



## Terms and Conditions of Sale

Last updated: August 6, 2019

PLEASE READ THIS DOCUMENT CAREFULLY. IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS AND OBLIGATIONS, AS WELL AS LIMITATIONS AND EXCLUSIONS. IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, DO NOT ORDER/KEEP YOUR PRODUCT(S).

### 1. Applicability And Contract

- A These terms and conditions govern the sale of products and/or services by Maguya (Pty) Ltd Reg. No. 2014/151001/07 t/a Directed ("Directed" or "Seller"), which are incorporated by reference into each contract of sale. These terms and conditions comprise the entire agreement between Buyer and Directed and supersede any other understandings, agreements, representations, warranties, and communications, to which notice of objection is hereby given.
- B All orders must be in writing and are subject to acceptance by Directed. A contract between Buyer and Directed is only formed when Directed sends an order confirmation (by e-mail) that the products or services ordered are available. Buyer agrees to these terms by placing an order.

### 2. Information About Our Products

- A Directed strives to ensure that all descriptions of products, listed prices, and stock availability are accurate and correct. However, mistakes do happen and Directed will try to resolve any errors in information as soon as reasonably possible. If Directed thinks that such an error has affected an order, Directed will make all reasonable efforts to notify Buyer via the contact information provided and give the Buyer the option of reconfirming the order, with the correct information, or cancel the order. If Directed is unable to contact Buyer, then Directed may treat the order as cancelled. If Buyer cancels the order and has already paid for the products, Buyer will receive a refund via their method of payment.
- B All cancellations and returns are governed by Section 8 below.
- C Buyer acknowledges and agrees that the slight variation of products as sent by email will depend on many factors, including Buyer's own display settings and device.

### 3. Quote, Purchase, & Delivery

- A The price of the products are those prices specified by Directed on the date Buyer places the relevant order, including freight charges, if any.
- B Directed provides quotes upon request, free of charge. Prices are valid for sixty (10) days and for the quantities listed on the quote, unless otherwise noted. All clerical errors are subject to correction by Directed.
- C The minimum order amount is R25000, per order, excluding any freight charges.
- D Orders for quantities beyond the normal stock levels may be subject to additional lead time.
- E Unless otherwise specifically noted by Directed, the published prices applicable to the products are exclusive of Vat, shipping or freight costs where applicable.
- F All submitted prices applicable to the products are exclusive of all sales, use, and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any government authority on any amounts payable to Buyer. Buyer is responsible for payment of all applicable state and local taxes, or for providing a valid sales tax exemption certificate.
- G During the ordering process, Buyer will explicitly state the preferred method of delivery. In the absence of delivery directions, Directed will use its discretion.
- H Shipping dates are approximate, unless Buyer requests a guaranteed delivery method.
- I Every effort will be made by Directed to fulfill all contracts within the time stated on the contract and agreed upon by the parties. Directed assumes no liability for loss or damages, including consequential damages, due to any delays in delivery.
- J When placing an order for products, Buyer is responsible for ensuring that all details provided to Directed are true and accurate, Buyer is an authorized user

of the credit or debit card or such other authorized payment account used to place the order, and there are sufficient funds to cover the cost of the products.

### 4. Freight Policy

- A Unless otherwise expressly stated in the contract, freight terms are Ex Works Seller's shipping point, exclusive freight, insurance and handling. Directed charges a shipping and handling fee (which includes internal handling and related costs) on each order, which is applied at the time of the order and reflected on the Buyer's invoice. Unless otherwise noted, Directed uses various freight agents for road deliveries as the standard freight method.
- B Other fees, terms, and conditions may apply for any shipping method other than standard road delivery, including but not limited to: expedited same day delivery, air freight, freight collect, export orders, hazardous materials, Buyer's carrier, shipments outside South Africa, or other special handling by the carrier. Any charges incurred by Directed must be paid by the Buyer.
- C When possible, Directed can ship products and charge freight costs to Buyer's third-party account. Accurate information must be disclosed to Directed in a timely manner. All shipments on Buyer's third-party account will not be insured, unless express written permission is received.
- D Product title and risk of loss pass to Buyer once Directed has delivered the product(s) to the carrier.

