

STANDARD TERMS AND CONDITIONS FOR THE SALE OF SECONDHAND GOODS

1 DEFINITIONS AND INTERPRETATION

- 1.1. The clause headings in these Terms and Conditions are for reference purposes only and shall not be used in the interpretation thereof.
- 1.2. Unless the context clearly indicates a contrary intention, a word
- 1.3. The following words and expressions shall bear the meanings assigned to them below and cognate words and expressions bear corresponding meaning:
 - 1.3.1. **"Agreement"** means the agreement between the Seller and the Purchaser for the sale and purchase of the goods as set out in these Terms and Conditions and the Invoice;
 - 1.3.2. **"Business day"** or **"day"** means any calendar day other than a Saturday, Sunday or public holiday as gazetted by the government of the Republic of South Africa;
 - 1.3.3. **"Goods"** means the secondhand goods described in the Invoice;
 - 1.3.4. **"Invoice"** means the invoice for the sale of the Goods which incorporates these Terms and Conditions by reference;
 - 1.3.5. **"Parties"** means the Purchaser and the Seller and **"Party"** shall be a reference to any one of them as the context may require;
 - 1.3.6. **"Purchaser"** means the person identified as such in the Invoice;
 - 1.3.7. **"Purchase Price"** means the purchase price payable by the Purchaser to the Seller for the Goods as indicated on the Invoice as "Total Due";
 - 1.3.8. **"Republic"** means the Republic of South Africa;
 - 1.3.9. **"Seller"** means Clover S.A. Proprietary Limited, Registration Number 1994/001064/07;
 - 1.3.10. **"Terms and Conditions"** means the terms and conditions as set out in this Agreement and the Invoice; and
 - 1.3.11. **"VAT"** means value-added tax as defined in the Value-Added Tax Act, 89 of 1991 or any succeeding legislation.

2 SALE AND PURCHASE

The Seller hereby sells to the Purchaser, who purchases, the Goods on these Terms and Conditions.

3 CONDITIONS PRECEDENT

- 3.1. This Agreement is subject, in its entirety, to the Purchaser effecting payment in full of the Purchase Price to Clover's nominated bank details within 7 (seven) days from the date of receipt of the Invoice.
- 3.2. In the event that the condition precedent referred to in clause 3.1. is not fulfilled, this Agreement will lapse and the Parties shall be restored to as close to the position they would have been in had the Agreement not been entered into.
- 3.3. The condition precedent contained in clause 3.1 is for the benefit of the Seller and the Seller may, at the Seller's sole discretion, extend the period for compliance or waive the condition in its entirety.

4 RISK AND OWNERSHIP

Ownership of, and the risk of loss and profit in, the Goods shall pass to the Purchaser upon payment by the Purchaser of the Purchase Price.

5 POSSESSION

- 5.1. Clover shall, once payment of the Purchase Price has been effected in accordance with the provisions of these Terms and Conditions, issue the Purchaser with a release confirmation.
- 5.2. The Goods shall thereafter be made available for collection by the Purchaser, or its nominated agent.
- 5.3. In the event that the Purchaser fails to collect the Goods within 60 (sixty) days of the issue of the release confirmation or as otherwise agreed in writing by the Parties, the Purchaser shall be liable for storage costs in respect of the Goods, which the Purchaser shall pay directly to the storage depot prior to collection of the Goods.

6 CONDITION OF THE GOODS

- 6.1. **The Goods are used and are, or may be, defective.**
- 6.2. **The Seller neither warrants that the Goods are fit for the**

Purchaser's purpose.

- 6.3. **The Goods are sold on an "as is where is" basis and the Purchaser shall solely be responsible for procuring the collection of the Goods and any and all costs involved in the removal of the Goods from the Seller's premises.**
- 6.4. **The Purchaser shall be liable for any duties that may be payable in respect of the Goods.**

7 PAYMENT

- 7.1. All payments due by the Purchaser to the Seller in terms of this Agreement shall be paid:
 - 7.1.1. On due date, without demand, and free of any set-off or exchange and without any deduction whatsoever;
 - 7.1.2. By way of an electronic transfer of cleared funds to the Seller's nominated account as indicated on the Invoice provided to the Purchaser.

8 ADDRESSES

- 8.1. The Parties select as their domicilia citandi et executandi for all purposes in connection with this Agreement, the following addresses:
 - 8.2. The Purchaser: The physical and email addresses stated on the Invoice;
 - 8.3. The Seller: Clover Park, 200 Constantia Drive, Constantia Kloof, Roodepoort, Gauteng, South Africa, 1719
 - 8.4. Either Party shall be entitled to change its domicilium on 5 (five) days' prior written notice by either Party to the other.
 - 8.5. Any communication dispatched by either Party to the other shall, if sent by e-mail, be deemed to be received on the date dispatched and, if dispatched by prepaid registered mail, be deemed to be received on the fifth day following posting.

9 LIMITATION OF LIABILITY

- 9.1. **The Seller, shall not be liable for any loss or damage suffered by the Purchaser or any third party as a result of any cause whatsoever, including, without limitation, as a result of the Goods not being suitable for the Purchaser's purpose.**
- 9.2. **Notwithstanding anything to the contrary in this Agreement, the Seller shall be liable for any claims, losses, damages, liabilities, expenses or costs suffered or incurred by the Purchaser to the extent that same constitute any indirect, consequential or punitive damages or losses or loss of income or profits (whether arising in contract, delict or without limitation eiusdem generis, otherwise howsoever).**

10 GENERAL

- 10.1. The Parties hereby consent to the non-exclusive jurisdiction of the Gauteng High Court, Johannesburg in respect of all disputes, matters and causes arising in any manner whatsoever out of or in connection with these Terms and Conditions.
- 10.2. This Agreement shall be governed by South African Law.
- 10.3. Any latitude, extension of time, or other indulgence which may be given or allowed by a Party to another Party in respect of the performance of any obligation hereunder, and any delay or forbearance in the enforcement by a Party of any right hereunder, shall not in any circumstance be construed to be an implied consent or election by such Party, and shall not operate as a waiver or a novation of or otherwise adversely affect any of such Party's rights under this Agreement, or estop or preclude any such Party from enforcing at any time and without notice, strict and punctual compliance with each and every provision hereof.
- 10.4. Any addition to or variation, consensual cancellation, or novation of this Agreement shall only be valid, binding, and of any force or effect if reduced to writing and duly signed by the Parties.
- 10.5. A waiver of any right arising from this Agreement, or its breach or termination shall only be valid, binding, and of any force or effect if reduced to writing and duly signed by the Party making the waiver.
- 10.6. These Terms and Conditions, read with the Invoice, constitutes the whole agreement between the Parties as to the subject matter hereof, and no agreement, representation, or warranty between the Parties regarding the subject matter hereof other than those set out herein are binding on the Parties.