



# TERMS AND CONDITIONS

**Scoop Distribution (Pty) Ltd**

Company Registration 2001/0076-10/07  
VAT Registration 4830195584

## 1. Contract

- 1.1 These terms and conditions of sale of goods ("Contract") apply to all goods supplied via [www.scoop.co.za](http://www.scoop.co.za) ("Website") or directly by Scoop Distribution (Pty) Ltd, Scoop Distribution herein ("Scoop Distribution") whose registered office is at Unit 18 & 19 Drill Park, 3 Drill Avenue, Montague Gardens, Cape Town, South Africa.
- 1.2 All references to "Customer" refer to the person or juristic person who the products are marketed or supplied to by Scoop Distribution, including Dealers and Retail Customers.
- 1.3 This Contract will come into force between the Customer and Scoop Distribution for the sale of any goods when Scoop Distribution has –
  - 1.3.1 received the Customer's order ("Order") for the goods ("Goods"); and
  - 1.3.2 accepted the Order by issuing the Customer with a Proforma Invoice ("Proforma Invoice") or in the case where no Proforma Invoice is issued, a Tax Invoice ("Tax Invoice").
- 1.4 Once the above requirements have been met, there is a legally binding contract between the parties.
- 1.5 Scoop Distribution reserves the right to vary or amend the terms of this Contract from time to time with regards to future sales. The Customer may request a free copy of the latest Contract from Scoop Distribution.

## 2. Dealer and Retail customers

- 2.1 Customers who have applied and been accepted as registered dealers for Scoop Distribution ("Dealers") will receive dealer prices.
- 2.2 All Customers who are not Dealers are considered to be Retail Customers ("Retail Customers") and retail prices will apply.

## 3. Prices and Availability of Goods

- 3.1 Prices displayed on the Website are Dealer price Excluding VAT and Retail price Including VAT.
- 3.2 Dealer pricing applies only to Registered Dealer Customers.
- 3.3 All prices are exclusive of delivery charges.
- 3.4 The images of the Goods on the Website are for illustrative purposes only and may differ from the actual Goods.
- 3.5 The prices of the Goods are as per the Scoop Distribution prices at the time of the Order or Quotation ("Quotation"), however prices are linked to the Rand - US Dollar exchange rate and are subject to change until date of Proforma Invoice or Tax Invoice, whichever is issued first.
- 3.6 The price payable by the Customer will be the price as at the date of the Tax Invoice, this price may differ to the price on the Website or Quotation due to the fluctuation in the exchange rate of the Rand.
- 3.7 The Goods are subject to availability of stock. If on receipt of the Order, the Goods the Customer has ordered are not available in stock, Scoop Distribution will inform the Customer as soon as possible.
- 3.8 Availability of stock from third party affiliate suppliers may also affect the prices. Every effort is made to ensure that prices shown on the Website are accurate at the time the Customer places the Order. If an error is found, Scoop Distribution will inform the Customer as soon as possible and offer the Customer the option of reconfirming the Order at the correct price, or cancelling the Order. If Scoop Distribution does not receive an Order confirmation within **Seven (7)** business days of informing the Customer of the error, the Order will be cancelled automatically. If the Customer cancels the Order, or if the Order is cancelled automatically due to the expiry of the **Seven (7)** business day period, Scoop Distribution will refund the Customer the price paid for the Goods, if any.
- 3.9 Scoop Distribution has the right to change the prices of the Goods from time to time without prior notice to the Customer.

#### **4. Placing of Orders**

- 4.1 Scoop Distribution will accept written (including via the Website) and verbal Orders. Scoop Distribution will not be responsible for any errors or misunderstandings occasioned by the Customers' failure to place a written Order.
- 4.2 If telephone Orders are placed by the Customer, Scoop Distribution may require such Orders to be confirmed in writing by the Customer, prior to acceptance thereof by Scoop Distribution.
- 4.3 In the event that Goods are not collected within 1 (one) week of placement of the Order, Scoop Distribution reserves the right to cancel the Order.
- 4.4 Orders for non-standard Goods ("Special Order Goods") (local or international) and Orders for large quantities of Goods will require the Customer to pay a 20% (twenty per cent) deposit of the estimated Order value to Scoop Distribution.
- 4.5 In the event that the Customer cancels the Order for Special Order Goods or Order for large quantities at any time after acceptance thereof by Scoop Distribution, Scoop Distribution shall be entitled to charge the Customer a reasonable penalty fee. The penalty fee payable will be equivalent to the 20% (twenty per cent) deposit paid.
- 4.6 No stock will be reserved for any orders placed until payment has been made and reflects in our bank account.
- 4.7 Quotations issued are only valid for one (1) working day. Payments processed on expired quotations will require the customer to pay in any short fall on price changes.

