

# CREDIT APPLICATION AND SURETY



## KAYMAC GROUP

Comprising Kaymac Holdings (Proprietary) Limited (1945/019629/07) and its Subsidiaries including Kaymac (Proprietary) Limited (1966/007004/07) and its Divisions and Subsidiaries

Kaymac Company/Division: ..... ("SELLER")

Details of Customer ("PURCHASER"):

1. Full/Registered Name: ..... Reg. No: .....

2. Trading Name: ..... Date Established: .....

3. \*Sole Owner  Partnership  Close Corporation  (Pty) Ltd.  Ltd. (i.e. Public Company)  \*(indicate which)

4. VAT No: ..... Tel: ..... Fax: ..... Credit Limit: R .....

5. Postal Address: .....

Street Address: .....

Registered Address (per Companies/CC Act): .....

6. Auditor/Accounting Officer: ..... Tel: ..... Fax: .....

7. Bank: ..... Branch: ..... A/c. No: .....

8 \*List below details of: Proprietor/s  Partners  Director/s  Members  \*(indicate which)

Name	Proprietor/s I.D. No.	Partners I.D. No.	Director/s Address (Residential)	Members Telephone No.
.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

9 Trade References (Name, Address, Tel. No.)

Name	Address	Telephone No.	Office Remarks
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....

This application shall be deemed to be an order for purposes of Section 50(3) of the Companies Act and 23(2) of the Close Corporations Act.

PURCHASER acknowledges that all orders and contracts with any company in the Kaymac Group ("SELLER") shall be subject to the Kaymac Group's standard conditions printed overleaf, notwithstanding any reference to PURCHASER'S conditions in any documents issued or to be issued.

On behalf of PURCHASER: Name: ..... Capacity: Owner/Director/Member

who warrants that: he is authorised to sign; the above facts are correct; none of the persons in 8 above have been insolvent or associated with a business failure; and PURCHASER'S assets are not encumbered or factored; and who binds himself to SELLER as surety and co-principal debtor with the PURCHASER to perform its obligations.

Signature: .....

Date: .....

**For office use:**

Approved by: ..... Credit Manager/Branch Manager.

Credit Limit:

# KAYMAC GROUP

## CONDITIONS OF SALE AND SURETY



Any contract of sale between any company in the Kaymac Group ("SELLER") and its customer ("PURCHASER") shall be subject to these conditions of sale save for express terms stipulated by SELLER in writing. These conditions supersede any standard terms referred to in any order or document issued or to be issued by PURCHASER, which SELLER shall be entitled to ignore.

### 1. PRICE AND PAYMENT

- 1.1. All prices are net. Discounts, if any, shall be only on the price not VAT.
- 1.2. Payment must be made by the 25th of the month following the month in which delivery takes place, or 30 days from date of invoice whichever is the sooner. Payment must be made by PURCHASER to SELLER without deduction, set off or demand at SELLER'S address. If part of a debt is disputed the undisputed part must be paid. Cheques are posted at PURCHASER'S risk and must be crossed not transferable and describe the payee accurately.
- 1.3. PURCHASER shall deliver its latest financial statements and property description to SELLER on request.
- 1.4. If any changes occur in the rates of freight, transport, railage or any other charges applicable to the goods, or if any other of SELLER'S costs (eg. the cost of materials or labour) increase for any reason beyond SELLER'S control, SELLER shall be entitled to increase its quotations, charges or the price accordingly. Quotations shall be valid for up to 30 days.
- 1.5. Any credit facilities allowed by SELLER to PURCHASER shall be in the discretion of SELLER and may be terminated in respect of any undelivered goods; or upon default.
- 1.6. If PURCHASER defaults in any obligation: any discounts will be disallowed; SELLER may repossess the goods.

### 2. DELIVERY AND RISK

- 2.1. The goods shall be delivered at SELLER'S option by road or by rail.
- 2.2. If delivery is by rail SELLER shall deliver the goods to PURCHASER free-on-rail at SELLER'S siding or nearest convenient railway station, or to the rail vehicle at SELLER'S premises, notwithstanding that SELLER may pre-pay railage.
- 2.3. If delivery is other than by rail, it shall be deemed to have taken place at SELLER'S factory or upon the goods being handed over to the carrier who shall be deemed to be PURCHASER'S agent. Signature of PURCHASER'S employee/agent on SELLER'S delivery note shall be conclusive proof of delivery.
- 2.4. Risk in the goods shall be deemed to pass to PURCHASER on delivery.
- 2.5. Any agreed delivery date shall be approximate. SELLER will incur no liability to PURCHASER arising from any delay, failure or error in delivery.
- 2.6. Where it has been agreed that the relevant goods sold shall be delivered in more than one consignment: each consignment will be deemed to be a separate sale; PURCHASER shall be liable to pay the price in respect of each consignment on due date; and the sale of any consignment shall not be affected if the sale of any other consignment falls through for any reason.
- 2.7. SELLER may withhold delivery and/or cancel any sale or unfulfilled order if at any time PURCHASER is in arrears with any obligation whatever the cause, including payment of any debt owing to SELLER.
- 2.8. If SELLER is prevented from delivering any goods at the time stipulated for delivery, as a result of the instructions or fault of PURCHASER or any cause beyond SELLER'S control, PURCHASER shall be liable for all expenses incurred by SELLER in consequence, including storage and handling.
- 2.9. No goods delivered to PURCHASER may be returned to SELLER for credit without the prior written consent of SELLER. In any event, PURCHASER shall pay costs of storing and returning any goods to SELLER and a handling charge of 15% of the price.

