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Rectron (Pty) Ltd  
Reg No. 1995/003772/07

Dear Prospective Customer

Thank you for your interest in our products and services.

Rectron (Pty) Ltd only approves applications from businesses that are registered with the Companies and Intellectual Property Commission (CIPC). The primary business activities on the founding statement must state that the business is a computer reseller and/or retailer, or that the business supplies IT software and/or services.

To ensure a timely response, please complete all fields and return the application with the necessary documentation, which is listed below:

- Complete the application form in full, and sign each page of the terms and conditions attached to this letter
- Company's registration documents showing the directors listing
- Copies of the directors 'ID documents
- VAT registration and tax clearance certificate (if applicable)
- Bank letter or cancelled cheque
- Proof of business address
- Should the application not be signed by the authorised signatory, a resolution letter signed by a listed director is needed.
- Contact details for relevant parties authorised to place orders. (refer to the paragraphs relating to one-time- passwords and OTP's)
- A business portfolio, or a letter stating the main business activity
- SABC Dealer TV Licence in the business name (if applicable)

To protect our resellers' businesses, and to ensure that all registered dealers are resellers, we have implemented a minimum spend policy. You will be required to spend R30 000 over a rolling three-month period. Should this not be met, your account will unfortunately be made inactive.

### **Credit Terms**

Rectron offers deferred payment terms to qualifying applicants. Please complete the credit amount required, should this be needed. We would like to advise you that all credit facilities are underwritten by the Credit Guarantee Insurance Corporation, and any terms granted will be subject to their approval. Should no credit be required, the payment terms approved will be strictly cash or EFT in advance.

### **Cash Accounts**

No direct cheque payments or deposits will be accepted.  
Payment may be done in any one of the following ways:

- Cash payable at the cashier

- Credit card payable at the cashier
- EFT – proof of payment required

**Collections**

We have a strict goods collections policy:

Proof of identification (green ID book or driver’s license) must be provided for all collections.

**OTP (One-Time Password) Activation for Secure Order Placement**

For Security reasons, and to prevent fraudulent activity, such as orders being placed on unsuspecting customers’ accounts, Rectron Pty (Ltd) has introduced an OTP activation on all purchases over R5000.00.

The procedure is as follows:

- When you or one of your staff places an order, either telephonically or via e-mail, the Rectron Pty (Ltd) order system will immediately send an OTP via SMS to your designated cellphone number/s.
- This OTP must be communicated and confirmed with the Rectron Pty (Ltd) salesperson either telephonically or via e-mail, so that the order can be confirmed on the Rectron Pty (Ltd) system.

Rectron (Pty) Ltd requires the names of your staff that are authorised to place orders, and the relevant cell phone numbers for those people, for the purpose of sending OTP’s. Kindly complete the table below so that your orders can be processed safely. Please return this information with your dealer application.

Without this information, our sales team will not be able to process your orders.

Name:		Cell No.:		Email:	
Name:		Cell No.:		Email:	
Name:		Cell No.:		Email:	
Name:		Cell No.:		Email:	

**Accounts contacts to have the statements / invoices sent to:**

Without this information, our accounts team will not be able to proceed with your application.

Name:		Email:	

Thank-you your co-operation in eradicating fraudulent activity.

If you require any further information, or experience any difficulties with your application, please do not hesitate to contact our sales administration department, where we will gladly assist you.

Yours Sincerely  
 Rectron Sales Administration Department  
 salesadmin@rectron.co.za

