



STANDARD TERMS AND CONDITIONS

Goods & Services

Version 2025

1 DEFINITIONS

In these Terms the following words have the meanings set out below and derivative words will have corresponding meanings:

- 1.1 "Contract" means the Quotation and the Terms, and any amendments thereto;
- 1.2 "CPA" means the Consumer Protection Act, 68 of 2008, as amended or substituted;
- 1.3 "Customer" means the natural person or juristic entity who purchases the Goods and Services from SUMP, as set out in the Quotation;
- 1.4 "Goods" mean all products SUMP sell, supply, repair or service which form the subject matter of the Quotation, including but not limited to vehicle parts and spares, rebuilds, stripping stock and used parts, engines and gearboxes, auto glass, new and performance parts;
- 1.5 "Party" or "Parties" means SUMP or the Customer individually or collectively as the context may require;
- 1.6 "Quotation" means any order, proposal, invoice or quotation for Goods and/or Services between the Customer and SUMP;
- 1.7 "Services" means all the service(s) provided by SUMP as set out in the Quotation;
- 1.8 "Social Media" means the internet, any social network or platform;
- 1.9 "SUMP" refers to the legal entity as set out in the Quotation;
- 1.10 "Terms" means these standard terms and conditions; and
- 1.11 "VAT" means value-added tax as described in the Value-Added Tax Act 89 of 1991, as amended or substituted.

2 IMPORTANT NOTICES

- 2.1 Should the CPA apply to these Terms, nothing contained in these Terms is intended to or must be understood to unlawfully restrict, limit or avoid the Customer's rights or SUMP's obligations under sections 54, 55, and 56 of the CPA, which are admitted only to the minimum possible extent. Unless the contrary is stated elsewhere in these Terms, the Customer shall have no rights in respect of quality of service, safe and good quality goods or implied warranty of quality beyond those explicitly stated in the aforementioned sections.
- 2.2 A transaction (as defined in the CPA) between SUMP and the Customer may or may not fall under the provisions of the CPA depending upon whether certain values applicable to the Customer ("Threshold Values") are below a certain value at the time the transaction is entered into.
- 2.3 The Threshold Values are the Customer's asset value or annual turnover (or such other measurement as may be dictated by the CPA as amended from time to time), and the value against which they are measured is as determined by the Minister of Trade and Industry by

publication in the Government Gazette from time to time.

- 2.4 SUMP's duties under a particular Quotation may vary depending upon whether the transaction in question is subject to the CPA, and SUMP will act upon the information the Customer provides to it in this regard. Consequently:
 - 2.4.1 the Customer warrants that any statement made to SUMP in respect of its Threshold Values is accurate;
 - 2.4.2 if the Customer claims that all the Threshold Values are below the relevant value, or otherwise that the CPA applies to the transaction in question, SUMP may at its instance require the Customer to provide SUMP with financial statements as proof thereof;
 - 2.4.3 if the Customer misstates the Threshold Values in such a way that SUMP considers for a period that the transaction is subject the CPA when it is not, all provisions of this Contract that do not apply to transactions subject to the CPA shall retroactively apply to the transaction in question, and the Customer shall be liable for any damage SUMP sustains resulting from such misstatement.
- 2.5 The Customer acknowledges the terms and conditions which appear in similar text style to this clause and which:
 - 2.5.1 may limit the risk or liability of SUMP or a third party; and/or
 - 2.5.2 may create risk or liability for the Customer; and/or
 - 2.5.3 may compel the Customer to indemnify SUMP or a third party; and/or
 - 2.5.4 serves as an acknowledgement, by the Customer, of a fact.

3 GENERAL

- 3.1 The Contract forms the entire agreement between the Parties regarding the subject matter hereof, save insofar as any incidental documentation (such as credit application forms, quotations) may be required for reference purposes to establish variables (such as prices and quantities) which are specific to a contract and are not recorded herein.
- 3.2 No other terms or conditions, whether express, tacit or implied shall apply to this Contract irrespective of the circumstances under which the Contract arose. No alteration or variation of the Contract shall be of any force or effect unless and until recorded in writing and signed by SUMP and the Customer.
- 3.3 All provisions and the various clauses of this Contract are, notwithstanding the manner in which they have been grouped together or linked grammatically, severable from each other.
- 3.4 Any provision or clause of this Contract which becomes unenforceable in any jurisdiction, whether due to voidness, invalidity illegality, unlawfulness or for any other reason whatsoever, shall, in such jurisdiction only and only



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to the extent that it is so unenforceable, be treated as not forming part of the Contract and the remaining provisions and clauses of this Contract shall remain of full force and effect.

