

MICRO-ALERT cc.

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SUPPLIERS OF FUEL-TECH SYSTEMS

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Micro-Alert cc

Terms and Conditions of Sale

- 1. General** - All quotations, contracts, tenders, sales agreements and all orders resulting there from are subject to the following conditions except where prior and written amendments have been made by Micro-Alert cc. ("Micro-Alert")
- 2. Conditions of Sale** - Notwithstanding any contrary conditions of sale of any customer, these conditions of sale shall apply to the sale of all goods by Micro-Alert, except where otherwise agreed to in writing by Micro-Alert.
- 3. Validity** - Quotations supplied by Micro-Alert are valid for 30 (thirty) days from date of issue unless extended, in writing by Micro-Alert.
- 4. Prices** - The prices quoted in estimates, specifications, acceptance of order or contracts are based on the quantities specified therein and Micro-Alert reserves the right to revise prices in the event of the quantities being reduced or increased.
- 5. Terms** -
 - 5.1. Payment terms are as indicated on quotations.
 - 5.2. All payments not paid on due date shall bear interest from due date until date of payment, both days inclusive, calculated and compounded monthly in arrears, at a rate five percentage points above the published prime rate of interest charged from time to time by First National Bank in respect of overdraft facilities ("the prime rate"). A certificate signed by a bank manager of First National Bank, whose appointment it shall not be necessary to prove, shall be prima facie proof of the prime rate.
 - 5.3. If payment is not received by Micro-Alert on the specified date, the full invoiced amount is due immediately.
 - 5.4. Unless otherwise specifically agreed to in writing, all sums shall be paid to Micro-Alert without deduction, set-off or withholding of any nature whatsoever.
 - 5.5. Payments are to be effected by electronic transfer into the company's bank account. All cheques posted will be at the customer's risk.
 - 5.6. All goods offered ex-stock are offered subject to them being unsold on receipt of order.
 - 5.7. All goods shall remain the property of Micro-Alert until paid for in full.
- 6. Carriage** - The cost of delivering goods to the customer will be for the customer's account at the rate applicable at the time of delivery unless specified otherwise on quotation.
- 7. Delivery** - If delivery of the goods is to be made in instalments then Micro-Alert shall be entitled to withhold delivery of any undelivered instalments until all moneys due in respect of any delivered instalment have been paid in full.
- 8. Effective Date** - The effective date for this agreement shall be the date that the official Customer order is received.
- 9. Taxes** - The prices of goods or services stated in this agreement exclude Value Added Tax (VAT) or any other taxes or duties that may apply.

10. Warranty - Micro-Alert provides a warranty period of three (3) months from the date of delivery. The warranty is subject to the following:

10.1. Software Warranty -

10.1.1. Micro-Alert shall, free of charge and without undue delay, remedy faulty software applications by updating the software and releasing a new revision to the customer as soon as possible. Micro-Alert shall also, free of charge and without undue delay, install such software revisions.

10.1.2. The warranty excludes failures that are attributable to failures in third party software such as operating systems or drivers, system hardware, or changes in system configuration effected by the customer or a third party without the written consent of Micro-Alert.

10.2. Hardware Warranty -

10.2.1. Micro-Alert warrants that the hardware sold under this agreement will be free of defects in materials and workmanship under normal use and service, for the appropriate warranty period.

10.2.2. Micro-Alert's sole obligation under this warranty shall be to repair or replace, free of charge and without undue delay, any defective parts of such product.

10.3. Other Warranty Limitations -

10.3.1. The Customer shall inform Micro-Alert in writing of any alleged defect within 7 days and shall not return any goods for repair without the written consent of Micro-Alert.

10.3.2. The warranty given under this section constitutes the only representation and warranty made by Micro-Alert with respect to the services and products delivered under this agreement. It is expressly agreed that Micro-Alert shall not be responsible for any indirect consequential or special damages.

10.3.3. The warranty does not cover damaged hardware or software due to the Customer's or any third parties mishandling, incorrect packing, repair, attempted modifications or any use for which the product was not designed or intended.

10.3.4. The warranty excludes any shipping charges, removal costs or handling fees that may arise as a result of the return.

11. Ownership of Intellectual Property - The ownership of all intellectual property of the products or services offered by Micro-Alert under this sales agreement shall remain with Micro-Alert unless stated otherwise in writing by Micro-Alert.

12. Ownership of Quotations and Proposals - The ownership of any quotation or proposal, which is being written by Micro-Alert in the process of providing The Customer with a quotation and to negotiating a sales agreement, shall remain with Micro-Alert.

13. General Limitations of Liability -

13.1. Except where damages are expressly provided for under this sales agreement, either party may claim damages for breach of the sales agreement, from the other party, only upon termination for default.

13.2. In no event shall Micro-Alert be liable under this contract for loss of production, loss of business, loss of data or revenue or any special, indirect, incidental, consequential or special damages, whether or not the possibility of such damages could have been reasonably foreseen.

13.3. No action, regardless of form, arising out of any alleged breach of this sales agreement or obligations under this sales agreement, may be brought by either party more than one (1) year after the alleged cause of action has occurred.

13.4. Any damages against Micro-Alert, arising out of any alleged breach of this sales agreement or obligations under this sales agreement, shall be limited to the amount paid to Micro-Alert under this agreement.

13.5. A party suffering loss or damages shall take reasonable steps to limit such loss or damages.

14. Modifications of the Sales Agreement or Contract -

- 14.1. No additions or modifications of this proposal or sales agreement shall be effective or binding on either of the parties hereto unless agreed in writing and executed by the respective duly authorised representatives of each of the parties hereto.
- 14.2. Where either party requests or proposes in writing such an addition or modification the other party shall respond without undue delay, but not later than thirty (30) days after the request or proposal has been received.

