time of the Order or quotation (“Quotation”), however prices are linked to the Rand - US Dollar - Euro exchange rate and are subject to change until date of Proforma Invoice or Tax Invoice, whichever is issued first.

2.4) The price payable by the Customer will be the price as at the date of the Tax Invoice, this price may differ to the price on the Website or Quotation due to the fluctuation in the exchange rate of the Rand.

2.5) The Goods are subject to availability of stock. If on receipt of the Order, the Goods are not available in stock, TURCK BANNER (PTY) LTD will inform the Customer as soon as possible.

2.6) Availability of stock from third party affiliate suppliers may also affect the prices. Every effort is made to ensure that prices shown on the Website are accurate at the time the Customer places the Order. If an error is found, TURCK BANNER (PTY) LTD will inform the Customer as soon as possible and offer the Customer the option of reconfirming the Order at the correct price, or cancelling the Order. If TURCK BANNER (PTY) LTD does not receive an Order confirmation within 10 (ten) business days of informing the Customer of the error, the Order will be cancelled automatically. If the Customer cancels the Order, or if the Order is cancelled automatically due to the expiry of the 10 (ten) business day period, TURCK BANNER (PTY) LTD will refund the Customer the price paid for the Goods, if any.

2.7) TURCK BANNER (PTY) LTD has the right to change the prices of the Goods from time to time without prior notice to the Customer.

3.) PLACING OF ORDERS

3.1) TURCK BANNER (PTY) LTD will accept written (including via the Website) and verbal Orders. TURCK BANNER (PTY) LTD will not be responsible for any errors or misunderstandings occasioned by the Customers' failure to place a written Order.

3.2) If telephone Orders are placed by the Customer, TURCK BANNER (PTY) LTD may require such Orders to be confirmed in writing by the Customer, prior to acceptance thereof by TURCK BANNER (PTY) LTD.

3.3) In the event that Goods are not collected within 1 (one) week of placement of the Order, TURCK BANNER (PTY) LTD reserves the right to cancel the Order.

3.4) Orders for non-standard Goods ("Non-Stock Items") and Orders for large quantities of Goods will require the Customer to pay a 50% (fifty per cent) deposit of the estimated Order value to TURCK BANNER (PTY) LTD.

3.5) In the event that the Customer cancels the Order for Specials or Orders for large quantities at any time after acceptance thereof by TURCK BANNER (PTY) LTD, TURCK BANNER (PTY) LTD shall be entitled to charge the Customer a reasonable penalty fee in accordance with the Consumer Protection Act. The penalty fee payable will be equivalent to the 50% (fifty per cent) deposit paid.

4.) PAYMENT

4.1) Payment terms are strictly cash upfront unless a credit facility has been approved by TURCK BANNER (PTY) LTD.

4.2) For Customers with credit facilities authorised by TURCK BANNER (PTY) LTD, payment is strictly 30 (thirty) days from date of the statement ("Statement").

4.3) Payment can be made by electronic funds transfer ("EFT") directly into TURCK BANNER (PTY) LTD's bank account. Cash will only be accepted at our offices.

4.4) TURCK BANNER (PTY) LTD will provide the Customer with a Tax Invoice with delivery of the Goods.

4.5) The Customer shall not withhold payment or make set offs or deductions from any payment due by it for any reason whatsoever. No extension of payment of any nature will be granted unless reduced to writing and signed by the Customer and a duly authorised representative of TURCK BANNER (PTY) LTD.

4.6) TURCK BANNER (PTY) LTD shall have the right to suspend deliveries, refuse to accept Orders and exercise its rights in terms of clause GRANTING AND WITHDRAWAL OF CREDIT if any amount due by the Customer is unpaid or the Customer's credit limit is exceeded.

4.7) If any amount owed is not settled in full on due date or on demand, TURCK BANNER (PTY) LTD is entitled to, without prejudice to any of its rights;

4.7.1) immediately institute action against the Customer;

4.7.2) hand the Customer over to its attorneys for collection of the outstanding debt, the Customer shall be liable for any legal costs incurred related to such collection; and/or

4.7.3) list the defaulting Customer as a defaulter with credit bureaux in line with Regulation 19(4) of the National Credit Act 34 of 2005.