3.5 The Customer confirms and agrees that SUMP has explicitly communicated to it that the Goods and/or Services being offered are in a certain condition. Therefore, the Customer expressly agrees to accept the Goods and/or in that particular condition.

3.6 The Parties acknowledge that each of them has had the opportunity to take legal advice concerning this Contract, and agree that no provision or word used herein shall be interpreted to the disadvantage of either Party because that Party was responsible for or participated in the preparation or drafting of this Contract or any part of it

4 QUOTATIONS

4.1 All proposals, orders, invoices and/or Quotations exchanged between the Parties will be subject to these Terms.

4.2 Quotations are valid for 7 (seven) days and may be withdrawn or amended without penalty prior to acceptance.

4.3 All Quotations are supplied errors and omissions excluded (E & OE).

4.4 All prices quoted:

4.4.1 include VAT, charges for installation of the Goods, surcharge and delivery, unless otherwise stated in the quotation;

4.4.2 are subject to exchange rate fluctuations. All quotations are accordingly subject to the ruling exchange rate on the date of the invoice and the quotation may vary accordingly.

4.5 In order to accept a Quotation, the Customer agrees to sign it, hand deliver it, fax, or email it to SUMP before it expires or is withdrawn or amended.

4.6 Any Quotation not accepted by the Customer and communicated to SUMP timeously shall lapse and be considered null and void.

4.7 Orders cannot be cancelled or shipments deferred or Goods returned except with SUMP's express written consent and upon terms that will indemnify SUMP against all loss, including the profit on any part of the order that is cancelled.

5 INVOICING

5.1 SUMP is a registered VAT Vendor. Accordingly VAT Invoices will be raised for all Goods and/or Services provided by SUMP to the Customer.

5.2 All invoices will be subject to these Terms unless specifically stated otherwise by SUMP in advance.

5.3 Cash sale customers will be invoiced on placement and acceptance of the order. Goods will only be ordered once

payment of SUMP's invoice in full reflects in SUMP's bank account.

5.4 Where Services are to be provided, the Customer will be invoiced in advance.

6 PAYMENT TERMS

6.1 The Customer agrees to pay the purchase price of the Goods and/or Services to SUMP in full and without set-off upon presentation of SUMP's VAT invoice relating thereto.

6.2 Where SUMP identifies the Customer on the VAT invoice as a trade debtor with an active account with SUMP, the Customer shall be obliged to pay for all purchases of the Goods and/Services within 30 (thirty) days of the date of the current statement relating thereto, unless otherwise agreed by SUMP in writing.

6.3 Should the Customer fail to make any payment on due date, all amounts owing by the Customer to SUMP from whatsoever cause, whether or not the date for payment has arrived, will immediately become due and payable by the Customer.

6.4 If any amount is not paid within 30 (thirty) days, SUMP shall be entitled to charge interest at the maximum permissible rate of interest applicable in law, from due date until date of payment, both days included or the Goods will be sold to defray expenses and the holding deposit will be retained as "rouwkoop".

6.5 SUMP shall be entitled in its sole discretion to require payment of a deposit or payment in full prior to delivery of the Goods or performance of the Services.

6.6 The Customer agrees that it shall not be entitled to a refund where the order is cancelled.

6.7 The Customer understands that the deposit is not transferrable and will not be refunded.

6.8 Further payment terms in respect of Services shall be in accordance with the terms agreed with the Customer in respect of the particular Services to be provided by SUMP which shall include inter alia provision for payment of 50% deposit in respect of project invoices, which deposit is to be paid prior to commencement of the Services.

7 DELIVERY AND RISK

7.1 The Customer's requested delivery schedules will be met to the best of SUMP's ability.

7.2 Notwithstanding the above, SUMP will not be liable for delays in performance, including delivery, or for failures to perform, including failure to deliver or perform, due to:

7.2.1 any causes beyond SUMP's reasonable control, including its inability to obtain necessary materials, components, services or facilities, or

7.2.2 acts of God, the Customer's acts, acts of civil or military authorities, governmental regulations or priorities, strikes or other labour disturbances, fires, riots, wars, or natural disasters, including epidemics, droughts, floods, or transportation interruptions.