## TERMS AND CONDITIONS OF SALE, INCLUDING DEED OF SURETYSHIP

### INTERPRETATION:

- 1.1. In this agreement:
  - 1.1.1. clause headings are for convenience and shall not be used in its interpretation; unless the context clearly indicates a contrary intention;
  - 1.1.2. an expression which denotes:
    - 1.1.2.1. any gender includes the other genders;
    - 1.1.2.2. a natural person includes an artificial person and vice versa;
    - 1.1.2.3. the singular includes the plural and vice versa.
  - 1.1.3. the following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings:
    - 1.1.3.1. "addendum" – means the procedures that Rectron requires the dealer to follow and the standard terms and conditions of Rectron, for including but not limited to: warranty policy, service procedures, repair and replacement policy and packaging;
    - 1.1.3.2. "agreement" – means the dealer application to which these standard terms and conditions of sale are attached, these standard terms and conditions of sale and the addendum referred to in clause 1.1.3.1 as well as any other addenda, schedules, reports, as the case may be;
    - 1.1.3.3. "CPA" –means the Consumer Protection Act 68 of 2008 as amended;
    - 1.1.3.4. "customer" – means any person who has entered into a transaction with the dealer in the ordinary course of business;
    - 1.1.3.5. "dealer" –means the person whose name appears on the dealer application to which these terms and conditions of sale are annexed next to the caption "Registered / Trading name of business", or if these terms and conditions of sale are not annexed to the dealer application, or no name appears thereon, or in any other circumstances, any person or persons at whose request or on whose behalf Rectron undertakes to supply any goods, do any business, or provide any advice or service;
    - 1.1.3.6. "goods" – means any items, products or services of whatsoever nature that are supplied to the dealer in terms of this agreement;
    - 1.1.3.7. "signatory" –means the individual who signs this agreement and the dealer application on behalf of the dealer as well as any other agreement between Rectron and the dealer;
    - 1.1.3.8. "Rectron" – means Rectron (Pty) Ltd.

### 2. THESE TERMS AND CONDITIONS PREVAIL

- 2.1. It is recorded that the only basis upon which Rectron is prepared to do business with the dealer is that, notwithstanding anything in the dealer's enquiry, specification, acceptance, order or other documentation or any other documentation or discussion/s to the contrary, the terms and conditions contained in the agreement shall operate in respect of any and all business between the dealer and Rectron.
- 2.2. All and any business undertaken, including any advice, information or service provided whether gratuitously or not by Rectron is and shall be subject to the terms and conditions contained in the agreement and each term and condition shall be deemed to be incorporated in and to be a term and condition of any other agreement between Rectron and the dealer.
- 2.3. To the extent that this agreement appears on the reverse of an invoice or any other documentation of Rectron and there is no relevant dealer application, the dealer shall be deemed to be the person to whom the invoice or other document is addressed, and the signatory shall be deemed to be the person signing the invoice or other documentation. The terms and conditions of this agreement shall apply mutatis mutandis to such person and signatory.

### 3. NO VARIATIONS OR AMENDMENTS

- 3.1. This agreement constitutes the whole agreement between the dealer and Rectron relating to the subject matter hereof. Unless the context indicates otherwise this agreement incorporates, mutatis mutandis, all and any customership agreements between the parties extant immediately prior to the date of last signature.
- 3.2. No amendment or consensual cancellation of this agreement or any provision or term thereof or of any agreement, bill or exchange or other document issued or executed pursuant to or in terms of this agreement and no settlement of any disputes arising under this agreement and no extension of time, waiver or relaxation or suspension of any of the provisions or terms of this agreement or of any agreement, bill of exchange or other document issued pursuant to or in terms of this agreement shall be binding unless recorded in a written document signed by an authorised representative of Rectron. Any such extension, waiver or relaxation or suspension which is so given or made shall be strictly construed as relating strictly to the matter in respect whereof it was made or given.
- 3.3. No extension of time or waiver or relaxation of any of the provisions or terms of this agreement or any agreement, bill or exchange or any agreement, bill or exchange or any other document issued or executed pursuant to or in terms of this agreement, shall operate as a waiver of Rectron and/or dealer's rights as entrenched in the CPA with regard to enforcement of this agreement.
- 3.4. Rectron shall not be bound by any express or implied term, representation, warranty (with the exception of the warranties as provided for in the CPA), promise or the like not recorded herein, whether it induced the contract between Rectron and the dealer or not.
- 3.5. No person other than a duly authorised representative of Rectron has any authority to delete, amend or in any respect vary any of these conditions or accept any other conditions or agree to a consensual cancellation hereof.

### 4. QUOTATIONS

- 4.1. Any quotation given is not an offer by Rectron to sell or repair or service the goods but constitutes an invitation by Rectron to the dealer to do business with Rectron.
- 4.2. A quotation may be revoked at any time by Rectron.
- 4.3. Rectron may accept or reject in whole or in part any order placed upon it by the dealer pursuant to the quotation. Accordingly, a contract shall only come into force between Rectron and the dealer if after receipt by Rectron of the dealer's order or acceptance of the quotation, Rectron confirms to the dealer that such a contract has been concluded or if Rectron supplies, or tenders to supply, the goods in question to the dealer.
- 4.4. The quotation is based on rates of exchange, freight charges, insurance, railage, costs of labour and materials and other charges ruling at the date of the quotation. In the event of any variation occurring subsequent to the date of the quotation in any of the aforesaid rates and/or charges, as the case may be, Rectron shall prior to delivery furnish the dealer with an amended quotation which quotation is to be accepted or rejected, either verbally or in writing by and on behalf of the dealer.

