



STANDARD TERMS & CONDITIONS

of Delta Instore Propriety Limited

Registration Number: 2015/188017/07

(Herein referred to as the "Company")

STANDARD TERMS & CONDITIONS

1. INTRODUCTION

1.1 These Terms shall be deemed to be incorporated in and shall apply to and be of force and effect in respect of every agreement and transaction entered into between the Company and the Customer.

1.2 Subject to the provisions of clause 4.12, in the event of a conflict between these Terms and any provisions of any, subsequent agreement entered into between the Parties, Quote and/or Invoice, the provisions of these Terms shall, unless otherwise specifically provided for in these Terms, take precedence to the extent of such conflict.

2. DEFINITIONS

In these Terms, the following words and expressions shall, unless otherwise stated or inconsistent with the context in which they appear, have the meanings given to them below and cognate words and expressions have corresponding meanings –

2.1 "Business Day" means any day which is not a Saturday, a Sunday or a gazetted national public holiday in South Africa and "days" shall mean calendar days;

2.2 "Company" means DELTA INSTORE PROPRIETARY LIMITED, registration number 2015/188017/07;

2.3 "Consumer" means a Customer who is a consumer as contemplated in the Consumer Protection Act No. 68 of 2008 ("CPA");

2.4 "Customer" means a customer of the Company that purchases Goods and/or Services;

2.5 "Credit Customer" means a Customer that has applied for credit terms and has been approved by the Company, in terms of a completed and approved Credit Application;

2.6 "Credit Application" means the Company's credit application, as amended from time to time, which is subject to these Terms;

2.7 "Custom Goods" means any Goods custom manufactured by the Company to the specifications of the Customer;

2.8 "Customer Input" means any information, documents, artwork, designs and other input that the Company requires from the Customer, to supply the Goods and/or

provide the Services, as provided in these Terms and/or requested by the Company from time to time;

2.9 "Delivery" means the effective transfer of possession of any Goods in terms of these Terms, evidenced by a signed Delivery Note;

2.10 "Delivery Address" means the physical address of the Customer, at which Delivery shall take place;

2.11 "Delivery Note" means the written delivery note confirming Delivery to the Customer by the Company;

2.12 "Ex Works" means the delivery form known as Ex Works, as defined in the International Commercial Terms 2020;

2.13 "Force Majeure Event" means any, delays in shipping or transport, adverse weather conditions, road closures, road works, requirements of any authority, illegal strike, irregular industrial action short of strike, lock-out, riots, demurrage, fires, smugglers, stowaways, explosions, acts of God, war (whether declared or not), sabotage, fire, flood, insurrection, breakdown in law and order, customs seizures, port delays, supervening legislation, governmental or other regulations, restrictions or directives or any other cause beyond the reasonable control of such Party, including any electricity disruptions caused by load shedding;

2.14 "Goods" means the goods and products supplied by the Company from time to time and includes any materials, products and/or hardware, manufactured, engineered, modified or fabricated by the Company;

2.15 "Insolvency Event" means any of the following circumstances or events –

2.15.1 an order or declaration is made, steps are taken or a meeting of the directors or shareholders of the Customer is convened to consider the passing of a resolution, or a resolution is proposed or passed, for the business rescue, liquidation (whether provisional or final), winding up or deregistration of the Customer;

2.15.2 the Customer is unable (or admits its inability) to pay its debts generally as they fall due, or it is (or it admits to being) otherwise insolvent, or it stops, suspends or threatens to stop or suspend payment of all or a material part of its debts, or it proposes or seeks to make or makes a general assignment or any arrangement or composition with or for the benefit of

