

Even Flow Distribution is a next-generation IP communication and networking distributor who supply registered businesses in the telecommunications, IT and service-provider channel. If you are involved in the industry and are interested in our exciting portfolio of products please register below, and we will contact you to discuss your requirements further.

**Registered Name of Business:**

**Trading Name of Business (if different):**

**Company Registration Number:**

**VAT Registration Number:**

**Nature of Business (ie: Reseller):**

**Telephone Number:**

**Company Website URL:**

**Physical Address:**

**Director's First Name:**

**Director's Last Name:**

**Director's Contact Number:**

**Director's Email Address:**

**Buyer's First Name:**

**Buyer's Last Name:**

**Buyer's Contact Number:**

**Buyer's Email Address:**

**Which other trade distributors is your company registered with?**

**What Even Flow products/brands are you interested in?**

<input type="checkbox"/> Akubela	<input type="checkbox"/> Akuvox	<input type="checkbox"/> Call2Teams	<input type="checkbox"/> Call Cabinet	<input type="checkbox"/> Connect	<input type="checkbox"/> EcoFlow
<input type="checkbox"/> Gigaset	<input type="checkbox"/> HPE	<input type="checkbox"/> Hexnode	<input type="checkbox"/> Hikvision	<input type="checkbox"/> Marsriva	<input type="checkbox"/> MikroTik
<input type="checkbox"/> Mimosa	<input type="checkbox"/> Neat	<input type="checkbox"/> Netis	<input type="checkbox"/> Snom	<input type="checkbox"/> Ubiquiti	<input type="checkbox"/> Uniview
<input type="checkbox"/> V-Sol	<input type="checkbox"/> Yealink	<input type="checkbox"/> Yeastar	<input type="checkbox"/> Wi-Tek	<input type="checkbox"/> Zyxel	

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## TERMS AND CONDITIONS OF SALE

### 1. INTRODUCTION

- 1.1. The Supplier is a supplier of various products and/or equipment and/or services which it sources from Principal Suppliers.
- 1.2. The Customer is a purchaser and/or reseller of the Goods and/or Services, including equipment supplied by the Supplier.
- 1.3. These general terms and conditions will apply to every order for Goods and/or Services placed by the Customer with the Supplier.

### 2. INTERPRETATION

In these terms and conditions –

- 2.1 The headings to the clauses are for reference purposes only and shall not be used in the interpretation thereof.
- 2.2 Words which signify or denote:
  - 2.2.1 any gender shall import and include the other genders;
  - 2.2.2 a natural person shall import and include an artificial person and vice versa;
  - 2.2.3 the singular shall import and include the plural and vice versa.
- 2.3 Unless otherwise indicated, words to which a meaning is ascribed in the body of this Agreement shall bear that meaning wherever such words appear thereafter.
- 2.4 For its interpretation the laws of the Republic of South Africa shall apply.
- 2.5 Whenever a term is followed by the word “including” or “include” or “excluding” or “exclude” and specific examples, the examples shall not limit the ambit of the term.
- 2.6 The rule of construction that an Agreement shall be interpreted against the Party responsible for its drafting or preparation shall not apply.

### 3. DEFINITIONS

Wherever the following words or phrases appear in these terms and conditions they shall have the meanings ascribed to them below:

- 3.1. “Agreement” shall mean the Credit Account Application and/or Reseller Application to which these General Terms and Conditions apply;
- 3.2. “Affiliate” means, with regards to the Supplier, any legal entity which the Supplier Controls, or which Controls the Supplier, or which is under common Control with the Supplier;
- 3.3. “Anti-Bribery Requirements” shall mean all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Prevention and Combating of Corrupt Activities Act 2004 (PRECCA) and any applicable anti-bribery and corruption requirements of Principal Supplier;
- 3.4. “Credit Period” shall mean the period as approved by the Supplier, within which the Customer is required to settle an invoice rendered for Goods and/or Services supplied by the Supplier from time to time;

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3.5. "Control" means owning more than 50% (fifty percent) of the issued share capital or having the legal power to direct or cause the direction of the general management and policies of the company in question;

3.6. "Customer" shall mean you, the person or entity who purchases the Goods and/or Services from Supplier, such purchase being subject to the terms and conditions indicated below;

3.7. "Supplier" shall mean Even Flow Distribution (Pty) Ltd, registration number 2013/043167/07 and its Affiliates;

3.8. "Goods" shall mean any equipment/stock/goods/hardware/consumables/software/software licences purchased by the Customer from the Supplier from time to time;

3.9. "the parties" shall mean the Supplier and the Customer and "party" shall mean either one of them as the context may require;

3.10. "Personnel" means any director, employee, agent, consultant, contractor or other representative of the Supplier;

3.11. "Price" shall mean the price contained on the quotation and any additional charges envisaged in clause 5 below.

