



# SIZABANTU

PIPING SYSTEMS



Reg. no: 2008/011231/07

V.A.T. no: 4900 199 391

Head Office:  
Cluster Box 29227, Maytime Centre, Kloof, 3640

20 Umndoni Crescent, Mahogany Ridge Industrial Park, Pinetown, KZN

## APPLICATION FOR CREDIT ACCOUNT FACILITY AND GENERAL TERMS AND CONDITIONS OF SALE

**DIVISIONS :**

<b>KZN</b>	<i>Cluster box 29227 Maytime centre Kloof 3640 Ph +27 31 792 9500 fax +27 31 700 2108</i>
<b>WESTERN CAPE</b>	<i>44 Range rd Blackheath Cape Town 7550 Ph +27 21 905 9740 fax +27 21 905 9750</i>
<b>EASTERN CAPE</b>	<i>P.O.Box 5157 Walmer Port Elizabeth 6065 Ph +27 41 486 1043 fax +27 86 607 5179</i>
<b>LIMPOPO</b>	<i>P.O.Box 322 Thornhill plaza Limpopo 0882 +27 15 293 1527 fax +27 15 293 1232</i>
<b>GAUTENG</b>	<i>48 Lochner rd Plot 213 Mrandi Centurion 0157 Ph +27 10 072 0130</i>
<b>NORTH WEST</b>	<i>P.O.Box 2511 Klerksdorp 2570 Ph +27 18 462 5564 fax +27 18 462 5567</i>
<b>MPUMALANGA</b>	<i>Postnet Suite 28 Private bag X11326 Mpumalanga 1200 Ph +27 13 755 2707 fax +27 13 753 2800</i>

<b>CUSTOMER</b>	
<b>ACCOUNT NUMBER</b>	

**SALE AGREEMENT WITH A DEED OF SURETYSHIP INCORPORATING CESSION OF CLAIMS FOR SIZABANTU PIPING SYSTEMS (PTY) LTD**

SOLE OWNER	PARTNERSHIP	PTY LTD	CLOSED CORP	TRUST	OTHER
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Registered Name: ..... “the BUYER”

Trading Name: .....

Reg No.: ..... VAT No .....

Registered office/Physical address:.....

Postal Address: .....Code.....

Telephone No: .....Fax No:.....Cell no .....

Type of business: ..... Years in Business.....

Payments / Account contact details ; Name .....Phone ..... Fax.....Email.....
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Auditors/Accountants.....phone.....

Are the Buyer’s latest financial statements available : YES / NO

Is ANNUAL TURNOVER and/or ASSET VALUE in EXCESS of R2M: YES / NO

**NAMES & ADDRESSES OF DIRECTORS / MEMBERS / TRUSTEES**

Full Names of Owners / Directors / Partners/ Members/ Trustees	Identity Number	Residential Address	Contact number.

**DETAILS OF PROPERTY OWNED BY COMPANY / CC / PARTNERS / PROPRIETER AND DIRECTORS**

Address	Stand no & township	Estimated Valuation	Bond Holder	Bond Amount	In whose name is Property registered

Has the Company / CC / Partnership issues /signed any Guarantees in favour of other Suppliers - YES / NO

Have the Directors /Partners/ Members issued /signed any Guarantees in favour of other Suppliers – YES / NO

If YES , please specify .....

**TRADE REFERENCES**

COMPANY NAME	TELEPHONE NO	ADDRESS	CONTACT

**BANK DETAILS**

Bank .....Branch Name .....Br code .....

Account number .....

CREDIT LIMIT REQUIRED	
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I , the undersigned .....in my capacity as .....

of "THE BUYER " and in my Personal capacity as Surety and Co Principal Buyer hereby warrant that :

1.I am duly authorized by the buyer to sign this agreement on its behalf and that the above information is true, correct and complete in all respects

2. I Agree that all transactions concluded with the Supplier will be subject to the TERMS and CONDITIONS of SALE , included herewith , which I acknowledge having read and understood

3.Do hereby acknowledge and agree that by my signature hereto I bind myself in accordance with clauses 14 to 14.3 as Surety and Co Principal Buyer in solidum with the Buyer in favour of the Supplier for the due payment by the Buyer of all amounts which may now or at any time hereafter become payable by the Buyer to the supplier

SIGNED AT .....ON THE .....DAY OF .....20.....

