

Innovate Group (S.A) Terms and Conditions

1. Recordal:

1.1 The terms and conditions contained herein shall apply to all contracts, agreements, orders, requests and instructions for the sale, supply or service of all goods, equipment or products, for the provision of services by Innovate Group (S.A), regardless of whether such contracts, agreements, orders, requests and instructions result by telephone, fax, email, in writing or oral.

2. Interpretation & Definitions:

2.1 The following terms shall be ascribed the meanings as contained herein below and shall apply to these terms and conditions:

2.1.1 "Supplier" shall refer to Innovate Group (S.A)

2.1.2 "Customer" means the person, either natural or legal, which purchases product(s), is granted a licence to use product(s), and/or receives services from Innovate Group;

2.1.3 "products" means goods, hardware, software or intellectual property;

2.1.4 "Services" means any services or activities provided to the Customer by Innovate Group.

2.2 In this Agreement, unless inconsistent with the context, words referring to:

2.2.1 one gender include a reference to the other genders;

2.2.2 the singular includes the plural and vice versa;

2.2.3 natural persons include artificial persons and vice versa; and

2.2.4 "a subsidiary" or "holding company" shall be construed in accordance with section 1 of the Companies Act.

2.3 When a number of days is prescribed in this Agreement, those days shall be reckoned exclusively of the first and inclusively of the last day, unless the last day falls on a Saturday, Sunday or official public holiday in the Republic of South Africa, in which case the last day shall be the next day which is not a Saturday, Sunday or such public holiday.

2.4 Expressions used in the Schedules to this Agreement which are not defined therein, shall bear the same meanings as in this Agreement.

2.5 Any reference to legislation or a statute in this Agreement shall be a reference to such legislation or statute as amended, varied or re-enacted from time to time.

2.6 Any reference in this Agreement to another agreement shall be to such agreement as amended, supplemented, varied, novated or replaced from time to time in accordance with its terms.

2.7 Titles of clauses and schedules of and to this Agreement are inserted for the sake of convenience only and shall not be used in respect of or in any way affect the interpretation of any provision of this Agreement.

2.8 A reference in this Agreement to any person shall be a reference to such person's permitted successor, transferee, cessionary and/or delegatee.

3. Pricing:

3.1 Prices are subject to change and correction without further notice at the sole discretion of Innovate Group.

3.2 Where exchange-rate based prices apply, the rate of exchange applicable will be the exchange rate prevailing at the time of invoicing - the fixed one-month forward cover exchange rate quoted by F.N.B at the close of business on the date immediately prior to the date of invoicing.

3.4 All out-of-pocket expenses and disbursements, such as travel and accommodation, are for the Customer's account unless otherwise arranged.

3.5 All quotations are valid for a period of 14 (Fourteen) calendar days from date of receipt of the quotation taking into account the LIFO principle, unless otherwise provided and reduced in writing.

4. Payment:

4.1 The Customer shall effect payment of invoices in full to Innovate Group within 14 (fourteen) calendar days of the date of invoice by means of Electronic Funds Transfer, Cash or Cheque.

4.2 In the event that payment is not received in terms of clause 4.21 hereof by the Customer, any discounts provided shall be forfeited.

4.3 Interest on any overdue amounts shall be levied at the rate of 2% (two percent) above the publicly quoted prime overdraft rate charged by F.N.B from time to time calculated from the date of invoice to date of payment in full.

4.4 In the event of the Customer failing to effect payment of the invoiced amount 7 (seven) calendar days from date of demand for such payment, Innovate Group(S.A) shall be entitled at its option, and notwithstanding any indulgence or relaxation granted to the Customer, to cancel the agreement of sale or licence or services. Innovate Group (S.A) shall take ownership of the products, and may be entitled to resell such products. The Customer shall be liable for any shortfall, including recovery and resale expenses. The exercise of Innovate Group(S.A)'s rights under this provision shall be without prejudice to any of its rights and remedies at law.