### 5. PLACING OF ORDERS

- 5.1. If telephone orders are placed by the dealer, Rectron may require such orders to be confirmed in writing by the dealer, prior to acceptance by Rectron. Rectron will not be responsible for any errors or misunderstandings occasioned by the dealer's failure to record not only the details of the order correctly,

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but also the dealer's failure to clearly advise Rectron at the time of placing the order of its specific requirements regarding each and every item included in the order.

- 5.2. In the event of the agreement being subject to the provisions of the CPA, the dealer can cancel or withdraw an order but in such event Rectron will be entitled to charge a reasonable cancellation fee unless the order placed cannot be honoured because of the death or hospitalisation of the person for whose benefit the order was made.
  - 5.3. The dealer shall provide Rectron with an order number / reference number / other important details when placing an order and the dealer shall at all times place the order on an official letterhead of the dealer.
  - 5.4. The dealer undertakes to only allow duly authorised representatives of the dealer to collect goods that have been ordered as contemplated in clause 5.3 from Rectron. Rectron does not accept any responsibility and shall not be liable in any manner whatsoever if an unauthorised representative of the dealer collects goods from Rectron.
  - 5.5. All goods not collected within 4 (four) days of placing the order will automatically be credited from the dealers account back into Rectron's goods system.
- 6. PURCHASE PRICE AND PAYMENT**
- 6.1. Payment is due in accordance with the terms as set out in this agreement, as amended from time to time, in Rectron's sole discretion.
  - 6.2. Orders are accepted by Rectron only on the basis that the prices charged will be those ruling at the date of dispatch of the goods, unless otherwise expressly stated. A copy of Rectron's ruling prices from time to time may be obtained from Rectron by the dealer on request.
  - 6.3. Unless otherwise expressly stated, prices are exclusive of value added tax which shall be for the account of the dealer. The dealer shall pay or reimburse to Rectron the amount of any value added tax simultaneously with the purchase price.
  - 6.4. The dealer shall be obliged to pay to Rectron in addition to the contract price herein:
    - 6.4.1. the amount of any tax, duty or other charge of any nature whatsoever imposed by any law, regulation or enactment of whatsoever nature which comes into force on the date after the date on which any price charged is determined;
    - 6.4.2. any additional costs of any nature whatsoever arising due to factors beyond the control of Rectron as included in an amended quotation issued by Rectron and accepted by the dealer.
  - 6.5. Any expense incurred by Rectron at the instance of the dealer in modifying or otherwise altering or making additions to the design, quantities or specifications for standard goods, and any expenses arising as a result of suspension of work by Rectron due to instructions given, or a failure to give instructions by the dealer, shall be added to the purchase price in respect of the relevant goods.
  - 6.6. The purchase price in respect of any goods sold by Rectron to the dealer in terms of this agreement shall be payable:
    - 6.6.1. by the dealer to Rectron, at Rectron's head office or at such other place as Rectron may direct from time to time;
    - 6.6.2. in cash;
    - 6.6.3. immediately on due date;
    - 6.6.4. in South African currency without deduction or set-off and free of any exchange; and
    - 6.6.5. during or before the expiry of the credit period recorded on the dealer application, which period shall commence upon the issuing of an invoice by Rectron, or as directed by Rectron on its statement / tax invoice, or if there is no credit period indicated, or no credit period has been approved or no dealer application is annexed, cash on order.
  - 6.7. The dealer warrants that no cheques will be issued unless there are sufficient funds in the dealer's bank account and that such funds will remain available in order for all cheque payments to be forwarded and under no warranty will any cheque be "stopped" or be endorsed with "insufficient funds refer to drawer".
  - 6.8. The purchase price does not include charges for off-loading of the goods at the dealer's premises. The dealer shall provide at its cost the necessary labour, equipment or facilities required for all loading of the goods.
  - 6.9. The dealer has no right to withhold payment for any reason whatsoever. The dealer is not entitled to set off or deduct any amount due to the dealer by Rectron against any debt owed by the dealer to Rectron, nor shall any payment be withheld by virtue of any alleged counterclaim against Rectron by the dealer.
- 7. ACCOUNT AND CREDIT FACILITIES**
- 7.1. Rectron shall at its sole discretion decide to grant to the dealer credit facilities. Should Rectron grant the dealer credit facilities, the nature and extent of such credit facilities shall also be at the sole discretion of Rectron.
  - 7.2. The dealer authorizes and consents to Rectron making enquiries of whatsoever nature to reach a decision on whether or not to grant the dealer credit facilities and the nature of such credit facilities.
  - 7.3. Rectron reserves its rights to increase, decrease, suspend or withdraw any credit facility granted to the dealer at any time at the sole discretion of Rectron.
  - 7.4. Until a determination is made by Rectron as contemplated in 7.1 above, any goods supplied by Rectron to the dealer shall be supplied on a cash on order basis only.
  - 7.5. Rectron may within its sole and absolute discretion withdraw the credit facility afforded to the dealer (if any) and close the account of the dealer if the dealer is not reselling or resupplying the goods purchased from Rectron to the customer but rather using the goods for its own use.
- 8. RISK**
- 8.1. The risk of damage to or destruction of any relevant goods passes to the dealer on delivery thereof by Rectron to the dealer or on collection thereof by the dealer from Rectron.
- 9. REPAIRS**
- 9.1. Rectron will prepare and issue a quotation for the repair of goods, which quotation will be furnished to the dealer/customer and on acceptance of the quotation by the dealer/customer, Rectron will undertake the repairs in accordance with the quotation.
  - 9.2. The dealer/customer is entitled to waive the necessity of a quotation for the repairs, alternatively is able to furnish Rectron with a pre-authorisation for the repairs up to a specific maximum amount.
  - 9.3. In the event that a quotation is requested by the dealer/customer, the dealer/customer agrees to pay a diagnostic fee of R160.00 for preparing the estimate which includes labour in performing any diagnostic work, disassembly or reassembly required to prepare the quotation including any damage or loss of material or parts in the course of preparing the estimate. This charge will have to be paid by the dealer/customer, whether the quotation is accepted or not. This charge may change from time to time as Rectron sees fit.
  - 9.4. Rectron shall have the right of retention and lawful lien over the goods submitted for repairs until such time as the dealer/customer effects payment for the repairs and/or quotation fee in full.
- 10. IMPORTED GOODS**