SIGNATURE .....

WITNESS 1 \_\_\_\_\_

WITNESS 2 \_\_\_\_\_

**WITNESS AND SIGNATORY .... PLEASE INITIAL EACH PAGE**

**DOCUMENTS TO BE SUBMITTED TOGETHER WITH THE SALE AGREEMENT**

- CK / CM Documents
- Copy of VAT certificate
- Certified copies of ID for all Members / Directors / Partners /Owners
- Certified copy of ID and Resolution if the person signing the Agreement of Sale and Terms and Conditions is not the Owner / Director /Partner /Member
- Audited Annual Financial Statements and or set of Management accounts if the requirement on the above is R250 000 or more

## TERMS AND CONDITIONS OF CONTRACT

### 1. APPLICATION

- 1.1 "the Company" means **SIZABANTU PIPING SYSTEMS (PTY) LTD**
- 1.2 The "goods" means those goods indicated on any company forms, price lists, quotations, delivery notes, orders or invoices.

### 2. PRICE

- 2.1 The price of goods or services will be the Company's current price ruling on the date they are delivered or rendered to the Customer, unless otherwise agreed to in writing by a regional manager or director of the Company.
- 2.2 The Company has the right, from time to time, without notice to the Customer, to change the price of its goods.
- 2.3 Any increase in the rate of monetary exchange between the date of quotation and the date of supply of imported goods or goods containing imported materials, shall be paid by the Customer.

### 3. PAYMENT

- 3.1 Payment is to be made 30 (Thirty) days from the end of the month in which the goods were delivered. Should the Buyer be entitled to any settlement discount, this is to be agreed in writing by the Supplier. To qualify for any settlement discount the payment needs to be reflected in the bank account of the Supplier on or before the last day of the month within the agreed terms.
- 3.2 All payments by the Customer shall be payable free of deduction of any nature, unless otherwise agreed to in writing by a Member or director of the Company.
- 3.3 In all cases where the Customer uses a postal service to effect payment, to deliver or return goods such postal services shall be deemed to be the agent of the Customer.
- 3.4 Should any amount not be paid by the Customer on due date then the whole amount in respect of all purchases by the Customer shall become due, owing and payable irrespective of the dates when goods were purchased and the Company shall be entitled to charge interest at the maximum rate permitted in law on all overdue amounts from due date until date of payment, calculated and payable monthly in advance and should the said interest not be paid in full as aforesaid, the same shall be added to the principal sum, and the total shall form the principal debt which shall then bear interest in the manner as set out above.
- 3.5 The Customer shall not be entitled to claim set off or deduction in respect of any payment due by the Customer to the Company for goods or services supplied.
- 3.6 The Company may appropriate all payments made by the Customer to such accounts as it will in its sole and absolute discretion decide.
- 3.7 The Company shall have the right to suspend deliveries and to exercise its rights in terms of clause 9.1 if any amount due by the Customer is unpaid.

### 4. WITHDRAWAL OF CREDIT FACILITIES

- 4.1 The Company has the discretion at all times whether or not to sell to the Buyer. The Company may withdraw any limit or withdraw the account facility or may vary the extent, nature and duration of such facilities at any time without prior notice and without giving reason therefore.

### 5. ORDERS

- 5.1 Any order resulting herefrom shall be subject to the conditions herein unless varied by the Company in writing and these conditions will take precedence over any terms, conditions or stipulations contained in any of the Buyers documentation which may be in conflict herewith. Should the Buyer in any way purport to attach any conditions which vary, amend or are in conflict with the conditions set forth herein, then, notwithstanding anything to the contrary stipulated by the Buyer, the conditions set forth herein shall prevail and be in full force and effect unless specifically varied by the Company in writing with specific reference to the Buyers contrary documentation.
- 5.2 Orders by the Customer for the Company's goods, shall be made in writing to the Company or the relevant branches of the Company.
- 5.3 Oral orders shall similarly be capable of acceptance by the Company, but the Company will not be responsible for any misunderstandings or errors occasioned by the Customer's failure to make orders in writing.
- 5.4 Orders shall constitute irrevocable offers to purchase the goods in question and shall be capable of acceptance by the Company by the delivery of the goods or by the written acceptance or confirmation of the order.
- 5.5 The Customer shall provide the Company with an order number when placing any order with the Company.

