

1. INTRODUCTION

- 1.1 The Customer agrees that (a) these standard terms and conditions ("Agreement") determine the rights and obligations of and of the Customer in respect of every order, purchase and sale, between ("Skyworth EPC") and the Customer for any products and/or services supplied and/or rendered by Skyworth EPC (b) this Agreement represents the entire agreement between the Customer and Skyworth EPC ("Parties"), reduced to writing and signed by the Customer and a duly authorised representative of Skyworth EPC; (c) this Agreement will govern all future contractual relationships between the Parties; (d) this Agreement is applicable to all existing debts and future debts between the Parties; (e) this Agreement is final and binding and is not subject to any suspensive or resolutive terms or conditions; (f) any conflicting conditions stipulated by the Customer are expressly excluded; (g) Skyworth EPC hereby expressly objects to and rejects all terms and conditions in the Customer's purchase order, confirmation or other writing, of whatever kind, inconsistent with or in addition to the terms and conditions of this Agreement. Such inconsistent and additional terms and conditions will not bind Skyworth EPC unless expressly approved in writing by Skyworth EPC making specific reference to the inconsistent or additional term or condition; (h) these terms and conditions supersede any terms and conditions of sale, purchase, order or the like, without prejudice to any security or guarantees held by Skyworth EPC; and (i) by purchasing the goods and/services, accepting quotations issued by Skyworth EPC, or placing an order with Skyworth EPC, the Customer accepts the provisions of this Agreement without restriction or limitation.
- 1.2 These Terms and Conditions may be changed from time to time by Skyworth EPC and it is the Customer's responsibility to ensure that they are acquainted and familiar with any such changes. All changes will be posted on Skyworth EPC's website.
- 1.3 This Agreement applies to the contractual relationship between Skyworth EPC and the Customer and is subject to the –
 - 1.3.1 Consumer Protection Act, No 68 of 2008 ("CPA"); and/or
 - 1.3.2 National Credit Act, No 34 of 2005 ("NCA"); and/or
 - 1.3.3 Protection of Personal Information Act, No 4 of 2013 ("POPIA"),

where the Customer is a natural person (being a living, identifiable individual acting in his/her own name or operating as a sole proprietor) or a juristic person (being a company, close corporation, body corporate, partnership, or association or trust) who qualifies as a consumer for purposes of the CPA, a consumer or juristic person for purposes of the NCA or a person for the purposes of POPIA.

WHERE THE CUSTOMER IS A CONSUMER, A JURISTIC PERSON AND/OR A PERSON FOR PURPOSES OF THE CPA, THE NCA AND/OR THE POPIA, IT WILL ENJOY THE BENEFIT OF THE CPA, THE NCA AND/OR THE POPIA IRRESPECTIVE OF WHETHER THE RIGHTS ARE EXPLICITLY STATED IN THIS AGREEMENT OR NOT OR WHETHER ANYTHING HEREIN PROVIDES OTHERWISE.

Where the Customer is not a consumer or juristic person for purposes of the CPA and/or the NCA, it will enjoy only the benefit of the provisions of this Agreement and the application of the entire CPA and/or NCA is not agreed between the Parties.

- 1.4 CERTAIN PROVISIONS OF THIS AGREEMENT WHICH APPEAR IN SIMILAR TEXT STYLE TO THIS CLAUSE AND IN UPPER CASE ("CRITICAL PROVISIONS") –
 - 1.4.1 MAY LIMIT THE RISK OR LIABILITY OF SKYWORTH EPC;
 - 1.4.2 MAY CREATE RISK OR LIABILITY TO THE CUSTOMER;
 - 1.4.3 MAY COMPEL THE CUSTOMER TO INDEMNIFY SKYWORTH EPC; AND/OR
 - 1.4.4 SERVES AS AN ACKNOWLEDGEMENT OF A FACT BY THE CUSTOMER.

THE CUSTOMER'S ATTENTION IS SPECIFICALLY DRAWN TO THESE CRITICAL PROVISIONS BECAUSE THEY ARE IMPORTANT AND SHOULD BE CAREFULLY NOTED.

IF THERE IS ANY PROVISION IN THIS AGREEMENT WHICH THE CUSTOMER DOES NOT FULLY UNDERSTAND, THE CUSTOMER SHOULD ASK SKYWORTH EPC TO EXPLAIN SUCH PROVISION BEFORE TRANSACTING.

NOTHING IN THIS AGREEMENT IS INTENDED TO OR MUST BE UNDERSTOOD TO LAWFULLY RESTRICT, LIMIT OR AVOID ANY RIGHTS OR OBLIGATIONS, AS THE CASE MAY BE, CREATED FOR EITHER THE CUSTOMER OR SKYWORTH EPC IN TERMS OF THE CPA, THE NCA AND/OR THE POPIA.

1.5 Skyworth EPC requires certain information from the Customer in order to give effect to this Agreement, including taking orders, providing quotations, processing payments and awarding an extended payment term. The Customer agrees to supply such information to Skyworth EPC in order for Skyworth EPC to supply the goods and/or services under this Agreement.

2. ORDERS OF GOODS AND/OR SERVICES

2.1 The provision of the quotation for the provision of goods and/or services to the Customer by Skyworth EPC shall be deemed to be an offer by Skyworth EPC to provide the goods and/or services as stipulated in the quotation and which is subject to this Agreement.

