

Clause 1: Scope

1. These general terms and conditions apply to all offers, contracts, and deliveries from and with Vesper Africa, a private limited liability company incorporated under South African law (hereinafter referred to as "Vesper"), and any other party unless explicitly agreed upon otherwise in writing.
2. "The customer" is a natural or legal person who is a customer of Vesper.
3. "Products" or "Goods" are all tangible goods, products, and services supplied by Vesper to the customer.
4. The terms and conditions of any purchase order or other document containing the customer's terms and conditions shall not be applicable unless explicitly accepted in writing by Vesper.
5. Vesper has the right to transfer any rights derived from an agreement with the customer to any of its subsidiaries. These general terms and conditions will then also apply.

Clause 2: Offers and acceptance

1. All offers made by Vesper are non-binding and may be revoked at any time. Any amendments made by Vesper in writing shall entail a new offer, automatically revoking the previous offer. Any amendments by customer of a Vesper offer will be deemed a new offer by customer, which Vesper may accept or reject in its sole discretion. Offers will only be deemed accepted by Vesper if it does so in writing.
2. All offers made by Vesper are non-binding and based upon the market prices and conditions at that particular moment.
3. A sales agreement comes into existence when both parties agree upon the price and other terms and conditions of the sale, and these conditions are confirmed in a written confirmation notice by Vesper.
4. If no objections are made within 24 (twenty-four) working hours after the confirmation notice is sent to the customer, the sales contract is irrevocable.
5. No sales agreement will come into existence if Vesper requests payment security unless and until the customer provides the requested security.

Clause 3: Quantity and weight of the products

1. Vesper is obligated to make a best effort to deliver the agreed quantities.
2. If the supplied quantity does not diverge more than 20% from the ordered quantity, Vesper is considered to have fulfilled its obligation. Scale weight differences of up to 5% are within accepted tolerance.

Article 4 Packaging, transportation and delivery

1. Conditions for delivery are stated in the confirmation notice. INCOTERMS 2020 apply to all deliveries.
2. If a delivery is made in parts, each part is considered a separate transaction with independent legal consequences.
3. The delivery period begins when the agreement is confirmed, and the customer provides the necessary delivery data. If the customer fails to provide the data, the delivery period does not commence, and the customer is liable for any resulting costs.

Clause 5: Quality of the products

1. Vesper is obligated to use its best efforts to supply products that meet the specifications in the confirmation notice.
2. Due to the nature of the products sold, divergences in colour, composition, and other properties may occur. The customer accepts such divergences and cannot derive any rights or price reductions from such divergences.
3. The customer must examine the products immediately upon receipt and notify Vesper of any non-conformity within 2 (two) working days. If the customer fails to notify Vesper within 7 (seven) days of delivery, they lose the right to rely on non-conformity.

Clause 6: Payment Conditions

1. The customer must pay Vesper the agreed price, as specified in the confirmation notice, without set-off or any deductions whatsoever unless otherwise agreed in writing.
2. All payments must be made in accordance with the agreed manner and periods. If no period is agreed, payment must be made within 30 (thirty) days from the invoice date.
3. If the customer disputes an invoice, they must notify Vesper in writing within 5 (five) days of the invoice date, stating their reasons. The customer's right to dispute automatically lapses after this period.

Clause 7: Retention of Ownership

1. Vesper retains ownership of all Products supplied until full payment is received. The customer must store the Goods so that they are identifiable as Vesper's goods.
2. If the Goods are resold by the customer, Vesper's entitlement and right(s) attaches to the proceeds of the resale, without prejudicing or limiting its right of ownership in the Products themselves.
3. Vesper has the right to repossess the Goods wherever they may be found if payment is not received timeously, the customer is placed in business rescue or liquidated or sequestered (as the case may be), commits an act of insolvency, or is granted a moratorium on payments.
4. The customer must ensure the Goods are fully insured against risks such as fire, theft, or flooding until ownership transfers to them.