Where the goods or any part thereof are to be imported, this agreement is subject to the condition that Rectron's order is accepted and confirmed by Rectron's own suppliers and that delivery is made thereunder in due course.

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**11. PROCEDURES TO BE FOLLOWED BY DEALER**

- 11.1. The dealer undertakes to strictly comply with and adhere to in full, the terms and conditions of the addendum.
- 11.2. Any form of non-compliance or partial compliance with the addendum will be a material breach of this agreement.

**12. DELIVERY**

- 12.1. Partial delivery shall not affect the payment period where a credit period has been approved and where no credit period has been approved the dealer shall pay the full purchase price, notwithstanding partial delivery.
- 12.2. Any delivery date indicated by Rectron shall merely be regarded as the estimated date of delivery and shall not bind Rectron to effect delivery on or near such date. Any failure for whatsoever reason on the part of Rectron to deliver the goods in accordance with the dates requested by the dealer, shall not constitute a reason to withhold, defer or set off, either in whole or in part the purchase price or give rise to a claim for damages unless caused by gross negligence of Rectron and/or its agent.
- 12.3. The dealer shall accept delivery whenever it is tendered and shall not be entitled to withhold or defer any payment, nor be entitled to a reduction in price, nor to any other right or remedy against Rectron, its servants, agents or any other persons for whom it is liable in law (the agreement between Rectron and the dealer as contemplated in this clause is for the benefit of Rectron's servants, agents or any other persons for whom Rectron is liable for in law) whether for losses, costs, damages, expenses, interest or otherwise on account of delays in effecting delivery, partial delivery or non-delivery, occasioned by the gross negligence on the part of Rectron, its servants, agents or any other persons for whom it is liable in law, or not.
- 12.4. If delivery of any particular order is to be effected in consignments, Rectron shall not be obliged to deliver any part of the order until the purchase price which is due in respect of the part of the order which has already been delivered has been paid.
- 12.5. If the goods are to be delivered by road, the dealer shall be obliged to procure that the delivery destination shall be easily accessible to road transport vehicles. The dealer shall be responsible for off-loading the goods at the delivery destination. If the goods are to be delivered by rail, the dealer shall be responsible for collection of the goods at the railhead.
- 12.6. The dealer shall be obliged to inspect all goods upon delivery and shall endorse the delivery note as to any missing or damaged goods. No claims for missing or damaged goods shall be valid unless the delivery note has been endorsed as aforesaid and unless, in addition, the dealer notifies Rectron in writing within 3 business days of the delivery of the goods of the claim question and the goods relating to such claim, furnishing full details in regard thereto. The dealer shall bear the onus of proving that upon delivery any goods are missing or damaged or that the dealer's order was in any way not complied with.
- 12.7. If Rectron is unable to deliver the goods to the dealer due to any act or omission on the part of the dealer, it shall be entitled to charge the dealer for the storage of the goods.
- 12.8. The dealer shall be obliged to furnish information necessary to enable delivery of the relevant goods to be effected and if the dealer fails or refuses to do so, or if it fails or refuses to take delivery, the goods shall be deemed to have been delivered to the dealer upon notification.
- 12.9. If Rectron agrees to engage a third party to transport the goods, Rectron is hereby authorised to engage a third party on the dealer's behalf and on the terms deemed fit by Rectron. The dealer hereby indemnifies Rectron against any claims that may arise from such agreement against Rectron. The dealer shall reimburse Rectron for any costs incurred in arranging special delivery, including but not restricted to, the costs of necessary disbursements and insurance. Any documentation purporting to evidence the said extra costs will be deemed to be prima facie proof thereof.
