

TERMS AND CONDITIONS

1. These terms and conditions (a) represent the entire BIAS Consultants trading conditions and no alterations or additions may be effected unless agreed to by both parties, reduced to writing and signed by the Customer and a duly authorized representative of BIAS Consultants (hereinafter called "BIAS") (b) will govern all future contractual sales relationships between the parties whereby the Customer purchases goods or services from BIAS; (c) are applicable to all existing debts between the parties; (d) are final and binding and are not subject to a suspensive or dissolutive condition; (e) expressly exclude any conflicting conditions stipulated by the Customer; (f) supersede all previous conditions without prejudice to any securities or guarantees held by BIAS and (g) apply to all servants, agents and subcontractors of BIAS.
- 2.1 The Customer agrees that neither BIAS nor any of its employees will be liable for any negligent or innocent misrepresentations made to the Customer nor shall the Customer be entitled to rescind from any contract on those grounds.
- 2.2 It is the sole responsibility of the Customer to determine that the goods or services ordered are suitable for the purpose of intended use.
- 3.1 All quotes will remain valid for a period of 7 days from the date of the quote or until the date of issue of a new price, whichever occurs first. The validity of any price is subject to availability and to any increases in the cost price, including currency fluctuations, of BIAS before dispatch of goods.
- 3.2 The Customer hereby confirms that the goods and services on the tax invoice issued duly represent the goods and services ordered by the Customer at the prices agreed to by the Customer and where performance / delivery has already taken place that the services and goods 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.
- 3.3 Any delivery note or waybill or job card (copy or original) signed by the Customer or a third party engaged to transport the goods and held by BIAS shall be prima facie proof that delivery was made to the Customer and are in accordance with the quality and quantity reflected thereon.
- 3.4 All orders and variations to orders are subject to these terms and conditions. Only written orders and variations to orders will be accepted by BIAS. This notwithstanding, BIAS may, at its sole discretion, elect to accept and act upon telephonic orders and any variations to orders. BIAS however reserves the right to refuse delivery or collection of any order until placed in possession of a written order form.
- 3.5 BIAS shall be entitled to split the delivery of 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.
- 3.6 BIAS shall be entitled to invoice each delivery actually made separately.
- 3.7 The risk of damage to or destruction of goods is passed to the Customer on signature of the delivery receipt upon delivery to the Customer or the Customer's nominated representative and the Customer undertakes to insure the goods fully, until paid for in full. BIAS may recover insurance premiums from the Customer for such ordered goods that remain uninsured.
- 3.8 In the case of repairs undertaken by BIAS, repair times given are merely estimates and are not binding on BIAS; time is not of the essence of this agreement unless expressly agreed upon in writing by BIAS. BIAS shall not be liable for any loss or damage of whatsoever nature which the Customer may suffer as a result of any unforeseen costs and/or delayed repairs.
- 3.9 BIAS is hereby authorised to engage a third party on its behalf and on the terms deemed fit by BIAS to transport all goods purchased/repaired.
- 3.10 If the Customer chooses to engage in its own third party to transport the goods, the Customer indemnifies BIAS against any claims of whatsoever nature that may arise from such an agreement.
- 3.11 Delivery, installation, commencement and performance times given are merely estimates and are not binding on BIAS. BIAS warrants that it will use its best endeavours to meet such delivery times; time is not of the essence of this agreement unless expressly agreed upon in writing by BIAS. BIAS shall not be liable for any loss or damage of whatsoever nature which the Customer may suffer as a result of any incorrect or delayed delivery, installation, commencement or performance.
- 3.12 The Customer acknowledges all copyrights and shall not duplicate copyrighted material and that each attempt will immediately render the full prevailing price payable to BIAS.
- 4.1 New goods are guaranteed according to the manufacturer's product specific warranties only. Each repair carries a 3 month warranty unless specified otherwise.
- 4.2 Liability under clause 4.1 is restricted to the cost of repair or replacement of faulty goods or services or granting of a credit at the sole discretion of BIAS.
- 4.3 It is the duty of the Customer to return any defective goods to the premises of BIAS's nominee at the Customer's own cost.
- 4.4 Any item delivered to BIAS will form the object of a pledge in favour of BIAS for present and past debts of the Customer to BIAS and BIAS will be entitled to retain such a pledge at the value as determined in 15.
- 4.5 All guarantees are immediately null and void should any equipment be tampered with or should the seals on equipment be broken by anyone other than BIAS or its appointed nominee, or should the goods be operated outside the Manufacturer's specifications.
- 5.1 Under no circumstances will BIAS be liable for any consequential or indirect damages or loss of profit or for any delictual liability for any nature whatsoever.
- 5.2 Under no circumstances will BIAS be liable for any damage rising from any misuse or abuse of the goods.
6. No claim under these terms and conditions will arise unless the Customer has, within 7 days of the alleged breach or defect occurring, given BIAS 30 days written notice by prepaid registered post to rectify any defect or breach of contract.
7. The Customer agrees to pay the amount on the tax invoice at the offices of BIAS. (a) cash on demand; or (b) if the Customer is a Credit Approved Customer, within the terms as reflected on invoice and/or statement issued by BIAS.
- 8.1 The Customer has no right to withhold payment for any reason whatsoever and agrees that no extension of payment of any nature will be extended to the Customer and any such extension will not be applicable or enforceable unless agreed to by BIAS, reduced to writing and signed by the Customer and a duly authorised representative of BIAS.
- 8.2 The Customer hereby agrees that any item handed in for repair may be sold by BIAS to defray the cost of such repairs if the item remains uncollected within 6 months of the repairs being completed.
- 9.1 The Customer agrees that the amount due and payable to BIAS may be determined and proven by a certificate issued by any independent auditor. Such certificate shall be binding and shall be prima facie proof of the indebtedness of the Customer.
- 9.2 Any printout of computer evidence tendered by any party shall be admissible evidence and no party shall object to the admissibility of such evidence purely on grounds that such evidence is computer evidence.
10. The Customer agrees that interest shall be payable on any moneys due to BIAS at 2% above the prime rate quoted by South African Reserve Bank, which interests shall be calculated on a daily balance and capitalized monthly from the date the moneys fell due to payment. A certificate under hand of any manager of the South African Reserve Bank shall be prima facie proof of the interest rate charged nor shall it be necessary to prove the signature or capacity of such manager.
11. If at any time any amount of money due by the Customer to BIAS is overdue for payment, BIAS shall be entitled to suspend all repairs and deliveries to the Customer until all amounts are paid or, at the election of BIAS, to cancel all outstanding orders in either of which events the Customer shall have no claim against BIAS.
12. Prices are subject to change without prior notice.
13. Any order is subject to cancellation by BIAS due to force majeure from any clause beyond the control of BIAS, including (without restricting this clause to these instances): inability to secure labour, power, materials or supplies, or by reason of an act of God, war, civil disturbance, riot, state of emergency, strike, lockout, or other labour disputes, fire, flood, drought or legislation.

