



TERMS AND CONDITIONS OF SALE

1. AGREEMENT

- 1.1. All goods and services sold and supplied by SAMSON (SOUTH AFRICA) shall be subject to the terms and conditions as provided for in terms of this Agreement.
- 1.2. In the event that this Agreement is entered into as a result of the SAMSON (SOUTH AFRICA)'s direct marketing, the Parties record that the Customer shall be entitled to cancel this Agreement within 5 (five) days of signing it, provided that the Customer gives proper written notice to SAMSON (SOUTH AFRICA) of said cancellation.
- 1.3. Unless otherwise specifically provided by separate written agreement between the Parties, the general terms and conditions of sale and any special terms on the face hereof, constitute the whole agreement between the Customer and SAMSON (SOUTH AFRICA) and all goods sold by SAMSON (SOUTH AFRICA) to the Customer shall be subject to this Agreement only.
- 1.4. No condition printed or written on any stationery used by the Customer, including any amendments and/or alterations made by the Customer to this Agreement in any manner whatsoever, for the purpose of or in connection with the submission of its order shall form part of this Agreement.

2. ORDERS

- 2.1. Each order for goods shall be in writing and shall fully detail the specifications or requirements, including type, quantity and size of the goods required. The Customer shall be estopped from denying the validity of any order made by it or on its letterhead/order form, notwithstanding that such order may have been given or signed by a person not authorised by the Customer.
- 2.2. No order shall be binding on SAMSON (SOUTH AFRICA) until accepted or confirmed in writing by SAMSON (SOUTH AFRICA) and unless it is subject to these Conditions of Sale and any special terms on the face hereof.
- 2.3. Any request by the Customer for a change to an accepted order shall be made in writing and shall only become binding upon SAMSON (SOUTH AFRICA) if expressly agreed to in writing by a duly authorised representative of SAMSON (SOUTH AFRICA).
- 2.4. Where products are supplied in satisfaction of a quotation, the addressee on the quotation is primarily responsible for payment of the products.
- 2.5. All prices quoted by SAMSON (SOUTH AFRICA) are subject to price variation. Prices may be varied even though quotations have been provided and products have commenced to be supplied, where the products being so supplied have been increased in price by the supplier to SAMSON (SOUTH AFRICA) since the date the quotation was provided or the products have commenced to be supplied or the products have been ordered from SAMSON (SOUTH AFRICA) by the Customer.
- 2.6. SAMSON (SOUTH AFRICA) does not warrant that a product is available or able to be delivered on any specific date or day and any notification of probable availability is indicative only.
- 2.7. SAMSON (SOUTH AFRICA) will not accept any responsibility for any loss or damage occasioned either directly or indirectly to the Customer or anyone related to the Customer or Customer by failure

on the part of SAMSON (SOUTH AFRICA) to provide and/or supply products by any particular date or time.

- 2.8. It is the responsibility of the Customer to control who has access to the Customer's credit account with SAMSON (SOUTH AFRICA).
- 2.9. SAMSON (SOUTH AFRICA) will supply products to any person or persons who request those products from SAMSON (SOUTH AFRICA) and where requested, SAMSON (SOUTH AFRICA) will place the cost of those products upon the Customer's credit account with SAMSON (SOUTH AFRICA).
- 2.10. However, if the Customer provides SAMSON (SOUTH AFRICA) in writing with a criteria that must be satisfied before credit will be granted to any person requesting that credit on the Customer's account then, as and from the date of being provided with that writing, so long as the criteria is reasonable, SAMSON (SOUTH AFRICA) will require that criteria to be satisfied before providing products upon the Customer's credit account.
- 2.11. Where a person/persons and/or corporation are supplied products by SAMSON (SOUTH AFRICA) upon the account of a Customer, then the Customer is primarily responsible to SAMSON (SOUTH AFRICA) for payments of those products.
- 2.12. Where products are provided by SAMSON (SOUTH AFRICA) to a Customer, the person/persons and/or company whom or which the products are provided and/or delivered to is primarily responsible for payment for those products.

