

GENERAL TERMS AND CONDITIONS OF DELIVERY AND SALE

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY OF REMA TIP TOP HOLDING SOUTH AFRICA (PTY) & DUNLOP INDUSTRIAL PRODUCTS (PTY) LTD GROUP OF COMPANIES

IN THIS AGREEMENT, THERE ARE CERTAIN CLAUSES OF SIMILAR FONT TO THIS TEXT WHICH CONTAINS PROVISIONS THAT MAY HAVE THE EFFECT OF (i) LIMITING THE RISK OR LIABILITY OF THE SELLER OR OF ANY OTHER PERSON AND/OR (ii) MAY CONSTITUTE AN ASSUMPTION OF RISK OR LIABILITY BY YOU (hereinafter referred to as "the Purchaser") AND/OR (iii) MAY IMPOSE AN OBLIGATION ON THE PURCHASER TO INDEMNIFY THE SELLER OR ANY OTHER PERSON FOR ANY CAUSE AND/OR (iv) MAY BE AN ACKNOWLEDGEMENT OF ANY FACT BY THE PURCHASER. THESE PROVISIONS ARE VERY IMPORTANT AND YOU MUST ENSURE THAT YOU READ THEM CAREFULLY AND THAT YOU UNDERSTAND THEM CLEARLY.

1. DEFINITIONS

Unless such meaning is inconsistent with the context, the following terms shall, throughout this Agreement, shall have the meanings respectively ascribed to them:

- 1.1 "Agreement" shall mean this agreement together with its annexures, as amended from time to time;
- 1.2 "Goods" shall mean the goods ordered by the Purchaser and/or sold to the Purchaser and/or as described more specifically in the invoice issued by the Seller;
- 1.3 "Invoice" shall mean the invoice document of the Seller whereon an invoice number, particulars of the Purchaser, details of the goods, the price and/or the date of order of the goods by the Purchaser shall appear;
- 1.4 "Purchaser" shall mean the person or legal entity as referred to on page 1 of this Agreement;
- 1.5 "Seller" shall mean any one of the entities which together comprise the Rema Tip Top Holding South Africa (Pty) Limited (Registration Number: 1980/009786/07) group of companies and shall include the following entities:
 - 1.5.1 Dunlop Industrial Products (Pty) Ltd (Reg No: 2001/004023/07), including its divisions;
 - 1.5.2 Rema Tip Top Automotive (Pty) Ltd (Reg No: 2004/009581/07);
 - 1.5.3 Rema Tip Top Idlers (Pty) Ltd (Reg No: 2017/188301/07);
 - 1.5.4 Sarmcol (Pty) Ltd (Reg no: 2011/001535/07)
 - 1.5.5 Sarmcol Quality Tyres (Pty) Ltd (Reg No: 2002/024032/07);
 - 1.5.6 Rema Tip Top Surface Protection (Pty) Ltd (Reg No: 2004/009520/07);
 - 1.5.7 Rema Tip Top Afrique (Pty) Ltd (Reg No: 2002/023462/07);
 - 1.5.8 Rema Tip Top Consulting Solutions (Pty) Ltd (Reg No: 2009/010658/07);
 - 1.5.9 Rema Tip Top Belting & Rubber Madagascar Ltd;
 - 1.5.10 Rema Tip Top Africa Holdings Ltd (Mauritius);
 - 1.5.11 Rema Tip Top Mozambique Limitada;
 - 1.5.12 Rema Tip Top Belting & Rubber Ghana Ltd;
 - 1.5.13 Rema Tip Top Zimbabwe Ltd;
 - 1.5.14 Rema Tip Top Zambia Ltd.

2. INTERPRETATION

In this Agreement unless the context otherwise requires –

- 2.1. The singular shall import and include the plural and vice versa;
- 2.2. Words indicating one gender shall import and include other genders;
- 2.3. Words indicating natural persons shall import and include juristic persons;
- 2.4. The headnotes to this Agreement are used for the sake of convenience only and

- 2.5. shall not govern the interpretation of the clauses to which they relate;
- 2.5. Where any number of days is prescribed in this Agreement, they shall be calculated exclusive of the first day and inclusive of the last day unless the last day falls on a Saturday, Sunday or public holiday. In such case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday;
- 2.6. If any doubt or conflict arises where figures are referred to in numerals and in words, the words shall prevail;
- 2.7. The rule of construction that this Agreement shall be interpreted against the Party responsible for the drafting or preparation of this Agreement shall not apply. The same applies to the schedules or annexures.

3. PRICE/TERMS OF PAYMENT

- 3.1. Price lists issued by the Seller from time to time, are for information only and do not constitute offers for sale.
- 3.2. Save insofar as may be otherwise specifically agreed in writing to the contrary by the Seller, orders are accepted only at prices and transport tariffs ruling on that date of dispatch.
- 3.3. Unless agreed otherwise, all Goods are sold "ex works" (Incoterms 2000), exclusive of packaging, delivery, assembly/commissioning, customs duties and/or insurance.
- 3.4. Due to variables such as quantity, size, packaging and/or marketing etc invoiced prices may differ marginally from advertised prices and the Seller shall not be bound by any advertised price not in line with the invoiced prices.
- 3.5. All prices shall be in the agreed currency confirmed in this Agreement and shall specifically exclude Value Added Tax (VAT) and any other taxes that may be levied in respect of the Goods.
- 3.6. All prices shall be in the agreed currency confirmed in the quotation, order and/or Invoice.
- 3.7. The Seller reserves its rights to effect price increases from time to time without notification to the Purchaser. The onus shall be on the Purchaser to remain informed of the prices of the Seller. No Seller employee, official, agent or nominee shall have the authority to effect or authorise any discounting of the price of the Goods other than a Director of the Seller.
- 3.8. The Seller reserves its right to add a reasonable charge for storage on any Goods and/or items which have not been collected or could not be delivered within 14 (fourteen) calendar days of the date on which they were available for delivery or collection, as the case may be.
- 3.9. If any discount is agreed to as referred to in clause 3.6 above, such discount shall only be allowed if payment is received by the Seller on or before the due date and shall apply to the actual price of the Goods themselves.
- 3.10. It is specifically agreed and recorded that interest on overdue accounts shall be at the maximum rate as permitted by law plus 2% (two percent).
- 3.11. Unless otherwise agreed in writing by the Seller, payment shall be made prior to delivery in full without deduction or set off in respect of all Goods sold.
- 3.12. Incoming payments shall be allocated at the Seller's sole discretion and may be set off against the oldest debt at the time.
- 3.13. The Purchaser shall only be entitled to make a set-off if the Purchaser's counterclaims have been recognised by a court order, or are agreed to in writing by the Seller.
- 3.14. A charge of R 100.00 (one hundred rand) will be levied for each month payment is not made at or before the due date.