- 12.10. The dealer warrants that any signatory to any tax invoice, delivery note or other documentation of Rectron made out in the name of, or to the dealer, is duly authorised to bind the dealer in respect of the relevant transaction.

**13. WARRANTIES AND GUARANTEES**

**13.1. PROVISIONS APPLICABLE TO DEALERS WHO DO NOT FALL WITHIN CPA**

- 13.1.1. No warranties, guarantees or representations, express or implied or tacit whether by law, contract or otherwise and whether they induced the contract or not, which are not set forth in this agreement shall be binding on Rectron, the dealer irrevocably waiving any right (common law or otherwise) it may have to rely thereon, and the goods are purchased on the basis that they are taken voetstoots and with the exclusion of all common law and other remedies including aedilician remedies, whether as to the suitability of the goods sold for any specific purposes or (without limiting the generality of the foregoing) otherwise;
- 13.1.2. To the extent that goods supplied by Rectron are in any way defective, the dealer shall be entitled, within 1 year of the delivery of the relevant goods, to claim the replacement or repair of the goods to eliminate any defect in workmanship or materials found to be due exclusively to any acts or omissions on the part of Rectron. The dealer shall within 10 days after the defect arises, notify Rectron of the alleged defect, provided that Rectron shall have been given a reasonable opportunity of inspecting any alleged defect. Rectron shall notify the dealer of the decision of Rectron regarding the alleged defect, which decision shall be binding on the dealer. Rectron's liability shall be limited on return to the purchase price of the goods;
- 13.1.3. In order to be valid, a claim in terms of the guarantee as set out in clause 13.1.2 must be in writing, specifying the alleged defect, and supported by the original tax invoice. In addition, the goods must be returned by the dealer to Rectron at the dealer's expense, packaged in their original undamaged packaging material;
- 13.1.4. The parties agree that Rectron shall have no liability in respect of any injury, loss or damage (direct, indirect or consequential) arising out of the use of, or inability to use, the goods and whether or not occasioned by Rectron's negligence (gross or otherwise) or any act or omission on its part. Without limiting the foregoing Rectron does not warrant that the goods will be fit for the purposes for which they are to be used by the dealer (notwithstanding that the use to which the dealer intends to put the goods is known to Rectron). For the purposes hereof, any reference to Rectron shall include its servants, agents, contractors or any other person for whose acts or omissions Rectron may be liable in law (the agreement between Rectron and the dealer as contemplated in this clause is for the benefit of Rectron's servants, agents or any other persons for whom Rectron is liable for in law);
- 13.1.5. Rectron shall be relieved of all obligations in terms of this clause 13, if:
  - 13.1.5.1. repairs or modifications have been made by persons other than Rectron, unless such repairs or modifications are made with the prior written consent of Rectron;
  - 13.1.5.2. any goods are operated with any accessory, equipment or part not specifically supplied or approved in writing by Rectron;
  - 13.1.5.3. the goods shall not have been operated or maintained in accordance with Rectron's instruction, or under normal use, or the goods shall not have been properly installed.
- 13.1.6. If repairs or replacements are effected by Rectron, only the parts actually worked on and not the complete goods shall be subject to a new guarantee, if any, hereunder;
- 13.1.7. The dealer who acquires goods for the purpose of on-selling those goods, whether that dealer is permitted to do so or not (and nothing herein contained shall be deemed to allow the dealer to on-sell goods acquired from Rectron whilst ownership vests in Rectron), shall not advertise or issue or in any other way give or make any warranties, guarantees or representations as to the goods in any form whatsoever or offer to do so, which could result in liability being imposed upon Rectron;