3. PAYMENT

- 3.1. The purchase price of the goods quoted are exclusive of VAT.
- 3.2. All quotes will remain valid for a period of 30 days or until the date of issue of a new price list, whichever occurs first.
- 3.3. The Customer may elect to purchase goods on a cash or credit basis.
- 3.4. In the case of a cash purchase, SAMSON (SOUTH AFRICA) shall not deliver the ordered goods unless and until payment of the entire purchase price has been made without deduction or set-off and free of bank exchange in the quoted currency as per the relevant invoice and/or statement at SAMSON (SOUTH AFRICA)'s registered office or to its banking account as nominated by it from time to time.
- 3.5. Should the Customer wish to purchase on credit, the purchase price of the goods listed on any invoice and or delivery note signed acknowledging receipt of such goods shall be paid and settled in full within 30 days from the date as noted on the relevant statement and/or the last day of the month immediately following the month during which the relevant invoice was issued by SAMSON (SOUTH AFRICA), whichever date is the earliest, without any deduction whatsoever and free of exchange at SAMSON (SOUTH AFRICA)'s registered office or to its banking account as nominated by it from time to time.
- 3.6. SAMSON (SOUTH AFRICA) shall be entitled to charge interest on all overdue amounts calculated at 2% (two percent) above the ruling prime overdraft rate as charged by Standard Bank from time to time calculated from due date of payment until date of payment.



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- 3.7. All goods supplied by SAMSON (SOUTH AFRICA) to the Customer shall remain the property of SAMSON (SOUTH AFRICA) until the purchase price in respect thereof has been paid in full by the Customer.
- 3.8. The Customer shall have the right to dispose thereof in the ordinary course of normal business in which event it is hereby expressly agreed in advance that the claim to any right or recovery of the purchase price from the eventual Customer of the goods shall be ceded to SAMSON (SOUTH AFRICA) as security for payment of any amount outstanding.
- 3.9. Where the Customer has paid part amounts in relation to the invoice then it is deemed that those part payments are applied in ascending date order to the products so described on that invoice. Payments made by a Customer shall be applied by SAMSON (SOUTH AFRICA) to invoices, first to the oldest invoice and then to youngest dated invoice.
- 3.10. Where the Customer has not paid SAMSON (SOUTH AFRICA) however, the products are in the possession or custody of the Customer then, the Customer will store the goods in a manner that clearly differentiates them in ownership from other products so held by the Customer.
- 3.11. Where goods remain unpaid for, SAMSON (SOUTH AFRICA) may be giving written notice to its Customer or any person or persons taking title in those goods as receiver/manager/administrator/liquidator or whatever, require the return of those products to SAMSON (SOUTH AFRICA) and the products will be returned immediately.
- 3.12. The Customer agree that if products supplied are damaged upon supply or not in accordance with what was requested by the Customer or the Customer has a complaint about the products, that or those complaints about the products will be provided to SAMSON (SOUTH AFRICA) within seven (7) days of the date of receipt of the product by the Customer. After the expiry of seven (7) days of receipt of the product, no such claim will be made by the Customer.
- 3.13. Objections to costs or charges made in invoices, where the invoice has the price included, issued by SAMSON (SOUTH AFRICA) to its Customers and/or Customers must be objected to in writing by the Customer within seven (7) days of the date of the issue of the invoice.
- 3.14. Where the Customer is not issued with a priced invoice but is provided with a monthly statement listing the invoices, the products and the price, the Customer must object in writing to any cost or charge not agreed to in within seven (7) days of receipt of that statement. Failure to make such an objection within that time is a deemed acceptance by the Customer that the charges made in the invoice or on the statement are correct and acceptable.
- 3.15. The Customer agrees that SAMSON (SOUTH AFRICA) may make whatever investigations SAMSON (SOUTH AFRICA) deems reasonable of the Customer, and where the Customer is a company, its directors and shareholders, in order for SAMSON (SOUTH AFRICA) to establish whether or not SAMSON (SOUTH AFRICA) will grant credit to the Customer and if so, under what terms and conditions. In this regard, the Customer and its directors who have signed the application for credit form give up any rights they have to privacy in that regard.

4. DISCOUNT

The price of goods sold to the Customer is strictly net of VAT and not subject to any discount unless otherwise agreed to in writing and such discount shall only be allowed if payment is received by the Customer on the due date for payment thereof.