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- 3.15. Where specifications, illustrations and other particulars are supplied by the **Purchaser**, the price is made on estimates of quantities required, and the **Seller** reserves the right to over or under supply such custom-made **Goods** up to 10% (ten percent) of the quantity ordered. Should there be any adjustments the quantities above or below the quantities estimated by the **Seller** and set out in a quotation, then any such increase or decrease shall be adjusted on a unit rate according to unit prices set by the **Seller**, and the **Purchaser** shall bear such costs.
- 3.16. The **Seller** reserves the right to extend credit facilities to the **Purchaser** from time to time, without any obligation to do so notwithstanding having extended such facilities in the past to any **Purchaser**.
- 3.17. Where the **Seller** has agreed to supply **Goods** on credit, payment in full shall be due within 30 (thirty) calendar days from date of the first monthly statement rendered by the **Seller**.
- 3.18. The monthly accounts of the **Seller** are closed on the 25th (twenty fifth) day of each month. Payment by the **Purchaser** must be credited to the banking account nominated in writing by the **Seller** by no later than the 25th (twenty fifth) day of the following month.
- 3.19. Credit facilities shall only be afforded to **Purchasers** after completion of the necessary documents required by the **Seller** and having provided the **Seller** with the required guarantees/suretyships.
- 3.20. The **Seller** reserves its right to advise, at any time and after having provided the **Purchaser** with 5 (five) business days' notice, that credit facilities to a **Purchaser** by the **Seller** will be terminated, and the **Seller** will be under no obligation whatsoever to provide any reasons for such termination.
- 3.21. It is specifically agreed and recorded that at all material times, it shall be the sole discretion of the **Seller** to elect whether or not to extend credit facilities to the **Purchaser**. It is specifically understood by the **Purchaser** that any differentiation shall not be deemed to be discriminatory, but shall be deemed to form part of the **Seller's** sole discretion and/or internal credit risk limitation policy.
- 3.22. The **Seller** shall be entitled to refuse sale of **Goods** to the **Purchaser** in the event of overdue accounts owing by the **Purchaser** to the **Seller** or in the event that a **Purchaser** is not able to obtain/provide satisfactory guarantees/suretyships. It is specifically recorded and agreed that any late payments by a **Purchaser** shall constitute an automatic breach of any credit facility agreement entered into between the **Seller** and the **Purchaser** and provided to the **Purchaser** by the **Seller** and accordingly, the **Seller** reserves the right at any time to refuse any further sale of **Goods** to the **Purchaser** until all outstanding accounts including any accrued interest and/or penalties on such outstanding accounts have been settled in full by such **Purchaser**.
- 3.23. IT IS SPECIFICALLY RECORDED AND AGREED THAT THE **PURCHASER** WAIVES ALL CLAIMS AGAINST THE **SELLER** FOR ANY DAMAGES OR LOSSES THAT IT MAY SUFFER AS A RESULT OF THE REFUSAL OF THE **SELLER** TO SELL **GOODS** TO THE **PURCHASER** IN THE EVENT OF AN OVERDUE ACCOUNT, OR IN CONNECTION WITH ANY OTHER DISPUTE WHATSOEVER ARISING OUT OF PAYMENT FOR **GOODS**.
- 4. DELIVERY AND RISK**
- 4.1 Time of delivery shall not be of the essence in any agreement between the Parties.
- 4.2 WHILST EVERY EFFORT WILL BE MADE TO DISPATCH AND DELIVER THE **GOODS** AS ADVISED, THE **SELLER** DOES NOT GUARANTEE DISPATCH AND/OR DELIVERY ON ANY SPECIFIC DATE AND SHALL NOT BE LIABLE FOR ANY DAMAGES INCLUDING CONSEQUENTIAL DAMAGES THAT MAY BE SUFFERED BY THE **PURCHASER** AND/OR ANY THIRD PARTY AS A RESULT OF ANY DELAYS IN THE DELIVERY OF THE **GOODS** THAT MAY OCCUR, SAVE TO THE EXTENT THAT THE **SELLER** IS FOUND TO BE LIABLE FOR ANY LOSSES IN TERMS OF SECTION 47 OF THE CONSUMER PROTECTION ACT 68 OF 2008 AS AMENDED.
- 4.3 The **Purchaser** shall not be entitled to cancel any order as a result of any delay in delivery of the **Goods**.
- 4.4 Should the **Seller** be prevented from the performance of any of its obligations because of force majeure (which includes but is not limited to an event that prevents or delays the Seller from being able to perform an obligation, wars, insurrections, strikes, pandemics, acts of God, natural disasters, governmental actions or controls, government restrictions and/or water or energy supply restrictions), or any cause whatsoever beyond the control of the **Seller**, the **Seller** shall be entitled at its option to cancel the agreement with the **Purchaser** or to suspend performance of its obligations there under and shall not be liable whatsoever for any loss or damage, consequential or otherwise, resulting from such inability to perform its obligations, cancellation, or suspension.
- 4.5 Unless otherwise agreed in writing, delivery and passing of the risk in the **Goods** shall be deemed to have taken place when the **Goods** are offloaded at the **Purchaser's** premises.
- 4.6 The **Seller** reserves the right to refuse an order within 10 (ten) business of such order being received by the **Seller** where costs have escalated due to any contingencies or circumstances not within the **Seller's** control.
- 4.7 The **Seller's** deliveries shall be effected "ex works" for the account and at the risk of the **Purchaser**. Transport insurance shall be arranged at the **Purchaser's** written request and for its account. The **Seller** shall have the right to demand a prepayment on the insurance premium by the **Purchaser**. In the absence of specific instructions by the **Purchaser**, the **Seller** shall determine the shipping route and carrier. The transport packaging shall be product-related and consider the statutory regulations as may be made from time to time. The **Seller** shall bear the packing charges, which shall be determined at the **Seller's** discretion. The packaging shall be taken back at the **Purchaser's** request and expense.
- 5. LICENCES AND AUTHORISATION**
- 5.1 THE **SELLER** RESERVES ITS RIGHT TO CARRY OUT TECHNICAL AND ENGINEERING CHANGES. IN THE EVENT THAT LICENCE AND AUTHORISATION IS REQUIRED FOR FOREIGN TRANSACTIONS, THE **SELLER** RESERVES THE RIGHT TO CANCEL THIS **AGREEMENT** IF ANY LICENCE AND/OR AUTHORISATION IS NOT GRANTED WITHIN 3 (THREE) MONTHS OF THE APPLICATION. IN THE EVENT THAT THE **SELLER** CANCELS THIS **AGREEMENT**, THE **PURCHASER** SHALL HAVE NO CLAIM FOR DAMAGES AGAINST THE **SELLER** WHICH MAY ARISE AS A RESULT OF THE CANCELLATION OF THIS **AGREEMENT**.
- 5.2 THE **PURCHASER** IS OBLIGED TO INFORM THE **SELLER** AS SOON AS NEGOTIATIONS HAVE COMMENCED, WHETHER THE **GOODS** ORDERED

