



**KLD CAPITAL HOLDINGS**  
Gets You Goin'

KLD CAPITAL HOLDINGS (PTY) LTD

REGISTRATION NUMBER 2020/510197/07

("The Company" or "KLD CAPITAL HOLDINGS")

# **TERMS AND CONDITIONS OF SALE AND SERVICE**

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## 1. INTERPRETATION

1.1 The terms and conditions refer to the goods as indicated on any official company forms, price lists, quotations, orders or invoices.

1.2 Customer shall mean the person whose name appears on the dealer application, or in any other circumstances, any person or persons at whose request or on whose behalf the supplier undertakes to supply any goods, do any business, or provide any advice or service

1.3 “signatory” shall mean the individual who signs this agreement and the annexed customer application on behalf of the customer

1.4 “supplier” shall mean KLD Capital Holdings.

## 2. QUOTED AND LISTED PRICES

2.1 The price of the goods sold or services rendered shall be the usual price as set out in the KLD Capital Holdings price list at the time of the sale of the goods.

2.2 KLD Capital Holdings has the right to change the prices of the goods from time to time without prior notice to the Customer due to R/\$ fluctuations

2.3 All quotes remain valid for 7 (seven) days from the date of the quote, or until the date of issue of a new price, whichever occurs first. The validity of any price quoted is subject to availability.

2.4 Any quote may be changed at any time in the event of any increase in the cost price of the goods, including currency fluctuations. Price increases will only be effected if the goods have not yet been dispatched to the customer.

2.5 Unless otherwise expressly stated, prices are inclusive of value added tax, which shall be for the account of the customer. The customer shall pay or reimburse to the supplier the amount of any value added tax simultaneously with the purchase price.

## 3. PAYMENT TERMS

3.1 The customer shall pay the amount on the tax invoice. Payment is due immediately save for credit-approved customers, in which event payment is due within the terms as specified in the client’s credit agreement.

3.2 Where the customer uses a postal service or courier service to effect payment or to deliver or return goods such services shall be deemed to be the agent of the customer. Likewise, where the customer uses Internet banking, the bank shall be deemed to be the agent of the customer.

3.3 The customer has no right to 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 authorized representative of KLD Capital Holdings.

3.4 KLD Capital Holdings shall have the right to suspend deliveries and to exercise its rights in terms of clause 4 if any amount due by the customer is unpaid.

3.5 If any amount owed is not settled in full (a) on due date (b) on demand. KLD Capital Holdings is entitled to, without prejudice to any of its rights;

3.5.1 immediately institute action against the customer and/or

3.5.2 cancel the sale and take possession of any goods delivered to the customer, including goods sold or disposed of by the customer which have not been paid for in full, and claim damages.

3.6 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 compound rate of a 3% (three per cent) above the prime overdraft rate of First National Bank on all overdue amounts from due date until date of payment, calculated and payable monthly in advance.

3.7 The Customer is responsible for any bank charges incurred by KLD Capital Holdings when cash payments,

forex payments, cheque or bounced cheque payments are paid into the KLD Capital Holdings bank account.

3.8 Cash Payments and will be subject to a 1.5% additional charge on the value of the order (exclusive of VAT) covered by the customer for any deposits at the bank to cover bank charges.

3.9 KLD Capital Holdings will accept cash payments up to the value of R1000 at either of the KLD Capital Holdings offices.

3.10 Payment strictly to reflect in the KLD Capital Holdings bank account before any stock will be released

3.11 Proof of payment submitted via sms/text message, copied into emails, screenshots or sent as an attachment will not be accepted as valid forms of payment.

3.12 Strictly no refunds will be possible for any returned stock. Credit will remain on the customers account for a period of 12 months (365 days) from date of refund

3.13 In the event the customer performs an honest duplicate payment, KLD Capital Holdings will perform the refund into the customer's bank account (with bank details provided on a company letterhead) and will be subject to a 10% admin fee

#### **4. CREDIT FACILITIES**

4.1 KLD Capital Holdings' decision to grant credit facilities to the customer and the nature and extent thereof is at the sole discretion of KLD Capital Holdings.