### 6. DELIVERY TERMS

- 6.1 All goods are delivered free of charge to the Customer via a carrier of the Company's selection.
- 6.2 Delivery and passing of the risk in the goods, shall be deemed to have taken place when the goods are off-loaded at the Customer's premises or at any site as directed by the customer. A signed delivery note shall constitute *prima facie* (at face value) proof that the goods have been delivered to and received by the Buyer in good condition, whether signed by the Buyer, an employee, an agent or a representative of the Buyer.
- 6.3 Any discrepancies or shortfalls must be endorsed on the delivery note at the time of accepting the goods.

### 7. DELIVERY TERMS APPLICABLE TO ALL CUSTOMERS

- 7.1 The Company's discretion to sell in terms hereof may be guided by inter alia the following:
  - 7.1.1 the availability of stock
  - 7.1.2 Timeous receipt by the Company of any drawings, designs and specifications that may be required by the Company from the Buyer provided that such drawings, designs and specifications shall be deemed to have been given to the Company for the purpose of description only and shall not form part of the contract.
- 7.2 Should the Company, at the Customers request, agree to engage a carrier to transport goods to the Customer, such carrier shall be the Customer's agent and the Company shall engage the carrier on such terms and conditions as it deems fit and the Customer indemnifies the Company against all demands and claims which may be made against it by the carrier so engaged and all liability which the Company may incur to the carrier arising out of the transportation of the goods.
- 7.3 Whilst every effort will be made to despatch goods as advised, the Company does not guarantee despatch on any specific date and shall not be liable for any damages for failure to effect delivery / despatch timeously for any reason beyond the Company's reasonable control, including but not limited to, inability to secure labour, power, materials, equipment or supplies or by reason of an act of God, war, civil disturbance, riot, state of emergency, strike, lockout or other labour disputes, fire, flood, drought or legislation. The Customer shall not be entitled to cancel any order by reason of such delay.
- 7.4 If delivery is made in instalments, each instalment shall be deemed to be the subject of a separate contract and non-delivery or delay in delivery of any instalment shall not affect the balance of the contract or entitle the Customer to cancel the contract.
- 7.5 The Customer shall be barred from lodging any claim in respect of the discrepancies between goods charged and goods delivered, unless the Customer has specified on the delivery note, the nature of the discrepancy.

### 8. OWNERSHIP & RISK

- 8.1 Notwithstanding that all risk in and to all goods sold by the Company to the Customer shall pass on delivery, ownership in all goods sold and delivered shall remain vested in the Company until the full purchase price has been paid and in the event of a breach of these terms and conditions by the Customer, or if the Customer is sequestered or placed under liquidation or judicial management or commits any act of insolvency or enters into any compromise with its creditors or fails to satisfy a judgement granted against it within 7 days of the date of judgement or changes the structure of its ownership, the Company shall be entitled to take possession of the goods without prejudice to any further rights vested in the Company, and is hereby irrevocably authorised to enter upon the Customer's premises to take delivery of such goods without Court order.
- 8.2 The Customer shall fully insure the goods purchased from the Company against loss or damage until the full purchase price has been paid by the Customer for such goods. Pending payment to the Company for goods purchased, all benefits in terms of the insurance policy relating to the insurance of such goods are ceded to the Company.
- 8.3 The Customer shall inform the landlord or owner of the premises at which the goods are kept that such goods are the sole and absolute property of the Company until such time as the full purchase price has been paid to the Company by the Customer.