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AND/OR SOLD TO THE **PURCHASER** FOR A MILITARY PURPOSE AND WHETHER AN EXPORT LICENCE WILL BE NECESSARY. THE **PURCHASER** UNDERTAKES TO PROVIDE THE **SELLER** WITH ANY DOCUMENTS REQUIRED BY THE **SELLER**, PARTICULARLY END USER CERTIFICATES. THE **SELLER** SHALL BE ENTITLED TO CHARGE THE COST OF THE EXPORT LICENCE TO THE **PURCHASER** AND/OR TO CANCEL THIS **AGREEMENT** IN THE EVENT THAT ANY COSTS ARE UNREASONABLY HIGH OR IF THE LICENSE CANNOT BE OBTAINED. IN THE EVENT THAT THE **SELLER** CANCELS THIS AGREEMENT, THE **PURCHASER** SHALL HAVE NO CLAIM FOR DAMAGES AGAINST THE **SELLER** WHICH MAY ARISE AS A RESULT OF THE CANCELLATION OF THIS **AGREEMENT**.

5.3 THE **SELLER** SHALL BE ENTITLED AT ITS OWN DISCRETION TO DELIVER GOODS WITH A CERTIFICATE OF ORIGIN AND/OR A CUSTOMS PREFERENCE AUTHORISATION RESPECTIVELY. FOR THIS REASON, THE **PURCHASER** IS OBLIGED TO INFORM THE **SELLER** AT THE TIME OF ITS REQUEST WHICH CERTIFICATES OF ORIGIN AND/OR CUSTOMS PREFERENCE AUTHORISATIONS WILL BE REQUIRED. THE **SELLER** SHALL BE ENTITLED TO CHARGE ALL ADDITIONAL EXPENSES INCURRED BY THE **SELLER** TO THE **PURCHASER**. FURTHER, THE **SELLER** SHALL BE ENTITLED AT THE TIME OF DELIVERY TO ASSUME THE ORIGINAL SITUATION. CHANGES OF ORIGIN WILL NOT BE GROUNDS FOR DAMAGES TO BE CLAIMED BY THE **PURCHASER** AND THE **PURCHASER** SHALL NOT BE ENTITLED TO CLAIM ANY DAMAGES OF WHATSOEVER NATURE FROM THE **SELLER** IN THIS REGARD.

6. RESERVATION OF OWNERSHIP

6.1 The **Seller** shall reserve ownership of all **Goods** delivered, until receipt of all payments due to the **Seller** have been paid in full. Further, the **Seller** reserves ownership of retained **Goods** until the **Purchaser** has paid all amounts due to the **Seller** in full.

6.2 In the event that the **Purchaser** defaults in payment, the **Purchaser** shall return the **Goods** to the **Seller** upon demand by the **Seller**, without undue delay. In addition hereto the **Seller** shall be entitled, but not obligated, to collect the **Goods** from wherever such **Goods** are located without the need of a Court order authorising the collection. In this regard the **Purchaser** hereby irrevocably authorises the **Seller** to enter upon the **Purchaser's** premises to take possession of such **Goods**.

6.3 The **Seller** may elect without retracting from other any other remedies which may be available to it:

- 6.3.1 to continue with the agreement between the Parties;
- 6.3.2 to cancel it and cancel the sale of any further **Goods** to the **Purchaser** and to rely on the provisions of this clause to repossess those **Goods** sold and delivered by the **Seller** to the **Purchaser**;
- 6.3.3 or to claim specific performance of all the **Purchaser's** obligations whether or not such obligations would otherwise have fallen due for performance

in either event, without prejudice to the **Seller's** rights to claim damages.

6.4 The **Purchaser** undertakes to handle the delivery items with care and is obliged to insure them adequately at the reinstatement value against damage caused by fire, water, and theft at the **Purchaser's** expense until such time as all amounts owed to the **Seller** have been paid in full.

6.5 In case of attachments or other intervention by third parties, the **Purchaser** shall inform the **Seller** in writing without undue delay. The **Purchaser** shall be liable to the

Seller for the judicial and extra-judicial costs of any necessary action pursuant to third-party action against execution.

6.6 The **Purchaser** herewith assigns the amounts owed to it from the resale of the **Goods** subject to reservation of ownership of the **Seller**. Such amounts owed shall serve the **Seller** as a security to the same extent as the **Goods** under reservation of ownership.

6.7 Any processing, altering or manufacturing of the **Goods** under the **Seller's** retention of ownership by the **Purchaser** shall be for the benefit of the **Seller**, without committing the **Seller** to any obligations in any way and until such time as the **Goods** have been paid for in full. Should items be utilised by the **Purchaser** which do not belong to the **Seller**, the **Seller** shall be entitled to co-ownership in the new object in proportion of the **Invoice** value of the **Goods**.

7. RETURN OF GOODS

7.1 A PRECONDITION OF THE WARRANTY RIGHTS (CLAIMS BASED ON DEFECTS) OF THE **PURCHASER** IN TERMS OF THIS **AGREEMENT** IS THAT THE **PURCHASER** INSPECTS THE **GOODS** UPON RECEIPT WITHOUT UNDUE DELAY AND GIVES WRITTEN NOTICE TO THE **SELLER** OF ANY VISIBLE DEFECTS IMMEDIATELY AFTER THE INSPECTION OR OF HIDDEN DEFECTS AFTER THEIR DISCOVERY, SPECIFYING THE DEFECT. THIS SHALL ALSO APPLY TO INCORRECT DELIVERIES OR **GOODS** IN INSUFFICIENT QUANTITIES BEING DELIVERED. NOTIFICATION MUST BE GIVEN WITHIN A PERIOD OF 10 (TEN) CALENDAR DAYS.