4.8) TURCK BANNER (PTY) LTD does not accept payment via cheque.

4.9) No discount or extension is allowed unless agreed to in writing by a duly authorised representative of TURCK BANNER (PTY) LTD.

5.) GRANTING AND WITHDRAWAL OF CREDIT

5.1) TURCK BANNER (PTY) LTD's decision to grant credit to a Customer and the nature and extent thereof is at the sole discretion of TURCK BANNER (PTY) LTD.

5.2) In order to assess whether credit will be granted, the Customer consents to a credit check to be conducted by TURCK BANNER (PTY) LTD through credit bureaux.

5.3) TURCK BANNER (PTY) LTD reserves the right to withdraw, increase or decrease any credit granted at any time.

5.4) A Customer with approved credit facilities as aforesaid hereby undertakes to ensure that any credit limit approved by TURCK BANNER (PTY) LTD is never exceeded. Accordingly the Customer hereby agrees and undertakes to promptly make whatsoever payments are necessary to ensure that any such credit limit is never exceeded. No Orders of the Customer will be executed by TURCK BANNER (PTY) LTD while any such credit limit is exceeded or any payment is overdue beyond the payment period set out above.

5.5) Where credit facilities of the Customer have been withdrawn by TURCK BANNER (PTY) LTD, the Customer agrees to make payment on a COD basis.

7.) DELIVERY

6.1) Goods will only be released once payment has been received by TURCK BANNER (PTY) LTD.

6.2) Any delivery note or invoice (copy or original) ("Delivery Note") signed by the Customer and/or its authorised representative and/or its nominated agent and held by TURCK BANNER (PTY) LTD, shall be prima facie proof that delivery was made to the Customer.

6.3) The Customer must inspect the Goods on receipt and be satisfied that the Goods conform in all respects to the quality and quantity ordered and are free from any defects.

6.4) Upon receipt of the Goods the Customer will be asked to sign for the Goods received in good condition. If the package does not appear to be in good condition, or the Customer is unable to check the contents then please refuse the delivery. Failure to do so may affect any warranty claims that the Customer may make thereafter.

6.5) The Customer undertakes to grant access to TURCK BANNER (PTY) LTD, its subcontractors and/or their respective employees to deliver the Goods ordered at such premises, and neither TURCK BANNER (PTY) LTD, its subcontractors nor their respective employees shall be liable for any loss and/or damage caused, whether by negligence or otherwise, to any person and/or property, and/or consequential loss or damages arising from the entry and/or activities of TURCK BANNER (PTY) LTD, its subcontractors and/or their respective employees, effecting delivery of the Goods ordered.

6.6) TURCK BANNER (PTY) LTD shall be entitled to split the delivery of the Goods ordered in the quantities and on the dates it decides with the prior consent of the Customer, which consent shall not be unreasonably withheld.

6.7) In the event of the Customer choosing to engage its own third party to transport the Goods, the Customer indemnifies TURCK BANNER (PTY) LTD against any claims of any nature whatsoever that may arise therefrom.

6.8) TURCK BANNER (PTY) LTD is entitled to engage a third party on its behalf to transport Goods purchased by the Customer to the delivery address stipulated by the Customer.

6.9) A delivery date is only an estimate as to when the Goods will be delivered. TURCK BANNER (PTY) LTD does not guarantee that the Goods will be dispatched or delivered on any particular date and time, and the Customer shall have no claim against TURCK BANNER (PTY) LTD in respect of any loss occasioned by any reasonable delay in dispatch or delivery of any Goods ordered, nor may the Customer cancel any Order by reason of such delay.

6.10) TURCK BANNER (PTY) LTD reserves the right to charge delivery charges.

7.) OWNERSHIP AND RISK

7.1) All risk in and to all Goods sold by TURCK BANNER (PTY) LTD to the Customer shall pass to the Customer on collection / delivery thereof.