### 9. LEGAL PROCEEDINGS

- 9.1 Regardless of the place of execution or performance under these terms and conditions or domicile of the Customer, these terms and conditions and all modifications and amendments hereof, shall be governed by and decided upon and construed under and in accordance with the laws of the Republic of South Africa.
- 9.2 The Company shall, at its option and notwithstanding that the amount of its claim or the nature of the relief sought by it exceeds the jurisdiction of the Magistrates Court, be entitled to institute action out of such court.
- 9.3 A certificate issued and signed by any director, manager or branch manager of the Company, whose authority need not be proved, in respect of any indebtedness of the Customer to the Company or in respect of any other fact, including but without limiting the generality of the foregoing, the fact that such goods were sold and delivered, shall be prima facie evidence of the Customer's indebtedness to the Company and prima facie evidence of such other fact and prima facie evidence of the delivery of the goods.
- 9.4 The Customer's address as given herein in Section 1, question 1.8 of the credit application form, shall be recognised as the *domicilium citandi et executandi* (domicilium) for all purposes in terms of this agreement, whether in respect of the serving of any court process, notices, the payment of any amount or communications of whatever nature.
- 9.5 The Customer shall pay all legal costs, including attorney / own client costs, tracing agent's fees and collection charges which the Company may incur in taking any steps pursuant to any breach of these terms and conditions by the Customer.

### 10. ARBITRATION

- 10.1 The Company has the sole option to refer any dispute arising from or in connection with this agreement to arbitration, which arbitration shall bind both Company and Customer.

10.2 The arbitrator must be a person agreed upon by the parties or failing agreement, an arbitrator must be appointed by the Arbitration Foundation of Southern Africa, who shall then finally resolve the dispute or issue in accordance with the Rules of the Arbitration Foundation of SA.

#### 11. NEGOTIABLE INSTRUMENTS

11.1 Acceptance of a negotiable instrument by the Customer shall not be deemed to be a waiver of the Company's rights under this agreement. In relation to cheques furnished by the Customer to the Company, the Customer waives its right to insist on notice of dishonour or protest being given to it in the event that the cheque is dishonoured

#### 12. RETURNED GOODS

12.1 Whilst the Company is under no obligation to accept the return of goods, the Customer may only apply to a Member, financial manager or credit manager of the Company for permission to return goods. If written permission is given by the abovementioned Company employees for such return, the following will apply:

12.1.1 All goods are to be effected carriage paid, to the Company branch from which they were purchased.

12.1.2 All goods must be clean, saleable and undamaged and must have quality control approval

12.1.3 The value of credit for excess stocks returned will be calculated at the invoice value when the goods were purchased, less a 15% handling charge.

12.1.4 Short deliveries or goods damaged in transit must be reported to the Company within 24 hours.

12.2 Company sales representatives are not empowered to uplift goods for return and credit unless prior written permission from the Company has been obtained

#### 13. WARRANTIES AND INDEMNITIES

Unless a separate warranty is given by the Company in respect of specified goods, in which event the warranty so given shall be governed by the provisions of such separate warranty, the Company warrants:

13.1 that the goods are sold voetstoots and without any warranties or representations whatsoever. In addition the Buyer shall be precluded from raising any complaints or disputing liability to the Supplier in any way unless it shall have notified the Supplier of its complaints or grounds of dispute in writing within 7 days of receipt of the goods in question

13.2 Notwithstanding the timeous raising of a complaint or dispute of liability by the Buyer, the Buyer shall, under no circumstances, be entitled to withhold payment in respect of the goods from the Supplier pending the resolution of such dispute or complaint. Subject to the foregoing, the Supplier shall, in its discretion, be entitled to either remedy any failure by adjusting, repairing, replacing the goods in question, or refunding the whole or part (as the case may be) of the contract price paid to it by the Buyer in respect of such goods.

13.3 When the Supplier is required to manufacture or supply goods to the Buyers' specification and/or drawings, or carries out work according to the Buyer's instructions, or those of its nominees, the Supplier accepts no responsibility for the efficiency or workability of goods so manufactured or work so carried out.