4.2 KLD Capital Holdings reserves the right to withdraw, increase or decrease any credit facilities at any time without prior notice.

4.3 Clients with 30 day accounts need to ensure payment is received in the KLD Capital Holdings Bank Account on or before the last day of the due month.

4.4 Clients with 7 day accounts need to ensure payment is received in the KLD Capital Holdings bank account on or before the 7th day of the following month.

4.5 Interest will be charged on overdue accounts as stated in clause 3.6

#### **5. PLACING ORDERS**

5.1 The customer hereby confirms that the goods and services on the tax invoice issued duly represent the goods and services ordered by the customer at the prices agreed to by the customer and where performance/delivery has already taken place that the services and goods were inspected and that the customer is satisfied that these conform in all respects to the quality and quantity ordered and are free from any defects.

5.2 KLD Capital Holdings will accept all written and verbal orders. All such orders and any variations to orders will be binding, subject to these standard terms and conditions and may not be varied or cancelled without prior written consent from KLD Capital Holdings. KLD Capital Holdings will not be responsible for any errors or misunderstandings occasioned by the customer's failure to make the order in writing. KLD Capital Holdings may require the customer to confirm verbal orders in writing before acceptance of such orders by KLD Capital Holdings.

5.3 Orders shall constitute irrevocable offers to purchase the goods in question at the usual prices of KLD Capital Holdings as at the date when the customer places the order of the goods, subject to clause 2.4 above, and shall be capable of acceptance by KLD Capital Holdings by the delivery of the goods, written acceptance or confirmation of the order.

#### **6. DELIVERY**

6.1 Unless otherwise agreed, goods shall be delivered to the customer, at the supplier's premises.

6.2 Any delivery note (copy or original) or waybill signed by the customer and/or its authorised representative and/or its nominated agent and held by KLD Capital Holdings, shall be prima facie proof that delivery was made to the customer.

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6.3 KLD Capital Holdings 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.

6.4 In the event of the customer choosing to engage its own third party to transport the goods, the customer indemnifies KLD Capital Holdings against any claims of any nature whatsoever that may arise from such an agreement.

6.5 KLD Capital Holdings is entitled to engage a third party on its behalf to transport all goods purchased by the customer to the delivery address stipulated by the customer and the associated charge will be reflected on the customer invoice.

6.6 Should the customer wish to receive delivery of the goods by a more expensive method of transportation than that normally used by KLD Capital Holdings, the customer shall make such request in writing and, in the event that KLD Capital Holdings agrees to arrange such special delivery the additional charges shall be debited to the customer's account and shall be payable by the customer.

6.7 KLD Capital Holdings 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 KLD Capital Holdings in respect of any loss occasioned by any reasonable delay in dispatch or delivery of any goods ordered and/or services rendered, nor may the customer cancel any order by reason of such reasonable delay.

6.8 Short deliveries or goods damaged in transport must be reported to KLD Capital Holdings head office within 24 (twenty four) hours of receipt.

6.9 All goods taken on an evaluation, approval or demonstration basis or all goods taken on consignment by the customer are deemed sold to the customer within 5 (five) working days of issue if not returned to KLD Capital Holdings in a perfect condition in the original packaging and with all accessories and manuals intact.

6.10 KLD Capital Holdings reserves the right to charge delivery charges, as and when necessary.

## **7. OWNERSHIP AND RISK**

7.1 All risk in and to all goods sold by KLD Capital Holdings to the customer shall pass to the customer on delivery thereof. Ownership in all goods sold and delivered shall remain vested in KLD Capital Holdings until the full purchase price has been paid, and in the event of a breach of these terms and conditions by the customer, or if the customer is sequestrated or placed under liquidation or judicial management or commits any act of insolvency or enters into any compromise with its creditors or fails to satisfy a judgement granted against it within 7 (seven) days of the date of judgement or changes the structure of its ownership, KLD Capital Holdings shall be entitled to take possession of the goods without prejudice to any further rights vested in KLD Capital Holdings, and is hereby irrevocably authorised to enter upon the customer's premises to take possession of such goods without a Court order.