TERMS AND CONDITIONS (continued)

- 14.1 The Customer agrees that if an account is not settled in full (a) against order; or (b) within the period agreed in clause 7 above in the case of a Credit Approved Customer; or if the Customer commits a breach of any of these conditions, or being an individual, is provisionally or finally sequestrated or surrenders his estate, or being a partnership, is being dissolved, or being a company or close corporation is placed under a provisional or final order of judicial management or liquidation, or compromises or attempts to compromise generally with its creditors or if an order in terms of section 65 of the Magistrates Court Act 32 of 1944, as amended is issued against the Customer, or if he commits or permits any act that may prejudice the rights of BIAS; then in any of these events BIAS may in its sole discretion either; (i) entitled to immediately institute action against the Customer at the sole expense of the Customer; or (ii) cancel the agreement and take possession of any goods delivered to the Customer by giving the Customer written notice to that effect; or (iii) claim damages. Furthermore, BIAS shall be entitled to immediately suspend any delivery or service while the Customer is in breach of any of the terms of any contract between it and BIAS. In the event of a breach and without restricting or revoking any other rights BIAS may have in law, BIAS shall have the right to claim from the Customer the following costs: if payment by cheque is referred to drawer for whatsoever reason, an amount of R60.00 per affected cheque; if the Customer's debit order is returned due to lack of funds, an amount of R60.00; if default necessitates the telephonic contact of the debtor by BIAS, an amount of not more than R50.00 per call; if default necessitates a personal visit by BIAS, an amount of R100.00 per visit; Cost for issuing a Letter of Demand at R16.50; subject to the maximum costs recoverable in terms of the Magistrates Court Act 32 of 1944 as amended, Attorneys Act 33 of 1979 and Debt Collections Act 114 of 1998. These remedies are without prejudice to any other right BIAS may be entitled to in terms of this agreement or in law.
- 14.2 The Customer hereby consents, in terms of Section 45 of the Magistrates Court Act of 1944 as amended to BIAS instituting any proceedings arising out of this contract in the Magistrates Court for the district of RANDBURG otherwise having jurisdiction in terms of Section 28 of the Magistrates Court Act notwithstanding the fact that such proceedings are otherwise not within the jurisdiction of that court. BIAS however reserves the right, in its sole discretion, to institute any action arising from this agreement in the High Court of South Africa.
- 14.3 In the event of any default by the Customer of any provision of this agreement, the Customer hereby consents and authorizes BIAS to furnish the name, credit record and repayment history of the Customer to any credit bureau as a delinquent debtor.
15. All goods supplied by BIAS remain the property of BIAS until such goods have been fully paid for.
16. The Customer shall be liable to BIAS for all legal expenses (including collection fees) on the attorney own client scale incurred by BIAS in the event of (a) any default by the Customer or (b) any litigation in regard to the validity and enforceability of this agreement. The Customer will also be liable for any collection or valuation fees incurred.
17. The Customer agrees that no indulgences whatsoever by BIAS will affect the terms and conditions or any of the rights of BIAS and such indulgence shall not constitute a waiver by BIAS in respect of any of its rights herein. Under no circumstances will BIAS be stopped from exercising any of its rights in terms of these conditions.
- 18.1 Any document will be deemed duly received by the Customer within (a) 3 working days of prepaid registered mail to any of the Customer's business or postal addresses or the domicile address of the Customer or to the personal address of any director, member or owner of the Customer; or (b) within 24 hours of being faxed to any of the Customer's fax numbers or any director, member's or owner's fax numbers; (c) on being delivered by hand to the Customer or any director, member or owner of the Customer; or (d) within 48 hours if sent by overnight courier.
- 18.2 The Customer chooses as its domicilium citandi et executandi the business address as per the partner application or such other address agreed upon between BIAS and the Customer.
19. The invalidity of any part of these terms and conditions will not affect the validity of any other part, each clause in this agreement being severable from the rest.
20. The signatory warrants that he is the duly authorized representative of the Customer and that he has full capacity, whether legal or otherwise, to enter into any contractual agreement with BIAS.
21. This Agreement and its interpretation is subject to South African law and the Customer consents to the exclusive jurisdiction of the South African Courts referred to in clause 14.1.
22. The Customer hereby acknowledges that he/she has read and understood each term of this agreement and accepts them as binding and acknowledges that the content reflects the true meaning of both parties and that this agreement has been entered into for the benefit of both the Customer and BIAS.