

## Standard Terms & Conditions

### 1 September 2020

Except as otherwise agreed in writing by an authorised representative of WELDING ANALITIX (PTY) LTD, all transactions, quotations, tenders and offers, whether written or oral, by you the customer ("you") for the supply of our products ("the Goods") and/or services ("the Services"), shall be subject to these Standard Terms & Conditions ("Terms & Conditions").

#### I. General

- Our standard terms of sale and delivery are governed by these Terms & Conditions.
- Acceptance by you of any quotation or offer shall constitute and acceptance by you of these Terms & Conditions without exception whatsoever.
- In these Terms & Conditions, WELDING ANALITIX and the counter party to any contract may be referred to as "us" and "you" respectively; each may also be referred to as "Party" and together as "Parties".
- All quotations supplied by us are subject to change and without obligation. A contractual relationship shall only come into force and effect once we acknowledge in writing our acceptance to provide you with the Goods and/or the Services in accordance with these Terms & Conditions.
- You agree that we may store your personal data in the context of business relations only and in accordance with the provisions of the Protection of Personal Information (POPI) Act.

#### II. Orders

- It is your responsibility to ensure that the quotation provided is appropriate for and suits your needs and requirements before you issue us with an official purchase Order.
- Orders must be in writing and by way of e-mail to the address provided in the quotation. Orders made orally will only be processed if subsequently reduced to writing.
- Confirmation by us of receipt of your Order shall not constitute an acceptance by us to supply the Goods and/or the Services.
- Your order will be binding on WELDING ANALITIX once we have delivered a letter of acknowledgment.
- It is your duty to check the letter of acknowledgment to ensure that it accords fully with your Order. The details specified therein shall be binding for further processing of the order. Any changes shall be notified to us in writing by you without delay failing which additional charges may be come payable by you.
- WELDING ANALITIX reserves the right to reasonably decline any order and/or to suspend delivery and/or to decline to supply the Goods or the Services to you for any reason whatsoever.

#### III. Prices

- Unless agreed to otherwise by WELDING ANALITIX, our prices are quoted Ex Works including standard packaging and delivery in Rands.
- The prices quoted in order acknowledgments apply exclusively to the dimensions and versions specified therein.
- We shall be entitled to charge you correspondingly higher prices for divergences from the original order, in version, or additional performances as ordered by you.
- Our prices are quoted exclusive of value-added tax at the statutory rate.
- Where Prices are based on the current rate of exchange as indicated by First National Bank on the date of the quotation, then the Prices are subject to rate of exchange variations, from date of quote, to date of invoice. Should a firm Price be required, a forward cover Price will be required.

#### IV. Payments

- Payments shall be effected strictly in accordance with the written instructions of WELDING ANALITIX.
- Payments shall be deemed to have been effected on the date on which the sum clears in our bank account (obligations are to be performed at WELDING ANALITIX's habitual place of business) and shall be set off against the oldest debt due, in the order of costs, interest and then the principal sum outstanding.
- Payments by you are to be made on presentation of Invoice, unless otherwise agreed in writing. WELDING ANALITIX shall be entitled to render invoices for part deliveries, being work in progress.
- All overdue amounts shall accrue interest at the rate of 2% (two per centum) per month, reckoned from the due date for payment, to the date of final payment.
- The customer shall only be entitled to set-off payments against counterclaims which have been legally established in a Court with competent jurisdiction, or if undisputed or if accepted by us in writing.
- Any discount given will be forfeited by you in the event of late or non-payment.

#### V. Delivery / Shipment

- Delivery of the Goods and/or Services may take place evenly spread over the contract period and at the address chosen by you.

- Our estimated time for delivery as quoted shall not commence to run until you have fully performed in terms hereof.
- If you are in default in acceptance or culpably fail in your other duties to cooperate, WELDING ANALITIX shall then be entitled to demand compensation for any loss suffered as a result, including any extra expenses incurred. The right to assert other claims or rights in law are fully reserved.
- If the Goods are dispatched at your request, the risk of accidental loss or deterioration of the Goods shall pass to you immediately upon dispatch to you and at the latest upon leaving the WELDING ANALITIX factory or warehouse. This shall apply irrespective of whether the Goods are shipped from the place of performance or who bears the delivery costs.
- If dispatch is delayed by your actions or declarations then, the risk shall pass to you as from the date on which the Goods are ready for shipment.

#### VI. Reservation of Proprietary Rights

- We retain ownership of the Goods supplied until receipt of all payments due by you.
- In case of breach of contract by you and particularly if payments are in arrears, we shall be entitled to cancel the contract and reclaim possession of the Goods. In this instance you will forfeit any monies already paid and shall be liable to us for any damages incurred as a result of your breach.
- After reclaiming possession of the Goods, we shall be entitled to sell the Goods and the proceeds from such disposal will be off-set against our claims against you.