3.12. "Principal Supplier(s)" shall mean the supplier(s) or manufacturer(s) from whom the Supplier purchases Goods from time to time in terms of the Supplier's Agreement with the Principal Supplier;

3.13. "quotation" shall mean a quotation provided in terms of clause 4 below;

3.14. "quotation request" shall mean a request for a quotation as described in clause 4.1 below;

3.15. "Services" shall mean those services (if any) provided by the Supplier to the Customer from time to time;

3.16. "Supplier Conditions" shall mean the standard terms and conditions of the Principal Suppliers that may be applicable from time to time and which apply to any order placed by the Supplier from such Principal Supplier.

#### 4. ORDERS AND QUOTATIONS

4.1. As and when the Customer requires Goods and/or Services from the Supplier, the Customer shall provide the Supplier with a request to provide the Customer with a quotation for such Goods and/or Services required ("quotation request"). Quotation requests may be made to the Supplier for immediate supply from the Principal Supplier or for supply at a future date.

4.2. Within a reasonable time of the date of receipt of a quotation request from the Customer, the Supplier shall provide to the Customer a quotation, provided that the Supplier shall be under no obligation to accept a quotation request or to provide a quotation, in which event it shall notify the Customer that the quotation request is rejected. Any quotation provided by the Supplier after receipt of a quotation request from the Customer shall be revocable prior to acceptance thereof by the Customer.

4.3. If a Customer accepts the Supplier's quotation, the Customer shall render a purchase order or payment (for COO accounts) for the Goods and/or Services, which shall constitute a binding Agreement and these terms and conditions as well as any additional conditions contained in the quotation shall apply to the Agreement.

4.4. All quotation requests by the Customer shall be made subject to the Supplier Conditions. The Customer acknowledges that it is aware of the Supplier Conditions (if applicable).

4.5. In the event that there is any change in the Supplier Conditions, the Supplier shall immediately notify the Customer thereof, and the terms of the quotation shall automatically be varied to the extent of such change.

4.6. The quotation request placed by the Customer shall;

4.6.1. stipulate the part, number, quantity and description of the Goods required;

4.6.2. where delivery is required at a destination other than the Customer's address, the delivery address needs to be specified;

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4.6.3. stipulate the desired time for delivery, which shall always be subject to the availability of Goods and/or Services and the ability by the Principal Supplier to comply;

4.7. The Supplier shall use its best endeavours to comply with the specifications referred to in 4.6 above, but shall not be liable for any delay unless such delay is due to its gross negligence or wilful misconduct.

## 5. PRICE AND PAYMENT

In respect of all orders, unless the contrary is stated, the following price and payment terms will apply:

5.1. Prices contained on the quotation are exclusive of value added tax (VAT).

5.2. In addition to any quotation or invoice rendered by the Supplier to the Customer, the Customer shall further be obliged to pay to the Supplier:

5.2.1. the amount of any tax, duty or other charge that may be imposed by any lawful authority, which comes into force in respect of an order after a quotation and/or an invoice was rendered;

5.2.2. the amount of any increases in, the prices charged by the Principal Supplier, rates of exchange, freight charges, insurance, railage, costs of labour and materials or any other charges after date of quotation;

5.2.3. any other additional costs in respect of an order of any nature whatsoever incurred as a result of any delay caused by the Customer or due to factors beyond the control of the Supplier;

5.2.4. any expense incurred by the Supplier at the instance of the Customer in modifying, altering or making additions to the design, quantities or specifications for standard Goods, and any expenses arising as a result of suspension of work by the Supplier due to instructions given, or a failure to give instructions by the Customer.

5.3. Payment by the Customer to the Supplier shall be made:

5.3.1. free of exchange and without any deduction or set off;

5.3.2. into the nominated bank account of the Supplier or into such other bank account as the Supplier may direct from time to time;

5.3.3. in cash or by electronic fund transfer, unless otherwise agreed to by the Supplier;

5.3.4. prior to the expiry of the Credit Period, or if there is no credit period indicated, cash on order.