2.2 No quotation shall be deemed to be accepted by the Customer until either a written acknowledgment and acceptance thereof is issued and delivered by the Customer to Skyworth EPC (i.e. by signing and returning to us a copy of the quotation, or by sending a confirmation email, SMS or WhatsApp) or by the Customer paying for any of the goods and/or services, in the form of a deposit or otherwise (“the order”).

2.3 All quotations/orders are subject to –

2.3.1 the availability of the goods and/or services;

2.3.2 correction of good faith errors by Skyworth EPC; and

2.3.3 reasonable variations up to the time of delivery in relation to any fluctuations of the cost price of the goods or forex fluctuations.

2.4 The Customer shall ensure that the terms of the quotation, and any applicable specifications, are complete and correct.

2.5 Any quotation is given on the basis that no contract shall come into existence until the Customer dispatches an acceptance thereof to Skyworth EPC, as stipulated in 2.2 above. Unless previously withdrawn, quotations are open for acceptance within the period as stated on such. Where there is no period stated, the quotation shall be open for acceptance for 7 (seven) days from the date it is dated unless withdrawn by Skyworth EPC during that time.

2.6 Prices quoted are exclusive of Value Added Tax unless otherwise specified in writing.

2.7 Subject to clause 2.8 and 2.9 below, all orders or variations to orders, once accepted by Skyworth EPC in writing, shall be binding and subject to the provisions of this Agreement and may not be revoked by the Customer.

2.8 Any order is subject to cancellation by Skyworth EPC due to acts of God or any circumstance beyond the control of Skyworth EPC, including (without restricting this clause to these instances): inability to secure labour, power, materials or supplies, war, civil disturbance, riot, state of emergency, strike, lockout, or other labour disputes, fire, flood, drought or legislation.

2.9 ANY ORDER IS SUBJECT TO CANCELLATION BY SKYWORTH EPC IF THE CUSTOMER BREACHES ANY TERM OF THIS AGREEMENT OR MAKES ANY ATTEMPT OF COMPROMISE, LIQUIDATION, SEQUESTRATION, TERMINATION OR JUDGEMENT IS RECORDED AGAINST THE CUSTOMER OR ANY OF ITS PRINCIPALS.

2.10 THE CUSTOMER AGREES THAT SKYWORTH EPC WILL BE IMMEDIATELY AND IRREVOCABLY RELEASED FROM ANY CONTRACTUAL DAMAGES AND PENALTY OBLIGATIONS SHOULD AN ORDER BE CANCELLED BY SKYWORTH EPC DUE TO ANY EVENT IN CLAUSE 2.8 OR 2.9 HAVING OCCURRED.

3. DELIVERY OF GOODS AND/OR SERVICES AND INSTALLATION

a) Delivery

- 3.1 Date of delivery of the goods shall be deemed to be the date on which the goods are collected or delivered to the Customer's nominated delivery address or the date on which Skyworth EPC notifies the Customer that the goods are available for collection. Any third party who accepts delivery or who collects the goods from Skyworth EPC will be deemed to be the Customer's agent and it shall not be necessary for Skyworth EPC to prove the authority of such person, who shall be deemed to have been duly authorised for such purpose.
- 3.2 TO THE EXTENT THAT THE CPA IS APPLICABLE, THE CUSTOMER HAS THE RESPONSIBILITY TO INSPECT AND VERIFY THE GOODS RECEIVED BY IT UPON DELIVERY THEREOF. THE CUSTOMER WILL BE ENTITLED TO NOTIFY AND RETURN TO SKYWORTH EPC (FOR THE ATTENTION OF THE DESIGNATED MANAGER OF THE RELEVANT SKYWORTH EPC AT WHICH THE ORDER WAS PLACED), IN WRITING, –
 - 3.2.1 ANY GOODS WHICH ARE RETURNABLE UNDER THE CPA, BUT SPECIFICALLY EXCLUDING GOODS WHICH ARE DEFECTIVE, WITHIN 5 DAYS; OR
 - 3.2.2 ANY DEFECTIVE GOODS, WITHIN 6 MONTHS, OF RECEIPT BY THE CUSTOMER OF SUCH GOODS, OF ANY REASON FOR THEIR RETURN IN RESPECT OF GOODS REFERRED TO IN CLAUSE 3.2.1 OR DEFECTS TO THE QUALITY OF THE GOODS IN RESPECT OF GOODS REFERRED TO IN CLAUSE 3.2.2, WHICH IT HAS IDENTIFIED, FAILING WHICH THE CUSTOMER WILL BE DEEMED TO HAVE INSPECTED AND VERIFIED THE GOODS DELIVERED TO IT AND CONFIRMED THE GOOD QUALITY OF THE GOODS FREE FROM ANY AND ALL DEFECTS, AND THE CORRECTNESS OF THE ORDER. TO THE EXTENT PERMITTED IN LAW, SKYWORTH EPC 'S LIABILITY TO THE CUSTOMER IN RESPECT OF ANY RETURNED GOODS TIMEOUSLY IN ACCORDANCE WITH THIS CLAUSE SHALL BE LIMITED TO THE REMEDIES SET OUT IN CLAUSE 8.
- 3.3 TO THE EXTENT THAT THE CPA IS NOT APPLICABLE, THE SAME PROVISIONS OF CLAUSE 3.2 SHALL NOT APPLY.
- 3.4 Skyworth EPC shall be entitled in its reasonable discretion to split the delivery / performance of the goods and/or services ordered in the quantities and on the dates it decides.
- 3.5 Any delivery note, handover certificate or job card (copy or original) signed by the Customer or a third party engaged to transport the goods and held by Skyworth EPC shall be prima facie proof that delivery was made to the Customer.
- 3.6 THE RISK OF DAMAGE TO, DESTRUCTION OR THEFT OF GOODS SHALL PASS TO THE CUSTOMER ON DELIVERY OF THE GOODS TO THE CUSTOMER.
- 3.7 Delivery, installation and performance times quoted are merely estimates and are not binding on Skyworth EPC. Calculations of these times will be determined by Skyworth EPC from the date upon which
 - (i) Skyworth EPC received all technical data or other information required from the Customer;
 - (ii) reasonable access has been received by Skyworth EPC from the Customer to the relevant site;
 - (iii) any down payment has been agreed upon between the Parties.