7.2 Should the **Purchaser** provide notice to the **Seller** as per clause 7.1 above, the **Purchaser** shall arrange for a fact finding immediately upon receipt. The results thereof shall be forwarded to the **Seller** directly in writing.

7.3 SHOULD THE **PURCHASER** ALLEGE THAT ANY **GOODS** ARE UNSAFE OR DEFECTIVE, THE **SELLER** SHALL NOT BE LIABLE FOR ANY HARM AND/OR DAMAGE CAUSED WHERE SUCH ALLEGED UNSAFE PRODUCT CHARACTERISTIC, FAILURE, DEFECT OR HAZARD DID NOT EXIST IN THE **GOODS** AT THE TIME AT WHICH THEY WERE SUPPLIED TO THE **PURCHASER** BY THE **SELLER**. THEREFORE, IF NO SUCH NOTIFICATION IS RECEIVED IN TERMS OF CLAUSE 7.1 ABOVE, IT WILL BE REGARDED AS *PRIMA FACIE* PROOF THAT NO DEFECTS WERE PRESENT AT THE TIME OF DELIVERY AND THAT THE **GOODS** WERE DELIVERED IN ACCORDANCE WITH THIS **AGREEMENT** AND/OR ANY OTHER AGREEMENT BETWEEN THE PARTIES.

7.4 Should the **Seller** receive notice as referred to in clause 7.1 above and it is satisfied that the **Goods** are defective or do not conform to specifications, then the **Seller** will, at the **Purchaser's** election, repair the **Goods**, replace such quantity of **Goods** with an equal quantity of **Goods** or refund the applicable portion of the purchase price to the **Purchaser** against return of the defective portion of the **Goods** (the return to be made at the **Seller's** risk and expense).

7.5 The **Purchaser** may not however return to the **Seller** any **Goods** for any reason whatsoever unless:

7.5.1 the Parties have agreed in writing to such return and to the conditions of such return;

7.5.2 the **Goods** are being returned in accordance with the provisions of clauses 7.1 and 7.4 above;

7.5.3 the **Goods** were intended to satisfy a particular purpose communicated to the **Seller** prior to the purchase thereof and have been found not to

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satisfy the purpose for which they were intended, and have been returned to the **Seller** within 10 (ten) business days of delivery and the **Seller** having been notified of the intended return within the 10 (ten) business days' time period.

- 7.5.4 the **Purchaser** was not permitted to inspect the **Goods** prior to delivery thereof; or
- 7.5.5 the **Purchaser** is exercising its right to cool-off in terms of section 16 of the Consumer Protection Act 68 of 2008 as amended.

8. REPRESENTATION AND WARRANTIES

- 8.1 For a period of 6 (six) months from the date of the **Purchaser's** receipt of the **Goods** sold hereunder, the **Seller** warrants that such **Goods** shall be of the **Seller's** standard quality and shall be reasonably suitable for the purposes for which they are generally intended. The **Seller** makes no other warranty of any kind, express or implied, including without limitation, any warranty of merchantability or non-infringement. The **Seller** specifically makes no warranties as to any services or as to compliance with laws, regulations, standards and/or conventions including any related to the environment or to the packaging, labelling and/or transport of hazardous **Goods**. No warranty shall apply to shipping damage, damage caused by improper installation or improper wiring, including incorrect electrical voltage, **Goods** that have been modified or altered in any way, damage caused by corrosion, abrasion, or severe temperatures, or **Goods** that have been subjected to improper maintenance, abuse, misuse, abnormal usage, or accident.
- 8.2 THE **PURCHASER** WARRANTS THAT IT SHALL FULLY COMPLY WITH ALL LABEL DIRECTIONS FOR THE HANDLING, STORAGE, POSSESSION OR USE OF THE **GOODS** SOLD HEREUNDER AND THE **PURCHASER** AGREES THAT IT SHALL INDEMNIFY AND HOLD THE **SELLER** HARMLESS FROM ALL CLAIMS (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES) OF PERSONAL INJURY, DAMAGE, LOSS OR PROPERTY DAMAGE RESULTING FROM ANY NEGLIGENCE, RECKLESSNESS OR WILFUL MISCONDUCT ON THE PART OF THE **PURCHASER** AND/OR THE **PURCHASER'S CLIENT** OR FROM ANY FAILURE OF **PURCHASER** AND/OR THE **PURCHASER'S CLIENT** TO COMPLY WITH THE TERMS OF THIS WARRANTY.
- 8.3 WHILST THE **SELLER** SHALL TAKE ALL REASONABLE STEPS TO ENSURE THAT THE **GOODS** TO BE SOLD AND DELIVERED TO THE **PURCHASER** IN TERMS HEREOF ARE MANUFACTURED IN ACCORDANCE WITH THE **PURCHASER'S** SPECIFICATIONS, THE **SELLER** DOES NOT WARRANT THAT THE SAID **GOODS** WILL BE FIT FOR THE SPECIFIC PURPOSE FOR WHICH THE **PURCHASER** AND/OR THE **PURCHASER'S CLIENT** INTENDS TO USE THE SAID **GOODS**, AND THE **PURCHASER** ACCORDINGLY ABSOLVES THE **SELLER** FROM ANY LIABILITY WHATSOEVER AS A RESULT OF THE SAID **GOODS** NOT BEING FIT FOR THE PURPOSE FOR WHICH THE **PURCHASER** INTENDS TO USE THE SAID **GOODS**, UNLESS THE **PURCHASER** HAS SPECIFICALLY INFORMED THE **SELLER** IN WRITING OF THE PARTICULAR PURPOSE FOR WHICH THE **PURCHASER** WISHES TO ACQUIRE ANY **GOODS** OR THE USE TO WHICH THE **PURCHASER** INTENDS TO APPLY THOSE **GOODS** AND THE **SELLER** AGREES TO SUPPLY SUCH **GOODS**.
- 8.4 NO LIABILITY FOR DAMAGES WILL ATTACH TO THE **SELLER** RESULTING FROM; UNSUITABLE OR IMPROPER USE, IMPROPER ASSEMBLY AND

IMPROPER COMMISSIONING OR HANDLING BY THE **PURCHASER** AND/OR THE **PURCHASER'S CLIENT** OR BY THIRD PARTIES, ANY OTHER DISREGARD OF INSTALLATION AND OPERATING INSTRUCTIONS OR OF GENERALLY ACCEPTED TECHNICAL RULES AND NORMAL OPERATIONAL WEAR AND TEAR.