7.2) Ownership in all Goods sold and delivered shall remain vested in TURCK BANNER (PTY) LTD until the full purchase price has been paid.

8.) RETURN OF GOODS

8.1) Return of Goods that did not match the Order

8.1.1) If the Goods do not match what was ordered, the Customer is requested to notify TURCK BANNER (PTY) LTD as soon as possible after delivery and the Goods must be returned to TURCK BANNER (PTY) LTD within 10 (ten) business days after delivery.

8.1.2) If the Goods are returned because they did not match what was ordered and the Goods are not in their original condition and repackaged in their original packaging, TURCK BANNER (PTY) LTD may be entitled in terms of the Consumer Protection Act to charge a reasonable amount for use of the Goods during the time they were in the Customer's possession, any consumption or depletion of the Goods, or for necessary restoration costs to render the Goods fit for re-stocking.

8.2) Return of defective Goods

8.2.1) All Goods sold have a 1 (one) year warranty against defects. The Customer must keep their proof of purchase to verify the date of purchase. Please note that, in terms of the Consumer Protection Act, this warranty may fall away if the Goods have been altered contrary to instructions or after leaving the control of TURCK BANNER (PTY) LTD.

8.2.2) If the Goods are returned within 1 (one) year of purchase, and has been proven to be defective by a TURCK BANNER (PTY) LTD technician, TURCK BANNER (PTY) LTD, at it's election, shall either replace, repair or refund the Goods.

8.2.3) Any Goods damaged due to power surges, black outs or lightning will not be exchanged under warranty.

8.2.4) The Customer hereby agrees that any item under warranty returned for a repair may be sold by TURCK BANNER (PTY) LTD to defray the cost of such repair if the item remains uncollected for a period of 30 (thirty) days after the repairs have been completed.

8.3) Return of unwanted Goods

8.3.1) Non-Stock Items which are ordered from the factory for you and are not stocked at TURCK BANNER (PTY) LTD cannot be returned.

8.3.2) TURCK BANNER (PTY) LTD reserves the right to charge a handling fee of up to 10% (ten per cent) of the value of the returned Goods in the event that a Customer cancels an Order and TURCK BANNER (PTY) LTD accepts the return of unwanted Goods. TURCK BANNER (PTY) LTD will only entertain such requests if made within 10 (ten) business days of delivery of the Goods.

9.) BREACH

In the event of either party committing a breach of this Contract and failing to remedy such breach within 7 (seven) days of receipt of a written notice to this effect from the other party then the aggrieved party shall, be entitled to, without prejudice to any of its other rights in law, claim specific performance or to cancel this Contract forthwith upon written notice to the defaulting party, without prejudice to its right to recover any amounts that may be due to it in terms of this Contract and any loss or damage suffered as a consequence of the breach or the cancellation of this Contract.

10.) WAIVER AND INDEMNITY

10.1) To the extent permitted by law, TURCK BANNER (PTY) LTD shall not be liable to the Customer nor to any third party for any loss, claim, damage, injury or death of whatsoever nature, howsoever arising (including consequential or incidental loss) unless such loss, claim, damage, injury or death arises from gross negligence on the part of TURCK BANNER (PTY) LTD.

11.) LEGAL PROCEEDINGS

11.1) This Contract shall be governed and construed under and in accordance with the laws of the Republic of South Africa and TURCK BANNER (PTY) LTD shall, at its option and notwithstanding that the amount of its claim or the nature of the relief sought exceeds the jurisdiction of the Magistrate's Court, be entitled to institute action out of such court.

11.2) The delivery address provided by the Customer as reflected in the Order, Quotation, Proforma Invoice or Tax Invoice shall be the Customer's domicilium for all purposes in terms of this Contract for giving of any notice, the payment of any sum, the serving of any process and for any other purpose arising from this Contract. TURCK BANNER (PTY) LTD chooses its domicilium address as 130 Boeing Road East, Bedfordview, Johannesburg, South Africa.