### OWNERSHIP AND CESSION AS SECURITY

1. Notwithstanding delivery or the granting of credit, SELLER will remain the owner of all goods sold until the price has been paid in full. If any dispute arises as to whether the goods sold to PURCHASER form part of the PURCHASER'S stock-in-trade,
2. PURCHASER shall bear the onus of proving that the goods claimed by SELLER are not SELLER'S goods.
3. Any debt that may become due to PURCHASER on resale of the goods by PURCHASER, or any reversionary right in such debt, is ceded to SELLER as security for any amount due to SELLER by PURCHASER.
4. Any debt due to PURCHASER by any company in the Kaymac Group may be set off against any amount due by SELLER to PURCHASER.

### EXCLUSIONS AND LIMITATIONS

1. No variation of any contracts, including these conditions, shall be of any force unless agreed in writing.

- 4.2. As the application, handling and conditions of use are critical and beyond our control, SELLER does not warrant or represent that the goods sold are fit for any purpose, whether or not SELLER is aware of the purpose to which PURCHASER will be putting the goods. PURCHASER is solely responsible to satisfy himself as to the fitness of the goods for the purpose intended.
- 4.3. Information given by SELLER in its documents or orally, or by any employee or agent and any advice, recommendation or assistance, is given in good faith but without creating any obligation or warranty.
- 4.4. PURCHASER shall have no claim against SELLER based on any alleged defect in the goods sold or the goods delivered not being in accordance with the contract, unless PURCHASER has given notice in writing of its complaint to SELLER within 14 days of delivery of the goods and SELLER has been permitted a reasonable opportunity to inspect the goods and rectify the defect.
- 4.5. SELLER shall not incur any liability to PURCHASER for any indirect or consequential damages howsoever arising, including from negligence of SELLER'S employees or agents. The limit of SELLER'S liability in any circumstances shall at SELLER'S option be replacement of, or refund of the price of, the defective portion of the goods sold by SELLER to PURCHASER. SELLER will not be liable for any costs of PURCHASER or a third party rectifying any defects.
- 4.6. SELLER shall not be liable for any delay in performing or failure to perform any of its obligations as a result of any circumstance beyond its control, including, but not limited to, any industrial action, labour unrest, act of war, civil disturbance, shortage or non-availability of raw materials, machinery breakdown, default or delay by any sub-contractor and governmental interference or any other reasonable cause.
- 4.7. SELLER'S failure to enforce any right shall not be a waiver of its rights.

### 5. JURISDICTION LAW AND COSTS

- 5.1. PURCHASER consents to the jurisdiction of the Magistrate's Court (notwithstanding that the value of the claim may otherwise be beyond the jurisdiction of that court) or at SELLER'S option, of the Supreme Court of South Africa (Durban and Coast Local Division) in respect of any matter or claim arising from the sale.
- 5.2. The law of SELLER'S domicile shall apply to the interpretation and enforcement of any contract and to any dispute between the parties.
- 5.3. PURCHASER shall refund to SELLER any commission or legal costs on the attorney and client scale incurred by SELLER against PURCHASER.
- 5.4. A certificate by a director of SELLER shall be prima facie proof of any fact stated in it for purpose of legal proceedings.
- 5.5. No debt due to SELLER shall prescribe within 6 years of the debt arising.
- 5.6. These standard conditions are in addition to SELLER'S common law rights.

### 6. MOULDS, TOOLS AND EQUIPMENT

- 6.1. SELLER possesses any moulds, tools or equipment of PURCHASER for use by SELLER in manufacturing goods sold to PURCHASER. SELLER may retain possession of them at the risk of PURCHASER who indemnifies SELLER against any loss or damage to them howsoever arising, including from negligence of SELLER'S servants. SELLER shall have a lien over all such moulds, tools and equipment for all unpaid debts from time to time owing by PURCHASER to SELLER. SELLER shall own any moulds or tools made by it for PURCHASER.

### 7. CONSENT

- 7.1. PURCHASER agrees that SELLER may:
  - 7.2. Do a credit search on PURCHASER with any Credit Bureau when assessing PURCHASER'S application for credit.
  - 7.3. Monitor PURCHASER'S payment behaviour by searching its record at any Credit Bureau.
  - 7.4. Use new information and data obtained from Credit Bureaux in respect of PURCHASER'S future credit applications.
  - 7.5. Record the existence of PURCHASER'S account with Credit Bureau.
  - 7.6. Record and transmit details of how the account is conducted by PURCHASER in meeting its obligations on the account.
  - 7.7. Use information obtained from any Credit Bureau to assess future credit applications by PURCHASER or its members or family.
  - 7.8. Disclose any information regarding its credit worthiness, defaults in payment to the Company and details of how its account with the Company is conducted to any other creditor of PURCHASER or to any Credit Bureau.