- its creditors, or a moratorium is agreed or declared in respect of or affecting all or a material part of its indebtedness;
- 2.15.3 the Customer takes any proceeding or other step with a view to the general readjustment, rescheduling or deferral of its indebtedness (or any part thereof which it would otherwise be unable to pay when due) or proposes to take any such step;
- 2.15.4 any business rescue practitioner, liquidator or the like is appointed in respect of the Customer or any material part of its assets, or the Customer requests any such appointment;
- 2.15.5 the Customer is or becomes insolvent, or commits any act that would, if it were a natural person who were subject thereto, constitute an act of insolvency as described in the Insolvency Act No 24 of 1936;
- 2.15.6 the Customer or any other person takes steps to invoke business rescue proceedings in respect of the Customer; and/or
- 2.15.7 the Customer becomes subject to any of the proceedings contemplated in chapter 6 of the Companies Act, including any "business rescue", becomes regarded as "financially distressed" or subject to "supervision", all as defined in chapter 6 of the Companies Act;
- 2.16 **"Invoice"** means a tax invoice of the Company, which records the Price payable by the Customer;
- 2.17 **"Order"** means an order submitted by the Customer to the Company, requesting the supply of Goods and/or provision of Services, and which shall set out the Company's minimum required information, including:
- 2.17.1 the Customer's order number;
- 2.17.2 the Customer's full details;
- 2.17.3 the Customer's value-added tax number (if applicable);
- 2.17.4 details (telephone number and email address) of a designated contact person of the Customer;
- 2.17.5 the description and/or quantity of the required Goods and/or Services;
- 2.17.6 the Delivery Address;
- 2.17.7 any additional information that the Company may request from the Customer, in the Company's discretion;
- 2.18 **"Parties"** means collectively, the Company and the Customer, and **"Party"** means either of them, as the context may require;
- 2.19 **"Price"** means the prices payable by the Customer to the Company for the Goods and/or Services detailed in a related Purchase Order, including other amounts that are payable by the Customer to the Company, in respect of or connected to or arising from these Terms, as set out in an Invoice;
- 2.20 **"Purchase Order"** means a purchase order issued by the Company to the Customer confirming the Company's acceptance of an Order, setting out the Price and any additional costs in respect of such accepted Order;
- 2.21 **"Quote"** means a quotation issued by the Company setting out the estimated Price;
- 2.22 **"Services"** means the services provided by the Company, which include, but are not limited to:
- 2.22.1 the installation and fitting of the Goods;
- 2.22.2 the design of the Goods and other structures to display the Customer's items;
- 2.22.3 design and development of advertising infrastructure and artwork related thereto; and
- 2.22.4 such other services that the Company may provide a Quote for;
- 2.23 **"Staff"** means any director, officer, employee and/or other representative of either Party;
- 2.24 **"Terms"** means these standard terms and conditions of the Company, and any annexures or schedules hereto, each as amended from time to time, and includes the Credit Application, where applicable; and
- 2.25 **"Warranty Policy"** means the warranty policy of the Company in respect of the Goods, published by the Company from time to time.
3. **CREDIT TERMS**
- The Company shall within a reasonable period of the completion of a correctly completed Credit Application, advise the Customer in writing, which may be affected by email, whether the Customer is approved for credit terms.
4. **QUOTES AND ORDERS**
- 4.1 Upon receipt of an Order or at the request of the Customer (or any Staff of the Customer), as the case may be and after clause 3 has been complied with in the case of a Credit Customer, the Company may issue the Customer with a Quote which (and any prices otherwise published by the Company) shall remain open for acceptance by the Customer for a period of 21 days from the date thereof.
- 4.2 All Quotes are indicative of the estimated Price only and shall not be binding on the Company, and are subject to:
- 4.2.1 the availability of the Goods and/or Services ordered;
- 4.2.2 correction of good faith errors by the Company; and
- 4.2.3 any increases in the cost price of the Goods and/or Services, before acceptance of the Order by the issuing of a Purchase Order, as more fully described in these Terms.
- 4.3 Delivery, installation and performance times in a Quote or Purchase Order or otherwise, are merely estimates and are not binding on the Company.
- 4.4 The Customer confirms and agrees that the Goods and Services reflected on any Invoice duly represent the Goods and Services so ordered by the Customer and at the Price agreed to by the Customer.
- 4.5 All Orders are irrevocable, unless rejected by the Company in writing.
- 4.6 The Company may withdraw or amend a Quote at any time prior to issuance of an Invoice, on notice to the Customer, which may be by way of email.

- 4.7 The Company may issue a Purchase Order on acceptance of a Quote by the Customer or receipt of an Order, provided that the Company may, in its sole discretion, reject any Order in whole or in part.
- 4.8 The Company shall not be responsible for, nor have any liability in respect of, any errors in an Order submitted, regardless of the form and medium of the Order.
- 4.9 The Customer shall be estopped from denying the validity of any Order once received by the Company, notwithstanding the fact that such Order may have been given or signed by a person not duly authorised to do so.
- 4.10 The Customer expressly acknowledges that these Terms take precedence over any other terms and conditions which the Customer might otherwise seek to reference or impose in an Order or other communication. This is a material and critical term of these Terms and of the Company's granting of credit terms to the Customer (if applicable), and of the Company's willingness to supply Goods and/or provide Services.
- 4.11 Without derogating from any other rights that the Company may have in law or as provided for in these Terms, if the Customer, for any reason whatsoever, cancels an Order after the Company has commenced manufacturing of the Goods or incurred any costs and/or commenced providing Services, as the case may be, the Customer shall be liable for the full amount due in terms of the Purchase Order and the Company shall be entitled to Invoice the Customer for such amounts.
- 4.12 If there is a conflict between these Terms and the terms and conditions contained in a Purchase Order, the terms and conditions contained in the Purchase Order shall take precedence only to the extent of such conflict.
- 5. INVOICES AND PAYMENT**
- 5.1 Subject to clause 4.11, a Purchase Order shall be converted into an Invoice once the Goods and/or Services are, in the Company's sole opinion, ready for Delivery and/or provision to the Customer and the Customer shall make payment of such Invoice and provide proof thereof in writing, as follows:
- 5.1.1 in the case of a Credit Customer, subject to the rights of the Company to revoke or suspend credit terms, within 30 days of the Invoice date;
- 5.1.2 in the case of any other Customer:
- 5.1.2.1 immediately upon presentation of an Invoice; and
- 5.1.2.2 prior to the Goods or Services being supplied or provided to the Customer and the Customer agrees that the Company shall not be obliged to supply any Goods and/or provide any Services, and the Customer shall not be entitled to enforce its rights therefor, against the Company unless and until payment as provided for in this clause, has been made; and
- 5.1.3 the Company may, in its sole discretion, require that the Customer make payment of a specified deposit in partial reduction of the Invoiced amount, prior to the Company being obliged to Deliver such Goods or provide such Services.
- 5.2 The provisions of clause 5.1.2 shall apply in respect of Credit Customers for any portion of an Invoice that exceeds that Credit Customer's approved Credit limit.
- 5.3 The Company may issue an Invoice for Custom Goods and require payment thereof prior to commencing manufacturing.
- 5.4 All payments by the Customer to the Company shall be made by electronic funds transfer of immediately available funds (without set-off, deduction, exchange or withholding of any nature whatsoever), unless agreed otherwise by the Company in writing, to the banking account of the Company, the details of which banking account shall be as designated in writing by the Company, on request and on the Invoice, which details the Customer shall confirm.
- 5.5 The Company shall not in any way be liable (whether in contract, delict or otherwise) for payment by the Customer into an incorrect bank account unless made as a result of the wilful misconduct of the Company. In the event of any payments being made to the incorrect banking account, the Customer shall still be liable to the Company for full payment of any amounts due by the Customer to the Company and such incorrect payments shall not extinguish the Customer's obligation and liability to the Company.
- 5.6 In the case of payment by way of electronic funds transfer, such payment is required to reflect as cleared in the Company's banking account prior to such payment being deemed to have been made by the Customer.
- 5.7 All amounts payable by the Customer in terms of these Terms exclude value added tax ("VAT") and any other rates, taxes or other imposts that may be payable thereon.
- 5.8 The Company shall be entitled entirely at its discretion to apply any payments received from the Customer to whichever outstanding claims or debts as it sees fit, inclusive of any accrued interest and costs.
- 5.9 The Company is entitled to set-off any amounts received from the Customer against any amounts that may be due owing and payable by the Company to the Customer from time to time, which set-off the Customer consents and agrees to.
- 5.10 The Company may provide certain discounts in its sole and absolute discretion, provided that:
- 5.10.1 any discounts are on a per Invoice basis and shall not be automatically applied to any future transactions; and
- 5.10.2 each discount offered by the Company shall only apply if the Invoice is paid in full, on the due date for payment, failing which the discount shall no longer apply and the undiscounted full Price shall become payable; and