#### VII. Limited Warranty

- Any warranty rights and / or rights of recourse on your part shall be dependent upon you having duly notified WELDING ANALITIX of any defects in the Goods or Services in writing.
- The usual minor technical deviations in design or workmanship (e. g. colour, etc) of the Goods and/or Services shall not constitute a defect, insofar as they do not significantly impair either the serviceability or the value of the Goods and/or Services, and shall not confer any warranty rights.
- The Goods shall carry the standard manufacturer warranty where applicable.
- If at the time of passing of risk the Goods are defective, you shall be entitled to demand that we remedy the defect, and if we can not remedy the defect, we will supply a faultless replacement.
- In the case of subsequent performance the warranty will not apply if the Goods have been moved to a different location from the place of performance.
- The warranty shall not include such defects or damage attributable to incorrect handling, use or maintenance of the goods by you or other third parties.
- Liability cannot be accepted for any damage or losses due to the following: if the application on site varies from the application requested and quoted on; if supplementary, replacement or accessory parts and fittings which have not been specially adapted to our Goods are used; if there are damage or losses due to non-compliance with the installation and operating instructions, then your limited warranty will be void.
- If you have received Goods and satisfy the warranty claims, arising from a defect in the Goods that was present at the time of passing of risk, then you shall be entitled to receive replacement Goods only if the defective Goods are incapable of being repaired.

#### VIII. Liability

- Some of the products we supply may be toxic to humans and other animals if not used in a safe manner. By purchasing and / or utilising our products and / or services, you do so entirely at your own risk.
- WELDING ANALITIX shall not be liable to you or any other person, for any consequential loss, or loss of profits, arising from the use of our products and services, or performance or non-performance by us of our obligations in terms of these Terms & Conditions.
- You agree to indemnify us and hold us harmless against any claims that may be made against you by any person for any damages including, but not limited to, consequential losses or loss of profits arising from the purchase of our products and services, or performance or non-performance by WELDING ANALITIX of its obligations in terms of these Terms & Conditions, whether such claims are in respect of damage to property, consequential loss, personal injury and / or death.

#### IX. Jurisdiction and Applicable law

- All transactions between us shall be governed in all respects by and shall be construed according to the laws of the Republic of South Africa.
- The place of performance and exclusive place of jurisdiction for all disputes arising from this contract shall be at our principal place of business (Durban, South Africa), unless otherwise stated in the order of acknowledgment.
- The Parties agree to the Jurisdiction of the Magistrate's Court for any claim brought in accordance with these Terms & Conditions, notwithstanding that, the claim amount from time to time may exceed the jurisdictional limit.

- We are, in principle, unwilling and not obliged to participate in any dispute resolution procedure at a consumer conciliation committee.
- If any of the provisions herein are deemed in full or in part to be invalid, then this shall not affect the validity of the remainder of the Terms which shall remain in full force and effect.

#### X. Legal Costs

- In the event that any legal action is taken, or any amount remains outstanding and WELDING ANALITIX instructs its attorneys to recover such unpaid costs, you shall be liable to us for all legal costs incurred by us on the Attorney and Own Client Scale, such to include all tracing fees and collections commission.

#### XI. Force Majeure

- If the agreement becomes wholly or partially impossible to perform due to causes beyond the control of WELDING ANALITIX, such causes to include, but not be limited to; infectious disease, war, civil insurrection, vis major, Government action and industrial disputes, we shall be entitled to rescind the agreement in our sole discretion. If delivery of the Goods and/or Services is delayed as a result of such causes, WELDING ANALITIX shall not be construed as being in breach of these Terms & Conditions.

#### XII. Arbitration

- Any dispute, other than breach of contract, arising from or in connection with these Terms & Conditions shall be finally resolved in accordance with the rules of the Arbitration Foundation of Southern Africa.
- The arbitration shall be held in Durban.
- In the event that the parties do not agree to the arbitrator then, the chairman of the KZN Legal Practice Counsel will select the arbitrator whose decision will be final.
- The arbitrator need not be an attorney, but must be someone with expert knowledge in the matter and must have no less than 10 years' experience in commercial matters.
- The parties are not prohibited from seeking interdictory relief pending the outcome of the arbitration.

#### XIII. Domicilium Citandi Et Executandi

- WELDING ANALITIX hereby chooses as its domicilium citandi et executandi, at which it will accept service of any legal process or notice: Unit 11 Northgate Park, 116 Malacca Road, Redhill, Durban.
- You choose as your domicilium citandi et executandi, at which you will accept service of any legal process or notice, the physical address provided in your written Order to us.

#### XIV. Copyright

- We retain copyright in the cost estimates, drawings and other documents compiled by us or our agents. If an order is not placed, any drawings and other documents compiled by us and enclosed with the quotation shall be returned without delay and on demand.