## 6. DELIVERY

6.1. The Supplier shall use its best endeavours to make delivery as near as possible as to the time frames indicated on the quotation.

6.2. The Supplier shall keep the Customer informed of any delays in delivery, and late delivery does not entitle the Customer to resile from the Agreement, to withhold or defer any payment, to a reduction in price, nor to any other remedy against the Supplier on account of delays in effecting delivery.

6.3. If delivery of any particular order is to be effected in instalments, the Supplier shall not be obliged to deliver any part of the order until the purchase price which is overdue in respect of the part of the order which has already been delivered, has been paid.

6.4. The Supplier is hereby authorised to engage a third party to attend to the delivery of the Goods. The Supplier shall be entitled to instruct such third party on any terms it sees fit, and any costs so incurred, including but not limited to, the costs of necessary disbursements and insurance, shall be borne by the Customer.

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6.5. Should the Customer instruct the Supplier to engage a third party on the Customer's behalf to attend to the delivery of the Goods:

6.5.1. The Customer indemnifies the Supplier against any claims that may arise against the Supplier from such an instruction by the Customer;

6.5.2. The Customer shall reimburse the Supplier for any costs incurred in arranging such delivery, including but not limited to, the costs of necessary disbursements and insurance.

6.5.3. The Goods shall be deemed to have been delivered to the Customer upon collection of the Goods from the Supplier by the third party, or upon delivery by the Supplier to the third party.

## 7. RISK OF DAMAGED, DESTROYED AND/OR MISSING GOODS

7.1 The risk of damage to, or destruction of, any relevant Goods passes to the Customer on delivery thereof by the Supplier to the Customer, at the delivery destination.

7.2. The Customer shall be obliged to inspect all Goods upon delivery thereof and shall endorse the delivery note as to any missing or damaged Goods. Any signature on the delivery note by the Customer or the person taking delivery on behalf of the Customer shall be deemed to confirm complete delivery.

7.3. Should the Customer sign the delivery note in terms of clause 7.2 above, acknowledging that the Goods were delivered completely and satisfactorily, but thereafter discover that the Goods were damaged during transportation thereof, the Customer shall notify the Supplier of the damaged Goods and shall do so in writing within 7 (seven) business days of delivery, furnishing full details in regard thereto.

7.4. No claims for missing or damaged Goods shall be valid unless the delivery note has been endorsed by the Customer as stated in 8.2 above and/or the Customer has given the Supplier sufficient notice in terms of clause 7.3 above.

7.5. Any claim for defective delivery based on a delivery note endorsed in terms of 7.2 above or for Goods damaged in terms of clause 7.3 above, shall be made within 30 (thirty) days from date of delivery, on written notice.

7.6. Should the Customer fail to provide the Supplier with the endorsed delivery note in terms of clause 7.2 above or written notice in terms of clause 7.3 above it shall be deemed that all the Goods have been delivered and that the Goods delivered were not damaged during transportation.

7.7. The Customer shall be obliged to furnish information necessary to enable delivery of the relevant Goods to be effected and if the Customer fails or refuses to do so, or if it fails or refuses to take delivery, the Goods shall be deemed to have been delivered to the Customer upon notification.

7.8. If the Supplier is unable, or is requested not to deliver the Goods to the Customer due to any act or omission on the part of the Customer, it shall be entitled to charge the Customer for the storage of the Goods.

## 8. OWNERSHIP

8.1. Ownership of the Goods purchased shall only pass from the Supplier to the Customer upon payment of the full price.

8.2. The Supplier reserves the right to inform the landlord of the premises in which the Goods are or at any time may be, of the provisions of this clause. The Customer shall be obliged to advise the Supplier of the name and address of the landlord of any such premises.

8.3. In instances where the Goods supplied to the Customer is intended for on-sell by the Customer to a third party, the Customer shall notify a third party to whom it intends to on-sell the Goods that the Supplier retains ownership of the Goods until such time as the price has been paid.