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- 13.1.8. The above warranties are subject to the following conditions:
- 13.1.8.1. Rectron shall be under no liability to the dealer until the dealer has paid the full amount due to Rectron in respect of the goods concerned;
  - 13.1.8.2. Rectron shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow Rectron instructions (whether oral or in writing), improper use outside Rectron's specifications, damage to the goods caused by improper maintenance, service or repair by untrained personnel or technicians, and unauthorised alterations or modifications of the goods;
  - 13.1.8.3. Rectron shall be under no liability in respect of parts, materials or equipment which are accepted in the industry to have a limited life expectancy or parts, materials or equipment, which need to be replaced at specified and published service intervals ("consumable parts");
  - 13.1.8.4. Rectron shall be under no liability in the event that spare parts and consumable parts other than those recommended for use by Rectron are fitted, attached or used on the goods.
- 13.1.9. Notwithstanding anything to the contrary in this agreement, Rectron shall not be liable to the dealer by reason of any representation or implied warranty, condition or other term or any duty at common law, or under the express terms of this agreement, for any consequential loss or damage (whether for loss or profit or otherwise and whether occasioned by the negligence of Rectron or its employees or agents or otherwise) arising out of or in connection with any act or omission of Rectron relating to the supply of the goods, their resale by the dealer or use by any third party.

#### **13.2. AGREEMENTS SUBJECT TO CPA**

- 13.2.1. Within 6 months after delivery of the goods to the dealer, the dealer may return the goods to Rectron, without penalty, if the goods do not satisfy the requirements and standards contemplated in Section 55 of the CPA in which event Rectron may either:
- (a) repair or replace the failed, unsafe or defective goods; or
  - (b) refund the dealer for the price paid by the dealer for the goods.
- 13.2.2. In the event of Rectron repairing any particular goods or component of such goods and within 3 months of that repair, the failure or defect or unsafe features not being remedied or a further failure, defect or unsafe feature is discovered, Rectron shall:
- (a) replace the goods; or
  - (b) refund the dealer the price paid by the dealer for the goods.
- 13.2.3. The aforesaid warranty exists in addition to an express warranty or condition stipulated by the producer or importer as the case may be;
- 13.2.4. In the event of Rectron providing any new or reconditioned parts installed during any repair or maintenance work and the labour required to install it, such work and parts will be warranted for a period of 3 months after date of installation or such longer period as Rectron may specify in writing;
- 13.2.5. This warranty is subject to the parts, goods and/or property not being misused or abused and does not apply to any ordinary wear and tear having regard to the circumstances in which it was intended to be ordinarily used.

#### **14. HANDLING FEE ON RETURN OF GOODS**

- 14.1.1. Rectron reserves the right to levy a reasonable handling charge on goods that are or have been returned for credit to and accepted by Rectron.
- 14.1.2. Rectron reserves the right to charge a reasonable fee for the costs or any losses occasioned by the return of any software to Rectron in whatever form. This excludes software that is sold as part of a bundle with other goods.
- 14.1.3. Software that has been opened/used/activated will not be accepted for credit by Rectron.

#### **15. AVAILABILITY OF IMPORT PERMITS**

Rectron's obligations hereunder shall be subject, in those cases where the goods or part thereof are to be imported, to the availability of an import permit to Rectron.