7.2 Goods in the possession of the customer bearing KLD Capital Holdings' name, trademark, labels and/or serial numbers are deemed to be those for which payment has not yet been made, and should any breach of these terms occur, may be repossessed by KLD Capital Holdings in terms of paragraph 7.1 above. The customer shall fully insure the goods purchased from KLD Capital Holdings against loss or damage until the customer has paid the full purchase price for such goods. Pending payment to KLD Capital Holdings for goods purchased, all benefits in terms of the insurance policy relating to the insurance of such goods, shall be ceded to KLD Capital Holdings.

7.3 The customer shall inform the landlord of the premises at which the goods are kept that such goods are the sole and absolute property of KLD Capital Holdings until such time as the customer has paid the full purchase price to KLD Capital Holdings.

## 8. BREACH

8.1 In the event of a breach by the customer, should the customer fail to remedy such breach within 48 (forty eight) hours after receipt of notice to that effect from KLD Capital Holdings, or should the customer repeatedly breach this agreement in such manner that the customer's conduct is inconsistent with the intention or ability of the customer to carry out the terms of the agreement, or if the customer is sequestered or placed under liquidation or enters into judicial management or any act of insolvency or enters into a compromise with its creditors or fails to satisfy a judgement granted against it within 7 (seven) days of the date of judgement or changes the structure of its ownership, KLD Capital Holdings shall be entitled without prejudice to its rights in law or in terms of this agreement to take possession of the goods and is hereby irrevocably authorised to enter upon the customer's premises to take delivery of such goods without Court order.

## 9. LAW AND JURISDICTION

9.1 These terms and conditions shall be governed and construed under and in accordance with the laws of the Republic of South Africa

9.2 KLD Capital Holdings 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.

9.3 A certificate issued and signed by any director, member or manager of KLD Capital Holdings, whose authority need not be proved, in respect of any indebtedness of the customer to KLD Capital Holdings or in respect of any other fact, including but without limiting the generality of the foregoing, the fact that such goods were sold and delivered, shall be prima facie proof of the customer's indebtedness to KLD Capital Holdings and prima facie proof of delivery of the goods in terms of this contract.

9.4 Any print out of computer evidence tendered by KLD Capital Holdings shall be admissible evidence and the customer shall not be entitled to object to the admissibility of such evidence purely on the grounds that such evidence is computer evidence.

9.5 The customer's address in the application form shall be recognised as the customer's domicile for all purposes in terms of this contract whether in respect of the serving of any court process, notices that payment of any amount or communications of whatever nature.

9.6 In the event of the customer breaching any of its obligations and/or failing to timeously make payment of any amount to KLD Capital Holdings, the customer agrees to pay, and shall be liable to pay, all legal costs incurred by KLD Capital Holdings in enforcing its rights in terms of these terms and conditions on the attorney/own client scale including collection charges, tracing agent's fees and airfares.

9.7 Any document will be deemed duly received by the customer within:

9.7.1 3 (three) working days of pre-paid registered mail to any of the customer's business or postal addresses or the domicile address of the customer, or to the personal address of any director, member or owner of the customer; or;

9.7.2 24 (twenty-four) hours of being faxed to any of the customer's fax number's or any director, member of owner's fax number's; or

9.7.3 on being delivered by hand to the customer or any director, member of the customer; or

9.7.4 48 (forty-eight) hours if sent by overnight courier.

9.8 The customer agrees that neither KLD Capital Holdings nor any of its employees will be liable for any negligent or innocent misrepresentations made to the customer, nor shall the customer be entitled to resile from these terms and conditions on those grounds.