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## 9. WARRANTIES AND GUARANTEES

- 9.1. The Customer agrees that it was not induced into entering this Agreement on the strength of any warranties, guarantees or representations by the Supplier, whether expressly or tacitly.
- 9.2. The Supplier does not provide any warranty and/or guarantee to the Customer in respect to the Goods and/or Services on any kind whatsoever.
- 9.3. Insofar as the manufacturer may give any warranty and/or guarantee in respect of the Goods, it is the responsibility of the Customer to acquaint itself with such warranty/guarantee and the manner to perfect such warranty and/or guarantee.
- 9.4. The Customer warrants in favour of the Supplier that its annual turnover and/or asset value exceeds the threshold value as determined by Minister in terms of the Consumer Protection Act and in accordance with the schedule published under Government Gazette Notice 895, as updated and amended from time to time. As such the Customer acknowledges that the Consumer Protection Act does not apply.

## 10. HANDLING FEE

- 10.1. If the Customer requests the Supplier to return Goods not in terms of any manufacturer's warranty or guarantee, or if the Customer returns Goods to the Supplier for any other reason whatsoever, the Supplier reserves the right to levy a handling fee of 10% (ten per cent) of the purchase price of such Goods returned to the manufacturer or returned to the Supplier by the Customer. The Supplier is not obliged to accept the return of any Goods and shall render assistance in this regard as an additional separate and discretionary service for the Customer.

## 11. REPAIRS AND RETURNS

- 11.1. To the extent that the Goods supplied by the Supplier are in any way defective, the Customer shall be entitled, within the warranty period applicable to such Goods and at the sole discretion of the Supplier, to either a repair or replacement of such defective Goods. This clause 11.1 shall at all times be subject to the following:
  - 11.1.1. The Customer notifying the Supplier within 7 (seven) days of such defect arising, which notice must be in writing, and must clearly specify the alleged defect, and be supported by the original tax invoice;
  - 11.1.2. The Goods must be returned by the Customer to the Supplier, at the Customers expense, packaged in their original packing material;
  - 11.1.3. The Goods being returned must still be covered by a valid manufacturer warranty and/or guarantee at the time of return, as confirmed by the Supplier.
- 11.2. The Supplier shall be relieved of all obligations in terms of clause 11.1 should:
  - 11.2.1. Repairs be made to the Goods by any unauthorised third party;
  - 11.2.2. Any modifications be made to the Goods;
  - 11.2.3. The Goods have been used or operated with any accessory, equipment, or part not specifically supplied and/or approved by the manufacturer and/or the Supplier in writing;
  - 11.2.4. The Goods have not been operated or maintained in accordance with the manufacturers and/or the Suppliers instructions; or under normal use; or have been incorrectly installed;
  - 11.2.5. The Goods have been used contrary to the terms of the applicable manufacturer warranty and/or guarantee.
- 11.3. Should the Customer wish to hand in Goods to the Supplier for repair, and such Goods are not covered by a valid applicable manufacturer warranty and/or guarantee, then the Customer agrees to the following:

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11.3.1. It shall provide the Supplier with a non-refundable deposit of R500 (five hundred rand) at the time the Goods are delivered to the Supplier (the costs of such delivery shall be borne by the Customer), should the Customer have a credit facility it expressly authorises the Supplier to deduct such deposit from its account;

11.3.2. The Supplier shall provide the Customer with a written repair quote within 7 (seven) days of the Goods being handed in for repair;

11.3.3. The repair quote must be accepted or rejected by the Customer within 48 (forty) eight hours of receipt by the Customer.

11.3.3.1. Should the repair quote be rejected by the Customer, it accepts that it shall forfeit its deposit and will be required to collect the Goods, at its expense, at the Suppliers premises;

11.3.3.2. Should the Customer accept the repair quote, it accepts that its deposit shall be set-off against the cost of repair and the Customer shall be liable to pay the difference immediately upon receipt of the repaired Goods alternatively this amount will automatically be debited against the Customer's account.

11.3.4. Upon acceptance of the repair quote as envisioned in clause 11.3.3.2 above, the Supplier shall notify the Customer in writing of the estimated repair time, which shall be an estimate only and shall not be binding on the Supplier.

11.3.5. Once the necessary repairs have been effected, the Supplier shall notify the Customer that repaired Goods are available for collection, and the Customer agrees to collect such Goods (at its expense) and pay the costs of repair as soon as possible after receipt of such notification, but in any event no more than 30 (thirty) days from date of notification.

11.3.6. Should the Customer fail to collect the Goods within 30 (thirty) days from the date of notification as envisioned in 11.3.5 above, it accepts that the Supplier shall be entitled to sell the Goods in order to defray the costs of repair and the Customer acknowledges and accepts that the Supplier shall have no liability to the Customer in this regard.