- 8.5 The **Purchaser's** exclusive remedy for shortage of the **Goods**, damaged or defective **Goods** (whether or not occurring as a result of the **Seller's** alleged negligence) or any other cause of action arising out of the agreement between the Parties, including breach of warranty, is expressly limited to replacement of nonconforming **Goods** or payment of an amount not to exceed the purchase price of the **Goods** for which damages are claimed, at the **Seller's** option. The **Purchaser** shall have no right to set-off, to withhold payment or to make a reduction in price. The **Purchaser's** remedy of replacement or refund is available only if non-conformance was not caused by the **Purchaser** or by any third party, accident, fire, or another hazard.

9. LIMITATION OF LIABILITY

- 9.1. IN NO EVENT, SHALL THE **SELLER**, ITS DIRECTORS, OFFICERS, EMPLOYEES, OR AGENTS BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, DIRECT, INDIRECT, OR SPECIAL DAMAGES, INCLUDING PUNITIVE DAMAGES OR ATTORNEYS' FEES, WHETHER FORESEEABLE OR UNFORESEEABLE, BASED ON CLAIMS OF THE **PURCHASER** OR THE **PURCHASER'S CLIENTS** (INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR LOSS OF BUSINESS, GOODWILL, PROFITS, LOSS OF MONEY OR USE OF **GOODS** OR IMPAIRMENT OF OTHER ASSETS), ARISING OUT OF BREACH OF ANY EXPRESS OR IMPLIED WARRANTY, BREACH OF CONTRACT, MISREPRESENTATION, NEGLIGENCE, IN DELICT OR OTHERWISE IN CONNECTION WITH OR ARISING OUT OF THE CONTRACT, EXCEPT IN THE CASE OF PERSONAL INJURY OR PROPERTY DAMAGE WHERE AND ONLY TO THE EXTENT THAT APPLICABLE LAW REQUIRES SUCH LIABILITY. TO THE EXTENT THE **PURCHASER** INCORPORATES OR CAUSES OTHERS TO INCORPORATE THE **GOODS** IN ITS OWN **GOODS** OR THE **GOODS** OF ANY THIRD PARTY, THE **SELLER** SHALL NOT BE LIABLE FOR THIRD PARTY CLAIMS FOR INFRINGEMENT OF LETTERS PATENT, REGISTERED DESIGN, TRADEMARK OR COPYRIGHT RESULTING FROM SUCH INCORPORATION AND BASED UPON THE USE OF THE **GOODS** OR THE MANUFACTURE, USE, SALE OR OFFER FOR SALE OF ANY **GOODS** CONTAINING SUCH **GOODS**, EXCEPT AS SUCH LIABILITY FOR THIRD PARTY CLAIMS FOR INFRINGEMENT IS EXPRESSLY REQUIRED BY APPLICABLE LAW AND NOT WAIVABLE BY THE **PURCHASER**. THE **PURCHASER** ASSUMES RESPONSIBILITY FOR ALL PERSONAL INJURY AND PROPERTY DAMAGE RESULTING FROM HANDLING, POSSESSION, USE, RESALE OR DISPOSAL OF THE **GOODS**.
- 9.2. THE **SELLER** SHALL UNDER NO CIRCUMSTANCES BE LIABLE FOR ANY ELECTRONIC EQUIPMENT SUPPLIED OR RETROFITTED TO ANY **GOODS** SUPPLIED TO THE **PURCHASER** AND FURTHER PROVIDES NO GUARANTEE OR WARRANTY IN RESPECT OF ANY ELECTRONIC EQUIPMENT UNLESS SPECIFICALLY AGREED TO IN WRITING BY THE **SELLER**.

10. BREACH

In the event that the **Purchaser**:

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- 10.1 breaches any condition contained in this **Agreement** or any other agreement between the Parties and/or fails to pay any amount due and payable on due date, and having failed to rectify such breach or outstanding payment within 10 (ten) calendar days of having been requested to do so in writing by the **Seller**;
- 10.2 suffers any civil judgment to be taken or entered against it, causing a notice of surrender of its estate to be published in terms of the Insolvency Act of 1936 (as amended);
- 10.3 dies or ceases to exist;
- 10.4 is placed under provisional or final liquidation, business rescue and/or provisional or final sequestration
- as the case may be, then and in such event, the **Seller** shall, without retracting from other remedies which may be available to it, be entitled to cancel this agreement and cancel the sale of any **Goods** to the **Purchaser** without notice to the **Purchaser** and to rely on the provisions of this **Agreement** to repossess those **Goods** sold and delivered by the **Seller** to the **Purchaser**, to claim specific performance of all the **Purchaser's** obligations whether or not such obligations would otherwise have fallen due for performance and/or to claim payment of any amounts due to the **Seller**, in either event, without prejudice to the **Seller's** rights to claim damages.
- 11. INDEMNITY**
- 11.1 The **Purchaser** hereby indemnifies and holds harmless the **Seller** and the **Seller's** directors, officers, employee's and agents, and the directors, officers, employees and agents of any the **Seller's** parent, subsidiary or related companies from and against any and all claims, suits, losses, damages, costs, fees and expenses arising out of the death or injury to person, loss or damage of whatsoever nature resulting from any service performed by the **Seller** or the purchase, on sale, marketing or use of the **Goods** by the **Purchaser**.
- 11.2 The **Seller** shall not be liable for any loss and/or damage caused if any service, goods, written material, name, style, mark, patent, design, drawing, label, or work ordered by the **Purchaser**, or the application of the **Goods** ordered by the **Purchaser**, contravenes or infringes any law, regulation, or rights of third parties. The **Purchaser** indemnifies and holds the **Seller** harmless against all claims and costs attributable to any such contravention or infringement.
- 11.3 Any advice or opinion given by the **Seller** is for the **Purchaser's** benefit only and the **Seller** accepts no responsibility for any damage incurred as a result of the reliance thereon and the **Purchaser** confirms this applicable indemnity.
- 12. LEGAL ACTION, JURISDICTION & DOMICILIUM**
- 12.1 In the event of the **Seller** instructing attorneys regarding any breach by the **Purchaser**, then the **Purchaser** shall be liable for all legal costs on the scale between Attorney and Client, including any costs incidental to such action instituted against the **Purchaser**.
- 12.2 The Parties consent to the jurisdiction of the Gauteng Local Division of the High Court of South Africa, Johannesburg for purposes of any litigation between the Parties.
- 12.3 This agreement, as well as the relationship between the **Seller** and the **Purchaser** shall be governed by the laws of the Republic of South Africa.
- 12.4 A certificate under the hand of a Director of the **Seller** as to the existence and the amount of the **Purchaser's** indebtedness to the **Seller**, as well as the amount of interest accrued thereon, and as to any other fact, matter or thing relating to the