Clause 8: Passing of Risk

1. All risk of loss and deterioration of the Product shall pass to the customer on delivery thereof. Collection by the customer or its delivery agent or carrier shall be akin to delivery for the purpose of the passing of risk.

Clause 9: Non-Performance by the Customer, Interest and Acceleration

1. If the customer fails to pay on time, Vesper shall give the customer an additional period of 3 (three) days to make payment.
2. If the customer remains in default, interest at the rate of 12% p.a., calculated daily and compounded monthly, is payable on the outstanding amount from the date of breach until the date of payment in full.

3. All amounts owing in respect of other invoices issued by Vesper to the customer become immediately due and payable if the customer remains in default, notwithstanding the fact that such amounts were not yet due and payable. This clause will constitute an acceleration clause.

Clause 10: Liability

1. Vesper's liability for any defects in the supplied Goods, whether latent or patent, is limited to the net invoice value of the Goods in question, except in the event of gross negligence or wilful intent by Vesper.
2. Vesper is not liable for indirect, special or consequential losses or damages suffered by the customer, irrespective of how such losses or damages arose, including, but not limited to, damages arising from a delay or inability to replace Goods.

Clause 11: Confidentiality, Publicity

1. Both Vesper and the customer must keep all disclosed commercial and technical information confidential.
2. Neither party may disclose information publicly without the other party's written consent.
3. The customer is prohibited from engaging directly or indirectly with Vesper's suppliers for a period of 2 (two) years after receiving the last delivery from Vesper.

Clause 12: Force Majeure

1. A party is not liable for non-fulfilment of any of its obligations to the other Party cause by an Act of God, disease, strikes, lock-outs, fire, or any incident beyond its control.

Clause 13: Governing Law and Arbitration

1. These terms and the obligations arising from them are exclusively governed by the laws of the Republic of South Africa.
2. All disputes arising from or in relation to these terms and conditions shall be settled exclusively by the competent courts in South Africa.
3. The customer consents to the jurisdiction of the Magistrates Court in terms of Section 45 of the Magistrates Court Act 32 of 1944, as amended, in respect of any claims arising out of the agreement, despite the fact that the amount claimed may exceed such court's monetary jurisdiction. Vesper reserves its right to institute action out of the High Court if it so chooses.

Clause 14: Legal Fees and Allocation of Payments

1. In the event of Vesper instituting any legal proceedings by way of action or application to collect overdue amounts or taking any other legal steps against the customer as a result of a breach by the customer, the customer will be obliged to make payment of all legal fees on the scale as between attorney and own client, including, but not limited to, collection commission and tracing agent's fees.
2. The customer agrees that any payments made to Vesper shall firstly be applied towards settlement of attorney and own client costs, then to interest and lastly to capital.

Clause 15: Certificate of Balance

1. A certificate signed by any director, credit manager or finance manager of Vesper (whose appointment and authority shall not be required to be proven), shall constitute prima facie proof of the capital amount, interest and legal fees due by the customer to Vesper.

Clause 16: Address for Service of Notices and Legal Process (Domicilium)

1. The customer hereby chooses domicilium citandi et executandi (i.e. the address for the service of all notices, court process and documentation) at the physical and email addresses stated in the offer made by Vesper and/or the written confirmation notice. Vesper chooses domicilium at its offices situated at The Vineyards Office Estate, 99 Jip de Jager Drive, Bellville, Capetown 7530, South Africa.

Clause 17: General Provisions

1. No alteration, cancellation, variation or addition hereto shall be of any force or effect unless reduced to writing and signed by a duly authorised manager or director of Vesper and the customer.
2. If any provisions of these terms are declared invalid or unenforceable, the remaining provisions remain in effect. The invalid provision will be replaced by one that approximates its purpose as closely as possible and if such replacement is not possible it shall be severed from these terms and conditions.
3. No indulgence or leniency granted by Vesper to the customer shall in any way prejudice its rights or preclude it from exercising its rights hereunder in the future.
4. No concession, latitude or indulgence allowed by Vesper to the customer shall be construed as a waiver or abandonment of any of its rights hereunder or act as an estoppel against Vesper.