## 12. IMPORTED GOODS

12.1. Where the Goods or any part thereof are to be imported, this Agreement is subject to the condition that:

12.1.1. The Supplier's order is accepted and confirmed by the Principal Supplier and that delivery is made thereunder in due course;

12.1.2. The Supplier is able to obtain the necessary import permits to import the Goods; and

12.1.3. The importation of the goods does not contravene any local or international laws and regulations.

## 12.2 SUBSTITUTE GOODS OR PARTS

12.3. Should any materials or Goods specified or otherwise required in order to fulfil the Supplier's obligations in terms of this Agreement become unavailable after quotation, the Supplier reserves the right to alter specifications as conditions warrant or to supply the Customer with alternative or substitute Goods, alternatively the Supplier may withdraw the quotation or cancel the order, it deems appropriate in its sole discretion.

## 13. DOCUMENTATION

13.1. All specifications, descriptive matter, drawings and other documents furnished by the Supplier to the Customer at any stage do not form part of these terms and conditions and may not be relied upon, unless they are agreed in writing by the Supplier to form part of this Agreement.

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13.2. In the event that any descriptive matter, specifications, drawings and particulars provided by the Supplier does form part of these terms and conditions, such descriptive matter, specifications, drawings and particulars given are approximate only and the Supplier cannot be held responsible for loss due to discrepancies therein.

#### 14. INSURANCE

14.1. The Supplier shall at any stage prior to delivery of the Goods, be entitled to require the Customer to insure the Goods at its own expense and thereafter keep the Goods insured until such time as the price has been paid for in full.

#### 15. CERTIFICATE OF INDEBTEDNESS

15.1. The Customer agrees that the amount due and payable to the Supplier shall be determined and proven by a certificate issued by the Supplier and signed on its behalf by any person duly authorised by the Supplier, which authority need not be proven. Such certificate shall be *prima facie* proof of the indebtedness of the Customer.

#### 16. INTEREST

16.1. The Customer shall pay interest on all amounts owing by the Customer to the Supplier which have not been paid on the due date thereof, at the maximum permitted rate as published from time to time in the Prescribed Rate of Interest Act of 55 of 1975, as amended.

#### 17. INDEMNITY AND WAIVER

17.1. The Customer hereby:

17.2. Indemnifies and holds the Supplier harmless in respect of any claim or action that may be instituted by any third party against the Supplier or any loss or damages that may be suffered by, or any expense that may be incurred by the Supplier arising out of any act or omission that may be committed by the Customer arising from any order;

17.3. Waives any claim which it may have against the Supplier arising out of any loss or damage which the Customer may suffer or any expense that the Customer may incur as a result of any act or omission committed by the Supplier, other than that caused by gross negligence on the part of the Supplier.

17.4. In the event that the Customer, who acts as a supplier for their consumer and as such becomes a supplier as defined in the Consumer Protection Act, Act No 68 of 2008 ("CPA") (or equivalent legislation in the territory in which the Customer trades), does not comply with the provisions of the CPA in any manner whatsoever and the consumer proceeds with a claim against the Supplier, the Customer indemnifies the Supplier against any claims made against the Supplier by the consumer.

#### 18. LIMITATION OF LIABILITY

18.1. To the extent permitted by applicable law, regardless of the form (whether in contract, delict or any other legal theory) in which any legal action may be brought, the Supplier's maximum liability for direct damages for anything giving rise to any legal action shall be an amount equal to the total paid or payable by the Customer to the Supplier in respect of the applicable Goods and/or Services to which the claim relates.

18.2. To the extent permitted by applicable law, in no event shall either party be liable for any indirect, incidental, special or consequential damages or losses (whether foreseeable or unforeseeable) of any kind (including loss of profits, loss of goodwill, damages relating to lost or damaged data or software, loss of use, damages relating to downtime or costs of substitute products) arising from the Agreement.

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18.3. Exclusions. The limitations contained in this clause 18 shall not apply to (i) any breach by a party of the other party's proprietary or confidential information or intellectual property; (ii) a party's indemnification obligations under this Agreement; (iii) any loss of or damage to any property or injury to or death of any person which arises from a party's negligence; or (iv) damages arising from a party's wilful misconduct (including theft, fraud or other criminal act)

## 19. CESSION, ASSIGNMENT, AND SUBCONTRACTING

19.1. The Customer shall not be entitled to cede or assign any rights and/or obligations which it may have in terms of this Agreement to any third party without the prior, written consent of the Supplier.