- Purchaser's** indebtedness to the **Seller**, shall be accepted as sufficient (*prima facie*) proof of the contents and correctness thereof and of the amount of the **Purchaser's** indebtedness for the purpose of provisional sentence or summary judgement or any other proceedings against the **Purchaser** in any competent Court and shall be valid and constitute a liquid document for such purposes. Furthermore, it shall not be necessary to prove the appointment of the person signing such a certificate and it shall be deemed to be sufficient particularly for any action or any other proceeding instituted by the **Seller** against the **Purchaser**.
- 12.5 Any notices to be given to the Parties in terms of this agreement shall be in writing and delivered by hand during ordinary business hours, posted by pre-paid registered post or sent by email to the addresses mentioned hereunder, which addresses the Parties choose as their *domicilium citandi et executandi* for all purposes arising out of this agreement.
- 12.5.1 The **Seller**:
Physical Address: Clearwater Corporate Business Park, Office Park 2, Corner of Atlas and Parkhaven, Boksburg, Gauteng, 1459
Email: info@rtt-dunlop.co.za
- 12.5.2 The **Purchaser**:
Physical Address: as per page 1 of this Agreement
Email: as per page 1 of this Agreement
- 12.6 The **Purchaser** consents to the **Seller** or a third party appointed by the **Seller** performing security checks including but not limited to criminal checks, driver's license checks and credit checks on the **Purchaser** or any surety/guarantor of the **Purchaser** at any time throughout the duration of this agreement and/or after termination of this agreement.
- 13. INTELLECTUAL PROPERTY RIGHTS**
- 13.1 The **Purchaser** agrees that the **Seller** owns the intellectual property and by virtue of this agreement or for any other reason whatsoever, the **Purchaser** shall not have any right to and/or own the **Seller's** intellectual property. For purposes of this agreement intellectual property shall mean all intellectual property and proprietary rights owned by the **Seller**, including, without limitation, the following:
- 13.1.1 the copyright, trademarks and domain names;
- 13.1.2 all inventions (whether patentable or unpatentable), all improvements thereto, and all patents, patent applications, and patent disclosures, together with all revisions, extensions and re-examinations thereof;
- 13.1.3 all goodwill that relates to the trademarks;
- 13.1.4 all other trademarks, service marks, trade dress, logos, trade names and corporate names, (including but not limited to all internet and intranet names, addresses, icons and other designations useful to identify the **Goods** on a computer network such as the world wide web), together with all transactions, adaptations, derivations and combinations thereof and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith;
- 13.1.5 all trade secrets and business information (including but not limited to ideas, research and development, know-how, formulas, compositions, manufacturing and production processes and techniques, service offering process and techniques, technical data, designs, drawings, specifications,



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customer and supply lists (to the extent permitted by law), pricing and cost information, and business and marketing plans and proposals);

- 13.1.6 all web pages (dynamic or static), websites, portals, web designs, layouts, and web libraries owned, used or held for use in connection with any aspect of the **Goods**, including all content therein and any updates, upgrades and enhancements thereto;
- 13.1.7 all rights in photographs and images, text, advertising and promotional copy, marketing and promotional materials and their content, materials marketing studies, directories, hotel guides, and all other content, including digital versions thereof, owned, used or held for use in connection with any aspect of the **Goods**; and
- 13.1.8 all copies and tangible embodiments of any of the aforementioned forms of intellectual property, in each instance in whatever form or medium.

13.2 IF THE **PURCHASER** USES OR SELLS THE **GOODS** IN SUCH A MANNER WHICH INFRINGES ON ANY PATENT OR OTHER RIGHTS OF ANY THIRD PARTY, THE **SELLER** SHALL NOT BE RESPONSIBLE FOR SUCH INFRINGEMENT NOR FOR ANY ALLEGED INFRINGEMENT ARISING FROM THE **PURCHASER'S** ACTION IN RELATION TO THE **GOODS** AND THE **PURCHASER** INDEMNIFIES THE **SELLER** FROM ALL ASSOCIATED LIABILITY INCLUDING LEGAL COSTS.

13.3 Except as agreed in writing, in advance, by the **Seller**, the **Purchaser** shall not use or allow to be used by any other person over which it exercises control any trademark or trade name owned or used by the **Seller**, whether directly or indirectly, in advertisements or as part of that person's registered or trading name or in any other way whatsoever.

13.4 The **Purchaser** shall not use any of the trademarks of the **Seller** for the purpose of representing, selling, or offering for sale any goods other than the **Goods**.

13.5 To the extent that this is applicable, upon termination of this **Agreement** or, if the **Seller** demands in writing, the **Purchaser**, shall immediately remove from its premises and discontinue to use any and all signs, labels, stationery, advertising and reading materials with the **Seller's** trademarks.

14. CONFIDENTIALITY

THE **PURCHASER** UNDERTAKES TO KEEP INFORMATION CONCERNING THE **SELLER'S** TECHNICAL AND COMMERCIAL KNOWLEDGE, OF WHICH IT MAY LEARN THROUGH THE BUSINESS RELATIONSHIP WITH THE **SELLER** SECRET AND TO USE SUCH INFORMATION FOR THE PURPOSES INTENDED BY THIS CONTRACT ONLY. THIS OBLIGATION IS EFFECTIVE AS LONG AS THE BUSINESS RELATIONSHIP LASTS AND BEYOND THAT THE OBLIGATION SHALL BE EFFECTIVE FOR 2 (TWO) YEARS, AFTER THE RELATIONSHIP HAS COME TO AN END. THIS OBLIGATION SHALL NOT APPLY TO KNOWLEDGE KNOWN TO THE PUBLIC, OF WHICH THE **PURCHASER** LEARNED WITHOUT BREACHING THIS CONFIDENTIALITY UNDERTAKING. IF THE **PURCHASER** BREACHES THIS CONFIDENTIALITY AGREEMENT AND IS AT FAULT, IT WILL BE OBLIGED TO PAY A CONTRACTUAL PENALTY, WHICH SHALL BE DETERMINED BY THE **SELLER** AT THE **SELLER'S** REASONABLE DISCRETION.