#### **5. Payment**

- 5.1 Payment terms are strictly cash on delivery ("COD") unless a credit facility has been approved by Scoop Distribution. Goods will only be released once payment has been received by Scoop Distribution and reflects in our bank account.
- 5.2 For Customers with credit facilities authorised by Scoop Distribution, payment is strictly 7 (seven) days from date of the statement ("Statement").
- 5.3 Payment can be made by electronic funds transfer ("EFT") directly into Scoop Distribution's bank account. Cash will only be accepted in store. Credit Card payment is available at each branch.
- 5.4 Scoop Distribution will provide the Customer with a Tax Invoice with delivery of the Goods.
- 5.5 The Customer shall not withhold payment or make set offs or deductions from any payment due by it for any reason whatsoever. No extension of payment of any nature will be granted unless reduced to writing and signed by the Customer and a duly authorised representative of Scoop Distribution.
- 5.6 Scoop Distribution shall have the right to suspend deliveries, refuse to accept Orders and exercise its rights in terms of clause GRANTING AND WITHDRAWAL OF CREDIT if any amount due by the Customer is unpaid or the Customer's credit limit is exceeded.
- 5.7 If any amount owed is not settled in full on due date or on demand, Scoop Distribution is entitled to, without prejudice to any of its rights;
  - 5.7.1 immediately institute action against the Customer;
  - 5.7.2 hand the Customer over to its attorneys for collection of the outstanding debt, the Customer shall be liable for any legal costs incurred related to such collection; and/or
  - 5.7.3 list the defaulting Customer as a defaulter with credit bureaux in line with Regulation 19(4) of the National Credit Act 34 of 2005.
- 5.8 Should any amount not be paid by the Customer on due date, the full outstanding amount in respect of all purchases by the Customer shall become due and payable, and the Customer shall be liable to pay interest in respect of amounts unpaid at the prime rate (prime rate shall be the variable interest rate calculated and charged from time to time by Nedbank Bank Limited to its most favoured corporate customers in respect of unsecured overdraft facilities, as certified by any manager or director of such bank, whose appointment need not be proved and whose certificate shall, save in the event of manifest error, be final and binding on the parties). Such interest shall be calculated and payable daily on the balance outstanding from time to time by the Customer and shall be added to the amount/s due to by the Customer in respect of the outstanding purchase prices of the applicable Goods ordered.
- 5.9 Scoop Distribution does not accept payment via cheque or cash.
- 5.10 No discount or extension is allowed unless agreed to in writing by a duly authorised representative of Scoop Distribution.
- 5.11 Card transactions will be acquired for Scoop Distribution via PayGate (Pty) Ltd who are the approved payment gateway for all South African Acquiring Banks. DPO PayGate uses the strictest form of encryption, namely Secure Socket Layer 3 (SSL3) and no Card details are stored on the website. Users may go to [www.paygate.co.za](http://www.paygate.co.za) to view their security certificate and security policy.
- 5.12 Customer details will be stored by Scoop Distribution separately from card details which are entered by the client on DPO PayGate's secure site. For more detail on DPO PayGate refer to [www.paygate.co.za](http://www.paygate.co.za).

## **6. Granting and Withdrawal of Credit**

- 6.1 Scoop Distribution will only consider credit applications from Dealers.
- 6.2 Scoop Distribution's decision to grant credit to the Dealer and the nature and extent thereof is at the sole discretion of Scoop Distribution.
- 6.3 In order to assess whether credit will be granted, the Dealer consents to a credit check to be conducted by Scoop Distribution through credit bureaux.
- 6.4 Scoop Distribution reserves the right to withdraw, increase or decrease any credit granted at any time.
- 6.5 A Dealer with approved credit facilities as aforesaid hereby undertakes to ensure that any credit limit approved by Scoop Distribution is never exceeded. Accordingly the Dealer hereby agrees and undertakes to promptly make whatsoever payments are necessary to ensure that any such credit limit is never exceeded. No Orders of the Dealer will be executed by Scoop Distribution while any such credit limit is exceeded or any payment is overdue beyond the payment period set out above.
- 6.6 Where credit facilities of the Dealer have been withdrawn by Scoop Distribution, the Dealer agrees to make payment on a COD basis.