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- 7.3 In the event of a delay, the Contract will not be terminated and the date of performance will be extended for a period of time equal to the period of the delay.
- 7.4 Subject to SUMP's agreement in writing to the contrary, risk in and to the Goods shall pass to the Customer as follows:
- 7.4.1 where the Customer has ordered new or used parts from or through SUMP, risk will pass to the Customer upon delivery. SUMP assumes no liability for any loss, damage, or destruction of Goods after delivery is made to the Customer;
- 7.4.2 where the Customer has engaged SUMP to inspect or repair any Goods, risk in and to these Goods shall remain with the Customer irrespective of whether the Goods are at the Customer's premises or SUMP's premises. SUMP assumes no liability for any loss, damage, or destruction of Goods.
- 7.5 The Customer shall immediately upon receipt of the Goods be allowed to inspect the Goods and the Customer agrees to inform SUMP of any errors by way of written notice, to be received by SUMP within 5 (five) days of receipt of the Goods by the Customer. Should the Customer fail to notify SUMP timeously of any claim the Customer may have in terms hereof, such failure shall constitute a complete waiver of any such claim.

8 INSTALLATION

- 8.1 The Customer agrees that SUMP is under no obligation to effect installation of the Goods at the Customer's premises. However, if SUMP agrees in writing to effect installation of the Goods, the following terms and conditions shall apply, unless otherwise agreed in writing:
- 8.1.1 SUMP may use any contractor or sub-contractor of its choice to effect installation;
- 8.1.2 any deposit in respect of the installation, which may be requested by SUMP will, in addition to any other rights which SUMP may have in law, be forfeited by the Customer as liquidated damages in the event of a breach by the Customer of any of the terms of the Contract;
- 8.1.3 the Customer shall, free of charge, provide such on-site assistance to the contractors or sub-contractors appointed by SUMP as may reasonably be required for the performance and execution of the installation;
- 8.1.4 SUMP will use its best endeavours to ensure that installation is completed as soon as is reasonably possible after the date on which installation commences, but time for the completion of installation shall only be of the essence if a completion date is agreed in writing with SUMP. Notwithstanding this, no responsibility will be accepted by SUMP for delays due to forces beyond SUMP's reasonable control;
- 8.1.5 the Customer agrees to indemnify and hold SUMP harmless against any and all liability which may arise

in the event of death or injury to, or pecuniary loss suffered by, any of SUMP's contractors, sub-contractors or employees in the course and scope of his/her employment in connection with the installation, as a result of the Customer's negligence or wilful misconduct or that of the Customer, or its officers, employees or agents.

9 OWNERSHIP

- 9.1 Notwithstanding prior delivery and the passing of risk, SUMP shall retain ownership of and title to the Goods until the purchase price, and any other amounts owing to SUMP in respect of the Goods or the installation thereof (if applicable), have been paid in full and without setoff.
- 9.2 In the event that ownership and title has not yet passed to the Customer and the Goods are in the Customer's possession, the Customer undertakes:
- 9.2.1 to take reasonable care of the Goods;
- 9.2.2 not to sell, lease, mortgage, transfer, assign or encumber the Goods;
- 9.2.3 not to re-locate the Goods without SUMP's knowledge and permission;
- 9.2.4 to inform any landlord that the Goods are owned by SUMP and are therefore not subject to any landlord's hypothec.

10 WARRANTIES

- 10.1 The Customer agrees that SUMP has described the condition of the Goods and/or Services in specific detail to it, and the Customer expressly agrees to accept the Goods and/or Services in that condition.
- 10.2 SUMP provides only the following warranties in respect of the Goods:
- 10.2.1 *Diesel Engines*
- Starting guarantee on SUMP's premises only
 - The Customer agrees to listen to the engine for any defaults
 - The Customer acknowledges and accepts that no warranty is provided in relation to the diesel engine
- 10.2.2 *Petrol Engines*
- SUMP provides a 1 (one) month guarantee from the Customer's date of purchase
 - The Customer agrees that SUMP is not responsible for the following:
 - Overheating of the engine
 - Tuning
 - Removal and fitting
 - Running without oil
 - Replacement of oil filter



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- Checking of oil pressure
- Cleaning of radiator