## 10. ARBITRATION

10.1 KLD Capital Holdings may refer any dispute arising from or in connection with this contract to arbitration which arbitration award shall be final and binding on the customer and KLD Capital Holdings.

10.2 The arbitrator will be a person agreed upon by the parties or failing agreement, appointed by the Arbitration Foundation of Southern Africa, who shall then finally resolve the dispute or issue in accordance with the Rules of the Arbitration Foundation of SA.

10.3 The arbitration must be held at the place and in accordance with whatever procedures, the arbitrator considers appropriate.

## 11. NEGOTIABLE INSTRUMENTS

11.1 Acceptance of a negotiable instrument from the customer shall not be deemed to be a waiver of KLD Capital Holdings's rights under this contract. In relation to cheques furnished by the customer to KLD Capital Holdings, the customer waives its right to insist on notice of dishonour or protest being given to it on the event that the cheque is dishonoured.

## 12. RETURNED GOODS

12.1 Whilst KLD Capital Holdings is under no obligation to accept the return of goods, the customer may apply to KLD Capital Holdings for permission to return goods within 7 working days from purchase - such goods must be returned to the offices of KLD Capital Holdings at the Customer's own cost. Strictly no cash refunds are possible.

12.2 The customer may return any defective goods to the premises of KLD Capital Holdings or its nominee at the customer's own cost. KLD Capital Holdings undertakes to replace such goods with items of the same or similar specification, or repair to working order. No refunds will be considered in respect of the return of defective goods.

12.3 KLD Capital Holdings reserves the right to offset the value of any goods accepted for the return against any amounts due by the customer. The customer has 30 (thirty) days in which to collect their returned/repaired goods.

12.4 In the event of a cancellation of an order by the customer or goods accepted for return by KLD Capital Holdings, KLD Capital Holdings reserves the right to charge a handling fee of up to 50% (fifty per cent) on the value of the order cancelled or goods returned. Strictly no cash or electronic transfer refunds.

## 13. WARRANTIES AND INDEMNITY

13.1 Goods may be guaranteed under the manufacturer's product specific warranties only, and all other guarantees and warranties including common law guarantees and warranties in relation to goods and services are hereby specifically excluded by KLD Capital Holdings.

13.2 All guarantees are immediately null and void should any equipment be tampered with or should the "seals" on the equipment be broken by anyone other than KLD Capital Holdings or its appointed nominee, or should the goods be operated outside the manufacturer's specifications.

13.3 To be valid, guarantee claims must be supported by the original tax invoice and the goods must be in their original packaging and must be accompanied by all accessories and manuals must be intact. All items must be returned in "as new" condition.

13.4 No warranties whether express or implied shall apply, other than those provided in this contract. KLD Capital Holdings specifically disclaims the implied warranty of merchantability and fitness for a particular purpose. No representation or warranty, including but not limited to statements of capacity, suitability for use or performance made by employees of KLD Capital Holdings shall be considered to be a warranty by KLD Capital Holdings. Any such statements made shall not give rise to any liability or whatsoever nature on the part of KLD Capital Holdings, its employees, subcontractors or subsidiaries. KLD Capital Holdings will not be

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liable to the customer for any loss, damage or expense of any nature, whether direct, special, indirect or consequential, including but not limited to loss or profits arising out of KLD Capital Holdings' performance or customers' use of the goods or services rendered.

13.5 The customer indemnifies and holds KLD Capital Holdings (including its employees, subcontractors or subsidiaries) harmless against all claims of whatsoever nature that may be brought or threatened against KLD Capital Holdings by any third party arising from or in connection with any defect, latent or otherwise in any goods supplied and/or services rendered by KLD Capital Holdings.