### 5. Payment & Credit Terms

- A Payment may be made by Credit card, or Electronic Funds Transfer.
- B All payments made via international wire transfer are subject to a R500.00 fee, per payment.
- C Where Directed has extended credit to Buyer, terms of payment shall be as agreed and from date of invoice, without offset or deduction unless otherwise agreed in advance.
- D Once credit is extended, all purchases are governed by the payment terms and conditions contained in your approved credit application emailed from Directed as confirmation of acceptance of your account.
- E Directed reserves the right to charge a convenience fee for any late payments. Directed further reserves the right to charge Buyer a finance charge equal to the highest amount allowed by law on any invoice that is not timely paid.
- F All payments must be made in RSA Rands and U.S. dollars for clients outside RSA. Directed reserves the right to retain any excess payment amount if any sum is owed by Buyer to Directed.
- G If Buyer fails to make any payment in accordance with their payment or credit terms, or fails to supply adequate assurance of full performance to Directed within a reasonable time after requested by Directed (such time as specified in Directed's request), Directed may: defer shipment(s) until such payment or compliance is made, require cash in advance for any further shipments, demand immediate payment of all amounts then owed, charge Buyer's credit (or debit) card on file for any past due amount that is fifteen (15) days beyond the Buyer's terms, elect to pursue collection action (including without limitation, attorneys' fees and any and all other associated costs of collection), and/or may, at its option, cancel all or any part of an unshipped order.
- H Buyer, and each of its subsidiaries and affiliates, agrees to provide to Directed proper authorization necessary for Directed to request any financial information from third parties.
- I Buyer agrees to assume responsibility for, and Buyer hereby unconditionally guarantees payment of, as provided herein, all purchases made by Buyer, its subsidiaries, and affiliates. Each of Buyer's subsidiaries and affiliates purchasing from Directed are jointly and severally liable for purchases by Buyer, and Buyer is also acting as agent for such subsidiaries and affiliates.

### 6. Blanket Orders

- A Buyer's with credit terms may enter into "Blanket Order" agreements, where "Blanket Order" is understood to be an agreement to purchase a specific number of products over a designated period of time.
- B Pricing is based upon the total quantity ordered. No reduction in Blanket Order quantity or Purchase Order value is allowed. Once the Blanket Order is placed it cannot be cancelled. Should a Buyer attempt to cancel or terminate a Blanket



Order, Directed may either invoice Buyer to recover any discount given based upon the original quantity of the Blanket Order (and such invoice(s) shall be immediately due) or treat such attempted cancellation or termination as a breach of contract and pursue all remedies available.

- C If a Buyer wishes to modify any release date(s) for a Blanket Order, in any way, inventory committed to the Blanket Order is no longer guaranteed. If a modification is necessary, it is strongly advised to provide as much notice as possible. Directed will pursue every reasonable option to meet the modified date(s) but, under no circumstances, will Directed incur expedited freight charges or fees after any release date(s) is modified.
- D Blanket Orders must be completed within the agreed period from the original order date. Schedule expedites are allowed pending date agreement by Directed.

#### 7. Promotions & Discounts

- A Promotions and discounts only apply to the product and do not apply to shipping, freight, or sales/VAT taxes or fees.
- B Discounts are limited to one per Buyer and account. Discounts are not valid on blanket orders. Discounts may not be combined with other offers.
- C Directed reserves the right, without further notice to the holders of the discounts, to modify the terms and conditions for use, or to suspend or cancel the program in whole or in part.
- D If you violate any of these terms, the discount will be invalid.

#### 8. Cancelling An Order And Returning Products

- A Orders for custom products, non-stock items, and quantities beyond our normal stock levels are NCNR (non-cancellable and non-refundable) once Directed has purchased the raw materials or products.
- B Buyer may cancel their order, in whole or in part, before it has shipped by submitting a cancellation request to: [orders@directedgroup.co.za](mailto:orders@directedgroup.co.za). Such request is considered by Directed on a case-by-case basis and at their sole discretion. If cancelling only a portion of the order, Directed will invoice Buyer to recover any discount given based upon the original quantity of the order.
- C If Buyer is not satisfied with the products they receive, Buyer must submit a written request to return the products within thirty (10) days of the invoice date to: [orders@directedgroup.co.za](mailto:orders@directedgroup.co.za). Such request is considered by Directed on a case-by-case basis and at their sole discretion.
- D If the return request is approved, Buyer will be provided with a return authorization number, which must be noted on all returning paperwork. No refund or credit will be issued for unauthorized returns.
- E All returned products must be in new and unused condition and must be returned to Directed within ten (10) days of the return authorization number being issued. Directed is not responsible for lost or damaged products in transit. Returns received after the ten (10) period will not be eligible for any amount of refund.
- F All returns are subject to a restocking fee equal to twenty-five (25) percent of all materials and services invoiced. Additionally, Buyer is responsible for all shipping or freight charges.
- G After Directed has received the returned product and reviewed it for compliance with all return-requirements, Directed will refund Buyer the price of the product less freight and the restocking fee, via the original payment method or such other method agreed upon by the parties.

#### 9. Defects After Delivery

- A No claim for damages, defects, shortages, or otherwise shall be valid unless made in writing and delivered to Directed within thirty (10) days of delivery of goods to Buyer. In the event that any of the goods are defective, Directed shall be allowed to inspect such goods, or upon request, be furnished with a sample of the goods. Directed is only liable to replace, credit, or refund to Buyer, at Directed's option, for any such defective goods.