10.2.3 Gearbox/Diffs

- SUMP provides a 1 (one) month guarantee from the Customer's date of purchase
- The Customer agrees that SUMP is not responsible for the following:
 - Removal and fitting
 - Gearboxes run without oil
 - Filling the gearbox with the correct type of oil
 - Fault due to faulty prop-shaft

10.2.4 Code 2 and Code 3 Rebuild Vehicles

- The Customer undertakes and agrees to inspect the vehicle before payment is made to SUMP. Should the Customer be unhappy after inspecting the vehicles it will notify SUMP in writing and not proceed with the purchase thereof
- The Customer acknowledges and accepts that registration papers and keys of the vehicle will only be supplied if and when available
- The Customer fully understands that all rebuilds are sold 'as is' with no warranty and/or guarantee whatsoever

10.3 SUMP will not be liable to compensate the Customer for any damages sustained by the Customer whilst Goods may be repaired, nor shall SUMP be liable for any other damages, including consequential damages, relating to the replacement or repair of the Goods.

10.4 In addition and concurrent to the warranty given above, the Goods are supplied with a 6 (six) month warranty of quality against defects, within the meaning of the CPA, only if the CPA applies to this Contract.

10.5 Notwithstanding the provisions of clauses 10.1, 10.2 and 10.4 above:

10.5.1 unless the Customer has specifically informed SUMP of the intended use of the Goods in writing, SUMP does not warrant that the Goods purchased by the Customer will be fit for the purpose that the Customer intends using the Goods for;

10.5.2 if any defect in the Goods, or the components of the Goods, relates to alterations contrary to the instructions or after leaving SUMP's control, SUMP will not be liable for those defects, including in respect of any possible liability in terms of the implied warranty of quality contained in the CPA;

10.5.3 any warranty provided by SUMP will cease to apply if any material information provided by the Customer, specifically insofar as the intended use of the Goods is

concerned, is incomplete or incorrect or if there is any material change in operating conditions or any misuse, abuse or material neglect of the Goods by the Customer.

11 RETURNS AND REFUNDS

11.1 Only if the provisions of the CPA are applicable to the Contract, the Goods are warranted in respect of quality, suitability and durability for a period of 6 (six) months of delivery. Provided the Customer is not in breach of the Contract, the Customer may within this period return the Goods to SUMP without penalty if the Goods fail to satisfy the requirements and standards contemplated and SUMP shall repair or replace the failed, unsafe or defective Goods.

11.2 If the Customer elects to enforce the provisions of clause 11.1 and, within 3 (three) months of any repair undertaken by SUMP, the failure, defect or unsafe feature has not been remedied, or a further failure, defect or unsafe feature is discovered by the Customer, SUMP shall, in its sole and absolute discretion:

11.2.1 replace the Goods; or

11.2.2 refund the Customer for the cost of the Goods excluding delivery and other charges.

12 LIMITATIONS

12.1 In addition to any other specific exclusions of liability contained herein and unless otherwise expressly stated herein, the Customer agrees that it shall have no claim against SUMP for any loss or damage, of any nature, occasioned by any defect in any Goods, or any failure to provide adequate instructions in respect of any hazards that might arise from the use or incorrect use of the Goods save to the extent that such loss or damage is contemplated in section 61 of the CPA, and provided that nothing in these Terms must be construed as in any way limiting SUMP's rights to raise such defenses as may be available to it at common law or in terms of any statute.

12.2 In the event that SUMP provide advice regarding the application of Goods at the Customer's request, SUMP's liability in respect of the non-suitability of the Goods for the purpose for which they are used will be limited to the selling price of those Goods.

12.3 The Customer hereby agrees to indemnify and hold harmless SUMP, its members, directors employees, servants, subcontractors and partners from any demand, action or application or other proceedings, including for attorney's fees and other related costs made by any third party and arising out of or in connection with this Contract.

12.4 Save to the extent otherwise provided for in this Contract, SUMP do not make or provide any express or implied representations, warranties or guarantees regarding the availability, accuracy, reliability, timeliness, quality, security of any Goods and/or Services.