- 5.10.3 at all times the Company shall be entitled, in its sole and absolute discretion, to revoke or refuse any discount.
- 5.11 The Company may impose additional design and artwork charges at a rate per hour if any artwork or designs required for the Goods and/or Services that are supplied or amended by the Customer 14 days or more after the Order date.
- 5.12 If the Goods, or any component thereof are imported or sourced from a third-party supplier and/or the costs of obtaining supply of any Goods by the Company increase, then the Price may be amended based on, *inter alia*, applicable exchange rates, freight costs, insurance premiums, landing charges and any applicable taxes and the Customer shall remain liable for the amounts in the amended Invoice.
- 5.13 Any variation to an Order or Purchase Order shall only be valid if in writing and agreed by the Company, subject to these Terms.
- 6. DELIVERY**
- 6.1 The Goods shall be Delivered by the Company, Ex Works, at the Company's premises. All risk in and to the Goods shall pass to the Customer on Delivery.
- 6.2 The Services shall be provided at the Delivery Address.
- 6.3 Delivery remains at the sole risk, cost and liability of the Customer and for the avoidance of any doubt, it is agreed that the Customer shall bear the liability for any damage to and/or loss of, the Goods, while in transit.
- 6.4 The Company's responsibility for Delivery and providing proof of Delivery will be limited to providing a signed Delivery Note or signed Invoice or proving that the Goods were accepted by a person purporting to be the Customer or its representative.
- 6.5 The Customer shall be solely liable and responsible for offloading and storing the Goods, and the Company (and its Staff) shall under no circumstances be liable for any losses (of any nature whatsoever and howsoever arising) suffered or incurred by the Customer (and/or its Staff) resulting from the offloading procedure, any negligence, wilful act or wilful omission to act on the part of the Customer and/or any of its Staff, the storage or use of the Goods outside or in areas that are exposed to the weather and/or any excessive loading of the Goods and/or usage of the Goods outside of the Company's specifications.
- 6.6 The time period required by the Company for the Delivery and provision of the Services is entirely dependent on the completeness and accuracy of the Customer Input and the Customer agrees to be liable for and pay all additional costs resulting from any acts or omissions by the Customer including suspension of work, modification of requirements or specifications, failure, error or delay in giving particular Customer Input or should the Customer request the Company to Deliver Goods and/or provide Services, earlier than agreed.
- 6.7 Whilst every effort will be made to Deliver the Goods and Services within a time frame as requested, the Company does not guarantee or warrant Delivery and/or dispatch times and the Company shall not be liable for any damages or losses (whatsoever and howsoever arising) of the Customer for failure to Deliver/dispatch any Goods by any specified date.
- 6.8 The Company can only start manufacturing Goods once all accurate and complete Customer Input has been properly obtained from the Customer. The Company shall not be liable under any circumstances, irrespective of the cause, for delays in manufacture and/or Delivery and/or Services due to lack of, incomplete or incorrect Customer Input.
- 6.9 If the Company agrees, in their discretion, to effect Delivery on behalf of the Customer:
- 6.9.1 the Customer shall:
- 6.9.1.1 ensure the delivery vehicles have full and free access to the delivery points at the Delivery Address;
- 6.9.1.2 ensure the Goods are offloaded at the Customer's desired point at the Delivery Address, the Company not being liable for offloading at an incorrect place at the Delivery Address and any loss and/or damage arising from such off-loading and whether such loss and/or damage is direct, indirect, consequential, special or general; and
- 6.9.1.3 accept the responsibility for the means or method adopted for the offloading, handling, placing, storage and consolidation of the Goods during and after discharge from the delivery vehicles and accept the liability for any losses or damages suffered as a result of the aforesaid;
- 6.9.2 the Company reserves the right to refuse to enter any Delivery Address if, in the Company's view, it is unsafe and any delay in supply of Goods and/or provision of Services occasioned thereby shall not be construed as delay in the Company's performance in terms of these Terms, provided the Company supplies the Goods and/or provides the Services once determined safe;
- 6.9.3 the Company shall be entitled as the Customer's duly authorised agent to engage a transporter of its choice and on such terms and conditions as it deems fit, in which event such transporter will be the agent of the Customer and the Customer indemnifies the Company against all claims of any nature whatsoever which may be made against it by the transporter and/or the Customer and the cost of such transporter will be borne by the Customer; and
- 6.9.4 with prior written agreement with the Company, the Goods may be delivered to a distribution centre elected by the Customer in writing.
- 6.10 The Customer shall be liable for all Delivery costs, which the Company is entitled to recover from the Customer.
- 6.11 The Company may insure the Goods in transit if requested to do so by the Customer, provided that the

