



## **Terms and Conditions**

The conditions set forth herein shall apply to all transactions for the supply of goods and/or services entered into, or to be entered into, between YNF Engineering CC, hereinafter referred to as “the Company” and the purchaser being any legal person, firm, partnership, close corporation or company, hereinafter referred to as “the Buyer”:

### **1. Orders**

After acceptances, may not be cancelled, in whole, or in part, or varied in any manner whatsoever, unless confirmed in writing by the Company.

### **2. Prices**

2.1 Quoted prices are exclusive of VAT, unless otherwise stated. Where quotations are based on foreign currencies the Company reserves the right to change these prices to South African currency at the forward cover purchased by the Company.

2.2 All quotations are valid for 30 days from date received or unless confirmed in writing by the Company. If no feedback is provided within the specified time frame a “Storage and Handling Fee” will be charged per day at 5% of the Quoted Price.

2.3 The Buyer has the opportunity to either “Accept” or “Reject” any quotation issued by the Company. For any Quotation (s) Rejected by the Buyer, a “Strip and Access Fee” and “Storage and Handling Fee” will be applicable and liable to the Buyer. Any Quotation (s) Accepted by the Buyer must have a valid signature and must be accompanied with an official Purchase Order from the Buyer.

### **3. Payment**

3.1 Shall be in South African Currency, without deduction or set-off.

3.2 Shall be in full, in the form of cash, Credit Card, Bank Guaranteed Cheque or Electronic Fund Transfer (EFT), cash with order or against invoice.

3.3 The Buyer agrees and undertakes to notify the Company immediately of any material factor which could or might have a bearing on the credit facilities extended to the Buyer by the Company, and furthermore undertakes to notify the Company immediately of any material change of or concerning the Buyer, including any change of ownership, shareholding, status, name and address.

### **4. Delivery**

4.1 Any time or date specified for delivery by the Company or the Buyer, in respect of any sale, shall be approximation and guide only unless confirmed in writing by the Company.

4.2 If the Company is unable to effect delivery of any part of the goods on the date or time stipulated by it or the Buyer, the Buyer shall be obliged to take delivery as and when the Company can reasonably affect such delivery.

4.3 The Company endeavours to execute delivery on any date specified by it or agreed upon by it, but does not give any warranties of whatsoever nature or kind and it shall not be held responsible for any damages of whatsoever nature, or loss of profit, or any consequential or indirect damages which the Buyer may suffer as a result of such later delivery.

4.4 The Company is entitled to charge storage costs where the Buyer requests the Company to withhold or postpone delivery, and the Company agrees thereto, and the Buyer undertakes to pay any and all storage costs related to goods not taken, at the prevailing storage rates charged by the Company.



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4.5 The risk in and to the goods purchased shall pass to the Buyer upon delivery. Such delivery will be deemed to have been effected upon tender of the goods for acceptance by the Buyer within normal business hours, at the Buyer's place of business or such other place nominated by the Buyer, or the Company's place of business, if the Buyer elects to collect the goods.

4.6 In the event of the Company, for any reason whatsoever, not being able to effect delivery of all the goods, the Company may, in its discretion, effect delivery of such goods as it can, and the Buyer is obliged to accept such partial delivery of goods, and such delivery shall be deemed to be a sale for such listed quantity of goods, concluded in terms of these terms and conditions.

4.7 Should the Buyer have any claim whatsoever, arising out of a partial delivery of the goods, the Buyer shall, notify the Company within 24 hours of receiving or tendering of possession of the goods by the Company or the carrier of the goods, where the carrier is the Company's agent; and endorse the delivery note accordingly.

4.8 Unless the Buyer gives timely notice of the partial delivery, in terms of 4.7 above, the Buyer shall be deemed to have received the goods as set out in the delivery note and relevant invoices.

4.9 Notwithstanding anything previously contained herein, no carrier, as agent of the Company, shall be obliged to enter the premises of the Buyer to enable offloading to be effected. However, if such vehicle should enter the Buyer's premises, it shall be deemed to do so at the Buyer's specific instance and request, and in that event the Company and/or its servants and/or agents shall accept no liability for damage or loss occasioned to the Buyer or any third party, arising in any way from such entry or for that matter, exiting from the Buyer's premises, or from the offloading thereof. Further, the Buyer hereby indemnifies and holds the Company harmless against liability for any such damage or loss.

### **5. Reservation of Ownership and Appropriation of Payments**

5.1 Notwithstanding anything herein before or elsewhere contained, ownership of the goods shall, at all times, remain vested in the Company, until the Buyer has made full payment of the purchase price. No latitude or extension of time given to the buyer shall in any way vitiate or novate the Company's rights hereunder. In the event of any default on the part of the Buyer, the Company shall, without prejudice to any other rights it may have, and without notice, be entitled, on demand, to obtain return of the goods, in so far as payment for the goods has not been made in full. The Buyer also consents to a Court Order against it for the attachment and removal of such goods by the Sheriff of the relevant Court.

5.2 The Company shall be entitled, at its discretion, to appropriate any payments made towards the reduction of any indebtedness to it by the Buyer as well as interest, at the Company Bank's prevailing prime rate.