15. General Obligations of The Customer -

- 15.1. In order for Micro-Alert to be able to supply the services and products stated in this sales agreement, The Customer has the following obligations, which must be diligently carried out:
- 15.2. The Customer shall be responsible for the appointment of suitable personnel for the purpose of liaison with Micro-Alert for the duration of this sales agreement.
- 15.3. The Customer shall ensure all reasonable effort is made to assist the personnel of Micro-Alert to complete it's obligation and terms of this sales agreement;
- 15.4. The Customer shall keep a log and record all abnormal behaviour or operations, faults or problems reported with regard to the products or services rendered under this sales agreement;
- 15.5. The Customer shall maintain a procedure or process for the back-up of data or program files with respect to the products or services rendered under this sales agreement;

16. Force Majeure –

- 16.1. Both parties shall be excused from the performance or punctual performance of any of his obligations under the this sales agreement and such obligations shall be extended for a period reasonable under the circumstances if the performance of the sales agreement is prevented or delayed by industrial disputes or any cause beyond the parties reasonable control which, without in any way limiting the generality of the foregoing, shall include acts of God, riots, war, accidents, death or disability of employees, embargo or requisitions (acts of governments), including the non availability of any necessary export licence or visas and permits for the parties personnel, or delays in the performance of its subcontractors caused by any such circumstances as referred to in this section;
- 16.2. In case of force majeure, both parties shall promptly notify the other in writing and furnish the other party with all the relevant information thereto;
- 16.3. Should a cause of force majeure continue for more than three (3) months, either party shall then have the right to terminate this sales agreement.

17. Currency - All services and products are offered in local currency (ZAR).

18. Entire Contract - This document sets forth and shall constitute the entire proposed agreement between the Customer and Micro-Alert with respect to the subject matter hereof, and shall supersede any and all prior agreements, understandings, promises and representations made by one party to the other concerning this subject matter.

19. Publicity - Neither party will advertise or publish any information relating to the sales agreement without the prior approval of the other party, except that Micro-Alert may publish the fact that it has concluded a sale and may state which products were sold.

20. Notice -

- 20.1. All notices required by this sales agreement shall be furnished by hand delivery or certified post to the following addresses: For Micro-Alert: Micro-Alert cc., P.O Box 17045, Sunward Park, 1470 or 119 Market Street, Boksburg. For The Customer: to the address to which this documentation or quotation was sent.
- 20.2. All notices shall only be effective on receipt.
- 20.3. Either party may change its address by a notice to the other party in the manner set forth above.
- 20.4. Any notices delivered shall be clearly marked for the attention of the Managing Director.

21. Language - The English language in which this sales agreement is written shall be the language used in all documents and correspondence related to the execution of this sales agreement.

22. Governing Laws - This sales agreement shall be governed by and construed in accordance with the laws of South Africa.

23. Confidentiality -

23.1. Micro-Alert undertakes to keep confidential all information provided by The Customer, or learned during the proposed sales agreement term.

23.2. The Customer undertakes to keep confidential all information provided by Micro-Alert or learned during the proposed sales agreement term.

23.3. The confidentiality obligation herein shall not include information which:

23.3.1. is or becomes publicly available in industry through no act or omission of the receiving party;

23.3.2. was in the receiving party's lawful possession without limitation on disclosure prior to the disclosure and had not been obtained by such party either directly or indirectly from the disclosing party;

23.3.3. is lawfully disclosed to the receiving party by a third party without restriction on disclosure.

23.4. Declining the offer contained in this proposal shall not change the rights and obligations contained with respect to confidential information supplied prior to the offer being declined.

24. Dispute Resolution -

24.1. If any dispute arises related to this Agreement or any transaction governed by this agreement, senior executives of both parties, vested with the authority to settle this dispute, will meet and attempt in good faith to resolve the dispute before resorting to court or arbitration. The meeting will be held within 15 (fifteen) days of the request of either party in the offices of the party requesting the meeting.

24.2. If the parties are unable to meet within 15 (fifteen) days or unable to resolve the dispute within 15 (fifteen) days thereafter, the dispute will be settled by arbitration. There shall be one arbitrator who shall be, if the question in issue is:

24.2.1. primarily an accounting matter, an independent chartered accountant;

24.2.2. primarily a legal matter, a practising attorney of not less than 15 (fifteen) years standing;

24.2.3. primarily a technical matter, an professional engineer registered with the Engineering Council of South Africa;

24.2.4. any other matter, a suitably qualified person.

24.3. The appointment of the arbitrator shall be agreed upon between parties, but failing agreement between them within 15 (fifteen) days after the arbitration has been demanded, either of the parties shall be entitled to request the chairman of the Pretoria Bar Council to make the appointment and, in making this appointment, to have regard to the nature of the dispute.

24.4. Subject to the other provisions of this clause, each arbitration shall be held in Pretoria in accordance with the provisions of the Arbitration Act, 1965 as amended.

24.5. The decision of the arbitrator shall be final and binding on the parties, and may be made an order of any Court of competent jurisdiction. Each of the parties hereby submits itself to the jurisdiction of the Pretoria Local Division of the High Court of South Africa should the other party wish to make the arbitrator's decision an order of that court.

24.6. The granting of relief by one party to the other shall not constitute a waiver of the rights of the grantor, nor shall it preclude the grantor from exercising those rights in the future.