Customer shall be liable to make payment to the Company of the full costs of such insurance and, notwithstanding such insurance, the risk in and to the Goods shall transfer to the Customer on leaving the Company's premises in line with clause 6.1. Rejection of a request or failure to obtain such insurance in terms of this clause 6.11 shall not give rise to any claim by the Customer against the Company.

6.12 Without derogating from the Company's rights in terms of clause 11, in the event that the Customer fails to accept Delivery of any Goods then the Goods shall, notwithstanding physical Delivery not occurring, be deemed to be Delivered on the seventh day after the Company notifies the Customer in writing, which may be by email, that the Goods are available for collection.

6.13 Any Goods purchased by the Customer to be used in bulk or in any other application which requires additional tests, inspections and/or technical validations before its usage shall be deemed to be accepted by the Customer as properly tested, inspected or validated unless the Customer otherwise informs the Company in writing within 7 days from the date of the delivery of those Goods in question.

6.14 The Company reserves the right at its sole discretion to provide alternative Goods of the same quality and quantity to those ordered by the Customer on notice to the Customer, which the Customer shall be obliged to accept provided that the alternative Goods are similar in function and specifications. If there is no suitable alternative, the Company may cancel the Purchase Order, including if any Goods are no longer provided, supported, superseded, replaced or their manufacturing is terminated.

7. OWNERSHIP

Ownership of the Goods shall pass to the Customer on Delivery. Notwithstanding this clause 7, the Customer shall remain liable to make full payment of the Invoice.

8. INDEMNIFICATION

8.1 Neither Party shall be liable to the other Party for any special, indirect or consequential damages including but not limited to the loss of profits.

8.2 The Customer hereby indemnifies and holds harmless the Company (and its Staff) against all losses of whatever nature and howsoever arising (including but not limited to any direct and/or indirect damages, costs or losses incurred or suffered by the Company arising out of any claim by any third party for, or in respect of, injury, death or illness affecting such third party, or any loss or damage to property of such third party and/or any infringement of a third party's intellectual property, copyright, patent, trademark or design supplied by the Customer, which the Company (and/or its Staff) may suffer as a result of Customer's breach of these Terms and/or negligence and/or wilful misconduct of the Customer or any of its Staff and/or manufacture and/or

supply and/or use of the goods and/or services by the Customer and or any third party.

9. FORCE MAJEURE

9.1 The Company shall not be liable for any failure to fulfil its obligations under these Terms if and to the extent such failure is as a result of:

- 9.1.1 a Force Majeure Event occurring; or
- 9.1.2 any circumstances beyond its reasonable control; or
- 9.1.3 the Customer failing, in the Company's sole discretion, to provide the Company with Customer Input in terms of these Terms and/or the Credit Application (if applicable); or
- 9.1.4 any failure on the part of the Customer or its Staff to comply with any obligation stipulated in these Terms, whether same constitutes a breach or not; or
- 9.1.5 the Company needing to comply with any South African law,

and then those obligations shall be deemed to have been suspended to the extent that and for so long as the Company is so prevented or restricted from fulfilling them and the corresponding obligations of the Customer shall be suspended to the corresponding extent. In such circumstances, the time for performance of such obligations and corresponding obligations shall be extended by the period of such suspension. The Company (and its Staff) shall under no circumstances be liable for any losses (of any nature whatsoever and howsoever arising) suffered or incurred by the Customer (and/or its Staff) resulting from this clause 9. Should the Company be unable to fulfil a material part of its obligations under these Terms for a period in excess of 30 days due to circumstances beyond its reasonable control, as recorded in clause 9.1, the Company may at its sole discretion cancel any and/or all agreements (including any Orders) between the Company and the Customer forthwith by written notice to Customer, which may be effected by email.

9.3 For the avoidance of doubt, this clause 9 shall in no way affect any payment obligations of the Customer in respect of Goods Delivered by the Company.

10. BREACH BY THE COMPANY

10.1 Subject to clause 8, if the Company breaches any provision of these Terms and fails to remedy that breach within 30 days after receiving written notice requiring that remedy from the Customer, then (to the fullest extent permitted by law) the Customer's exclusive remedy shall be to claim immediate specific performance of such obligations of the Company then due for performance or to claim damages from the Company, provided that any claim against the Company, if proven, shall be limited to an amount not exceeding the lower of:

- 10.1.1 the cost of repairing or replacing the damaged or Defective Goods; or
- 10.1.2 the Price relating to the damaged or Defective Goods.