b) Installation

- 3.8 Upon receipt of the required documentation, and any deposits payable, by the Customer, Skyworth EPC shall arrange with the Customer, for the installers to install the goods at the Customer's nominated premises.
- 3.9 All installations shall be completed by competent and licensed installers to carry out the installations.
- 3.10 The Customer acknowledges and agrees that:
 - 3.10.1 the installers shall complete a site inspection in relation to the proposed installation of the goods at the Customer's nominated premises;
 - 3.10.2 the location of the installation of the goods, at the Customer's nominated premises shall be mutually agreed between the parties in writing prior to the commencement of the installation works;
 - 3.10.3 Skyworth EPC shall not be liable to move or remove the goods installed, after installation unless due to a technical fault with the installed goods.

3.11 Skyworth EPC will take every reasonable precaution in conducting the works at the nominated premises. Skyworth EPC will not be liable or responsible in anyway way for:

- 3.11.1 the structural integrity of any building or structure on to which any of the goods are to be installed;
- 3.11.2 the roof or structures ability to hold the weight of the works;
- 3.11.3 any roof leaks or damages other than where Skyworth EPC had to alter or drill into tiles or roof sheeting;
- 3.11.4 any effect the works have on any roof manufacturer's warranty;
- 3.11.5 any damage to the roof or building which is not due to Skyworth EPC's negligence or breach of this Agreement; or
- 3.11.6 any pre-existing condition, fault or defect relating to the building or roof, (including without limitation, circumstances related to structural integrity, hidden defects, electrical wiring or cabling, gas or water pressure, and the status or mounting of consumption meters).

4. PRICE

- 4.1 Unless Skyworth EPC provides the Customer with a written quotation, which the Customer accepts within the period for which the quotation is valid, the price of the goods and/or services will be Skyworth EPC's official list price at the date of delivery of the goods and/or services.
- 4.2 Skyworth EPC reserves the right vary any quoted price by adding thereto the increased costs to any of its goods and/or services prior to the date of delivery of such goods and the Customer will be notified in writing of such increase.
- 4.3 Where the prices are based upon a currency other than the South African Rand, any fluctuations in the exchange rate of such currency against the Rand, between the date of the Customer's order and the date of Skyworth EPC's invoice, shall be passed onto the Customer, who shall be liable for payment thereof.

5. CONNECTIONS TO THE MUNICIPAL GRID

- 5.1 Various Municipalities are exploring the viability of allowing solar installations to feed power back into the grid. The Municipalities are governed by legislation and by-laws over which Skyworth EPC has no control. Skyworth EPC may assist the Customer with applying to and concluding such a contract with the relevant Municipality if possible, however, Skyworth EPC makes no assurances in this regard and provides no warranty that any such application will be successful.
- 5.2 The Customer shall have no claim of whatsoever nature against Skyworth EPC, where Skyworth EPC is unable to assist or, where Skyworth EPC does assist, should the Customer not be able to feed power back into the grid for whatever reason. Any additional costs associated with the conclusion of a contract with the relevant municipality and which have not been included in the Skyworth EPC's quotation shall be for the Customer's account.

6. COPYRIGHT, PATENT, TRADEMARK OR DESIGN INFRINGEMENT

THE CUSTOMER HEREBY INDEMNIFIES SKYWORTH EPC AGAINST ANY CLAIMS, COSTS AND EXPENSES ARISING OUT OF THE INFRINGEMENT OF COPYRIGHT, PATENT, TRADEMARK OR DESIGN SUPPLIED BY THE CUSTOMER.

7. SPECIAL INSTRUCTIONS

- 7.1 In the event that Skyworth EPC undertakes installation and/or commissioning work the Customer shall –
 - 7.1.1 give Skyworth EPC free and unrestricted access at all times to the premises;
 - 7.1.2 supply suitable and sufficient water and electricity free of charge at points within the boundaries of the area in which the works are to be carried out;
 - 7.1.3 make available a suitable and sufficient storage area adjacent to the area in which the works are to be carried out, if required; and

7.1.4 be responsible for, at its own cost, the removal of any trees, plants or any other objects that may cast a shadow on the works, both at the time of installation and in the future.