## **7. Delivery**

- 7.1 Goods will only be released once payment has been received by Scoop Distribution and reflects in our bank account.
- 7.2 Any delivery note (copy or original) ("Delivery Note") signed by the Customer and/or its authorised representative and/or its nominated agent and held by Scoop Distribution, shall be prima facie proof that delivery was made to the Customer.
- 7.3 The Customer must inspect the Goods on receipt and be satisfied that the Goods conform in all respects to the quality and quantity ordered and are free from any defects.
- 7.4 Upon receipt of the Goods the Customer will be asked to sign for the Goods received in good condition. If the package does not appear to be in good condition, or the Customer is unable to check the contents then please refuse the delivery. Failure to do so may affect any warranty claims that the Customer may make thereafter.
- 7.5 Scoop Distribution reserves the right to charge delivery charges.
- 7.6 The Customer may elect to instruct the preferred third party courier as elected by Scoop Distribution to deliver the Goods purchased, the delivery charges will be added to the Tax Invoice, alternatively the Customer may elect to instruct their own courier service for collection of the Goods and pay that courier directly. In either circumstance, the Customer indemnifies Scoop Distribution against any claims of any nature whatsoever that may arise therefrom.
- 7.7 When authorising Scoop Distribution to engage a Third Party Courier, the Customer understands and agrees that
  - 7.7.1 the Customer and the preferred courier will be the parties to the Courier Service Agreement.
  - 7.7.2 the Customer is bound by the terms and conditions of the preferred courier available on request from Scoop Distribution or from the courier directly.
  - 7.7.3 the Customer will be liable for the couriers' fees and same will be added to the Customer's invoice, and payment thereof is as per the existing, agreed payment terms with Scoop Distribution.
- 7.8 All risk in the goods passes to the Customer when the Customer collects the goods from Scoop Distribution. Should the Customer elect to use the preferred courier, Scoop Distribution shall not be liable for any damage to, or loss of the goods once they leave the premises of Scoop Distribution. All risk in the goods passes to the Customer once handed over to the preferred third party courier. An invoice, signed by the courier shall be proof that the order was collected by the courier on behalf of the Customer. The Customer hereby indemnifies Scoop Distribution from any claims of any nature whatsoever that might arise from engaging the preferred courier's services, unless such claim arises as a result of gross negligence on the part of Scoop Distribution.
- 7.9 When using the preferred courier,
  - 7.9.1 Limited insurance is included on orders when using Scoop's preferred courier service. Please confirm with a Sales Consultant at the time of carriage. When not making use of Scoop's preferred courier service, it is advisable that the Customer takes out additional insurance (making use of a third party insurance company) for the goods while in transit.
  - 7.9.2 Any complaints regarding damaged and/or missing goods will be made by the Customer to the couriers directly.
  - 7.9.3 The turn-around time given for delivery is an estimate and Scoop Distribution can not be held liable should the courier not deliver on time.
  - 7.9.4 Delivery coverage areas may be adjusted from time-to-time by the preferred couriers. Scoop Distribution Sales Consultants should be contacted to verify coverage.
  - 7.9.5 The preferred courier rates relevant to Scoop Distribution per coverage area are available from our Sales Consultants.
- 7.10 Scoop Distribution is entitled to engage a third party courier to transport Goods to or from the Customer on its behalf.
- 7.11 A delivery date is only an estimate as to when the Goods will be delivered, Scoop Distribution does not guarantee that the Goods

will be dispatched or delivered on any particular date and time, and the Customer shall have no claim against Scoop Distribution in respect of any loss occasioned by any reasonable delay in dispatch or delivery of any Goods ordered, nor may the Customer cancel any Order by reason of such delay.