5. DELIVERY

- 5.1. Delivery shall be taken at the premises of SAMSON (SOUTH AFRICA), by the Customer, save where otherwise expressly agreed upon by the Parties.
- 5.2. While SAMSON (SOUTH AFRICA) will make reasonable endeavours to meet all times and dates for delivery of performance quoted by it, such times or dates are business estimates only and do not constitute contractual obligations. Accordingly, SAMSON (SOUTH AFRICA) will not be liable for any loss or damage of whatsoever nature and howsoever arising occasioned by delays in deliveries of orders. The Customer shall not be entitled to cancel the Agreement on account of late delivery.
- 5.3. When required by the Customer to defer or postpone delivery of goods for any reason, SAMSON (SOUTH AFRICA) shall be entitled to levy appropriate storage, demurrage or any other appropriate charges occasioned thereby (the amount of which shall be the amount determined by SAMSON (SOUTH AFRICA) in its sole discretion) and shall be entitled to invoice the Customer as if delivery thereof has been effected as if no such delay had occurred.
- 5.4. On signature by the Customer or its duly authorised representative, of SAMSON (SOUTH AFRICA)'s delivery note, the Customer shall be deemed to have received delivery of each item appearing on such delivery note.
- 5.5. The cost of delivery shall be borne by the Customer.
- 5.6. Delivery of products is deemed to have taken place when they are provided to the Customer. When products are delivered by SAMSON (SOUTH AFRICA), delivery is deemed to be effected upon delivery. Evidence of delivery shall be a delivery slip signed at the delivery point by a person who is apparently responsible for the acceptance of those products.
- 5.7. Where products are delivered by SAMSON (SOUTH AFRICA) and there is no person available or no person who has the authority to receive the products, then evidence of delivery of the products will be a statutory declaration of the SAMSON (SOUTH AFRICA) employee delivering the products that the products were so delivered.
- 5.8. Where SAMSON (SOUTH AFRICA) delivers products at the request of the Customer, it is the responsibility of that Customer to provide proper access to the delivery point for the unloading of the products.
- 5.9. SAMSON (SOUTH AFRICA) driver delivering the products shall absolute right to refuse to deliver the products if for any reason the driver deems it unsafe to do so, without giving any reason.
- 5.10. Where SAMSON (SOUTH AFRICA) delivers products at the request of the Customer, if the delivery is delayed because of obstruction or lack of site access or lack of availability of appropriate equipment to unload the vehicle then SAMSON (SOUTH AFRICA)'s employee driver may refuse to wait to be unloaded.