19.2. Notwithstanding the terms of clause 19.1 above, it is expressly recorded that the Supplier shall be entitled to cede and assign all rights and obligations under this Agreement to any of its Affiliate without the prior written consent of the Customer, provided that the Supplier shall notify the Customer within a reasonable time of the event occurring.

19.3. The Supplier may sub-contract or delegate its obligations under this Agreement to its third-party contractors, provided that the Supplier shall remain liable for performance of such third-party contractors. The Supplier shall not be required to disclose to the Customer the terms (including payment terms) of any sub-contract entered into with respect to the Supplier's obligations under this Agreement.

## 20. NATIONAL CREDIT ACT 34 OF 2005 (OR EQUIVALENT LEGISLATION IN TERRITORY WHERE CUSTOMER TRADES)

20.1. The Customer hereby warrants that at the time of signature of this Agreement, the combined asset value or annual turnover of the Customer and its' related juristic persons is equal to, or exceeds the amount as published from time to time in sections 4(a)(i) and section 7(1) of the National Credit Act 34 of 2005 (or equivalent legislation in the territory in which the Customer trades).

20.2. The Customer acknowledges and accepts that the Supplier is an incidental credit provider who only charges interest after 30 days, alternatively, on breach of Agreement and accordingly it does not have to register as a credit provider as provided for in Section 40 of the National Credit Act 34 of 2005 (or equivalent legislation in the territory in which the Customer trades).

## 21. BREACH

21.1. In the event that any party ("the defaulting party") commits a breach of any of the provisions of this Agreement then any party not in breach ("the aggrieved party") shall be entitled to give the defaulting party written notice to remedy the breach.

21.2. If the defaulting party fails to comply with that notice within 15 (fifteen) days of receipt thereof, subject to any other provisions of this Agreement to the contrary, the aggrieved party shall be entitled to cancel this Agreement or to claim specific performance, in either event without prejudice to the aggrieved party's right to claim damages and without prejudice to such other rights as the aggrieved party may have at law.

21.3. Without limiting the generality of the foregoing, should the Customer:

21.3.1. fail to pay any amount payable by it on due date;

21.3.2. commit any act of insolvency or endeavour to compromise generally with its' creditors;

21.3.3. do or cause to be done anything which may prejudice the Supplier's rights hereunder or at all;

21.3.4. allow any judgment against it to remain unsatisfied for 7 (seven) days;

21.3.5. be placed into provisional or final liquidation, judicial management, sequestration or voluntarily surrender his/her estate;

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21.3.6. the Supplier shall have the right to, without prejudice to any other right which it may have against the Customer, to elect to:

21.3.6.1. treat as immediately due and payable all outstanding amounts which would otherwise become due and payable over the unexpired period of the Agreement and to claim such amounts as well as any other amounts in arrears including interest and to cease performance of its obligations hereunder as well as under any other contract with the Customer until the Customer has remedied the breach;

21.3.6.2. cancel this Agreement and retake possession of any of the Goods sold.

21.4. Should the Supplier remove the Goods from the premises of the Customer or a third party to whom the Goods have been on-sold, the Customer hereby indemnifies the Supplier against any and all damage of whatsoever nature, howsoever and by whomsoever caused in relation to the removal of the Goods.

## 22. ANTI-BRIBERY

Customer warrants that it will and will procure that persons associated with it including its Affiliates will:

22.1.1. comply with the Anti-Bribery Requirements;

22.1.2. not engage in any activity, practice or conduct which would constitute an offence under PRECCA or any equivalent legislation, if such activity, practice or conduct had been carried out in the Republic of South Africa or any other country where the equivalent legislation applies;

22.1.3. not do, or omit to do, any act that may lead Supplier to be in breach of any of the Anti-Bribery Requirements;

22.1.4. promptly report to Supplier any request or demand for any undue financial or other advantage received by it in connection with this Agreement;

22.1.5. will ensure that there exists no actual and/or potential conflict of interest, whether direct or indirect, between Customer and Supplier;

22.1.6. promptly notify Supplier of any actual and/or potential conflict of interest, whether direct or indirect, between the Customer and Supplier. Should Supplier, in its sole discretion, determine that such conflict of interest is material and/or prejudicial to Supplier, Supplier will be entitled to terminate this Agreement immediately without liability to the Customer;

22.1.7. have and maintain in place throughout the Agreement its own policies and procedures to ensure compliance with the Anti-Bribery Requirements and this clause 22.1 and will enforce them where appropriate;

22.1.8. ensure that any person associated with the Customer who is performing services in connection with the Agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Customer in this clause 22 ("Relevant Terms"). The Customer shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to Supplier for any breach by such persons of any of the Relevant Terms; and

22.1.9. if requested, provide Supplier with reasonable assistance to enable Supplier to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with any of the Anti-Bribery Requirements.