12.5 Without limiting the indemnity set out above, the



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Customer agrees to indemnify and hold SUMP harmless from any and all expenses, losses, liabilities, damages or third party claims resulting from:

- 12.5.1 the Customer's breach or alleged breach of any obligations set out in the Contract, any other agreement between the Parties or any government regulation or rule of law in connection with the Customer's use of the Goods and/or Services;
- 12.5.2 any unavailability of, or interruption in the Services due to an uncontrolled event;
- 12.5.3 any damage, loss, cost or claim which the Customer may suffer or incur from any suspension or termination of the Service/s for any reason contemplated in the Contract;
- 12.5.4 loss of data or any part thereof for any reason and cause whatsoever.
- 12.6 SUMP accept no liability for any loss (including consequential loss) resulting from the Customer's use of the Goods and/or Services, of the actions of its employees, contractors and/or agents or from any failure or suspension of or interference with the Goods and/or Services.
- 12.7 If the CPA applies to the Contract, and any provision of this clause is found by a court or tribunal with jurisdiction over the Parties to be unfair, unreasonable or unjust, then that provision (whether it be a word, phrase or sub-clause) will be severed and the remainder of this clause will have full force and effect.
- 12.8 Subject to the provisions contained in this clause 12, the aggregated maximum liability of SUMP for all claims from whatever source or however arising from this Contract, whether arising in contract, delict or otherwise, shall, be limited to the total price paid by the Customer to SUMP as at the date on which the claim arises.

13 PRIVACY AND PROTECTION OF INFORMATION

- 13.1 Both Parties shall observe all privacy of information best practices, in accordance with the applicable laws of South Africa and shall not recklessly distribute personal information ("Personal Information") (as defined in the Protection of Personal Information Act, 2013, as amended or substituted) to any third party.
- 13.2 Notwithstanding clause 13.1 the Customer agrees and consents that is Personal Information shall be distributed to SUMP's suppliers, credit checking service providers or where such information is required in order to provide the Goods and/or Services or as required by law or order of court.
- 13.3 The Customer agrees and consents to the processing Personal Information transmitted to SUMP in a way which is consistent with the Goods and/or Services being provided.
- 13.4 The Customer agrees to indemnify and hold SUMP harmless from any and all expenses, losses, liabilities, damages or third party claims resulting any third parties

obtaining the Customer's Personal Information without SUMP's consent.

- 13.5 The Customer undertakes and agrees that for the duration of this Contract and after the termination thereof not to make any disparaging remarks, derogatory statements or comments about SUMP on Social Media. The Parties acknowledge and agree that the provisions of this clause shall survive the expiration or termination of this Contract and shall continue to operate after any such expiration or termination.
- 13.6 Either Party desiring to issue a news release or advertisement or other form of media publicity in relation to this Contract must obtain written consent of the other Party prior to the release of such publicity.
- 13.7 The Customer agrees that it is not authorised to use the name, trademarks, marks, devices, trade names, business names, trading styles, logos or domain names of SUMP in connection with any marketing, co-branding and/or promotional materials or activities, or for any other purpose whatsoever.

14 CREDIT CHECKS

- 14.1 The Customer hereby consents to, and agree to provide the necessary assistance for SUMP to obtain a credit report from a recognised credit reporting agency containing Personal Information for SUMP's business purposes, including the assessment of an order for Goods and/or Services or the collection of overdue accounts.
- 14.2 The Customer also agrees that SUMP may provide information to a credit reporting agency in relation to any account not operated in accordance with this Contract and that direct costs associated with any such collections may be added to the Customer's account.
- 14.3 SUMP shall be entitled to perform these assessments each and every time a Customer requests Goods and/or Services.

15 TERMINATION

- 15.1 Either Party may terminate the Contract at the end of any contracted period, or, if there is no contracted period, at any time by giving 30 (thirty) days written notice.
- 15.2 In the case of Services being terminated by either of the Parties outside of any contract period, the Services will be terminated at the end of the billing period closest to the final days of the notification period.
- 15.3 If the Customer has committed to a fixed term contract (e.g. 6 or 12 months) and wishes to terminate the Contract before the end of the term, a cancellation fee applies - being the monthly fee for the Services, multiplied by the number of months remaining in the contract term.
- 15.4 Should the Customer not terminate or renew the Services, the Services shall automatically renew on a month-by-month basis after the expiry of the initial period or any successive period, subject to any material changes set out by SUMP in its notice to the Customer.