- 7.12 The Customer undertakes to grant access to Scoop Distribution, its subcontractors and/or their respective employees to deliver the Goods ordered at such premises, and neither Scoop Distribution, its subcontractors nor their respective employees shall be liable for any loss and/or damage caused, whether be negligence or otherwise, to any person and/or property, and/or consequential loss or damages arising from the entry and/or activities of Scoop Distribution, its subcontractors and/or their respective employees, effecting delivery of the Goods ordered.
- 7.13 Scoop Distribution shall be entitled to split the delivery of the Goods ordered in the quantities and on the dates it decides with the prior consent of the Customer, which consent shall not be unreasonably withheld.

## **8. Ownership and Risk**

- 8.1 As stated above, all risk in the goods passes to the Customer when the Customer collects the goods from Scoop Distribution. Should the Customer elect to use the preferred courier, Scoop Distribution shall not be liable for any damage to, or loss of the goods once they leave the premises of Scoop Distribution. All risk in the goods passes to the Customer once handed over to the preferred third party courier. An invoice, signed by the courier shall be proof that the order was collected by the courier on behalf of the Customer. The Customer hereby indemnifies Scoop Distribution from any claims of any nature whatsoever that might arise from engaging the preferred courier's services, unless such claim arises as a result of gross negligence on the part of Scoop Distribution.
- 8.2 Ownership in all Goods sold and delivered shall remain vested in Scoop Distribution until the full purchase price has been paid.

## **9. Return of Goods**

- 9.1 Return of Goods that did not match the Order
- 9.1.1 If the Goods do not match what was ordered, the Customer is requested to notify Scoop Distribution as soon as possible after delivery and the Goods must be returned to Scoop Distribution within 10 (ten) business days after delivery.
- 9.1.2 If the Goods are returned because they did not match what was ordered and the Goods are not in their original condition and repackaged in their original packaging, Scoop Distribution may be entitled to charge a reasonable amount for use of the Goods during the time they were in the Customer's possession, any consumption or depletion of the Goods, or for necessary restoration costs to render the Goods fit for re-stocking.
- 9.2 Return of defective Goods
- 9.2.1 All Goods sold have a 1 (one) year warranty against defects. The Customer must keep their proof of purchase to verify the date of purchase. Please note that this warranty may fall away if the Goods have been altered contrary to instructions or after leaving the control of Scoop Distribution.
- 9.2.2 If the Goods are returned within 1 (one) year of purchase, and has been proven to be defective by a Scoop technician, Scoop Distribution, at it's election, shall either replace, repair or refund the Goods.
- 9.2.3 Any Goods damaged due to power surges, black outs or lightning will not be exchanged under warranty.
- 9.2.4 A service fee of R50.00 will be charged for goods submitted for RMA and found to be without fault upon testing.
- 9.2.5 The Customer hereby agrees that any item under warranty returned for a repair may be sold by Scoop Distribution to defray the cost of such repair if the item remains uncollected for a period of 30 (thirty) days after the repairs have been completed.
- 9.3 Return of unwanted Goods
- 9.3.1 Scoop Distribution reserves the right to charge a handling fee of up to 15% (fifteen per cent) of the value of the returned Goods in the event that a Customer cancels an Order and Scoop Distribution accepts the return of unwanted Goods. Scoop Distribution will only entertain such requests if made within 10 (ten) business days of delivery of the Goods.

## **10. Breach**

In the event of either party committing a breach of this Contract and failing to remedy such breach within 7 (seven) days of receipt of a written notice to this effect from the other party then the aggrieved party shall, be entitled to, without prejudice to any of its other rights in law, claim specific performance or to cancel this Contract forthwith upon written notice to the defaulting party, without prejudice to its right to recover any amounts that may be due to it in terms of this Contract and any loss or damage suffered as a consequence of the breach or the cancellation of this Contract.

## **11. Waiver and Indemnity**

- 11.1 To the extent permitted by law, Scoop Distribution shall not be liable to the Customer nor to any third party for any loss, claim, damage, injury or death of whatsoever nature, howsoever arising (including consequential or incidental loss) unless such loss, claim, damage, injury or death arises from gross negligence on the part of Scoop Distribution.
- 11.2 The Customer shall not duplicate copyrighted material. In the event of the Customer duplicating copyrighted material, each attempt to do so will immediately render the full prevailing price in respect thereof payable to Scoop Distribution.