22.2. The Customer indemnifies Supplier including Supplier's Affiliates against any losses, liabilities, damages, costs, expenses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis)) and all other reasonable professional costs and expenses) suffered or incurred by, or awarded against Supplier, arising out of or in connection with any breach or negligent performance by the Customer of this clause 22.

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22.3. Customer shall keep at its normal place of business detailed, accurate and up to date records, books or account and such other necessary documentation to provide compliance with the Anti- Bribery Requirements and showing all payments made by Customer in connection with the Agreement and the steps taken by Customer to comply with the Anti-Bribery Requirements and clause 22.2. Customer shall ensure that such records and books of accounts are sufficient to enable Supplier to verify Customer's compliance with its obligations under this clause 22.

22.4. Customer shall permit Supplier and its third party representatives (who have signed a suitable non-disclosure agreement with Supplier), on reasonable notice during normal business hours, but without notice in case of any reasonably suspected breach of this clause 22 to access and take copies of Customer's records and any other information held at Customer's premises and to meet with Supplier's personnel to audit Customer's compliance with its obligations under this clause 22. Such audit rights shall continue for twenty four (24) months after termination of the Agreement. Customer shall give all necessary assistance to the conduct of such audits during the duration of the Agreement and for a period of twenty four (24) months after termination of the Agreement.

22.5. Customer warrants and represents that:

22.5.1. Neither Customer nor any of Customer's team, officers, employees or other persons associated with it:

22.5.1.1. has been convicted of any offence involving bribery or corruption fraud or dishonesty;

22.5.1.2. having made reasonable enquiries, so far as it is aware has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence under the Anti-Bribery Requirements; or

22.5.1.3. has been or is listed by any government agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or other governments contracts;

22.5.2. None of the officers or employees of Customer or any person associated with it or any other person who is performing services in connection with the Agreement is a foreign or local public official; and

22.5.3. No foreign or local public official owns a direct or indirect interest in Customer, or any person associated with it or any other person for whom Customer is responsible under clause 22.5.2 and no public official has any legal or beneficial interest in any payments made by Supplier under the Agreement.

22.6. Breach of this clause 22 shall be deemed a breach not capable of remedy and will entitle the Supplier to terminate this agreement effective immediately.

22.7. If Supplier terminates this Agreement for breach of this clause 22, Customer shall not be entitled to claim compensation or any further remuneration, regardless of any activities or agreements with additional third parties entered into before termination.

22.8. Regardless of any other provision in this Agreement, Customer shall not be obliged to do, or omit to do, any act which would, in its reasonable opinion, put it in breach of any of the Anti-Bribery Requirements.

### 23. NON-SOLICITATION

23.1. The Customer undertakes that neither it nor any, company, firm, employee or agent of it, without the written consent of the Supplier and for the duration of this Agreement and for a period of 24 (twenty four) months following termination of this Agreement, for whatever reason, engage, employ or otherwise solicit or attempt to engage, employ or otherwise solicit for employment, whether directly or indirectly under any circumstances, any person who, during the currency of this Agreement is or was part of the Personnel of the Supplier.

23.2. Should the Customer breach the provisions of clause 23, the Customer shall then have 7 (seven) days, after receiving written notice from the Supplier, in which to remedy the breach by cancelling and/or terminating any relationship it may have with the recruited Personnel.

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23.3. The Customer agrees and understands that any breach of this clause 23 may result in irreparable damage to the Supplier for which the Supplier will not have an adequate remedy at law. Accordingly, and in addition to any other remedies and damages available, the Customer acknowledges and agrees that the Supplier may immediately seek enforcement of this clause 23 by means of specific performance or interdict, and without any requirement to provide a bond or any other security, and the Customer accepts that it shall be liable for all costs incurred by the Supplier in enforcing this clause 23 on an attorney and own client scale.