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16 VARIATION

- 16.1 No variation, amendment or consensual cancellation of the Contract or any provision or term thereof or of any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this Contract shall be binding unless recorded in a written document signed by a duly authorised representative from both Parties.
- 16.2 SUMP may, however, vary the Contract (including pricing and any other terms) at any time and all agreements concluded, or Goods and/or Services provided after these variations will be subject to these variations.
- 16.3 If the Customer is materially worse off by any variations made after it has been given access to the Service, SUMP will give the Customer 30 (thirty) days' notice of that change (unless any change is required by law or necessary to prevent fraud or for security or technical reasons, in which case SUMP will give the Customer as much warning as it reasonably can).

17 DOMICILIUM AND NOTICES

- 17.1 The physical address given by the Customer in its order or Quotation, or the address to which Goods are delivered, shall be the address the Customer has chosen where summonses, legal documents and notices can be served ("*domicilium*").
- 17.2 SUMP may also serve notices on the Customer by email and SUMP shall use the email address used by the Customer in correspondence with SUMP ("*domicilium*").
- 17.3 SUMP chooses its *domicilium* at: Ermelo Rd & Wit Rd, Springs, 1560.
- 17.4 Either of the Parties shall be entitled from time to time to vary its *domicilium* or email *domicilium* on ten (10) days written notice to the other.
- 17.5 Any notice which:
- 17.5.1 is delivered by hand at the addressee's street address *domicilium* shall be deemed to have been received by the addressee at the time of delivery;
- 17.5.2 or is posted by prepaid registered post from an address within the Republic of South Africa to the addressee at the addressee's *domicilium* shall be presumed, until the contrary is proved by the addressee, to have been received by the addressee on the seventh day after the date of posting; or
- 17.5.3 if transmitted by email to the addressee at the addressee's *domicilium* shall be deemed to have been received by the addressee on the date of transmission or, if the transmission is made out of normal business hours, on the first business day following after the date of transmission.

18 BREACH

- 18.1 If either Party:
- 18.1.1 breaches any of the of this Contract and fail to remedy

this breach within 7 (seven) days after receipt of written notice from the other Party;

- 18.1.2 commit any act of insolvency;
- 18.1.3 endeavour to compromise generally with its creditors or do or cause anything to be done which may prejudice the other Party's' rights hereunder or at all;
- 18.1.4 is placed in liquidation or become subject to business rescue proceedings (in either case, whether provisionally or finally); or
- 18.1.5 being an individual, estate is sequestrated or voluntarily surrendered;
- 18.1.6 allow any amount due to the other to be overdue for more than 30 (thirty) days;
- the other Party shall have the right, as and where applicable without prejudice to any other right which that Party may have, to:

- 18.1.6.1 suspend or terminate the Services;
- 18.1.6.2 in SUMP's case, treat as immediately due and payable all outstanding amounts which would otherwise become due and payable over the unexpired period of the Contract, and to claim such amounts as well as any other amounts in arrears including interest and to cease performance of SUMP's obligations hereunder as well as under any other contract with the Customer until that Party has remedied the breach; and/or
- 18.1.6.3 cancel the Contract and claim damages.
- 18.2 The breaching Party shall be liable for all costs incurred by the non-breaching Party in the recovery of any amounts or the enforcement of any rights which it has hereunder, including collection charges and costs on an attorney and own client scale whether incurred prior to or during the institution of legal proceedings or if judgment has been granted, in connection with the satisfaction or enforcement of such judgment.
- 18.3 In the event of the Customer's insolvency, without derogation of rights, SUMP will be entitled to cancel any outstanding order during the period allowed for filing of claims against the Customer's estate and will be paid for SUMP's cancellation charges.
- 18.4 If the provisions of the CPA are applicable to this Contract, the above sub-clauses shall operate as follows:
- 18.4.1 The Parties will be required to give 20 (twenty) business days' notice to the other of any of the circumstances set out in clause 18.1;
- 18.4.2 Clause 18.1.6.2 shall not be applicable and in these circumstances SUMP shall be entitled to payment by the Customer of no less than 80% (Eighty Percent) of the remaining amounts due and payable over the unexpired period of the Contract.