8. GUARANTEES AND CLAIMS

8.1 To the extent not in conflict with the CPA (if applicable) or any other law and unless otherwise specific in a separate warranty and repair policies by Skyworth EPC –

8.1.1 new goods are guaranteed according to the manufacturer's product specific warranties only and all other guarantees, including common law guarantees, warranties of merchantability, fitness for a particular purpose, and non-infringement of third party rights, are hereby specifically excluded. The guarantee shall run from the date on which the goods are delivered and/or installed;

8.1.2 services performed directly by Skyworth EPC are guaranteed for a period of 12 months;

8.1.3 liability under clause 8.1.1 is restricted to the cost of repair or replacement of returned goods and/or services or granting of a credit or to refund an equitable portion of the purchase or contract price at the sole discretion of Skyworth EPC;

8.1.4 no claim under this Agreement shall arise unless the Customer has, within 5 days of an alleged breach of contract and/or defect occurring, given Skyworth EPC written notice of such breach or defect, and has afforded Skyworth EPC at least 30 days to rectify such defect or breach;

8.1.5 to be valid, claims must be supported by the original tax invoice relevant to the goods and/or services in respect of which a claim relates;

8.1.6 any advice, recommendation or assistance provided by Skyworth EPC concerning the use, design, application or operation of the goods shall not be construed as representations or warranties of any kind and such information is accepted by the Customer at the Customer's own risk and without any obligation or liability to Skyworth EPC. It is the Customer's sole responsibility to determine the suitability of the goods for the use in the Customer's application (s). Failure by Skyworth EPC to make recommendations, give advice or provide assistance shall not give rise to liability to Skyworth EPC.

8.1.7 all guarantees are immediately null and void should any goods be tampered with or should the seals on goods be broken by anyone other than Skyworth EPC or should the goods be used or stored outside of the manufacturer's specifications.

8.2 Nothing in this Agreement should be understood to limit any warranty a Customer may have in terms of the CPA (if applicable).

9. LIMITATION OF LIABILITY

9.1 TO THE EXTENT NOT IN CONFLICT WITH THE CPA (IF APPLICABLE) OR ANY OTHER LAW AND NOTWITHSTANDING ANYTHING HEREIN CONTAINED –

9.1.1 SKYWORTH EPC SHALL NOT BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL OR INDIRECT DAMAGES, NOR SHALL SKYWORTH EPC BE LIABLE TO ANY PERSON FOR ANY LOSS OR DAMAGE WHETHER TO PERSON OR PROPERTY HOWSOEVER ARISING, SAVE WHERE SUCH DAMAGE OR LOSS IS DUE TO THE GROSS NEGLIGENCE OR WILFUL MISCONDUCT OF SKYWORTH EPC, ITS EMPLOYEES, AGENTS OR AUTHORISED REPRESENTATIVES;

9.1.2 THE LIABILITY OF SKYWORTH EPC FOR DAMAGES, IF ANY, SHALL NOT EXCEED THE TOTAL PRICE PAID OR DUE TO BE PAID BY THE CUSTOMER FOR THE GOODS THAT FORM THE SUBJECT MATTER OF SUCH CLAIMS. THE EXCLUSION AND LIMITATION OF LIABILITY PROVIDED IN THIS CLAUSE 9 SHALL APPLY REGARDLESS OF HOW THE LOSS OR DAMAGE MAY BE CAUSED AND WHETHER BASED IN CONTRACT, DELICT OR OTHERWISE.

9.1.3 UNDER NO CIRCUMSTANCES SHALL SKYWORTH EPC BE LIABLE FOR ANY DAMAGE ARISING FROM ANY MISUSE, ABUSE OR NEGLIGENCE OF THE GOODS AND/OR SERVICES BY THE CUSTOMER OR ANY OTHER THIRD PARTY; AND

9.1.4 THE CUSTOMER HEREBY INDEMNIFIES SKYWORTH EPC AGAINST ALL AND ANY CLAIMS OF WHATSOEVER NATURE WHICH MAY BE MADE BY ANY PERSON AGAINST SKYWORTH EPC FOR ANY LOSS OR DAMAGE

OF ANY NATURE ARISING OUT OF THE USE OF THE GOODS WHILST SAME ARE AT RISK OF THE CUSTOMER, SAVE FOR ANY CLAIMS WHICH ARISE FROM THE GROSS NEGLIGENCE OR WILFUL MISCONDUCT OF SKYWORTH EPC, ITS EMPLOYEES, AGENTS OR AUTHORISED REPRESENTATIVES. THE AFORESAID INDEMNITY INCLUDES ANY LEGAL COSTS WHICH MAY BE INCURRED BY SKYWORTH EPC IN DEFENDING AND/OR OPPOSING ANY SUCH CLAIM, CALCULATED ON THE SCALE AS BETWEEN ATTORNEY-AND-OWN CLIENT. SKYWORTH EPC SHALL NOT BE LIABLE TO THE CUSTOMER FOR ANY LOSS OR DAMAGE (INCLUDING SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES) OF ANY NATURE ARISING OUT OF THE USE OF THE GOODS, THE DELIVERY OR SUPPLY OR FAILURE TO DELIVER OR SUPPLY THE GOODS, OR ARISING IN RESPECT OF THE GOODS WHILST SAME ARE IN THE CUSTOMER'S POSSESSION, SAVE WHERE SUCH LOSS OR DAMAGE IS DUE TO THE GROSS NEGLIGENCE OR WILFUL MISCONDUCT OF SKYWORTH EPC, ITS EMPLOYEES, AGENTS OR AUTHORISED REPRESENTATIVES.