- 10.2 The Customer is only entitled to a claim in terms of clause 10.1 if the damage, defect or non-performance in question was caused (directly or indirectly) by the Company, and not by the Customer or any third party.
- 11. BREACH BY THE CUSTOMER**
- 11.1 Should the Customer:
- 11.1.1 commit a breach of these Terms and fail to remedy such breach within 7 days (or in the case of a Consumer, then within 20 Business Days) of having been called upon in writing by the Company to do so; or
- 11.1.2 undergoes an Insolvency Event, then the Company is entitled, without prejudice to its other rights under these Terms (including any right to claim damages), to:
- 11.1.3 cancel any current Purchase Orders;
- 11.1.4 repossess any Goods delivered to the Customer in respect of which the Customer has failed to make full payment for;
- 11.1.5 claim immediate specific performance of all of the Customer's obligations (whether or not otherwise then due for performance); and/or
- 11.1.6 suspend Delivery of any Goods.
- 11.2 If any amount due by the Customer to the Company is not paid by the Customer on the due date for such payment, the Company shall be entitled to charge the Customer interest on such amounts outstanding at the rate equal to the prime rate charged by the Company's then commercial bankers plus 3%, *per annum* calculated and charged monthly in advance from the due date for payment thereof until date of payment in full, calculated and payable monthly in advance, provided however that nothing contained herein shall be interpreted as the Company affording the Customer any indulgence to make payment of any amount after the due date therefor.
- 11.3 If the Customer is not a juristic person (as defined the National Credit Act, No. 34 of 2005 ["NCA"]), then any interest that the Customer shall be liable for in terms of clause 11.2, shall be limited to the maximum amount that may be imposed in terms of the NCA and shall not exceed the applicable amounts and restrictions contemplated by Chapter 5, Part C of the NCA.
- 11.4 In amplification of clause 11.1, in the event of unremedied breach by the Customer:
- 11.4.1 the full balance outstanding (whether due or not) will immediately become due and payable by the Customer to the Company;
- 11.4.2 in the event of the Company having to instruct attorneys to recover any amount from the Customer, the Customer agrees to pay all costs so incurred by the Company on an attorney and own client scale including all collection commission;
- 11.4.3 the Customer agrees and to the extent necessary provides its consent for the Company to:
- 11.4.3.1 inform any registered credit bureau of any default by the Customer in making payment of any amount due and payable to the Company;
- 11.4.3.2 take possession, by lawful means, of such of the Goods that the Customer has failed to make full payment for in accordance with these Terms.
- 12. WARRANTIES BY CUSTOMER**
- 12.1 The Customer hereby represents and warrants to the Company that-
- 12.1.1 it has the legal capacity and power to purchase the Goods and/or Services from the Company and bind themselves to these Terms and perform all obligations of the Customer in terms of these Terms; and
- 12.1.2 it has taken all necessary actions (whether statutory, corporate, governance, internal or otherwise and in terms of applicable laws) to authorise its engagement with the Company and the performance of its obligations in terms of these Terms; and
- 12.1.3 it has provided full and accurate Customer Input and full and accurate information in any Credit Application (if applicable) to the Company and undertakes to inform the Company immediately should there be any change of whatsoever nature in any of its Personal Information, including its addresses and/or contact details and/or representatives details, as previously supplied to the Company.
- 13. CREDIT INFORMATION AND CHECKS**
- 13.1 The Company may carry out a credit check with one or more licensed credit agencies which will retain a record of that search.
- 13.2 If a Customer breaches these Terms or fails to make any payment on the due date required for such payment, the Company may have the relevant details of the Customer and the failure to make payment as required recorded with a credit agency, which the Customer consents to. Such recorded information may be used by other lenders in assessing any applications for credit by the Customer and for occasional debt tracing and fraud prevention purposes.
- 13.3 The existence Credit to the Customer may be recorded with a credit agency as well as details of how the Credit account is conducted by the Customer shall be recorded with a credit agency and may be shared with other lenders for the purposes of assessing further applications for credit by the Customer, and for debt tracing and fraud prevention purposes, which the Customer consents to.
- 13.4 Should the Customer have previously made application to the Company for credit terms, which said application would have embodied terms and conditions of the Company and should the Customer have furnished any security to the Company for the due obligations of the Customer to the Company on any previous occasion, the Customer records and acknowledges that the signature

by it on this document shall not be regarded as a novation of any such previous agreement or any prior security given by it to the Company. The Customer furthermore records and acknowledges that, if any provisions contained herein are inconsistent with any provisions contained in any document previously executed by it, these Terms shall prevail.

14. **WITHDRAWAL OF CREDIT TERMS**

14.1 Notwithstanding anything contained in these Terms, if the Company has granted Credit terms to the Customer, the Company reserves the right to withdraw such Credit terms at its sole discretion, if:

- 14.1.1 the Customer breaches any provision of these Terms or fails to make payment of any amount on or before the due date for such payment; or
- 14.1.2 the Company believes that the Customer's financial position has deteriorated after the date that the Credit terms were granted; or
- 14.1.3 any information supplied in the Credit Application form is incorrect, untrue or inaccurate; or
- 14.1.4 the Company, for any other reason, deems it necessary to revoke the credit terms.