<b>12. Legal Proceedings</b>	
12.1	This Contract shall be governed and construed under and in accordance with the laws of the Republic of South Africa and Scoop Distribution shall, at its option and notwithstanding that the amount of its claim or the nature of the relief sought exceeds the jurisdiction of the Magistrate's Court, be entitled to institute action out of such court.
12.2	The delivery address provided by the Customer as reflected in the Order, Quotation, Proforma Invoice or Tax Invoice shall be the Customer's domicilium for all purposes in terms of this Contract for giving of any notice, the payment of any sum, the serving of any process and for any other purpose arising from this Contract. Scoop Distribution chooses its domicilium address as Unit 18 & 19 Drill Park, 3 Drill Avenue, Montague Gardens, Cape Town, South Africa.
12.3	A notice in terms of this Contract shall be presumed to have been duly given, if delivered by hand, on the date of delivery, if sent by post, 7 (seven) days after posting, if sent by facsimile, on the day that the facsimile is transmitted, if sent by email, the date of the "Read Receipt" notification.

<b>13. General</b>	
13.1	This Contract represents the entire agreement between Scoop Distribution and the Customer and shall govern all future contractual relationships between Scoop Distribution and the Customer.
13.2	The terms of this Contract supersede all previous agreements between the parties, without prejudice to any securities or guarantees held by Scoop Distribution.
13.3	No amendment and/or alteration and/or variation and/or deletion and/or addition and/or cancellation of this Contract, whether consensual or unilateral or bilateral shall be of any force and effect unless reduced to writing and signed by a director of Scoop Distribution.
13.4	No relaxation or indulgence granted to the Customer shall prejudice or be deemed to be a waiver of any Scoop Distribution's rights in terms of this Contract.
13.5	The Customer shall not cede its rights nor assign its obligations under this Contract, unless prior permission is obtained from Scoop Distribution.
13.6	Scoop Distribution shall at any time in its sole discretion be entitled to cede all or any of its rights in terms of this Contract to any third party upon notice to the Customer. Should such cession of rights be to the detriment of the Customer, the Customer's permission shall be obtained.
13.7	The Customer undertakes to notify Scoop Distribution within 7 (seven) days of any change of address or change of in director, shareholder, address or the information as set out in this Contract.
13.8	Each of the terms herein shall be a separate and divisible term and if any such term becomes unenforceable for any reason whatsoever, then that term shall be severable and shall not affect the validity of the other terms.
13.9	The Customer undertakes to inform Scoop Distribution in writing at least 14 (fourteen) days prior to the intended selling or alienating of the whole of or any part of the Customer business and failure to do so will constitute a material breach of this Contract entitling Scoop Distribution to cancel the Contract without further notice to the Customer.

<b>14. Protection and Processing of Personal Information</b>	
14.1	The Customer understands that the personal information given to Scoop Distribution is to be used for the purposes of assessing credit worthiness and in order to perform in terms of this Contract. The Customer confirms that the information given to Scoop Distribution is accurate and complete. The Customer further agrees to update the information supplied as and when necessary in order to ensure the accuracy of the above information failing which Scoop Distribution will not be liable for inaccuracies.
14.2	Scoop Distribution will not use the Customer's personal information for any purpose (other than as stated above) without the Customer's express consent. Scoop Distribution will not use or disclose the Customer's personal information to third parties without the Customer's consent, unless the use or disclosure is - <ul style="list-style-type: none"> <li>14.2.1 required to carry out the performance of this Contract or any other agreement between the parties;</li> <li>14.2.2 required in order to comply with applicable law, order of court or legal process; and/or</li> <li>14.2.3 disclosure is necessary to protect and defend the legitimate interests of Scoop Distribution.</li> </ul>
14.3	Scoop Distribution has the Customer's consent at all times to contact and request information from any persons, credit bureau or businesses to obtain any information relevant to the Customer's credit assessment, including but not limited to information regarding the amounts purchased from suppliers per month, length of time Customer has dealt with each supplier, type of Goods purchased and manner and time of payment.
14.4	The Customer agrees and understands that information given in confidence to Scoop Distribution by a third party on the Customer will not be disclosed to the Customer.
14.5	The Customer hereby consents to and authorises Scoop Distribution at all times to furnish credit information concerning the Customer's dealing with Scoop Distribution to a credit bureau and to any third party seeking a trade reference regarding the Customer in his dealings with Scoop Distribution.