10. PAYMENT

- 10.1 The Customer agrees that the amount contained in a tax invoice issued by Skyworth EPC shall be due and payable unconditionally (i) within 7 days from the date of the invoice; or (ii) if the Customer has been granted an extended payment term in terms of clause 11, within the period specified, and approved in writing by Skyworth EPC, in terms of the application of extended payment terms by the Customer, unless otherwise specified on the tax invoice.
- 10.2 THE CUSTOMER HAS THE RESPONSIBILITY TO VERIFY THE BANKING DETAILS OF SKYWORTH EPC (WITH THE DESIGNATED MANAGER OF THE RELEVANT SKYWORTH EPC AT WHICH THE RELEVANT ORDER WAS PLACED) PRIOR TO ANY AND EVERY PAYMENT TO BE MADE BY IT TO SKYWORTH EPC IN TERMS OF THIS AGREEMENT OR OTHERWISE AND SKYWORTH EPC SHALL NOT BE HELD LIABLE FOR ANY PAYMENTS INCORRECTLY MADE BY THE CUSTOMER TO A BANK ACCOUNT, THE DETAILS OF WHICH HAVE NOT BEEN VERIFIED BY THE CUSTOMER PRIOR TO SUCH PAYMENT.
- 10.3 THE CUSTOMER HAS NO RIGHT TO WITHHOLD PAYMENT FOR ANY REASON WHATSOEVER, SAVE WHERE THE CUSTOMER IS ENFORCING A LEGAL RIGHT IN INSTANCES WHERE THE CPA APPLIES, AND AGREES THAT NO EXTENSION OF PAYMENT OF ANY NATURE SHALL BE GRANTED TO THE CUSTOMER AND ANY SUCH EXTENSION WILL NOT BE APPLICABLE OR ENFORCEABLE UNLESS AGREED TO BY SKYWORTH EPC, REDUCED TO WRITING AND SIGNED BY THE CUSTOMER AND A DULY AUTHORISED REPRESENTATIVE OF SKYWORTH EPC.
- 10.4 All amounts due and payable will be paid by the Customer in full without deduction or set-off.
- 10.5 All discounts shall be forfeited if payment in full is not made on the due date.
- 10.6 The Customer agrees that the amount due and payable to Skyworth EPC may be determined and proven by a certificate issued and signed by any director or manager of Skyworth EPC, whose authority need not be proven, or by any independent auditor appointed by Skyworth EPC. Such certificate shall be binding and shall be prima facie proof of the nature and the amount of the indebtedness of the Customer.
- 10.7 Any printout of computer evidence tendered by either Party shall be admissible evidence and neither Party shall object to the admissibility of such evidence purely on the grounds that such evidence is computer evidence or that the requirements of the Electronic Communications and Transactions Act, No 25 of 2002 have not been met.
- 10.8 The Customer agrees that in the event that it does not make any payment under this Agreement by its due date –
 - 10.8.1 where the Customer is a natural person or a juristic person for purposes of the NCA –
 - 10.8.1.1 such unpaid amount will accrue interest at a rate equal to 2% per month; and
 - 10.8.1.2 once interest has been levied by Skyworth EPC for the first time, a statement of account will be delivered monthly to the Customer's email address unless otherwise requested;

- 10.8.2 where the Customer is not a natural person or a juristic person for purposes of the NCA, such unpaid amount will accrue interest at the publicly quoted basic rate of interest, compounded monthly in arrears and calculated on a 365-day year irrespective of whether or not the year is a leap year, from time to time published by any of the five major banks in the Republic of South Africa as being its prime overdraft rate, plus 2% above this rate;
- 10.8.3 Skyworth EPC reserves the right to withhold the delivery of any goods not yet delivered and/or terminate any of the services to the Customer (including switching off the inverters) until the Customer has paid, in full, all amounts outstanding and to declare, by notice in writing to the Customer, all amounts owing to be due and payable. The Customer indemnifies and hold Skyworth EPC harmless from any losses, claims, damages or liability arising from Skyworth EPC terminating any of the services; or
- 10.8.4 to the extent not in conflict with any applicable law, Skyworth EPC may retake possession of the goods delivered under this Agreement for which total payment has not been received according to the terms of this Agreement. The Customer irrevocably authorises Skyworth EPC to enter its premises (or any premises where the goods are located) upon the order of a competent court to repossess any goods delivered. The Customer hereby indemnifies Skyworth EPC, and/or Skyworth EPC's representatives, and/or the Sheriff and/or the Sheriff's representatives, completely against any damage whatsoever relating to the removal of any such repossessed goods and the Customer further irrevocably agrees to pay Skyworth EPC's costs of transporting and repossessing the goods; and
- 10.9.5 Skyworth EPC will be entitled to keep any partial payment made by the Customer as liquidated damages (without prejudice to any of its rights to claim any other damages in lieu of such liquidated damages) and Skyworth EPCs exercise of these rights and remedies shall be subject to and exercised in accordance with the provisions of applicable laws (including the CPA and/or the NCA (if applicable)), and the Customer hereby indemnifies and holds Skyworth EPC harmless against any claim for any loss or damage that it may incur as a result of such action by Skyworth EPC.
- 10.10 In addition to the remedies available to Skyworth EPC in terms of clause 10.9, the Customer agrees that if an account is not settled in full (a) against order; or (b) within the period agreed in clause 10.1 in the case of a Customer that has been granted an extended payment term in terms of clause 11; Skyworth EPC is: (i) entitled to immediately institute action against the Customer at the sole expense of the Customer; in order to enforce any and all of Skyworth EPC's rights under the Agreement, or (ii) to cancel the Agreement.
- 10.12 These remedies are without prejudice to any other right Skyworth EPC may be entitled to in terms of this Agreement or in law, and Skyworth EPC's exercise of these rights and remedies shall be subject to and exercised in accordance with the provisions of applicable laws (including the CPA (if applicable)). Skyworth EPC reserves its right to stop supply immediately on cancellation or on non- payment.
- 10.13 A Customer that has been granted an extended payment term in terms of clause 11 will forthwith lose this payment facility when payment is not made according to the conditions of clause 10.1 (ii) and all amounts then outstanding shall immediately become due and payable.