4.5 Innovate Group (S.A) shall not be required to deliver any products or render any services to the Customer for so long as the Customer is in arrears with any payment owing to Innovate Group (S.A) from any cause.

4.6 Payment may not be withheld pending the settlement of any claims or disputes. In the event of any amount due to Innovate Group (S.A) being handed to a legal office for collection, the Customer shall be liable for all fees including collection fees, tracing fees and all other legal charges thereby incurred by Innovate Group (S.A) upon the scale as between attorney and own client.

4.7 Should the client decide to cancel any rental agreements they may have in place with Innovate Group (S.A) for any reasons other than that of bad service that may have been rendered by Innovate Group (S.A), the supplier, herein referred to as Innovate Group (S.A) shall recoup ownership of the equipment and charge the client for usage of the machine. In cases where a deposit has been paid on an inhouse rental agreement the client may forfeit their deposit.

5. Assignment:

5.1 Innovate Group (S.A) shall be entitled at its sole discretion to employ agents or subcontractors to provide all products and/or services, or parts thereof.

6. Services:

6.1 Where services are to be provided, and/or products are to be installed at the Customer's location, the following shall apply:

6.1.1 The Customer must at their own expense ensure that the premises are suitably equipped and comply with all relevant specifications and requirements, including the acquisition of any necessary consents or licences from owners or competent authorities (governmental, municipal or other). Innovate Group does not warrant or represent that any such consent or license will be granted, and such failure shall not invalidate any order accepted by Innovate Group;

6.1.2 Innovate Group (S.A) requires from the Customer unrestricted access to the premises, during reasonable hours in order to perform its functions;

6.1.3 Innovate Group (S.A) cannot accept any responsibility or liability for damage loss or theft which may occur at the Customer's premises whatsoever arising;

6.1.4 Innovate Group (S.A) will endeavour to complete all services by the quoted dates. Any such dates are estimates only, and are not binding. Time is not of the essence for the provision or completion of services.

7. Product:

7.1 Ownership in and to the products sold shall only pass to the Customer upon payment of the full purchase price.

7.2 Innovate Group reserves the right to deliver products ordered subject to availability, as and when the products are made available to Innovate Group (S.A). Time is not of the essence for the delivery of the product.

7.3 No claim in respect of shortages, defects or damage to products sold or licensed shall be entertained unless made in writing and received by Innovate Group (S.A) within 7 (seven) calendar days from date of delivery of product. A copy of the original invoice must accompany any such claim.

7.4 The Customer shall not be entitled to return any product to Innovate Group (S.A) without the express consent of Innovate Group (S.A). Innovate Group (S.A) shall at its discretion be entitled not to accept any products returned if they are not in original condition and complete (with all packaging, documentation, manuals and accessories).

7.5 With respect to proven shortages, material defects or damaged product(s), Innovate Group sole responsibility shall be, at its option, the exchange of the product for a similar product, or the refund of the purchase price and/or licence fees in return for the product(s). The Customer shall be responsible for all inward bound costs of returning such product(s).

8. Software:

8.1 Ownership to and in any Software licensed to the Customer shall remain with Innovate Group(S.A) and/or its licensors.

8.2 All software delivered to the Customer shall be licensed for use by the Customer strictly in accordance with the terms and conditions of the standard licence applicable to the specified software licensed. Acceptance of delivery by the Customer shall constitute acceptance of such terms and conditions, even where no written licence has been signed by the Customer.

8.3 Software, where packaging has been opened, is not returnable.

8.4 Innovate Group (S.A) will issue to the Customer the same warranties as provided to Innovate Group (S.A) by the developer, distributor, manufacturer or licensor of the product sold or licensed. The equivalent disclaimers and limitations of liability in respect of that product will apply.