14.2 Further, it is specifically recorded that any credit terms granted by the Company to the Customer is for the sole benefit of the Company, and the Customer shall not be entitled to rely on said credit terms as justification for any limitation of indebtedness to the Company.

14.3 Credit terms not utilized by the Customer within a 12 month period may be withdrawn by the Company, whereafter the Customer shall be placed back to cash on delivery requirements, in terms of clause 5.1.2, upon notification to the Customer, which may be by way of email.

14.4 If Credit is withdrawn per these Terms, all amounts, whether due, owing and payable, by the Customer to the Company shall immediately become due, owing and payable by the Customer to the Company.

15. **CONFIDENTIAL INFORMATION**

Each Party (including each Party's Staff and/or agents, associates, contractors or any other person appointed by a Party, which each Party shall be obligated to ensure comply with this clause), shall treat and hold as confidential all information, including but not limited to clients, suppliers and vendors of a Party, which it may receive from the other Party or which becomes known to it concerning the other Party which is marked as confidential or has the necessary quality of confidentiality about it.

16. **INTELLECTUAL PROPERTY**

16.1 For the purpose of this clause 16, "Intellectual Property" means all of the Company's and/or its licensor's, software, trademarks, domain names, copyright, patents, confidential information, processes, source code, object code, methodologies, components, technologies, artwork, concept, industry information, table, know-how, methodology, data model,

algorithms, techniques, designs, reports, trade secrets, formulae, flow chart, data base, calculation, spread sheet, ideas, inventions, programmer interfaces, computer programs, specifications, know-how, drawings, concepts, schematic, plan, photograph, presentation or invention (whether patented or not) and any other rights of a similar nature which exist now or will in the future exist, and whether registered or not and documentation relating to the Goods and Services, regardless of whether intellectual property rights actually inhere in any such items.

16.2 It is recorded that the Customer may, by virtue of the provision of the Goods and/or Services by the Company, have access the Company's, or the Company's licensor's, Intellectual Property.

16.3 Each of the Company and the Customer acknowledges that the Company is the proprietor, or licensee of all Intellectual Property rights in and to the Goods and the Customer further acknowledges that it has no claim of ownership in and to the Intellectual Property belonging to the Company.

16.4 The Customer shall not, at any time, during or after termination or cancellation of these Terms, dispute the validity or enforceability of the Intellectual Property or cause to be done any act contesting or in any way impairing or intending to impair any part of those rights, and shall not counsel or assist any person to do so, which Intellectual Property shall, subject to the reaming provisions of these terms, remain wholly owned by the Company and/or its licensors.

16.5 The Customer shall not remove or tamper with the trademarks, including the logos and slogans, of the Company as applied to the Goods and/or packaging.

16.6 The Customer shall not in any way represent that it has any right of any nature in the Intellectual Property. The Customer may only use the Intellectual Property as authorised by the Company and any such use will inure to the benefit of the Company.

16.7 To the extent that the Customer provides the Company with any software, methodologies, techniques, designs, reports, trade secrets, formulae, ideas, inventions, specifications, know-how, drawings, concepts and documentation which is, or are, owned entirely by, or licensed to, the Customer ("Customer IP"), then the Customer hereby grants the Company a non-exclusive, fully paid up and transferable license to make use of the Customer IP, in order for the Company to provide the Goods and Services to the Customer per these Terms and market the Goods and Services generally, in any format, to third parties.

17. **DATA PROTECTION AND PERSONAL INFORMATION**

17.1 For purposes of this clause 17 –

17.1.1 "PAIA Manual" means the manual in terms of section 51 of the Promotion of Access to Information Act No 2 of 2000 ("PAIA"), published by the Company

