



## STANDARD TERMS AND CONDITIONS OF AGREEMENT

### 1. INTERPRETATION

- 1.1 In this documents the following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings –
- 1.2 “Customer” means the person whose name appears on the quote of invoice.
- 1.3 “Gaddtech” means Gaddtech (Pty) Ltd, a company duly incorporated in accordance with the laws of the Republic of South Africa with Registration Number: 2021/509967/07.
- 1.4 “goods” means any items and/or services of whatsoever nature that are supplied to the Customer in terms hereof.

### 2. PURPOSE

- 2.1 The Customer agrees that neither Gaddtech nor any of its employees will be liable for any negligent or innocent misrepresentations made to the Customer.
- 2.2 It is the sole responsibility of the Customer to determine that the goods or services ordered are suitable for the purposes of intended use.
- 2.3 The Customer agrees to pay all additional costs resulting from any acts or omissions by the Customer including suspension of work, modification of requirements, failure or delay in giving particulars required to enable work to proceed on schedule or requirements that work be completed earlier than agreed.
- 2.4 Gaddtech reserves the right at its sole discretion to provide alternative goods of the same quality and quantity at the prevailing prices to those ordered by the Customer should such goods be superseded, replaced or their manufacture terminated.

### 3. QUOTATIONS

- 3.1 All quotations will remain valid for a period as indicated on the quote. If no period is indicated on the quote, quotations will remain valid for a period of 3 days or as per any other paragraphs in this general terms and conditions..
- 3.2 All quotations are subject to the availability of the goods (while stocks last) or services and subject to correction of good faith errors by Gaddtech and any price quoted shall be subject to variation up to the date of invoice in relation to any fluctuations of the cost price of the goods or forex fluctuations.
- 3.3 If the Customer disputes the amount of increase, the amount of the increase may be certified by the accounting officer of Gaddtech and such certificate shall be final and binding on the Customer.

### 4. DELIVERY

- 4.1 The Customer hereby confirms that the goods or services on any Tax Invoice issued duly represent the goods or services ordered by the Customer at the prices agreed to by the Customer and, where delivery / performance has already taken place, that the goods or services were inspected, and that the Customer is satisfied that these conform in all respects to the quality and quantity ordered and are free from any defects.
- 4.2 Notwithstanding the provisions of clause 4.1 above, all orders or agreed variations to orders, whether orally or in writing, shall be binding and subject to these Standard Conditions of Agreement and may not be revoked by the Customer.
- 4.3 Gaddtech shall be entitled in its sole discretion to split the delivery / performance of the goods or services ordered in the quantities and on the dates it decides.
- 4.4 Gaddtech shall be entitled to invoice each delivery / performance actually made separately.
- 4.5 Any delivery note, waybill, job card or installation certificate (copy or original) signed by the Customer or a third party engaged to collect and transport the goods on behalf of the Customer shall be prima facie proof that delivery was made to the Customer.
- 4.6 Unless otherwise agreed by the Parties in writing, delivery shall be deemed to have occurred when Gaddtech has made available the goods at its premises to the Customer and/or delivered to the address provided by the Customer by an external party/courier/transporter and/or when services were rendered.
- 4.7 The risk of damage to, destruction or theft of goods shall pass to the Customer on delivery and the Customer undertakes to comprehensively insure the goods until paid for in full. Gaddtech may recover insurance premiums from the Customer for such ordered and uninsured goods.
- 4.8 Delivery, installation and performance times quoted are merely estimates and are not binding on Gaddtech.
- 4.9 If Gaddtech agrees to engage a third party to transport the goods, Gaddtech is hereby authorised to engage a third party on the Customer's behalf and on the terms deemed fit by Gaddtech.

- 4.10 The Customer indemnifies Gaddtech against any claims against Gaddtech that may arise from such agreement. Repair times and repair costs given are merely estimates and are not binding on Gaddtech
- 4.11 Any item handed in for repair may be sold by Gaddtech to defray the cost of such repairs if the item remains uncollected within 30 days of the repairs being completed.
- 4.12 All goods taken on an evaluation or demonstration basis by the Customer are deemed sold if not returned within 14 days of issue in the original condition, in the original packaging and with all accessories and manuals intact. All goods taken on a consignment basis must be returned to the premises of Gaddtech on demand by Gaddtech, in the original condition, in the original packaging and with all accessories and manuals intact.