11.3) A notice in terms of this Contract shall be presumed to have been duly given, if delivered by hand, on the date of delivery, if sent by post, 7 (seven) days after posting, if sent by facsimile, on the day that the facsimile is transmitted, if sent by email, the date of the "Read Receipt" notification.

12.) GENERAL

12.1) This Contract represents the entire agreement between TURCK BANNER (PTY) LTD and the Customer and shall govern all future contractual relationships between TURCK BANNER (PTY) LTD and the Customer.

12.2) The terms of this Contract supersede all previous agreements between the parties, without prejudice to any securities or guarantees held by TURCK BANNER (PTY) LTD.

12.3) No amendment and/or alteration and/or variation and/or deletion and/or addition and/or cancellation of this Contract, whether consensual or unilateral or bilateral shall be of any force and effect unless reduced to writing and signed by a director of TURCK BANNER (PTY) LTD.

12.4) No relaxation or indulgence granted to the Customer shall prejudice or be deemed to be a waiver of any TURCK BANNER (PTY) LTD's rights in terms of this Contract.

12.5) The Customer shall not cede its rights nor assign its obligations under this Contract, unless prior permission is obtained from TURCK BANNER (PTY) LTD.

12.6) TURCK BANNER (PTY) LTD shall at any time in its sole discretion be entitled to cede all or any of its rights in terms of this Contract to any third party upon notice to the Customer. Should such cession of rights be to the detriment of the Customer, the Customer's permission shall be obtained.

12.7) The Customer undertakes to notify TURCK BANNER (PTY) LTD within 7 (seven) days of any change of address or change of in director, shareholder, address or the information as set out in this Contract.

12.8) Each of the terms herein shall be a separate and divisible term and if any such term becomes unenforceable for any reason whatsoever, then that term shall be severable and shall not affect the validity of the other terms.

12.9) The Customer undertakes to inform TURCK BANNER (PTY) LTD in writing at least 14 (fourteen) days prior to the intended selling or alienating of the whole of or any part of the Customer business and failure to do so will constitute a material breach of this Contract entitling TURCK BANNER (PTY) LTD to cancel the Contract without further notice to the Customer.

13.) PROTECTION AND PROCESSING OF PERSONAL INFORMATION

13.1) The Customer understands that the personal information given to TURCK BANNER (PTY) LTD is to be used for the purposes of assessing credit worthiness and in order to perform in terms of this Contract. The Customer confirms that the information given to TURCK BANNER (PTY) LTD is accurate and complete. The Customer further agrees to update the information supplied as and when necessary in order to ensure the accuracy of the above information failing which TURCK BANNER (PTY) LTD will not be liable for inaccuracies.

13.2) TURCK BANNER (PTY) LTD will not use the Customer's personal information for any purpose (other than as stated above) without the Customer's express consent. TURCK BANNER (PTY) LTD will not use or disclose the Customer's personal information to third parties without the Customer's consent, unless the use or disclosure is -

13.2.1) required to carry out the performance of this Contract or any other agreement between the parties;

13.2.2) required in order to comply with applicable law, order of court or legal process; and/or

13.2.3) disclosure is necessary to protect and defend the legitimate interests of TURCK BANNER (PTY) LTD.

13.3) TURCK BANNER (PTY) LTD has the Customer's consent at all times to contact and request information from any persons, credit bureau or businesses to obtain any information relevant to the Customer's credit assessment, including but not limited to information regarding the amounts purchased from suppliers per month, length of time Customer has dealt with each supplier, type of Goods purchased and manner and time of payment.

13.4) The Customer agrees and understands that information given in confidence to TURCK BANNER (PTY) LTD by a third party on the Customer will not be disclosed to the Customer.

13.5) The Customer hereby consents to and authorises TURCK BANNER (PTY) LTD at all times to furnish credit information concerning the Customer's dealing with TURCK BANNER (PTY) LTD to a credit bureau and to any third party seeking a trade reference regarding the Customer.