9. Possession, Control And Risk:

9.1 All risk in and to the products shall pass to the Customer upon delivery thereof.

9.2 Innovate Group (S.A) shall not be liable under any circumstances for any loss or any damage whatsoever, whether

direct, indirect, punitive, incidental or consequential, caused by negligence or otherwise, which may be sustained by the Customer resulting directly or indirectly from the non-delivery or non-performance of products or services or late delivery or late performance of the products or services or due to any other cause whatsoever.

9.3 With respect to proven shortages, material defects or damaged product(s), Innovate Group sole responsibility shall be, at its option, the exchange of the product for a similar product, or the refund of the purchase price and/or licence fees in return for the product(s). Such returns are subject to Innovate Group standard product return policies.

9.4 No further claims of whatsoever nature shall be entertained.

10. Insurance:

10.1 The Customer shall be solely responsible for the insurance policy to be registered upon the equipment and/or products and shall provide Innovate Group with written proof thereof upon request from time to time.

11. Cancellation:

11.1 Orders may not be cancelled in whole or in part, or varied in any manner whatsoever, unless agreed to in writing by Innovate Group (S.A). Where cancellation is agreed, the Customer shall be liable to pay Innovate Group (S.A) a cancellation fee amounting to 30% (thirty percent) of the total order, or total value of the rental contract or lease agreement.

11.2 Where Lease or Rental agreements are cancelled by the Customer, at least seven days written notice is required. The cancellation of these methods of payment has no bearing whatsoever on the cancellation of the official order. An alternative method of payment will then be required or a 30% (thirty percent) cancellation fee as stipulated in clause 11.1.

11.3 In the event that the Client cancels any financing agreement with regard to any products supplied by Innovate Group (S.A), a penalty levy of 10% (Ten Per Centum) of the total amount in financing outstanding at date of cancellation shall be levied against the Client.

11.4: If a client has been offered ownership of any rented goods, this will only be honoured if the customer is in possession of an ownership letter signed by a director of Innovate Group (S.A) and further effects payment of the current rental times three months to Innovate Group (S.A) for ownership of the goods. All goods remain the property and are registered on Innovate Group (S.A) assets register until full ownership payment is received.

12. Breach:

12.1 Should the Customer commit a breach of any obligation under these terms and conditions (save for a breach of Payment), then Innovate Group (S.A), at its sole discretion, may give written notice of such breach to the Customer and suspend or terminate services. In such event, Innovate Group (S.A) shall request the Customer to remedy said breach within 7 (Seven) days of receipt of such notice. Should the Customer omit or fail to remedy said breach to the reasonable satisfaction of Innovate Group (S.A), then Innovate Group (S.A) shall be entitled to cancel the agreement on written notice to the Customer. Exercise of rights under this clause shall be without prejudice to either party's rights and remedies at law.

12.2 Should the Customer breach any material terms or conditions, then Innovate Group (S.A) shall be entitled to summarily cancel the agreement on written notice to the Customer, in addition to any rights which it may have to claim damages from the Customer.

13. Acts Of Insolvency:

13.1 In the event of the Customer committing an act of insolvency, or being placed under provisional or final judicial management, liquidation or sequestration, Innovate Group (S.A) reserves the right to cancel any sale contract or order and to stop further performance of services or delivery of products.

14. Arbitration:

Separate, divisible agreement

14.1 This clause is a separate, divisible agreement from the rest of this Agreement and shall:

14.1.1 not be or become void, voidable or unenforceable by reason only of any alleged misrepresentation, mistake, duress, undue influence, impossibility (initial or supervening), illegality, immorality, absence of consensus, lack of authority or other cause relating in substance to the rest of the Agreement and not to this clause. Innovate Group (S.A) has the sole discretion to refer any issue to be settled by arbitration or in terms of clause 24.

14.1.2 remain in effect even if the Agreement terminates or is cancelled.