13.6 The onus remains on the client to return goods under /out of warranty to KLD Capital Holdings for inspection/repair/replacement. Upon notification of the inspection/repair/replacement of the unit by KLD Capital Holdings the client is required to collect the unit from KLD Capital Holdings at their own cost

## 14. REPAIRS

14.1 KLD Capital Holdings' liability in terms of a manufacturer's warranty is restricted to, in KLD Capital Holdings or the manufacturer's discretion, the cost of repair or replacement of faulty goods or services or the granting of credit.

14.2 In the case of repairs undertaken by KLD Capital Holdings repair quotes given are merely estimates and are not binding on KLD Capital Holdings.

14.3 The customer hereby agrees that any item returned for a repair may be sold by KLD Capital Holdings to defray the cost of such repair if the item remains uncollected for a period of 30 (thirty) days after the customer has been informed that such repairs have been completed.

14.4 The onus falls on the client to return any faulty or warranty items and to collect the repaired/replaced units at their own cost

## 15. GENERAL

15.1 KLD Capital Holdings reserves the right in its sole discretion to vary or amend these terms and conditions from time to time and any such amended or varied terms and conditions shall be binding on the customer from the time that the amended or varied terms are published by KLD Capital Holdings.

15.2 This contract represents the entire agreement between KLD Capital Holdings and the customer and shall govern all future contractual relationships between KLD Capital Holdings and the customer.

15.3 No amendment and/or alteration and/or variation and/or deletion and/or addition and/or cancellation of these terms and conditions, whether consensual or unilateral or bilateral shall be of any force and effect unless reduced to writing and signed by a director of KLD Capital Holdings. No agreement, whether consensual or unilateral or bilateral, purporting or obligate KLD Capital Holdings to sign a written agreement to amend, alter, vary, delete, add or cancel these terms and conditions shall be of any force and effect unless reduced to writing and signed by a director of KLD Capital Holdings.

15.4 No relaxation or indulgence with KLD Capital Holdings may grant the customer shall prejudice or be deemed to be a waiver of any KLD Capital Holdings' rights in terms of these terms and conditions.

15.5 The customer shall not cede its rights nor assign its obligations under these terms and conditions.

15.6 KLD Capital Holdings shall at any time in its sole discretion be entitled to cede all or any of its rights in terms of this terms and conditions to any third party without prior notice to the customer.

15.7 The customer undertakes to notify KLD Capital Holdings within 7 (seven) days of any change of address or change in member, director, shareholder, address or the information as set out in the Dealer Agreement.

15.8 The headings in this document are included for convenience and are not to be taken into account for the purpose of interpreting this contract.

15.9 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.

15.10 The customer undertakes to inform KLD Capital Holdings 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 KLD Capital Holdings to cancel the contract without further notice to the customer.

15.11 In the event where the client overpays on an invoice, the amount will remain as credit on the clients account for future purposes. Strictly no cash refunds are possible.

**16. DISCLOSURE OF PERSONAL INFORMATION**

16.1 The customer understands that the personal information given in the Dealer Application form may be used by KLD Capital Holdings for the purposes of assessing creditworthiness.

16.2 KLD Capital Holdings has the customer’s consent at all times to contact and request information from any persons, credit bureau or businesses including those mentioned in the sales agreement and 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.

16.3 The customer agrees and understands that information given in confidence to KLD Capital Holdings by a third party on the customer will not be disclosed to the customer.

16.4 The customer hereby consents to and authorises KLD Capital Holdings at all times to furnish credit information concerning the customer’s dealing with KLD Capital Holdings to a credit bureau and to any third party seeking a trade reference regarding the customer in his dealings with KLD Capital Holdings.

**17. EMPLOYEE SOLICITATION/HIRING**

17.1 During the period of this Agreement and for twelve (12) months thereafter, neither Party shall directly or indirectly solicit or offer employment to or hire any employee, former employee, subcontractor or former subcontractor of the other party. The terms “former employee” and “former subcontractor” will include only those employees or subcontractor of the relevant Party who were employed or utilized by that party within six (6) months immediately prior to the alleged violation.

Date	Version	Amendments	Approval
12 December 2021	First Edition		Kevin Dawson