11. EXTENDED PAYMENT TERMS / PAYMENT FACILITY

- 11.1 The Customer may be awarded an extended payment term in terms of which the Customer is entitled to make payment, as set out in clause 10.
- 11.2 Skyworth EPC may, in its sole discretion, award the Customer an extended payment term and may, at any time and within its sole discretion, withdraw this payment facility.
- 11.3 The Customer hereby agrees that this payment facility is a variable facility and that Skyworth EPC shall be entitled to increase its limit from time to time, by providing the Customer with a written notice thereof.

12. OWNERSHIP OF GOODS

- 12.1 Ownership in and to the goods supplied by Skyworth EPC vests in Skyworth EPC until the purchase price for those goods has been paid in full to Skyworth EPC. Where the Customer is not the owner of the premises where the goods are to be installed and located, the Customer shall notify the owner and landlord of the premises that ownership in the goods vests in Skyworth EPC until paid for in full and the Customer hereby authorises Skyworth EPC to give such notice.
- 12.2 The Customer is not entitled to sell or dispose of any goods unpaid for without the prior written consent of Skyworth EPC. The Customer shall not allow the goods to become encumbered in any manner prior to the full payment thereof and shall advise third parties of the rights of Skyworth EPC in the goods.
- 12.3 If any goods supplied to the Customer are of a generic nature and have become the property of the Customer by operation of law (by mixing or blending) the Customer shall be obliged on notice of cancellation of the Agreement to retransfer the same quantity of goods in ownership to Skyworth EPC.

13. REPRESENTATIONS

1. THE CUSTOMER ACKNOWLEDGES THAT IT DOES NOT RELY ON ANY REPRESENTATIONS MADE BY SKYWORTH EPC IN REGARD TO THE GOODS AND/OR SERVICES OR ANY OF ITS QUALITIES LEADING UP TO THIS AGREEMENT OTHER THAN THOSE CONTAINED IN THIS AGREEMENT. ALL SPECIFICATIONS, PRICE LISTS, PERFORMANCE FIGURES, ADVERTISEMENTS, BROCHURES AND OTHER TECHNICAL DATA FURNISHED BY SKYWORTH EPC IN RESPECT OF THE GOODS AND/OR SERVICES ORALLY OR IN WRITING WILL NOT FORM PART OF THE AGREEMENT IN ANY WAY UNLESS AGREED TO IN WRITING BY SKYWORTH EPC.
2. THE CUSTOMER AGREES THAT NEITHER SKYWORTH EPC NOR ANY OF ITS EMPLOYEES WILL BE LIABLE FOR ANY MISREPRESENTATIONS MADE TO THE CUSTOMER WHICH ARE GROSSLY NEGLIGENT OR CONSTITUTE WILFUL MISCONDUCT.

14. WHERE THE CUSTOMER IS SPECIFICALLY A CONSUMER OR JURISTIC PERSON FOR PURPOSES OF THE NCA ONLY

14.1 Legal Costs and Charges

14.1.1 Default Administration Charges

If the Customer defaults on any payment obligation under this Agreement, Skyworth EPC will charge the Customer a default administration charge in respect of each letter of demand sent to the Customer. The cost of each registered letter of demand sent to the Customer may not exceed the amount payable for a registered letter of demand as stipulated in the High Court Rules as well as Skyworth EPC 's reasonable and necessary expenses incurred to deliver such letter of demand, including but not limited to postage or delivery costs.

14.1.2 Collection Costs

Skyworth EPC will be entitled to charge the Customer, at the maximum permissible rate allowed by law, all costs incurred by Skyworth EPC in collecting any amount due and/or payable by the Customer in terms of this Agreement, Skyworth EPC 's legal costs as between attorney- and-own-client and as taxed by the High Court, incurred as a result of any breach of this Agreement by the Customer and/or as a result of Skyworth EPC having to enforce its rights under this Agreement against the Customer in terms of clause 14.2 and all other costs as provided for by the NCA.

14.2 Consequences of Default

- 4.2.1 Should the Customer not make payment of any amounts due to Skyworth EPC in accordance with this Agreement, the Customer will be in default.