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- 5.11. The insurance risk of the product shall pass to the Customer or the Customer at the time that the goods are provided to the Customer or the Customer or delivered to the delivery point nominated by the Customer.
- 5.12. Notwithstanding the immediate clause above, the title in the products shall pass to the Customer only upon payment to SAMSON (SOUTH AFRICA) of what is owed for those products.
6. **SET OFF**
- In the event of SAMSON (SOUTH AFRICA) or any associated Company becoming indebted to the Customer, SAMSON (SOUTH AFRICA) may set off such indebtedness against any monies which may be or become owing by the Customer to SAMSON (SOUTH AFRICA).
7. **DEFAULT**
- 7.1. Should any amount payable by the Customer not be paid on due date or should the Customer otherwise breach or fail to comply with any term or condition of this Agreement, then SAMSON (SOUTH AFRICA) shall, without prejudice to any claims accrued to it under this Agreement and to any other rights or remedies of SAMSON (SOUTH AFRICA), be entitled within SAMSON (SOUTH AFRICA)' absolute discretion to:
- 7.1.1. Suspend performance of SAMSON (SOUTH AFRICA) obligations until such breach is rectified and/or all such monies have been paid; and/or
- 7.1.2. To recover possession of and remove any goods in respect of which ownership has not passed to the Customer. The Customer irrevocably authorises SAMSON (SOUTH AFRICA) to enter its premises to repossess any goods delivered and indemnifies SAMSON (SOUTH AFRICA) against any damages whatsoever suffered by it relating to the removal of the goods; and/or
- 7.1.3. To cancel this Agreement.
- 7.2. The Customer shall not be entitled to cancel this Agreement by virtue of any breach by SAMSON (SOUTH AFRICA) unless such breach is a material term hereof and SAMSON (SOUTH AFRICA) has failed to rectify such breach within 21 (twenty one) days after receiving written notice from the Customer requiring it to do so.
- 7.3. SAMSON (SOUTH AFRICA) shall be entitled but not obliged to institute any proceedings against the Customer arising out of this Agreement in any Magistrates' Court having jurisdiction over the Customer, notwithstanding that the claim or the value of the matter in dispute may exceed the jurisdiction of the Magistrates' Court. The Customer shall be liable for all legal costs of SAMSON (SOUTH AFRICA), including costs on the scale as between attorney and own client, collection commission and tracing costs, which may be incurred by SAMSON (SOUTH AFRICA) in this regard irrespective of whether or not court proceedings shall have been instituted.
- 7.4. A certificate signed by any director, manager or authorised representative by SAMSON (SOUTH AFRICA), showing the amount due and owing by the Customer to SAMSON (SOUTH AFRICA) at any given time, shall be prima facie evidence of the amount due by the Customer and such certificate shall be sufficient for purposes of judgment, provisional sentence or other legal proceedings.
- 7.5. Any print out 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.
8. **RETURN OF GOODS**
- If, in the exercise of its discretion, SAMSON (SOUTH AFRICA) shall agree at the request of the Customer to accept the return of any goods, which goods were correctly supplied by SAMSON (SOUTH AFRICA) and are not faulty or subject to any claim, then SAMSON (SOUTH AFRICA) shall be entitled without the necessity of any further Agreement to claim from the Customer a handling charge of 10% (ten percent) of the invoice of the goods so returned.
9. **APPLICABLE LAW**
- The contract of sale to which this invoice relates is governed by the laws of South Africa.
10. **SURETYSHIP**
- The signatory hereto warrants that he/she is duly authorised to bind the Customer, and hereby do bind the Customer as surety for and principal debtor in solidum, for the due and punctual fulfilment and compliance by the Customer of all its obligations to SAMSON (SOUTH AFRICA) in terms of this Agreement and hereby renounces the benefits of excussion and division and all other legal benefits which may otherwise have been capable of being used as a defence to an action by SAMSON (SOUTH AFRICA) against the Customer and the signatory hereby acknowledges and warrants that he/she is fully aware and acquainted with the effect of such renunciation and acknowledges warrants that he/she is duly authorised by the Customer that all admissions or acknowledgements of liability by and judgments against the Customer shall be binding on the Customer. Any extensions of time, latitude or indulgences shown by SAMSON (SOUTH AFRICA) to the Customer shall not affect the obligations of the signatory hereunder.
11. **GENERAL**
- 11.1. SAMSON (SOUTH AFRICA), (but not the Customer) shall, at any time, in its sole discretion, be entitled to cede all or any of its rights in terms of this Agreement to any third party, without prior notice to the Customer.
- 11.2. The Customer nominates the address as reflected on the Application as its domicilium citandi et executandi for service upon it of all notice and processes whether in connection with any claim or any sum due to SAMSON (SOUTH AFRICA) or otherwise.
- 11.3. The Customer undertakes to provide SAMSON (SOUTH AFRICA) with written notice of any change in ownership of the Customer's business, within seven (7) days of such change or should the Customer be a company, of any share transaction where the majority shareholding is affected.
- 11.4. No variation or alteration of any of these terms and conditions shall be of any force or effect, unless reduced to writing and signed by both Parties thereto.
- 11.5. No waiver or abandonment by SAMSON (SOUTH AFRICA) of any of its rights in terms of this Agreement shall be binding on it unless such waiver or abandonment is in writing and signed by it.
- 11.6. No indulgence, extension of time, relaxation or latitude which SAMSON (SOUTH AFRICA) may show, grant or allow to the



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Customer shall constitute a waiver by it of any of its rights, and SAMSON (SOUTH AFRICA) shall not thereby be prejudiced or estopped from exercising any of its rights against the Customer which may have arisen in the past or which may arise in the future.

11.7. This Agreement contains the entire Agreement between the Parties and no party shall be bound by any undertakings, representations, warranties, promises, or the like not recorded herein.

11.8. Each clause with these terms and conditions of sales is severable, the one from the other, and if any one or more clauses are found to be invalid are found to be invalid or unenforceable, that clause(s) shall not effect the balance of these terms and conditions of sale which shall remain of full force and effect.