- at its Website and upon request by email to the address in 17.6.2;
- 17.1.2 **"Personal Information"** has the meaning given to this term in section 1 of POPIA;
- 17.1.3 **"POPIA"** means the Protection of Personal Information Act No 4 of 2013;
- 17.1.4 **"Processing"** has the meaning given to this term in section 1 of POPIA, and **"Process"** has a corresponding meaning;
- 17.1.5 **"Privacy Policy"** means the data and information privacy policy of the Company, as amended from time to time, published by the Company at its Website and upon request by email to the address in 17.6.2; and
- 17.1.6 **"Website"** means deltainstore.co.za.
- 17.2 The Privacy Policy and PAIA Manual are available upon request and the terms of which Privacy Policy and PAIA Manual are incorporated herein and form part of these Terms and shall apply to the Processing of all Personal Information to give effect to these Terms, provided that any conflict between these Terms and the Privacy Policy and/or PAIA Manual, will be resolved by these Terms taking precedence to the extent of such conflict.
- 17.3 The Customer acknowledges and that it has read, understood and accepted the terms of the Privacy Policy and PAIA Manual, as it pertains to the Processing of its Personal Information and expressly consents to the Company Processing its Personal Information for purposes of implementing the transactions contemplated in Terms, which shall include but not be limited to:
- 17.3.1 sharing Personal Information with registered credit bureaus, banks and/or other financial institutions to ascertain information relating to the Customer's creditworthiness and/or for fraud prevention purposes to process any payment transactions necessary for and relative to these Terms;
- 17.3.2 obtaining Personal Information from trade and credit references provided by the Customer in any application for Credit;
- 17.3.3 to legal practitioners and/or debt collection agencies in the event that the Customer is in breach of these Terms;
- 17.3.4 to the Company's affiliates, partners, agents, shareholders, Staff, associates, contractors, trade partners, consultants, service providers and/or any other person appointed by the Company, but only to the extent necessary and in order to allow the supply of the Goods and/or provision of the Services.
- 17.4 The Company undertakes that it shall Process the Personal Information of the Customer received pursuant to the relevant Purchase Order, and in accordance with the Terms for lawful Processing of Personal Information set out in POPIA, the Privacy Policy and the PAIA Manual and any relevant applicable laws.
- 17.5 The Customer has the right to access its Personal Information held with the Company, which the Company shall grant during normal office hours within a reasonable time after the receipt of a written request in terms of POPIA regulations.
- 17.6 Any queries, complaints, requests for access and other communications relating to the Processing of Personal Information, the PAIA Manual and/or Privacy Policy may be directed to the Information Officer designated in the Privacy Policy, with contact details:
- 17.6.1 Phone: [+27 11 422 1882](tel:+27114221882)
- 17.6.2 E-mail: info@deltainstore.co.za
18. **DOMICILIUM ADDRESS**
- 18.1 The Parties choose domicilium citandi et executandi ("Domicilium") for all purposes relating to these Terms, including the giving of any notice, the serving of any process, as follows -
- 18.1.1 **The Company –**
- 18.1.1.1 Physical address: **16 Toronto street, Apex, Benoni, Gauteng, South Africa**
- 18.1.1.2 Email address: sales@deltainstore.co.za
- 18.1.2 **The Customer –**
- 18.1.2.1 The physical and e-mail addresses of the Customer reflected in the Order, or if there is no Order, then in the Invoice.
- 18.1.2.2 In the case of a Credit Customer, then the physical and email addresses set out in the Credit Application.
- 18.2 The Parties shall be entitled to deliver any notices that are not required to be delivered by hand at any chosen Domicilium, by email at any email address provided for each Party in these Terms.
- 18.3 Either Party shall be entitled from time to time, by, in the case of the Customer, their giving written notice to the Company or, in the case of the Company, by email to the Customer or notice on its website, to vary its physical Domicilium to any other physical address in South Africa and to vary its email Domicilium to any other email address, provided that any change of address of the Customer shall only become effective on the date of receipt by the Company of a written acknowledgement.
- 18.4 Notwithstanding the above of this clause 18, a written notice or communication actually received by a Party shall be an adequate service of such written notice or communication to that Party notwithstanding that the notice or communication was not sent to or delivered or served at that Party's Domicilium in this clause 18.
19. **SUB-CONTRACTING**
- The Company is entitled to subcontract any of its obligations under these Terms to any other person without notice to or consent being required from, the Customer, provided that the Company shall continue to remain primarily responsible to the Customer in terms of these Terms for the due and proper discharge of such obligations.

20. CESSATION, DELEGATION AND ASSIGNMENT

The Customer is not entitled to cede, delegate or otherwise assign or transfer any of its rights or obligations in, under or in terms of these Terms to any third party without the prior written consent of the Company, which consent may be withheld in the Company's discretion. The Company is entitled to cede, delegate or otherwise assign or transfer all of its rights and/or obligations in, under or in terms of these Terms, or any part thereof, to any third party without consent being required from the Customer.

21. AMENDMENT OF TERMS

21.1 Notwithstanding anything to the contrary in these Terms, the Company may, in its sole discretion, change (which includes varying, amending, deleting, substituting or adding to) any of these Terms at any time, and which Terms as changed will be deemed to be effective and binding on the earlier of:

21.1.1 the date that such amended Terms are delivered to the Customer, which may be by way of email; or

21.1.2 upon acceptance of any Quote or upon receipt of any Invoice, by the Customer, together with these amended Terms, and

if the Customer does not agree to such amendment, the Customer must not purchase Goods or Services. For the avoidance of any doubt, it will be the responsibility and obligation of the Customer, to confirm any amendments to these Terms, by contacting the Company, prior to placing any Order.

22. PROOF OF CLAIMS

A certificate signed by a manager or any director of the Company - whose position and signature shall not be necessary to prove - reflecting the amount owing by the Customer to the Company, howsoever arising including but not limited to, in respect of any credit terms granted to the Customer, and of the fact that such amount is due, owing and unpaid shall be considered as *prima facie* proof on its production of the Customer's indebtedness to the Company for the purpose of any action (whether by way of provisional sentence, summary judgment or otherwise), proof of debt on insolvency or for any purpose whatsoever where the amount of such claims is required to be established, and it shall rest with the Customer to prove that such amount is not owing and/or due and unpaid.

23. GOVERNING LAW AND CONSENT TO JURISDICTION

23.1 These Terms will, in all respects (including its existence, validity, interpretation, implementation, termination and enforcement), be governed by the law of South Africa.

23.2 The Customer consents in terms of section 45 of the Magistrates Court Act No 32 of 1944 ("**Magistrates Court Act**") to the jurisdiction of any magistrate's court having jurisdiction over the Parties by virtue of section 28 of the Magistrates Court Act, for the determination of any claim which the Company may at

any time have against the Customer, arising out of the supply of Goods and/or Services and in respect of any legal proceedings arising out of or in connection with these Terms, notwithstanding whether such claim would otherwise be beyond the jurisdiction of the Magistrates Court because of the amount of the claim. For the avoidance of doubt, this clause 23.2 constitutes a consent in writing in terms of section 45(1) of the Magistrate's Court Act. Notwithstanding the aforementioned, the Company shall be entitled in its discretion to institute legal proceeding in any other court of competent jurisdiction.