Disputes subject to arbitration

14.2 Any dispute arising out of or in connection with this Agreement or the subject matter of this Agreement including, without limitation, any dispute concerning:

14.2.1 the existence of the Agreement apart from this clause;

14.2.2 the interpretation and effect of the Agreement;

14.2.3 the Parties' respective rights or obligations under the Agreement;

14.2.4 the rectification of the Agreement;

14.2.5 the breach, termination or cancellation of the Agreement or any matter arising out of the breach, termination or cancellation;

14.2.6 damages in delict, compensation for unjust enrichment or any other claim, whether or not the rest of the Agreement apart from this clause is valid and enforceable;

14.2.7 may be decided by Arbitration as set out in this clause and in terms of clause 14.1.1.

14.2.8 in the event that Innovate Group (S.A) has elected to refer the matter to Arbitration the guidelines set out hereunder will be applicable.

Appointment of arbitrator

14.3 The Parties shall agree on the arbitrator who shall be an attorney or advocate on the panel of arbitrators of the Arbitration Foundation of Southern Africa ("AFSA"). If agreement is not reached within 10 days after either Party in writing calls for agreement, the arbitrator shall be an attorney or advocate nominated by the Registrar of AFSA for the time being.

14.4 The request to nominate an arbitrator shall be in writing outlining the claim and any counterclaim of which the Party concerned is aware and, if desired, suggesting suitable nominees for appointment, and a copy shall be furnished to the other Party who may, within 7 days, submit written comments on the request to the addressor of the request.

Venue and period for completion of arbitration

14.5 The arbitration shall be held in Johannesburg and the Parties shall endeavour to ensure that it is completed within 90 days after notice requiring the claim to be referred to arbitration is given.

Arbitration Act - rules

14.6 The arbitration shall be governed by the Arbitration Act 1965 or any replacement Act and shall take place in accordance with the Commercial Arbitration Rules of AFSA.

Arbitrator may apply equity

14.7 The arbitrator need not strictly observe the principles of law and may decide the matters submitted to him according to what he considers equitable in the circumstances.

15. Warranties:

15.1 Innovate Group (S.A) gives no warranties or undertakings to the Customer whatsoever with regard to product or services, and all implied or residual warranties are hereby disclaimed .and excluded.

17. Terms and Conditions of Maintenance and Service Settlements:

Innovate Group (S.A) Agrees To:

17.1 Maintain the equipment in an efficient operating condition. Innovate Group (S.A) shall not be liable for any loss, including consequential loss, arising from the malfunction or failure of the equipment or any other cause whatsoever. Any repairs or service required by the customer due to misuse or negligence or for no technical reason or outside normal working hours may, at Innovate Group (S.A) option, be charged to the customer in accordance with Innovate Group (S.A) current service charges and conditions.

17.2 This agreement covers the standard service radius of 50 kilometres from any authorized Innovate Group service centre. Installations outside the radius are subject to an additional travelling charge.

17.3 Supply consumables at Innovate Group preferred prices applicable at the date of delivery of such consumables to customers with continuous service agreements.

17.4 No representation, verbal or otherwise, made by Innovate Group or its representative, shall be binding unless reduced to writing and signed by both parties.

17.5 Innovate Group (S.A) agrees to service the product for a minimum of five (5) Years.

The Customer Agrees To:

17.6 Use only paper approved by Innovate Group (S.A). Paper may be purchased from Innovate Group at prices applicable at date of delivery.

17.7 Use only approved consumables, obtained from Innovate Group (S.A), in the equipment.

17.8 Consumables, such as toner, oil, Ink Cartridges, Imaging Units and paper shall not, unless specified, be included in service charges.

17.9 Pay Innovate Group (S.A) as set out in the schedule of charges overleaf. These charges include service, parts drum and labour and may be varied from time to time.

17.10 Innovate Group (S.A) review of charges as contemplated in paragraph 17.9 above is designed to cater for the effects of inflation and other increases in labour and travelling costs, and assumes that Rand/foreign currency exchange rate fluctuations will be of a minor nature. If however, unfavourable exchange rates are experienced, Innovate Group

reserves the right, at any time, to review the charges applied under this agreement, to cater for such unfavourable exchange rates. Such review will be construed as a variation as noted in clause 17.9 above.