23.4. Without derogating from, and in addition to, the above rights of the Supplier, the Supplier may elect, in its sole discretion, to consent to the Customer employing such Personnel and in such instance the Customer shall be liable to pay a once off recruitment fee of 100% (one hundred percent) of the recruited Personnel's annual package including any applicable incentives, bonuses and fringe benefits.

23.5. The Customer acknowledges and agrees that any amount to be paid by it under this clause 23 shall be payable within 30 (thirty) days of commencement of such Personnel's appointment by the Customer.

## 24. GENERAL

24.1. No Agreement to alter, vary or cancel this Agreement and no addition or amendment to or deletion from this Agreement shall be of any force and effect unless reduced to writing and signed by all the parties.

24.2. No indulgence, extension of time, relaxation or latitude which any party ("the grantor") may show grant or allow to the other ("the grantee") shall constitute a waiver by the grantor of any of the grantor's rights and the grantor shall not thereby be prejudiced or estopped from exercising any of its rights against the grantee which may have arisen in the past or which might arise in the future.

24.3. The Supplier reserves the right to vary, change, or limit the amount or duration of credit to be allowed to the Customer, either generally or with respect to a particular order.

24.4. In the event that any of the terms of this Agreement are found to be invalid, unlawful or unenforceable, such terms shall be severable from the remaining terms, which shall continue to be valid and enforceable.

24.5. This Agreement constitutes the whole Agreement between the parties and supersedes all prior verbal or written Agreements or understandings or representations by or between the parties regarding the subject matter of this Agreement.

24.6. Unless the context indicates otherwise the rights and obligations of any party arising from this Agreement shall devolve upon and bind its successors-in-title.

24.7. The parties shall try, in good faith, to solve amicably, and by mutual agreement, any dispute which may arise between them with respect to the Agreement in any way they deem appropriate.

## 25. LAW AND JURISDICTION

25.1. The laws Republic of South Africa shall apply to the interpretation of this Agreement and the parties accordingly agree that any dispute between the parties shall be resolved in Republic of South Africa. The parties hereby consent to the non-exclusive jurisdiction of the Magistrates Court otherwise having jurisdiction in respect of any proceedings (not subject to arbitration in terms of this Agreement) in respect of or arising out of this Agreement or its cancellation notwithstanding that the amount of the claim may exceed the normal jurisdiction of the Magistrate's Court; this document constituting the required consent by the parties to the jurisdiction of the Magistrates Court in accordance with section 45 of the Magistrates Court Act.

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## 26. COSTS

26.1. The Customer shall be liable for all costs incurred by the Supplier in the recovery of any amounts or the enforcement of any rights which it has hereunder, including collection charges and costs on an attorney and own client scale and costs of counsel, whether incurred prior to or during the institution of legal proceedings or if judgment has been granted, in connection with the satisfaction or enforcement of such judgement.

## 27. FORCE MAJEURE

27.1. In the event that either party is unable to perform its obligations by reason of force majeure, neither party shall have any claim against the other as a consequence of such failure.

27.2. For the purpose of this Agreement "force majeure" shall be deemed to be any cause affecting the performance of this Agreement arising from or attributable to acts, omissions or accidents beyond the reasonable control of the party to perform and without limiting the generality thereof, shall include the following:

27.2.1. an Act of God;

27.2.2. (where beyond the reasonable control of the relevant party) strikes, lock-outs or other industrial action;

27.2.3. civil commotion, riot, invasion, war threat or preparation for war;

27.2.4. fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural physical disaster;

27.2.5. political or governmental (central or local) interference with the normal operations of either party.

27.3. Force majeure shall not include:

27.3.1. Any event that is caused by the negligence or intentional action of the party invoking the force majeure or such party's contractors, agents or employees; or

27.3.2. Any event that a diligent party could reasonably have expected to:

27.3.2.1. take into account at the time of execution of this Agreement; and

27.3.2.2. avoid or overcome in the carrying out of its obligations under this Agreement.

## 28. CONSENT

28.1. The Customer hereby authorizes the Supplier to do the necessary credit checks and to reveal any information contained herein to any Credit Bureau for the purpose of establishing the Customer's Credit Record.

**Full Name:**

Please submit the form to [partners@evenflow.co.za](mailto:partners@evenflow.co.za) once completed along with a copy of the below.

**Signature**

Company Registration Document

**Date:**

VAT Certificate

Directors ID

POPI Customer Consent Form

Will you be trading in ZAR or USD?  ZAR  USD

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