24. GENERAL AND INTERPRETATION

24.1 These Terms constitute the sole record of the agreement between the Parties in relation to the subject matter hereof. It is specifically recorded for the sake of clarity that any terms and conditions of the Customer are excluded and neither Party is or will be bound by any express, tacit or implied promise, representation, term, warranty or the like not recorded herein. These Terms accordingly replace and supersede all prior commitments, representations or undertakings (whether oral or written) between the Parties in respect of the subject matter hereof.

24.2 The Customer shall not be entitled to make any addition to, variation, novation or claim cancellation of any provision of these Terms, including this clause, unless reduced to writing and signed by a duly appointed director of the Company.

24.3 Unless otherwise expressly stipulated in these Terms, each Party contracts as a principal and not as an agent for any other person, disclosed or undisclosed.

24.4 Without prejudice to any other provision of these Terms, any successor-in-title, including any executor, heir, liquidator, business rescue practitioner, curator or trustee, of either Party shall be bound by these Terms.

24.5 The signature by either Party of a counterpart of these Terms shall be as effective as if that Party had signed the same document as the other Party.

24.6 Each provision of these Terms is, notwithstanding the grammatical relationship between that provision and the other provisions of these Terms, severable from the other provisions of these Terms. Any provision of these Terms which is or becomes invalid, unenforceable or unlawful in any jurisdiction shall, in such jurisdiction only, be treated as *pro non scripto* to the extent that it is so invalid, unenforceable or unlawful, without invalidating or affecting the remaining provisions of these Terms which shall remain of full force and effect. The Parties declare that it is their intention that these terms would be executed without such invalid, unenforceable or unlawful provision if they were aware of such invalidity, unenforceability or unlawfulness at the time of execution of these terms.

24.7 The use of any expression covering a process available under South African law (including, for example, a

- winding-up) shall, if any of the Parties is subject to the law of any other jurisdiction, be interpreted in relation to that Party as including any equivalent or analogous proceeding under the law of such other jurisdiction.
- 24.8 Headings and sub-headings are inserted for information purposes only and shall not be used in the interpretation of these Terms.
- 24.9 References to a statute or a statutory provision include any subordinate legislation made from time to time under that statute or provision and include that statute or provision as modified or re-enacted from time to time.
- 24.10 Words importing any particular gender include the other genders (i.e. the masculine, feminine and neuter genders, as the case may be); the singular includes the plural and vice versa; and references to natural persons include legal persons and vice versa.
- 24.11 References to a "person" include a natural person, company, close corporation or any other juristic person or other corporate entity, a charity, trust, partnership, joint venture, syndicate, or any other association of persons.
- 24.12 If a definition imposes substantive rights and obligations on a Party, such rights and obligations shall be given effect to and shall be enforceable, notwithstanding that they are contained in a definition.
- 24.13 Where any number of days is prescribed, those days shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day which is not a Business Day, in which event the last day shall be the next succeeding Business Day. Where the day upon or by which any act is required to be performed is not a Business Day, the Parties shall be deemed to have intended such act to be performed upon or by the next succeeding Business Day.
- 24.14 The rule of construction that if general words or Terms are used in association with specific words or Terms which are a species of a particular genus or class, the meaning of the general words or Terms shall be restricted to that same class (i.e. the *eiusdem generis* rule) shall not apply, and whenever the word "including" is used followed by specific examples, such examples shall not be interpreted so as to limit the meaning of any word or term to the same genus or class as the examples given.
- 24.15 The rule of construction that the contract shall be interpreted against or to the disadvantage of the party responsible for the drafting or preparation of the agreement (i.e. the *contra preferentum* rule), shall not apply.
- 24.16 Any relaxation or indulgence which the Company may show to the Customer shall not in any way prejudice any of the Company's rights under these Terms and more particularly no act of the Company in accepting payments after due date, or in accepting a lesser sum than the instalment or amount due, shall be construed as a waiver by the Company of any right under these Terms or otherwise in law.
- 24.17 Save as is expressly provided for in these Terms, no provision of these Terms constitute a stipulation for the benefit of a third party (i.e., a *stipulatio alteri*) which, if accepted by the third party, would bind any Party in favour of that third party.
- 24.18 The Customer shall at all times be and has been free to secure independent legal advice as to the nature and of each provision of these Terms and the Customer confirms by purchasing the Goods or Services that it has either taken such independent legal advice or has dispensed with the necessity of doing so.
- 24.19 Each provision of these Terms are fair and reasonable in all the circumstances and shall be part of the overall intention of the Parties in connection with the transaction contemplated in these Terms.
- Terms Version Control:
Date of Current Revision: **Version 2: 10/03/2026**

SIGNATORIES

Initial _____

FOR THE CUSTOMER

Signed at on this theday of.....20.....

Who acknowledges having read and understood the entire contents of the Terms.

Witness 1

Witness 2

.....
Signature for and on behalf of the Customer

Name in full

Position / Capacity for the Customer.....

ID Number.....

Company Stamp:

FOR DELTA INSTORE (PTY) LTD (THE COMPANY)

Signed at on this theday of.....20.....

Witness 1

Witness 2

Company Stamp:

.....

Signature for and on behalf of the Company

Name in full

Position / Capacity for the Customer.....

ID Number.....