- B Inspection by Directed is made on a percentage basis only. If 100% inspection is required, it is at Buyer's expense and only such parts proved to be defective may be returned with a claim for credit or replacement.

- C In no event shall Directed be responsible to Buyer for damages that exceed the purchase price of the goods involved.

#### 10. Disclaimer Of Warranties And Limitation Of Liability

- A *EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THESE TERMS, DIRECTED MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE PRODUCTS, INCLUDING ANY (A) WARRANTY OF MERCHANTABILITY; (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (C) WARRANTY OF TITLE; OR (D) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.*
- B IN NO EVENT WILL DIRECTED BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, LOST PROFITS OR REVENUES, OR DIMINUTION IN VALUE, ARISING OUT OF OR IN CONNECTION WITH ANY BREACH OF THESE TERMS OR ANY ACT OR OMISSION BY DIRECTED OR ITS PERSONNEL, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES HAS BEEN DISCLOSED IN ADVANCE OR COULD HAVE BEEN REASONABLY FORESEEN, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT, OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.
- C If technical assistance or advice is offered or given to Buyer, such assistance or advice is given free of charge and only as an accommodation to Buyer. Directed shall not be held liable for the content or Buyer's user of such technical assistance or advice nor shall any statement made by any of Directed's representatives in connection with the products or services constitute a representation or warranty, express or implied.
- D In no event shall Directed be responsible to Buyer for damages that exceed the purchase price of the goods involved.
- E Directed shall have no liability, whether in contract or tort (including but not limited to negligence and strict liability) for any injury, loss, damage, direct or consequential or otherwise arising out of the sale of the goods hereunder or arising out of the use of the goods.
- F Buyer releases Directed from any and all liability for negligence with respect to any activity engaged in by Directed with respect to the goods sold hereunder and from all liability imposed on Directed.
- G Buyer acknowledges and agrees that the goods purchased from Directed meet the requirements for their intended use.
- H It is not the intention of Directed to manufacture, source or supply any product that is an infringement of a patented article. Directed makes parts strictly to dimensional specifications furnished by Buyer. It is agreed that Buyer will defend and hold harmless Directed from any and all expense involved in any claims for damages from patent infringement(s) resulting from the use or sale of parts made by Directed, either as parts or units of complete entities.

#### 11. Disputes with Directed

- A All matters relating to the sale of goods and these terms and conditions and any dispute or claim arising therefrom or related thereto will be governed by and construed in accordance with the laws of the Republic of South Africa, without regard to its conflict or choice of law rules. These laws will apply regardless of Buyer's domicile or principal place of business.
- B If either party brings an action to enforce its rights under this agreement, the prevailing party shall have the right to collect from the other party its reasonable costs, necessary disbursements, and attorneys' fees incurred in enforcing these terms.

#### 12. Indemnification

- A Buyer agrees to indemnify, defend, and hold harmless Directed, its officers, directors, employees, agents, licensors, and suppliers from and



against all losses, liabilities, expenses, damages, and costs, including reasonable attorney's fees, resulting from any violation of these Terms of Sale by Buyer or Buyer's agent.

**13. Force Majeure**

A *Directed will not be liable or responsible to Buyer, nor be deemed to have defaulted or breached these Terms, for any failure or delay in fulfilling or performing any section of these terms and condition, when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Directed, including acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lockouts, strikes or other labor disputes (whether or not relating to either party's workforce), restraints or delays affecting carriers, inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown, or power outage.*

**14. Changes to the Terms of Sale**

A Directed may revise and update these Terms from time to time in its sole discretion. All changes are effective immediately after Directed posts them on its website.

B Buyer should check these terms and conditions every time Buyer purchases from Directed so Buyer is aware of any changes. No other changes to these Terms will be binding or enforceable unless agreed in writing between each party's authorized representative.

**15. Severability and Waiver**

A If any term or provision of these Terms is held to be invalid, illegal or unenforceable in any jurisdiction, the invalidity, illegality, or unenforceability will not affect any other term or invalidate or render unenforceable such term in any other jurisdiction.

B Delay in Directed's exercising or failure to exercise any right or remedy under these Terms will not constitute a waiver of Directed's rights and remedies under these Terms.

**16. Privacy**

A Personal information that Buyer provides during the order process will be kept and used by Directed in accordance with our Privacy Policy (which is deemed to be incorporated by reference into this section).

**17. Governing Terms**

A THE ABOVE TERMS SHALL GOVERN THIS SALE TRANSACTION AND SHALL SUPERCEDE ANY INCONSISTENT TERMS CONTAINED IN BUYER'S PURCHASE ORDER, IF ANY.

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