## **5. GUARANTEES**

- 5.1 New goods are guaranteed according to the Manufacturer's product specific warranties only and all other guarantees including common law guarantees are hereby specifically excluded. In the case of repairs, installation and services outside the guarantee period, services are guaranteed for a period of 3 months against faulty workmanship and parts are guaranteed according to the Manufacturer's product specific warranties.
- 5.2 Liability under clause 5.1 is restricted to the cost of repair or replacement of faulty goods or services or granting of a credit at the sole discretion of Gaddtech.
- 5.3 No claim under this Agreement shall arise unless the Customer has, within 3 days of an alleged breach of contract and/or defect occurring, given Gaddtech written notice of such breach or defect, and has afforded Gaddtech at least 30 days to rectify such defect or breach.
- 5.4 To be valid, claims must be supported by the original Tax Invoice.
- 5.5 The Customer shall return any defective moveable goods to the premises of Gaddtech at the Customer's own cost and packed in the original or suitable packaging and all risks for the duration of repair remain with the Customer.
- 5.6 All guarantees are immediately null and void should any goods be tampered with or should the seals on goods be broken by anyone other than Gaddtech or should the goods be used or stored outside the Manufacturer's specifications.

## **6. ACCEPTANCE AND VARIATION**

- 6.1 No variation from these conditions of sale shall have any effect unless it is in writing and accepted and signed by the authorized representative of Gaddtech.
- 6.2 These conditions of sale shall have preference over any conditions appearing in any document of Gaddtech or the Customer.
- 6.3 These conditions of sale becomes final and binding on receipt and acceptance of any quote or order issued by Gaddtech.
- 6.4 All specifications, price lists, performance figures, advertisements, brochures and other technical data furnished by Gaddtech in respect of the goods or services orally or in writing will not form part of the these conditions of sale in any way unless agreed to in writing by Gaddtech.

## **7. INTELLECTUAL PROPERTY RIGHT**

- 7.1 The Customer acknowledges all copyrights and shall not duplicate copyrighted material and that each infringement attempt shall immediately render the full prevailing price payable to Gaddtech.
- 7.2 The Customer shall indemnify Gaddtech against any claims, costs and expenses arising out of the infringement of copyright, patent, trademark or design supplied by the Customer to another party.
- 7.3 The Customer shall not disclose any information received from Gaddtech to any third party or use this information for its benefit or that of any third party without the prior written permission of Gaddtech. Failure to comply with this clause shall constitute a material breach of these conditions of sale. "Information" shall, for the purpose of these conditions of sale include, without limitation, any technical data, commercial, scientific information, know-how, trade secrets, processes, machinery, designs, drawings, technical specifications and data in whatever form (including all types of Software), communicated to the Customer or acquired by the Customer from Gaddtech. The Customer acknowledges that such data or information is confidential or secret and constitute the sole property of Gaddtech.

## **8. OWNERSHIP**

- 8.1 All goods supplied by Gaddtech remain the property of Gaddtech until such goods have been fully paid for whether such goods are attached to other property or not.
- 8.2 The Customer shall not allow the goods to become encumbered in any manner prior to the full payment thereof and shall advise third parties of the rights of Gaddtech in the goods.

## **9. PAYMENT**

- 9.1 The Customer agrees that the amount contained in a Tax Invoice issued by Gaddtech shall be due and payable unconditionally (a) cash on order; or (b) if the Customer is a Credit Approved Customer, within 30 days from the end of the month in which a Tax Invoice has been issued by Gaddtech, unless agreed otherwise in writing.
- 9.2 The Customer agrees to pay the amount on the Tax Invoice by means of electronic funds transfer only, unless otherwise arranged and agreed upon.
- 9.3 The Customer has no right to withhold payment for any reason whatsoever and agrees that no extension of payment of any nature shall be extended to the Customer and any such extension will not be applicable or enforceable unless agreed to by Gaddtech, reduced to writing and signed by the Customer and a duly authorised representative of Gaddtech.
- 9.4 The Customer is not entitled to set off any amount due to the Customer by Gaddtech against any other debt.
- 9.5 All discounts, if any, shall be forfeited if payment in full is not made on the due date.
- 9.6 The Customer agrees that the amount due and payable to Gaddtech may be determined and proven by a certificate issued and signed by any director or manager of Gaddtech, whose authority need not be proven or by any independent auditor. Such certificate shall be binding and shall be prima facie proof of the indebtedness of the Customer.
- 9.7 The Customer agrees that interest shall be payable at the maximum legal interest rate prescribed in terms of the relevant legislation on any moneys past due date to Gaddtech and that interest shall be calculated daily and compounded monthly from the due date.