17.11 Pay amounts due to Innovate Group on receipt of invoice, failing which Innovate Group may summarily and without notice suspend the supply of service and consumables until all outstanding amounts due to Innovate Group are paid.

17.12 Provide access at any time during normal working hours to any authorized representative of Innovate Group for any of the purposes of this agreement.

17.13 Accept liability for damage to the equipment if damage is due to negligence on the part of the customer or its employees or persons who have access to the equipment. As well as accept liability for damages to equipment where damage is by "Force Majeure"

17.14 Supply Innovate Group, in a manner determined by Innovate Group from time to time, with a meter reading for each machine every month.

17.15 Inform Innovate Group at least one week in advance should the Customer require the unit to be recited. The Customer agrees to pay Innovate Group reciting and installation charges at its then current pricing.

17.16 Allow Innovate Group to cede its right and obligations under this agreement without prior notice.

17.17 Service charges escalate by 10 to 15% annually.

19. Counterparts:

19.1 This Agreement may be executed in any number of counterparts, all of which taken together will constitute one and the same agreement.

20. Whole Agreement:

20.1 This Agreement represents the entire agreement between the Parties on the subject matter contained herein and shall supersede all representations, promises and proposals, whether they were oral or written. No amendment, cancellation, addition to or deletion of this Agreement shall be of any force or effect unless and until reduced to writing and signed by an authorised representative of each Party.

21. Severability:

21.1 If any provision of this Agreement is judged to be invalid, the validity of any other provisions shall not be affected and the invalid provision shall be deemed to be deleted, provided however that the Parties shall use their best endeavours to achieve the purpose of the invalid or unenforceable provision by a new legally valid provision.

22. Indulgences:

22.1 No indulgence granted by a Party shall constitute a waiver of any of that Party's rights under this Agreement, accordingly, that Party shall not be precluded, as a consequence of having granted such indulgence, from exercising any rights against the other Parties which may have arisen in the past or which may arise in the future.

23. Applicable Law:

23.1 This Agreement shall be interpreted and implemented in accordance with the law of the Republic of South Africa.

24. Jurisdiction:

24.1 The Parties hereto consent to the jurisdiction of any Magistrate's court having jurisdiction, notwithstanding that the amount of the claim may exceed the jurisdiction of that court or for the purposes of all or any legal or other proceedings arising out of or in connection with this agreement subject to clause 14.1.1.

25. Addresses & Notices:

25.1 For the purposes of this Agreement, including the giving of notices and the serving of legal process, the Parties choose domicilium citandi et executandi ("domicilium") as follows:

25.1.1 Innovate Group (S.A):

29 De Winaar Street

Halfway House

Midrand

25.2.1 The Customer:

The Address at which the equipment and/or products are installed, or the premises at which services are rendered from time to time

25.2 Party may at any time change that Party's domicilium by notice in writing to each of the other Parties, provided that the new domicilium is in the Republic of South Africa and consists of, or includes, a physical address at which process can be serviced, such new address being effective on receipt by the addressee of such written notice.

25.3 Any notice given in connection with this Agreement shall:

25.3.1 be delivered by hand; or

25.3.2 be sent by prepaid registered post; or

25.3.3 be sent by telefax (if the domicilium includes a telefax number),

25.3.4 to the domicilium chosen by the Party concerned.

25.4 A notice given as set out above shall be deemed to have been duly given:

25.4.1 if hand delivered, on the date of delivery;

25.4.2 if sent by registered post, 7 days after posting;

25.5 if sent by telefax, on the day that the telefax is transmitted, provided the sender has in hand confirmation of successful transmission.

26. Surety:

26.1 In the event that the client is a legal person the signatory hereto binds himself as surety and co-principal debtor for the due payment of all invoices issued by Innovate Group (S.A) to the Customer.