13.4 Save as otherwise specifically provided for herein, the Supplier shall not be liable to the Buyer or to any other person for any damages including indirect or consequential damages of any nature whatsoever or any loss of profit, or special damages of any nature whatsoever and whether in the contemplation of the parties or not which the Buyer may suffer as a result of any breach by the Supplier of any of its obligations under these conditions or out of any other court whatsoever. The Buyer hereby indemnifies the Supplier against any claim which may be made against the Supplier by any other person in respect of any matter for which the liability of the Supplier is excluded in terms of the foregoing.

#### 14. CONTINUING COVERING SURETYSHIP

14.1 The signatory hereto binds himself as surety and co-principal Buyer in solidum with the Buyer in favour of the Supplier for the due payment of all amounts which may at any time be payable by the Buyer to the Supplier from any cause use of action whatsoever and whether acquired by the Supplier by way of cession or otherwise. The terms and conditions of this Sale Agreement shall apply *mutatis mutandis* ( in precisely the same manner ), to the Suretyship. The Surety/ies further waives the benefits of excussion and division (by renouncing these benefits, the Supplier becomes entitled to sue any one Surety for the full amount owing without first proceeding against or suing the Buyer or any other Surety) and of the legal exceptions non numeratae pecuniae (by renouncing this benefit as Surety is precluded from raising the defence that no money of equivalent thereof has passed between the Buyer and the Supplier) and non-causa debiti (by renouncing this benefit a Surety is precluded from raising the defence that there was no cause of action or reason for the Buyers indebtedness to the Supplier) and acknowledges himself to be fully acquainted with the meanings of these terms.

14.2 This suretyship is a continuing suretyship and shall remain of full force and effect notwithstanding any fluctuation in, or temporary extinction of the Buyer's indebtedness to the Supplier. It may not be withdrawn, revoked or cancelled by the Buyer without the Supplier's prior written consent. Any consensual cancellation or withdrawal of this suretyship by the Buyer and the Supplier shall only be valid and effective if reduced to writing and signed by both parties thereto.

14.3. Any admission of liability by the Buyer shall be binding upon the surety.

14.4. A certificate under the hand of any director or manager of the Supplier (whose appointment need not be proved) as to the existence and the amount of the Buyer's indebtedness and the surety's indebtedness to the Supplier at any time, as to the fact that such amount is due and payable, the amount of mora interest accrued thereon and as to any other fact, matter or thing relating to the Buyer's indebtedness to the Supplier and the surety's indebtedness to the Supplier, shall be sufficient and satisfactory proof of the contents and correctness thereof for the purpose of provisional sentence, summary judgement or any other proceedings of whatsoever nature against the Buyer and /or the Surety in any competent court and shall be valid as a liquid document for such purpose

14.5/We hereby guarantee in favour of the Supplier, the payment of all and or any debts which are the subject matter of this deed of suretyship.

14.6/ We furnish the guarantee to the Supplier as a principal obligation and assume liability for such principal obligation (as distinct from the corollary obligation referred to elsewhere in this deed of Suretyship).

14.7. I/We guarantee payment to the Supplier of any amount which may still be owing to the Supplier subsequent to The Supplier having received any amount from the Buyer by way of reduction of the Supplier's claim against the Buyer, whether having received the amount by way of compromise, settlement or pursuant to any business rescue plan as provided for in the Companies Act No.71 of 2008, irrespective of whether the plan provides for the release of the Buyer, or under any circumstance of whatsoever nature.

#### 15. CESSION OF BOOK DEBTS

15.1 The Customer does hereby irrevocably cede, pledge, assign, transfer and make over unto and in favour of the Company all of its right, title, interest, claim and demand in and to all book debts of whatsoever nature and description and howsoever arising which the Customer may now or at any time hereafter have against all and any persons, companies, corporations, firms, partnerships, associations, syndicates and other legal personae whomsoever ("the Customer's debtors") without exception as a continuing covering security for the due payment of every sum of money which may now be due or at any time hereafter be or become owing by the Customer to the Company.