## **10. BREACH**

- 10.1 The Customer agrees that if an account is not settled in full
  - (a) against quote or order; or (b) within the period agreed in the case of a Credit Approved Customer; Gaddtech is: (i) entitled to immediately institute legal action against the Customer at the sole expense of the Customer; or (ii) to cancel the Agreement and take possession of any goods delivered to the Customer and claim damages. These remedies are without prejudice to any other right Gaddtech may be entitled to in terms of these conditions of sale or in law.Gaddtech reserves its right to stop supply immediately on cancellation or on non-payment.
- 10.2 A Credit Approved Customer will forfeit and lose their credit approval when payment is not made according to the conditions of the credit agreement and all amounts then outstanding shall immediately become due and payable.
- 10.3 Gaddtech shall be entitled to withdraw credit facilities at any time at its sole discretion.
- 10.4 In the event of cancellation, the Customer shall be liable to pay (a) the difference between the selling price and the value of the goods at the time of repossession and (b) all other costs incurred in the repossession of the goods. The value of repossessed or retained pledged goods shall be deemed to be the value placed on them by any sworn valuator after such repossession, and such valuation shall be conclusive proof of the value. If the goods are not recovered for any reason whatsoever, the value shall be deemed to be nil.
- 10.5 In the event of cancellation of the Agreement by Gaddtech, it shall be entitled to repossess any goods that have been delivered to the Customer and remains unpaid by the due date.

10.6 In the event of cancellation of the Agreement by Gaddtech, it is entitled not to produce any unmade balance of a contract and to recover any loss sustained thereby from the Customer.

#### **11. LIMITATION OF LIABILITY**

11.1 Under no circumstances shall Gaddtech be liable for any consequential damages including loss of profits or for any delictual liability of any nature whatsoever whether caused negligently or innocently.

11.2 Under no circumstances shall Gaddtech be liable for any damage arising from any misuse, abuse or neglect of the goods or services.

#### **12. NOTICE**

12.1 Any document shall be deemed duly presented to and accepted by the Customer (i) within 5 days of prepaid registered mail to any of the Customer's business or postal addresses or to the personal address of any director, member or owner of the Customer; or (ii) within 24 hours of being emailed to any of the Customer's email addresses or any director, member's or owner's email addresses; or (iii) on being delivered by hand to the Customer or any director, member or owner of the Customer; or (iv) within 96 hours if sent by courier.

12.2 The Customer chooses its address for any notification or service of legal documents or processes as the business address as communicated to Gaddtech in any way or form.

12.3 Any order is subject to cancellation by Gaddtech due to acts of God or any circumstance beyond the control of Gaddtech, including (without restricting this clause to these instances): inability to secure labour, power, materials or supplies, war, civil disturbance, riot, state of emergency, strike, lockout, or other labour disputes, fire, flood, drought or legislation, without any liability.

12.4 Any order is subject to cancellation by Gaddtech if the Customer breaches any term of these conditions of sale or makes any attempt of compromise, liquidation, sequestration, termination or judgement is recorded against the Customer or any of its principals.

12.7 These conditions of sale are subject to South African law.

#### **13. GENERAL**

13.1 The Customer shall be liable to Gaddtech for all legal expenses on the attorney-and-own-client scale incurred by Gaddtech in the event of (a) any default by the Customer or (b) any litigation in regard to the validity and enforceability of these conditions of sale. The Customer shall also be liable for any tracing, collection or valuation fees incurred as well as for any costs, including stamp duties, for any form of security that Gaddtech may demand.

13.2 The Customer agrees that Gaddtech will not be required to furnish security in terms of Rule 62 of the Rules of Court of the Magistrate's Courts or in terms of Rule 47 of the Law of the Supreme Court 59 of 1959.