- 14.2.2 In the event of default, Skyworth EPC may give written notice to the Customer of such default, requesting the Customer to rectify the default within 7 days and/or propose that the Customer refers this Agreement to a debt counsellor, alternative dispute resolution agent, consumer court or ombud with jurisdiction, with the intent that the Parties resolve any dispute under this Agreement or develop and agree on a plan to bring the Customer's repayments up to date.
- 14.2.3 Delivery of the written notice referred to in clause 14.2.2 at the address provided by the Customer will serve as proof of delivery of such written notice.
- 14.2.4 The Customer may at any time prior to cancellation of this Agreement by Skyworth EPC, remedy his/her/its default by paying to Skyworth EPC all amounts that are due and owing to Skyworth EPC by the Customer, together with the prescribed default administration charges and collection costs referred to in clause 14.1 incurred by Skyworth EPC to enforce the provisions of this Agreement against the Customer up to the date upon which the Customer's default is remedied.
- 14.2.5 Skyworth EPC will be entitled, without prejudice and in addition to any other rights which Skyworth EPC may have in terms of law and in terms of this Agreement, to institute legal action against the Customer to enforce the provisions of this Agreement in the event that –
- 14.2.5.1 the Customer does not respond to the written notice delivered to him/her/it by Skyworth EPC in accordance with clause 14.2.2; or
- 14.2.5.2 the Customer rejects Skyworth EPC 's proposal for referral of this Agreement in accordance with clause 14.2.2; or
- 14.2.5.3 where 10 business days have lapsed after delivery of such written notice to the Customer; and
- 14.2.5.4 the Customer has been in default under this Agreement for at least 20 business days.
- 14.2.6 In the event of default not being rectified, the full outstanding balance of any amount owing to Skyworth EPC by the Customer in terms of this Agreement, will immediately become due and payable and Skyworth EPC may, without affecting any of its other rights in terms of this Agreement or otherwise, recover from the Customer payments of all amounts owing under this Agreement, which payments will include any accrued, but unpaid interest, default administration charges and collection costs, as contemplated in clause 14.1, and/or any reasonable legal costs and charges expended by Skyworth EPC to enforce the provisions of this Agreement.

15.WHERE THE CUSTOMER IS CONSUMER OR A JURISTIC PERSON, BUT THE NCA DOES NOT APPLY

- 15.1 The provisions of clauses 14.1.1, 14.1.2 and 14.2.6 shall still apply mutatis mutandis even where the Customer is not a consumer or a juristic person for purposes of the NCA.

16.CONSENT TO VERIFICATION OF ACCOUNT DETAILS, DATA PROTECTION AND PRIVACY AND CONFIDENTIALITY

- 16.1 Personal Information is information relating to an identifiable, natural or juristic person, including but not limited to information relating to race, gender, sex, marital status, nationality, ethnic or social original, colour, sexual orientation, age, physical or mental health, religion, belief, disability, language, birth, education, identity number, telephone number, e-mail, postal or street address, biometric information and financial, criminal or employment history, as well as correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence, including any information provided by the Customer in terms of clause 1.6 ("Personal Information").
- 16.2 The Customer acknowledges that its Personal Information provided to Skyworth EPC may be protected by data protection legislation such as the POPIA and the NCA and the Customer acknowledges that the conclusion of this Agreement shall create a lawful basis for Skyworth EPC's right to collect, receive, record, organize, collate, store, update, modify, retrieve, alter or process the Customer's Personal Information.
- 16.3 The Customer hereby consents to Skyworth EPC making worldwide transfers of the Customer's Personal Information on Skyworth EPC 's corporate systems, to other entities, agents or subcontractors in

Skyworth EPC 's group, or to other relevant business partners, including without limitation, agents, distributors and third parties who may have incidental access to personal information.

- 16.4 The Customer consents to all communications being monitored or recorded by Skyworth EPC in accordance with the applicable laws, for use in business practices, prevention of unauthorised use of Skyworth EPC 's systems and in respect of the detection and prevention of crime.
- 16.5 The Customer will have the right to contact Skyworth EPC regarding any Personal Information that the Customer is entitled to.
- 16.6 The Customer hereby consents to the storage and use by Skyworth EPC of its Personal Information for establishing its credit rating and in providing the goods and/or services to the Customer in terms of this Agreement and to Skyworth EPC disclosing such information to credit control companies, banks and other institutions involved in rating credit. THE CUSTOMER AGREES THAT SKYWORTH EPC WILL NOT BE HELD LIABLE FOR THE GOOD FAITH DISCLOSURE OF ANY OF THIS PERSONAL INFORMATION TO SUCH THIRD PARTIES AND THAT NO FURTHER SPECIFIC CONSENT NEEDS TO BE OBTAINED FOR THE TRANSFER OF SUCH INFORMATION TO A SPECIFIC THIRD PARTY FOR THE PURPOSES OF ESTABLISHING ITS CREDIT RATING AND IN PROVIDING THE GOODS AND/OR SERVICES TO THE CUSTOMER IN TERMS OF THIS AGREEMENT.
- 16.7 The Customer hereby consents that Skyworth EPC can also provide its Personal Information to third parties other than those referred to in clause 16.3, if the Customer has indicated Skyworth EPC as a trade reference to third parties and the Customer agrees that Skyworth EPC will not be liable for the good faith disclosure of any of this information to such third parties.
- 16.8 Unless otherwise required for purposes of this clause 16, Skyworth EPC hereby agrees that it will take or cause to be taken such reasonable precautions as may be necessary to prevent the disclosure of any of the Customer's Personal Information made available to Skyworth EPC by, or obtained from, the Customer which are not a matter of public knowledge or lawfully available from any other source.