5.3 The Company is not obliged to accept returned goods where the Buyer has made an error in its order, and the Buyer remains fully liable for the full price of the goods so ordered.

### **6. Limitation of Company's Liability**

6.1 Before dealing in any manner with the goods supplied against any order; the Buyer must satisfy itself that the goods are suitable for the purpose for which they are to be used, and are free from any defects of whatsoever nature, against any claim brought against the Company by any Third Party arising out of the unsuitability of the goods for any particular purpose whatsoever.

6.2 The Company shall not be liable under any circumstances whatsoever, for any loss of profit or other special damages, out of any of its obligations under this contract of any part of the Company and/or its employees or for any other reason, whether of the same kind, with the foregoing, or otherwise howsoever.



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6.3 The onus shall be on the Buyer to satisfy itself that the goods supplied are for the purpose for which the goods are to be used, there being no obligation on the Company to guarantee such suitability.

6.4 No agreement, warranty, condition, representation, promise, statement or undertaking, whether made before or after a sale, shall be binding on the Company unless contained herein or confirmed officially in writing under the Company's signature.

### **7. General**

7.1 No variation, amendment or alteration of these Terms & Conditions shall be accepted or unless produced in writing and signed by a duly authorised representative of the Company and the Buyer.

7.2 Wherever, in these Conditions, provision is made for the amendment or variation thereof between the Buyer and the Company, in writing, the onus shall be on the Buyer to establish that the representative of the Company, in entering into such variation or amendment to the terms hereof, was authorised to do so.

7.3 In the event of any order from the buyer providing for the delivery of the goods at/in various stages, then each delivery shall be deemed to be a separate and divisible contract and the terms and conditions herein contained shall apply to each delivery as if the same were the subject of an independent contract. No dispute arising from any such one delivery shall affect the balance of the contract between the Company and the Buyer arising from prior deliveries. The Company shall have the right to claim pro rata payment in respect of each consignment delivered to the Buyer.

7.4 The Buyer agrees that its signature of its employees or any person purporting to represent it on the official delivery note or waybill of the Company, be sufficient proof of delivery of the goods from time to time.

### **8. Warranty Period**

8.1 The Company's manufacturer warrants that the goods sold by the Company will be free from defects in materials or workmanship, under normal use and service, for the appropriate warranty period. The extent of the warranty period will depend on the period given by the Company's manufacturer. The Company's sole obligation under this warranty shall be, at its option, to repair or replace, without charge, any defective component part of such product, within a reasonable time period, or to credit the Buyer's account with the market related value, provided such faulty goods are returned in terms of this clause and not found to be defective, will be returned to the buyer at the Buyer's expense, and be subject to a charge equal to 20% of the invoice value of such goods to cover the costs of testing and other time spent by the Company.

8.2 The Company shall not be liable under this warrant for any goods that the Buyer alleges are defective where those goods have been repaired or altered by some other person than the Company's designated personnel or authorised representative, unless such repair or alteration was effected pursuant to prior written approval of the Company, or where the Buyer fails to notify the Company of any alleged defect within the period of the warranty, or where the goods have been altered or damaged in any way which the Company reasonably determines to personally effect the performance and reliability, or where the goods have been subjected to misuse, neglect or accident.

8.3 We have a standard warranty on refurbished and newly supplied or manufactured products. Six (6) Months warranty contract on all refurbished products by the Company and Twelve (12) Month contract on all newly and/or manufacture products supplied.

### **9. Force Majeure**

If the agreement becomes wholly or partially impossible to perform due to causes beyond the control of the Company, such causes to include, but not be limited to; war, civil insurrection, *vis maior*, Government action and industrial disputes, the



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Company shall be permitted to rescind the agreement at its discretion. If deliveries of goods or services shall be delayed as a result of such causes, the Company shall not be construed as being in breach of the agreement.

### **10. Breach**

10.1 Where the Buyer, in anyway, breaches the terms of the agreement, and does not remedy same within 24 hours of verbal or written warning to that effect, then the Company, in its discretion may resilie from the agreement and claim return of the goods or its current market value in Rands, determinable from the relevant invoice, as well as being able to retain any monies already received from the Buyer, as damages.

10.2 The Magistrate's Court will be the forum which will deal with any matters of breach and surrounding issues, and concurrently the Laws of the Republic of South Africa will be applicable.

### **11. Costs**

If the Buyer is in anyway in breach of the agreement and the Company engages the services of an attorney to collect the whole or portion of the amount owing to it by the Buyer, or to sue for any other damages as a result of breach by the Buyer, the Buyer shall be liable to pay all costs occasioned as a result thereof, including collection charges and costs on an attorney and own client scale.

### **12. Breakdown Fee**

A breakdown fee charged at 25% increment of our price will be charged accordingly on all breakdown jobs received as per the buyers request, thus any job received without formal notification of it being a breakdown, will be considered as a normal job and will be treated as such.

**A copy of these Terms and Conditions have been made available on our website. [www.ynf.co.za](http://www.ynf.co.za)**