

STANDARD TERMS AND CONDITIONS

All and any business undertaken including any advice, information and/or service provided whether gratuitously or not, by Engineering Data Systems SA (hereinafter called "EDS") is governed by these terms and conditions, which shall be deemed to be incorporated into any agreement between EDS and its customers. These terms and conditions shall prevail notwithstanding any variation from the terms and conditions of any order.

1. INSTALLATION AND ACCEPTANCE OF EQUIPMENT

- 1.1. Installation of the equipment shall be performed by EDS, only if specifically indicated as part of the offered scope of the order and provided that the customer has at its own cost prepared the site before the schedule delivery date in accordance with directions given by EDS and has so notified EDS that the site has been properly prepared and further provided that there has been no unauthorised modification or interference with the equipment.
- 1.2. Should the client install the equipment it must be done by a competent person, having the necessary training and experience to complete the installation according to the relevant codes and standards. Incorrect installation or commissioning will invalidate the warranty, this includes installation of the equipment into inappropriate environments. Please check with the EDS technical team if advice is required.
- 1.3. If EDS attends to the installation at the customer's request then it will conduct standard commissioning, completion of such commissioning shall signify acceptance of the equipment by the customer.
- 1.4. If installation is delayed due to any causes which are not within the responsibility or under the control of EDS then the equipment shall be deemed to be in good working order and accepted by the customer 7 (seven) days after delivery.

2. WARRANTY

- 2.1. EDS warrant all parts against defect and workmanship and material for a period of twelve months following delivery to the customer.
- 2.2. EDS's sole responsibility under this warranty shall be to repair or replace any material found to be defective. EDS shall supply any labour required to repair or replace such material during the warranty period per call rates and terms then in effect. Travelling to site, or transportation of faulty goods are not covered by the warranty.
- 2.3. Except for the express warranty stated in this clause and in clause 5 hereof, EDS disclaim all other warranties, whether expressed to imply by law or otherwise and the warranty in this agreement is in lieu of all obligations and liabilities on the part of EDS for damage arising out of or in connection with the use or performance of this equipment.

3. SPECIAL CHARGES

For installation and warranty services executed outside places where EDS has service facilities, the customer may be charged with special distance charges. Such charges will be quoted for on a time and distance basis.

4. PRICE

- 4.1. Prices given by EDS in the quotation are valid for 14 days from the date of such quotation and shall be subject to the terms of the quotation. Imported items are always subject to price variation due to ROE variation where the variation is for the client's account and calculated at the time when the forex is procured.
- 4.2. The quotation given shall state whether the cost of delivery to the installation site is included or not, if nothing is stated, then the goods will be deemed to be Ex Works Johannesburg.

5. DELIVERY AND TITLE

- 5.1. When delivery is included, delivery will be made at any address in the Republic of South Africa designated by the customer. The estimated delivery time is approximate only and EDS shall not be liable for any delay in delivery.
- 5.2. The time of delivery is the time when the equipment is unloaded outside the address designated by the customer. All risks of loss or damage to the equipment passes to the customer at the time of delivery.
- 5.3. EDS warrants title to the equipment and all ownership in and to the equipment shall not pass to the customer until the prices, taxes and other charges due under this agreement are paid in full.

6. DISPATCH DATES

Any times quoted for dispatch are to be treated as estimates only. Whilst every endeavour will be made to meet these estimated times for dispatch. EDS shall not be liable for failure to dispatch within the time quoted.

7. PAYMENT

- 7.1. Payment is due to EDS on delivery of the equipment except where the customer has established a satisfactory credit arrangement with EDS at the time of order. Under the terms of credit payment, the customer shall pay the contract price 30 (thirty) days from the date of invoice.
- 7.2. EDS reserves the right to request that the customer pay an upfront deposit for any special orders or where the customer has not established a satisfactory credit arrangement with EDS.
- 7.3. In the event of payment not being so made then EDS shall charge interest thereon from the date the payment was due at prime plus 2%.
- 7.4. Notwithstanding the above provisions for late payment, if payment has not been made within thirty days of the invoice, EDS may, at its option and without prejudice to any other remedy, at any time after payment has become due, enter in or upon the customer's premises and take possession of the equipment and EDS shall be at liberty to hire or sell the same to third parties, and to recoup from the customer its loss or expenses (if any) in full.

8. CANCELLATION

- 8.1. In the event that the customer (i) cancels any order or portion thereof or (ii) fails to meet any obligation hereunder causing cancellation of any order or portion thereof the customer shall agree to pay to EDS cancellation charges by way of liquidation damages as a percentage of the list price of the cancelled equipment, the parties hereto recognise this as being the most suitable method to pre-estimate the actual losses incurred by EDS in such an eventuality.

CANCELLATION NOTICE RECEIVED	CANCELLATION CHARGES PAYABLE
61-90 days prior to scheduled delivery date	20% of the entire invoice amount
31-60 days prior to scheduled delivery date	40% of the entire invoice amount
30 days or less prior to scheduled delivery date	60% of the entire invoice amount
During scheduled delivery date	80% of the entire invoice amount

- 8.2. The customer may not cancel any order or portion thereof after delivery. Should the customer cancel the order after delivery has taken place then EDS reserves the right to immediately collect the equipment and charge the customer a 80% cancellation fee and any additional charges associated with the collection of the equipment.