13.3 The Customer agrees that no indulgence whatsoever by Gaddtech will affect the terms of these conditions of sale or any of the rights of Gaddtech and such indulgence shall not constitute a waiver by Gaddtech in respect of any of its rights herein. Under no circumstances will Gaddtech be estopped from exercising any of its rights in terms of these conditions of sale

13.4 The Customer hereby consents that Gaddtech shall have the right to institute any legal action in either the Magistrate's Court or the High Court at its sole discretion. These South African courts shall have exclusive jurisdiction in any litigation between the parties arising from whatsoever source.

13.5 Each provision of these conditions of sale is severable from the other provisions. Should any provision be found to be invalid or unenforceable for any reason, the remaining provisions of these conditions of sale shall nevertheless remain binding and continue with full force and effect.

#### **14. THE PROTECTION OF PERSONAL INFORMATION ACT**

14.1 The Customer is hereby notified that its personal information and, if applicable, that of its representative/s and other parties provided to Gaddtech herein or otherwise, will be collected and processed by Gaddtech as contemplated in the POPI Act, primarily for the purposes of enabling Gaddtech to issue quotations, order confirmations and invoices in respect of the supply of goods.

14.2 Gaddtech is the responsible party in respect of such personal information, as contemplated in the POPI Act.

14.3 The Customer and, if applicable, its said representative/s and other parties acknowledge/s that:

14.3.1 the furnishing by him, her, them or it, as the case may be, of such personal information is voluntary and not mandatory; and

14.3.2 the consequence of failure to provide such personal information could lead to the inability of Gaddtech issue quotations, order confirmations and invoices in respect of goods.

14.4 The Customer and, if applicable, its said representative/s and other party/ies acknowledge/s and confirm/s that

Gaddtech may process his, her, their or its information, including information regarding identity, e-mail addresses, physical and/or postal addresses, telephone numbers, full names and/or registration numbers.

- 14.5 The processing of information by Gaddtech includes the collection, storage, updating, use, making available and/or destruction thereof, to enable Gaddtech to:
- 14.5.1 issue quotations, order confirmations or invoices;
  - 14.5.2 conclude agreements with the Customer in respect of goods;
  - 14.5.3 enforce and/or collect on any agreement, when the Customer is in default or breach of these conditions of sale provisions and/or to trace the whereabouts of the Customer for purposes of such enforcement and/or collection;
  - 14.5.4 perform historical, statistical and/or research functions;
  - 14.5.5 do affordability assessments, credit assessments and/or credit scoring in respect of the Customer; and
  - 14.5.6 deliver documents and/or notices to the Customer.
- 14.6 The Customer and, if applicable, its said representative/s and other parties acknowledge/s and confirm/s that Gaddtech may share his, her, their or its, as the case may be, personal information with the following persons whom have an obligation to keep the personal information secure and confidential:
- 14.6.1 attorneys, tracing agents, debt collectors and/or other persons that assist with the enforcement of this Agreement;
  - 14.6.2 law enforcement and/or fraud prevention agencies;
  - 14.6.3 regulatory authorities, governmental departments, local and/or international tax authorities and/or other persons that Gaddtech under law has to share the personal information with;
  - 14.6.4 persons to whom Gaddtech cedes its rights and/or delegates its obligations in terms of these conditions of sale; and
  - 14.6.5 contractors and/or employees of Gaddtech who are required to be informed of the personal information to enable Gaddtech to comply with any quotation to and/or agreement with the Customer in respect of goods.
- 14.7 The Customer, and, if applicable, its said representative/s and other parties acknowledge/s and confirm/s that Gaddtech may process his, her, their or its personal information using automated means so as thereby to make a decision about the Customer, including about the Customer's request for credit facilities with Gaddtech.
- 14.8 The Customer and, if applicable, its said representative/s and other parties acknowledge/s and confirm/s that he, she, they or it, may:
- 14.8.1 access the information that Gaddtech has about him, her, them and/or it, as the case may be, and may request Gaddtech to correct and/or delete the information if it is inaccurate, irrelevant, excessive, out of date, incomplete, misleading, obtained unlawfully and/or no longer authorised to be kept, and may file a complaint with the Information Regulator established in terms of the POPI Act about an alleged contravention of the protection of his, her, their or its, as the case may be, information; and
  - 14.8.2 withdraw his, her, their and/or its consent which allows Gaddtech to process his, her, their or its information, except if otherwise allowed, and/or required by law.