15.2 Should it transpire that the Customer at any time entered into prior deeds of cession or otherwise disposed of any of its right, title and interest in and to any of the debts which will from time to time be subject to this cession, then this cession shall operate as a cession of all the Customer's reversionary rights. Notwithstanding the terms of the foregoing cession, the Customer shall be entitled to institute action against any of its debtors provided that all sums of money which the Customer collects from its debtors shall be collected on the Company's behalf and provided further that the Company shall at any time be entitled to terminate the Customer's right to collect such monies/debts.

#### 16. IN THE EVENT OF BUSINESS RESCUE

16.1 I/ We hereby guarantee in favour of the Supplier, the payment of all and / or any debts which are the subject matter of this deed of suretyship.

16.2 I/ We furnish the guarantee to the Supplier as a principal obligation and assume liability for such principal obligation (as distinct from the corollary obligation referred to elsewhere in this deed of Suretyship).

16.3 I/We guarantee payment to the Supplier of any amount which may still be owing to the Supplier subsequent to The Supplier having received any amount from the Buyer by way of reduction of the Supplier's claim against the Buyer, whether having received the amount by way of compromise, settlement or pursuant to any business rescue plan as provided for in the Companies Act No.71 of 2008, irrespective of whether the plan provides for the release of the Buyer, or under any circumstance of whatsoever nature.

#### 17. GENERAL

17.1 This contract represents the entire agreement between the Company and the Customer and shall govern all future contractual relationships between the Company and the Customer

17.2 and shall also be applicable to all debts which the Customer may owe to Company prior to the Customer's signature hereto

17.3 No amendment and/or alteration and/or variation and/or deletion and/or addition and/or cancellation of these terms and conditions whether consensual or unilateral or bilateral shall be of any force and effect unless reduced to writing and signed by a branch manager, credit manager, financial manager, regional manager or director of the Company. No agreement, whether consensual or unilateral or bilateral, purporting to obligate the Company to a written agreement to amend, alter, vary, add, delete or cancel these terms and conditions shall be of any force and effect unless reduced to writing and signed by a branch manager, credit manager, financial manager, regional manager or director of the Company.

17.4 No warranties, representations or guarantees have been made by the Company or on its behalf, which may have induced the Customer to sign this document

17.5 No relaxation or indulgence which the Company may give at any time in regard to the carrying out of the Customer's obligations in terms of any contract shall prejudice or be deemed to be a waiver of any of the Company's rights in terms of any contract.

17.6 The Customer shall not cede its rights nor assign its obligations.

17.7 The Company shall at any time in its sole discretion be entitled to cede all or any of its rights in terms of this application for credit facilities including all terms and conditions to any third party without prior notice to the Customer.

17.8 Any written notice shall be addressed to **CLUSTER BOX 29227 MAYTIME CENTRE, KLOOF, KZN 3610.**

17.9 The Customer undertakes to notify the Company, within a period of seven days, of any change of address or any changes in the information as set out in this agreement.

17.10 The headings in this document are included for convenience and are not to be taken into account for the purpose of interpreting this agreement.

17.11 Each of the terms herein, shall be a separate and divisible term and if any such term becomes unenforceable for any reason whatsoever, then that term shall be severable and shall not affect the validity of the other terms.

**18. DISCLOSURE OF PERSONAL INFORMATION**

- 18.1 The Customer understands that the personal information given in this credit application form is to be used by the Company for the purposes of assessing his credit worthiness. The Customer confirms that the information given by him in his credit application form is accurate and complete. The Customer further agrees to update the information supplied, as and when necessary, in order to ensure the accuracy of the above information, failing which the Company will not be liable for any inaccuracies.
- 18.2 The Company has the Customer's consent at all times to contact and request information from any persons, credit bureaux or businesses, including those mentioned in the credit application form and to obtain any information relevant to the Customer's credit assessment, including but not limited to, information regarding the amounts purchased from suppliers per month, length of time the Customer has dealt with such supplier, type of goods or services purchased and manner and time of payment.
- 18.3 The Customer agrees and understands that information given in confidence to the Company by a third party on the Customer will not be disclosed to the Customer.
- 18.4 The Customer hereby consents to and authorises the Company at all times to furnish credit information concerning the Customer's dealings with the Company to a credit bureau and to any third party seeking a trade reference regarding the Customer in his dealings with the Company  
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