17.GENERAL

- 17.1 The Customer agrees that no indulgence whatsoever by Skyworth EPC will affect the terms of this Agreement or any of the rights of Skyworth EPC and such indulgence shall not constitute a waiver by Skyworth EPC in respect of any of its rights herein. Under no circumstances will Skyworth EPC be estopped from exercising any of its rights in terms of this Agreement.
- 17.2 The Customer hereby consents to the non-exclusive jurisdiction of the High Court of South Africa, Gauteng Local Division, Johannesburg.
- 17.3 NOTHING IN THIS CLAUSE 17, OR ANYWHERE ELSE IN THIS AGREEMENT, SHOULD BE UNDERSTOOD TO PREVENT SKYWORTH EPC OR THE CUSTOMER FROM TAKING ANY DISPUTE TO ANY COURT, TRIBUNAL, COMMISSION OR OTHER BODY OF COMPETENT JURISDICTION.
- 17.4 THE CUSTOMER SHALL BE LIABLE TO SKYWORTH EPC FOR ALL LEGAL COSTS AND EXPENSES ON THE ATTORNEY-AND-OWN-CLIENT SCALE INCURRED BY SKYWORTH EPC IN THE EVENT OF (I) ANY DEFAULT BY THE CUSTOMER (AND ANY ENFORCEMENT OF SKYWORTH EPC'S RIGHTS); OR (II) ANY LITIGATION IN REGARD TO THE VALIDITY AND ENFORCEABILITY OF THIS AGREEMENT. THE CUSTOMER SHALL ALSO BE LIABLE FOR ANY TRACING, COLLECTION OR VALUATION FEES INCURRED AS WELL AS FOR ANY COSTS, INCLUDING STAMP DUTIES, FOR ANY FORM OF SECURITY THAT SKYWORTH EPC MAY DEMAND.
- 17.5 The Customer agrees that Skyworth EPC will not be required to furnish security in terms of Rule 62 of the Rules of Court of the Magistrate's Courts or in terms of Rule 47 of the Uniform Rules of the High Court.
- 17.6 Any document shall be deemed duly presented to and accepted by the Customer (i) within 5 days of prepaid registered mail to any of the Customer's business or postal addresses or to the personal address of any director, member or owner of the Customer; or (ii) within 24 hours of being faxed to any of the Customer's fax numbers or any director, member's or owner's fax numbers; or (iii) on being delivered by hand to the Customer or any director, member or owner of the Customer; or (iv) within 48 hours if sent

by overnight courier or (v) within 7 days of being sent by surface mail; or (vi) within 24 hours of being e-mailed to any e-mail address provided by the Customer.

- 17.7 The Customer chooses its address for any notification or service of legal documents or processes its business address as provided in the Customer Information Form attached to this Agreement or the physical addresses (domicilium citandi et executandi) of any director (in the case of a company), member (in the case of a close corporation) or of the owner(s) or partner(s).
- 17.8 THE CUSTOMER UNDERTAKES TO INFORM SKYWORTH EPC IN WRITING WITHIN 7 DAYS OF ANY CHANGE OF DIRECTOR, MEMBER, SHAREHOLDER, OWNER OR PARTNER OR ADDRESS OR 14 DAYS PRIOR TO SELLING OR ALIENATING THE CUSTOMER'S BUSINESS AND FAILURE TO DO SO WILL CONSTITUTE A MATERIAL BREACH OF THIS AGREEMENT. UPON RECEIPT OF SUCH WRITTEN NOTIFICATION, SKYWORTH EPC RESERVES THE RIGHT, TO THE EXTENT NOT IN CONFLICT WITH THE NCA, AT ITS SOLE DISCRETION, TO CANCEL THIS AGREEMENT (INCLUDING ANY UNFULFILLED ORDERS PLACED WITH SKYWORTH EPC PRIOR TO THE AFOREMENTIONED CHANGE) WITH THE CUSTOMER.
- 17.9 The Customer shall not be entitled to cede, assign or transfer any part, share or interest of this Agreement without the prior written consent of Skyworth EPC. Skyworth EPC shall be entitled to cede, assign and transfer its rights and obligations under this Agreement with the Customer to any person upon notice to the Customer. This Agreement shall be binding on the successors in title and permitted assigns of the Parties.
- 17.10 Each provision of this Agreement is severable from the other provisions, notwithstanding the manner in which they have been grouped together or linked grammatically. Should any provision be found to be invalid or unenforceable for any reason, the remaining provisions of this Agreement shall nevertheless remain binding and continue with full force and effect.
- 17.11 Any provision of this Agreement which by its very nature requires or contemplates performance or applicability of such provision after the termination or expiration of this Agreement will survive such termination or expiration.
- 17.12 The Parties do not intend for any of their rights or obligations under this Agreement to benefit any third parties.
- 17.13 This Agreement and its interpretation is governed by the laws of the Republic of South Africa.