11.9. When SAMSON (SOUTH AFRICA) provides products and in so doing provides products supplied by a manufacturer or distributor then any guarantee or warranty given by SAMSON (SOUTH AFRICA) in respect of products or the use to which products may be put and/or the purpose for which products may be used, shall be in the exact same form as that given by the manufacturer or distributor to SAMSON (SOUTH AFRICA) of those products to SAMSON (SOUTH AFRICA). The Customer must enquire of the manufacturer or the distributor as to the extent of the guarantee, warranty, use and/or purpose. The Customer will not make any claim against SAMSON (SOUTH AFRICA) in relation to products, the use to which the products may be put or the purpose for which the products may be used that is in excess of that, that may be against the manufacturer or distributor of those products to SAMSON (SOUTH AFRICA).

11.10. Where the products are cut to the order of the Customer, the products may be charged for by SAMSON (SOUTH AFRICA). If SAMSON (SOUTH AFRICA) is able to resell the products to another Customer then, whatever SAMSON (SOUTH AFRICA) generates from that sale will be credited to the original Customer who ordered the goods, and no more. A handling fee of fifteen percent (15%) of the cost of the products may be charged by SAMSON (SOUTH AFRICA) in reselling the product.

11.11. Where a Customer has requested advice from an employee of SAMSON (SOUTH AFRICA), that advice is given as an indication only to the Customer as to what product may be used for by the Customer and for what purpose. The Customer must enquire of the manufacturer and/or the distributor of the product in order to establish the product's specification to be satisfied that the product satisfies the requirements of the Customer in what it is that the Customer wants to do with the product.

11.12. The Customer must not and never rely upon any information, advice or counsel provided by an employee of SAMSON (SOUTH AFRICA) in relation to the structural efficacy or otherwise of any product sold by SAMSON (SOUTH AFRICA) for any purpose of a structural nature. The Customer must obtain the specialised services of a civil engineer in dealing with all structural issues and must not and never rely upon SAMSON (SOUTH AFRICA) employees to provide that level of advice. Any advice provided by a SAMSON (SOUTH AFRICA) employee in respect of the use of

structural products is indicative only and the Customer should obtain independent advice by a properly qualified person including that of a civil engineer in respect of all issues related to structural matters.

12. NAME CHANGE

12.1. In the event of the identity of the Customer at any time changing or in the event of the Customer being a Company converting to a Close Corporation or vice versa, the Customer will be obliged to give 14 days notice of such change to SAMSON (SOUTH AFRICA) by registered post.

12.2. Any amount outstanding at the time notice is given shall forthwith become due and payable by the Customer to SAMSON (SOUTH AFRICA).

13. RISK AND OWNERSHIP

13.1. All risks in respect of the goods shall pass to the Customer upon delivery thereof in terms of clause 5.

13.2. Notwithstanding delivery of any goods to the Customer, ownership thereof shall remain vested in SAMSON (SOUTH AFRICA) until such goods have been fully paid for.

13.3. SAMSON (SOUTH AFRICA) shall, in its sole discretion, be entitled to take possession of and remove from the Customer's premises or from any premises at which the goods are located any such goods which have not been paid for and in respect of which payment is overdue.

13.4. Should the Customer at any time be sequestrated or liquidated (whichever is applicable), whether provisionally or finally, any goods delivered by SAMSON (SOUTH AFRICA) to the Customer and in respect of which payment has not been made at the date of winding up or sequestration (whether payment in respect thereof be due or not) shall immediately be returned to and recoverable by SAMSON (SOUTH AFRICA) and the Agreement pursuant to which such goods were sold shall be deemed to have been cancelled in respect of the goods so returned or recovered.

14. LIMITED LIABILITY

14.1. SAMSON (SOUTH AFRICA) shall not be liable for any indirect or consequential losses whatsoever and/or from any losses to the Customer howsoever arising. The Customer acknowledges that Samson Controls (Pty), being the South Africa entity, is not the manufacturer of the goods and accordingly indemnifies and holds SAMSON (SOUTH AFRICA) harmless against any claims that may be brought against SAMSON (SOUTH AFRICA) by any person in consequence of such goods being defective in any manner and causing any damage whatsoever, whether through accident or negligence, gross negligence or any other cause.

14.2. SAMSON (SOUTH AFRICA) liability to the Customer for any damage sustained by the Customer from any cause whatsoever including any damages arising out of SAMSON (SOUTH AFRICA) negligence or that of its servants, agents or sub-contractors shall in any event and under all circumstances be limited to the replacement of goods which at the date of delivery thereof are subject to a patent defect arising from defective materials.