15. GENERAL

15.1 All contracts are subject to the terms of this **Agreement**. **The Seller rejects any terms and conditions of the Purchaser to the contrary or deviating from these terms**

and conditions unless the Seller has expressly consented to their validity in writing.

- 15.2 In the event of a conflict between this **Agreement** and any other terms and conditions of the **Seller**, then these terms and conditions shall take precedence.
- 15.3 All moulds, designs, drawings, sketches, models or samples and the rights therein remain the **Seller's** property, shall be treated as strictly confidential, shall not be divulged to third parties without the **Seller's** written consent and must be returned to the **Seller** immediately upon the **Seller's** request.
- 15.4 If any of the provisions of this **Agreement** are held to be invalid, the validity of the remainder of this **Agreement** shall not be affected and the rights and obligations of the Parties shall be construed and enforced as if this **Agreement** did not contain the invalid term and to this end the provisions of this **Agreement** and the application thereof are hereby declared to be severable.
- 15.5 This **Agreement** constitutes an agreement between the **Seller** and the **Purchaser** (hereinafter collectively referred to as "the Parties") and no representation by either of the Parties or their agents, whether made prior or subsequent to the signing of this **Agreement**, alternatively upon the **Purchaser** accepting any quote from the **Seller**, alternatively upon the **Purchaser** placing any order with the **Seller**, shall be binding on either of the Parties unless done in writing and signed by both Parties hereto.
- 15.6 Accordingly, any purported amendments by the **Purchaser** are ineffective and the return of the **Purchaser's** standard order acknowledgement or the **Purchaser's** own conditions of sale do not constitute the **Seller's** agreement to any amendment to the **Seller's** terms and conditions.
- 15.7 The grant of any indulgence, extension of any time or relaxation of any provision by a Party under this Agreement (or under any other agreement or document issued or executed pursuant to this agreement) shall not constitute a waiver of any right by the grantor or prevent or adversely affect the exercise by the grantor of any existing or future right of the grantor.
- 15.8 Unless expressly provided otherwise in this Agreement, the **Purchaser** may not cede any or all of its rights or delegate any or all of its obligations under this agreement, without the prior written consent of the **Seller**. The Seller shall be entitled to cede any or all of its rights or delegate any or all of its obligations under this agreement, without the prior written consent of the **Purchaser**.

16. DEED OF SURETYSHIP

I/We the undersigned,

Name: _____

Identity/Passport Number: _____

Residential Address: _____

AND

Name: _____

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Identity/Passport Number: _____

Residential Address: _____

(Hereinafter referred to as “the Surety”)

do hereby bind myself/ourselves in solidum (jointly and severally), as surety/ies and co-principal Purchaser /s, unto and in favour of the Seller for the payment on demand of all sums of money with the Purchaser may now and from time to time hereafter owe or be indebted to the Seller, from whatsoever cause arising, together with any interest and/or any other charges and costs (including attorney and client costs) which the Purchaser may be or may become liable from time to time to pay the Seller, whether such indebtedness be incurred by the Purchaser solely or jointly or in partnership with any other person or persons, company or companies, and for the due and punctual performance of all obligations of the Purchaser in connection with the Agreement entered into between the Seller and the Purchaser.

The Purchaser and Surety jointly and severally agree that:

- 16.1 This suretyship shall apply to, cover and secure the Seller’s respective successors in title, orders or assigns.
- 16.2 It shall always be in the discretion of the Seller to determine the extent, nature and duration of the facilities (if any) to be allowed to the Purchaser.
- 16.3 The Seller shall be at liberty to release securities for the Purchaser, or to extend any leniency or extension of time, or compound or make other arrangements with, the Purchaser or the Surety, or any other surety or sureties for the Purchaser, and no such action on the part of the Seller shall affect or in any way be construed or operate as a waiver or abandonment of any of the Seller’s rights or claims against the Surety.
- 16.4 All acknowledgements of indebtedness and admissions by the Purchaser shall be binding on the Surety.
- 16.5 In the event of the insolvency, liquidation, sequestration, assignment or placing under business rescue of the estate/s of the Purchaser, or in the event of a compromise between the Purchaser and any creditors of the Purchaser:
 - 16.5.1 the Surety undertakes not to prove a claim against the Purchaser’s estate, until all amounts (including interests and costs) due by the Purchaser to the Seller have been paid in full;
 - 16.5.2 the Surety hereby agrees that notwithstanding any part payment by or on behalf of the Surety, to the Seller, the Surety shall have no right to any cession of action in respect of such part payment, and shall not be entitled to take any action against the Purchaser or against any other surety for the Purchaser respect thereof, unless and until the indebtedness of the Purchaser to the Seller shall have been discharged in full;
 - 16.5.3 the Surety agrees that any dividend received from the Purchaser shall be appropriated in the first instance to the payment of that part (if any) of the Purchaser’s indebtedness to the Seller which is not covered by this suretyship;
 - 16.5.4 No dividends or payments which the Seller will receive from the Purchaser

- or any other surety or sureties or from the Surety, shall prejudice the Seller’s right to recover from the Surety, to the full extent of this suretyship, any sum which, after the receipt of such dividends or payments, will remain owing to the Seller by the Purchaser.
- 16.6 Notwithstanding any payments received by the Seller from the Surety hereunder the Seller shall be entitled to prove against the estate of the Purchaser for the full amount of the indebtedness of the Purchaser, at the date of insolvency, liquidation, assignment, business rescue or compromise, as the case may be.
- 16.7 The Seller shall have the right to appropriate any moneys received by the Seller from the Surety, to such indebtedness of the Purchaser to the Seller as the Seller shall decide.
- 16.8 Without prejudice to anything hereinbefore contained, this suretyship shall apply to and cover the Seller in respect of claims which the Seller may have acquired or in the future may acquire against the Purchaser from any party whomsoever or whatsoever and for which this suretyship is concluded, but not in any way detracting from the general liability aforesaid.
- 16.9 This suretyship shall remain of full force as continuing covering security, notwithstanding any intermediate settlement of or fluctuations in the indebtedness of the Purchaser to the Seller for the time being, and notwithstanding the death or legal disability of any of us, until the Seller will have agreed in writing to cancel this suretyship, and this suretyship shall further remain in full force as a continuing covering security binding upon the other or others of us, notwithstanding that it may or any ground in whole or part have ceased to be binding on any one or more of us.
- 16.10 This suretyship shall be addition and without prejudice to any other suretyship/s or security/ies now or at any time hereafter held by the Seller in respect of any of the liabilities or obligations of the Purchaser to the Seller.
- 16.11 Should the Seller cede the Seller’s claim/s against the Purchaser to any third party/ies, then this suretyship shall be deemed to have been given by the Surety to such cessionary/ies, who shall be entitled to exercise all rights in terms of this deed of suretyship as if such cessionary/ies were the Seller.
- 16.12 The amount of the Purchaser’s indebtedness and of the Surety to the Seller at any time and the fact that the due date of payment of the whole, or as the case may be, portion of such amount has arrived, shall be determined and proved by a certificate signed by a member, director, company secretary, manager or internal accountant of the Seller or of the agent of the Seller.
- 16.13 A certificate in terms of this clause shall be:
 - 16.13.1 binding on the Surety;
 - 16.13.2 prima facie (factually apparent) proof of the amount of the Surety indebtedness; and
 - 16.13.3 valid as a liquid document against the Surety in any competent court for the purpose of obtaining provisional sentence or judgments against the Surety.
- 16.14 The Surety consents in terms of Section 45 of Act 32 of 1944 to the Seller taking legal proceedings for enforcement of its rights under this suretyship for recovery of monies claimed under this suretyship, if the Seller so elects, in the Magistrate’s Court in any district having jurisdiction in respect of the Seller by virtue of Section 28 of the said Act. This provision shall not deprive the Seller from instituting action in the High Court of South Africa.
- 16.15 Should the Surety at any time in defending any action based on this suretyship, allege that:



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- 16.15.1 there is no reason or cause for the obligations of the **Purchaser**; and/or
- 16.15.2 errors have been made in the calculation of the amount claimed, and/or
- 16.15.3 any other defence
then the onus of proving such a defence will rest on the **Surety**.
- 16.16 The **Surety** renounces the benefits of:
 - 16.16.1 excussion – by renouncing this benefit, the **Surety** understands that the **Seller** becomes entitled to sue the **Surety** for the full amount owing under this suretyship without first proceeding against the **Purchaser**;
 - 16.16.2 division – by renouncing this benefit, the **Surety** understands that where there is more than one surety for the **Purchaser** obligations, the **Seller** will be entitled to sue each such surety for the full amount owing under this suretyship and not only for a Pro Rata share;
 - 16.16.3 cession of action – by renouncing this benefit the **Surety** understands that the **Seller** becomes entitled to sue the **Surety** without first ceding the **Seller's right** of action against the **Purchaser** to the **Surety**;
 - 16.16.4 no value received, non causa debiti and revision of accounts, the meaning and effect whereof the **Surety** declare itself to be fully acquainted.
- 16.17 In as much as any signatory/ies hereto is/are a company/ies or a close corporation/s, then such company or close corporation does hereby warrant and represent to the **Seller** that it is duly empowered by its Memorandum of Incorporation or founding statement, as the case may be, to enter into this suretyship, and that it has a material interest in securing the indebtedness covered by this suretyship, which is entered into for its direct or indirect benefit. The person/s signing this suretyship on behalf of any company or close corporation shall be deemed by virtue of such signature/s to be party to the foregoing warranties and representation in his/her/their personal capacity/ies jointly and severally, and jointly and severally with the said company or close corporation, and shall further be deemed to warrant and represent to the **Seller** that such person/s is/are duly authorised to execute this suretyship on behalf of such company or close corporation.
- 16.18 the **Surety** chooses as its domicilium citandi et executandi (place at which all notices and legal notices may be served) for all purposes herein at the above address/es set out against the **Surety's** name and all notices addressed to the **Surety** shall be sent by prepaid registered post to the **Surety** respective address/es above and shall be deemed to have been delivered the **Surety** 4 (four) days after such posting thereof.
- 16.19 As security for the due payment by the **Surety** of all liabilities to the **Seller** arising under this suretyship, and for the due performance of all the **Surety's** other obligations arising hereunder.
- 16.20 The **Surety** hereby cedes, assigns, transfers and makes over to the **Seller** all the **Surety's** right, title and interest in and to all claims of whatsoever nature and howsoever arising which the **Surety** may now or in the future have against the **Purchaser**. The **Surety** undertakes to do all such things as are necessary, whenever requested so to do by the **Seller** to enable the **Seller** to prove any such claim against the **Purchaser** for the amount/s so ceded to the **Seller** to enable the **Seller** to calculate the exact amount of such claim/s and without limiting the generality of the aforesaid. The **Purchaser** undertakes to make available to the **Seller** upon being

- requested to do so, all such books, documents and other vouchers as reflected or prove any portion of the **Surety** said claim/s hereby ceded.
- 16.21 Without derogating from any of the provisions of this suretyship, the **Surety's** liability shall include all damages which the **Seller** may suffer as a result of the cancellation of the Credit Application between the **Seller** and **Purchaser**, including any termination of such Credit Application which takes place pursuant to the provisions of sections 37(1) or (2) of the Insolvency Act No.24 of 1936, as amended.
- 16.22 In the event of the **Seller** ever having to instruct its attorneys in order to enforce any of the **Seller's rights** against the **Surety** in the terms of this suretyship then the **Surety** agrees to pay all costs so incurred including legal fees on an attorney client basis, tracing fees and collection commission as well as interest on any amount due, owing and payable to the **Seller** at a rate of 10% (ten percent) per annum from due date to date of final payment.
- 16.23 In so far as the National Credit Act (act number 34 of 2005) applies to this Credit Application connected with this suretyship, the surety waives and renounces:
 - 16.23.1 any right to claim an accounting from the **Seller** before making payment under this suretyship;
 - 16.23.2 the benefits of error of calculations, non-causa debiti (no cause of debt) and non numeratae pecuniae (money not paid).
- 16.24 By giving this suretyship, the **Surety** warrants that it has obtained independent legal advice to ensure that he/she understands the commitment that results from, and the consequences of signing this suretyship.
- 16.25 The surety consents to the **Seller** or a third party appointed by the **Seller** performing security checks including but not limited to criminal checks, driver's license checks and credit checks on the surety at any time throughout the duration of this agreement and/or after termination of this agreement. The surety agrees to provide full cooperation in such security checks to be performed.
- 16.26 For the purposes of this suretyship, the surety warrants that in the event (s)he is married in community of property that (s)he as obtained his or her spouse's consent who has co-signed this Agreement.

SURETY NAME: _____

SURETY SIGNATURE: _____

PLACE: _____

DATE: _____

SURETY NAME: _____

SURETY SIGNATURE: _____

PLACE: _____

DATE: _____