9. RE-SCHEDULING

9.1. EDS may at its sole discretion allow the customer a deferral of delivery provided that:

9.1.1. the customer in his request for such deferral agrees to pay all charges incurred by EDS as a result of compliance with the request for deferral; and

9.1.2. the deferred delivery date is less than sixty days from the acknowledged delivery date.

9.2. Notwithstanding the above if the customer is unable to or refuses to take delivery of the equipment on or after the scheduled delivery date for any reason, in circumstances which do not amount to a request for rescheduling. EDS shall have the right to charge the customer for all costs it incurs including, but not limited to storage, carriage and insurance charges until such time as the customer is able and willing to accept delivery.

9.3. If the customer is not able and willing to take delivery within a period of 30 (thirty) days from the scheduled delivery date then EDS shall have the right without prejudice to any other of its rights under this agreement to sell the equipment to a third party without any liability whatsoever to the customer and in such circumstances a cancellation will have been deemed to have taken place in accordance with clause 8 of this agreement.

10. INDEMNITY

10.1. EDS indemnifies the customer for direct damages to property caused by any of its products or by the gross negligence of its employees, in connection with the performance of their duties under this agreement. EDS's total liability under this clause shall be limited to the lesser of the value of the equipment or R 500,000 for any event or connected events.

10.2. In no event shall EDS be liable for indirect, consequential, punitive or exemplary loss or damages of whatsoever nature and howsoever arising.

11. FINANCIAL CONDITION

EDS shall not be responsible for non-performance in whole or in part of its obligations hereunder nor be under any liability to the customer in respect thereof if such non-performance is due to other causes beyond the control of EDS.

12. HEALTH AND SAFETY

The customer shall take all reasonable precautions to ensure the health and safety of EDS personnel whilst they are on the customer's premises.

13. DISPUTE RESOLUTION

13.1. In the event of any disagreement arising out of this Agreement or the interpretation thereof while in force or after its termination the Parties will endeavour to settle the dispute through bona fide negotiations.

13.2. In the event that the Parties are still unable to reach agreement through the process referred to above, it is hereby agreed that the dispute will be submitted to and decided by way of arbitration to be administered by the Arbitration Foundation of Southern Africa (Hereinafter referred to as "AFSA") in terms of their then current expedited rules for arbitration.

13.3. The date, time and place for the arbitration will be determined by mutual agreement between the parties or, failing agreement, by the Arbitrator, provided that place for the arbitration will be in Johannesburg.

13.4. The parties hereto agree that the decisions of the Arbitrator, or the Appeal Tribunal, as the case may be, will be final and binding on each of them, will be carried into immediate effect and can be made an order of Court to whose jurisdiction the Parties are subject.

13.5. This Dispute Resolution clause will not prejudice a Party's right to seek interim relief. The parties agree that the amount claimed or the value of the matter in the dispute may determine the jurisdiction of the applicable court.

13.6. The provisions of this Dispute Resolution clause will continue to be binding on the parties notwithstanding any termination or cancellation of this Agreement.

14. BREACH AND TERMINATION

- 14.1. In the event of a breach by either party ("Defaulting Party"), of any terms or conditions of this Agreement, the other party ("Aggrieved Party") may at any time, in its sole discretion, terminate or suspend this Agreement by written notice to the Defaulting Party.
- 14.2. A notice of breach must:
 - 14.2.1. Indicate clearly the nature and extent of such breach;
 - 14.2.2. Contain a demand that the Defaulting Party remedy the breach within 7 (seven) days after the date of notice; and
 - 14.2.3. Draw the attention of the Defaulting Party to the remedies that the Aggrieved Party may have, if such a demand is not attended to.
- 14.3. In the event that such breach is not remedied by the date and to the extent stipulated in the notice of breach, the Aggrieved Party may, without prejudice to any of its other rights available to it in law:
 - 14.3.1. Cancel this Agreement and claim damages; or
 - 14.3.2. Claim specific performance and recover damages that it has suffered as a result of such breach; or
 - 14.3.3. Continue this Agreement and recover such damages as it may have suffered as a result of such breach.
- 14.4. The parties agree that, unless otherwise set out herein, in the event of a breach of any of the provisions of this Agreement, the Defaulting Party will be liable to the Aggrieved Party for all losses which constitute direct and/or general damages and neither party will be liable to the others for any losses which constitute indirect, special or consequential damages.
- 14.5. Except as may be agreed otherwise between the parties in writing, each Party will be solely liable for any claims, actions, demands or damages arising out of its obligations in terms of this Agreement.

15. LAW

- 15.1. This agreement shall be governed by the law of the Republic of South Africa and the forum for the settling of any disputes under this agreement shall be South African Courts.
- 15.2. The waiver of EDS of any breach of any term of this agreement shall not prevent the subsequent enforcement of that term and shall not be deemed to be a waiver of any subsequent breach.
- 15.3. The items of supply shall remain the property of the Supplier until each and every claim against the Purchaser to which the Supplier is entitled under this business relationship has been duly satisfied. For the duration of the retention of title, the Purchaser is prohibited from giving the items of Supply in pledge or as security, and resale shall be permissible only to resellers in the ordinary course of business and only on condition that the reseller receives payment from his customer or retains title so that the property is transferred to the customer only after fulfilment of his obligation to pay.
- 15.4. The parties herein consent in terms of section 45(1) of the Magistrate's Court Act No 32 of 1944, as amended, in respect of any proceedings which arise out of or in connection with this Agreement, to the jurisdiction of any Magistrate's Court which at the time of the proceedings has jurisdiction over it in terms of section 28(1) of the Magistrate's Courts" Act.