19 DISPUTES



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- 19.1 Should any dispute of whatever nature arise from or in connection with this Contract, then the dispute shall, unless the Parties otherwise agree in writing:
- 19.1.1 in the first instance by way of negotiation between the Parties;
- 19.1.2 failing resolution by negotiation that matter must be referred to mediation by a mediator acceptable to both Parties; and
- 19.1.3 failing resolution by mediation or agreement in respect of a mediator, shall be finally resolved by way of arbitration:
- 19.1.3.1 by an arbitrator or arbitrators acceptable to both Parties; or
- 19.1.3.2 failing agreement between the Parties in respect of the arbitrator or arbitrators, by an arbitrator to be nominated by the secretariat of the Arbitration Foundation of Southern Africa.
- 19.1.4 Any arbitration conducted in terms of this clause 19.1.3 shall be conducted in accordance with rules to be determined by the arbitrator or arbitrators.
- 19.2 Nothing in this clause 19 shall preclude any Party from seeking urgent interim relief from a court of competent jurisdiction.
- ### 20 GENERAL
- 20.1 Confidentiality. The Parties agrees to keep all information exchanged and the content of the Contract confidential at all times.
- 20.2 Whole Agreement and Representations. This Contract contains the entire understanding of the Parties as to its subject matter. No Party shall be bound by any condition, warranty, representation or undertaking of any kind, whether express or implied, unless agreed to by each of the Parties will be of any effect.
- 20.3 Cession. SUMP shall be entitled, on written notice to the Customer, to delegate, assign, cede, transfer or in any way alienate or dispose of any of its rights or obligations in terms of this Contract to any other person. The Customer agrees that it may not delegate, assign, cede, transfer or in any way alienate or dispose of any of its rights or obligations in the Contract to any other person without SUMP's prior written consent.
- 20.4 Failure to require performance. The failure of either Party at any time to require performance of any provision of this Contract shall not affect the right of that Party to require performance of that provision or of any other provision in the future.
- 20.5 No waiver. No waiver by either Party with respect to a breach of any provision of this Contract shall be construed as a waiver with respect to any continuing or subsequent breach of that provision, or as a waiver of any other right hereunder.
- 20.6 Severability. Each provision in this Contract is severable from all others, notwithstanding the manner in which they may be linked together or grouped grammatically. If any provision is found to be defective or unenforceable for any reason, the remaining provisions shall nevertheless continue to be of full force.
- 20.7 Jurisdiction. Subject to the provisions of clause 19, the Contract will be governed by and construed in accordance with the laws of the Republic of South Africa. Subject to the provisions of clause 19, the Parties hereby consent in terms of Section 45 of the Magistrates' Court Act of 1944 to any legal proceedings being instituted in the Magistrates' Court of any district having jurisdiction in respect of the other by virtue of the provisions of Section 28(1) of the said Act. Notwithstanding such consent, an aggrieved Party shall have the option of instituting proceedings against the other Party in the High Court of South Africa.
- 20.8 Authority. If applicable, the persons accepting the Contract on behalf of the Parties warrant that they are authorised to sign on behalf of their principals.
- 20.9 Implementation. The Parties agree to do all things as may be required by law or necessary to implement the Terms and the Contract.
- 20.10 Applicable Law. This Contract will be governed by and construed in accordance with the laws of the Republic of South Africa and all disputes, actions and other matters relating thereto will be determined in accordance with South African law in accordance with the provisions of clause 19.
- 20.11 Termination. In the event of any expiration, termination or cancellation of the Contract, provisions which are intended to continue and survive shall so continue and survive.
- 20.12 Conflict. In the event that any provision of the Contract conflicts with any statute, ruling or order of any governmental or regulatory body from time to time, then such provision of the Contract shall be controlled by the statute, ruling or order.
- 20.13 Other. The Customer acknowledges and agrees that any parts purchased from SUMP must be fitted to the vehicle or intended application before being sprayed, painted, or otherwise modified. SUMP shall not be liable for any issues arising from failure to comply with this requirement. The Customer further acknowledges that any modifications, alterations, or changes made to the purchased item by the Customer, or a third party will result in the Customer waiving all legal rights and remedies against SUMP in relation to the modified item. SUMP shall bear no responsibility for any defects, performance issues, or damages resulting from such modifications. In addition to the above, the onus rests solely on the Customer to ensure compliance with these conditions. Should the Customer assert any claim against SUMP, the burden of proof shall rest upon the Customer to prove otherwise. Notwithstanding the provisions contained herein, SUMP reserves the right to refuse any claims, returns, or remedies related to parts that have been sprayed, painted, or modified in any manner contrary to the conditions set out in this clause.