#### **16. OWNERSHIP**

- 16.1. Ownership of the goods shall not pass to the dealer until the contract price (including interest if any) in respect of the goods in question has been paid. The provisions hereof shall apply notwithstanding the installation of such goods in the dealer's premises or the accession thereof to any of the dealer's goods or that the goods may be incorporated into or form part of other goods or change their essential character. All goods, whether fixed to immovable property or not, shall be deemed to remain movable property and be deemed to be severable without injury to either movable or immovable property.
- 16.2. Rectron reserves the right to inform the owner/landlord of the premises in which the goods are or at any time may be, of the provisions of this clause 16. The dealer shall be obliged to advise Rectron of the name and address of the landlord of any such premises and shall promptly advise Rectron of any change in the name and/or the address of any landlord or of any new landlord.
- 16.3. The dealer shall take all such steps as may be necessary to notify interested third parties that ownership of the relevant goods has not passed from Rectron to the dealer. In particular the dealer shall inform the owner/landlord of the premises in which the goods are or at any time may be, of the provisions of this clause. The dealer shall produce written proof of such notices to Rectron on demand.

#### **17. SUBSTITUTE GOODS OR PARTS**

- 17.1. Rectron shall be entitled to substitute any goods specified in this agreement for such other goods which Rectron in its sole discretion may regard as suitable substitutes therefore on reaching an agreement with the dealer.
- 17.2. Rectron reserves the right to alter specifications as conditions warrant without notice. Should conditions render unavailable any materials or goods specified herein or otherwise required in order to fulfil this agreement, a substitution deemed by Rectron to be suitable for the performance of its obligations will be supplied.

#### **18. DOCUMENTATION**

All specifications, descriptive matter, drawings and other documents furnished by Rectron do form part of the agreement and may be relied upon, unless they are agreed in writing by Rectron to not form part of this agreement. All descriptive matter, specifications, drawings and particulars given by Rectron which form part of the agreement are approximate only and Rectron cannot be held responsible for loss including consequential loss due to discrepancies therein.

#### **19. INSURANCE**

Rectron shall have the option to require the dealer, at its own expense, and prior to taking delivery of the goods, to insure the goods and thereafter keep the goods insured until such time as the goods have been paid for in full. Such insurance shall be taken with such insurers as may be approved by Rectron in writing, for such amount and on such terms as may be approved by Rectron in writing. The insurance policy shall record the interest of both Rectron and the

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dealer in writing. The dealer shall, if so required by Rectron, cede to Rectron all its rights in terms of such insurance policy. Rectron shall exercise the said option by giving the dealer written notice that it is doing so at any time prior to the delivery of the goods by Rectron to the dealer.

**20. BREACH**

- 20.1. Subject to clause 20.2 if the dealer breaches any of the terms or conditions hereof or any other agreement with Rectron or fails to pay any amount payable by it on due date or commits any act of insolvency or endeavours to compromise generally with its creditors or does or causes to be done anything which may prejudice Rectron's rights hereunder or at all, or allows any judgment against it to remain unsatisfied for 7 days or is placed into provisional or final liquidation or judicial management or under provisional or final sequestration or if his estate is voluntarily surrendered, or is under an administration order or debt rehabilitation as provided for in the National Credit Act, 34 of 2005 ("NCA"), Rectron shall have the right, without prejudice to any other right which it may have against the dealer, to elect to –
- 20.1.1. treat as immediately due and payable all outstanding amounts which would otherwise become due and payable over the unexpired period of the agreement and to claim such amounts as well as any other amounts in arrears including interest and to cease performance of its obligations hereunder as well as under any other contract with the dealer until the dealer has remedied the breach; and / or
- 20.1.2. cancel this agreement and retake possession of any of the goods sold and / or;
- 20.1.3. claim damages.
- 20.2. Rectron shall not be obliged to comply with its obligations hereunder in any respect whatsoever for so long as the dealer is indebted to Rectron in any amount whatsoever in respect of any cause whatsoever or fails to comply with any other obligations to Rectron, whether arising out of this contract or otherwise. In particular without limiting the generality of the foregoing, if delivery of any particular order is to take place in stages, Rectron shall not be obliged to deliver any part of the order until the purchase price which is due in respect of the part of the order which has already been delivered, has been paid.
- 20.3. The dealer agrees that the amount due and payable to Rectron shall be determined and proven by a certificate issued by Rectron and signed on its behalf by any person duly authorised by Rectron, which authority need not be proven. Such certificates shall be binding on the dealer and shall be prima facie proof of the indebtedness of the dealer.
- 20.4. The dealer hereby indemnifies Rectron against any and all damage of whatsoever nature, howsoever and by whomsoever caused in relation to the removal of goods, excluding any gross negligence by Rectron, and without derogating from the generality of the foregoing, the removal of repossessed goods from the premises of the dealer or any other premises where the goods may be found.
- 20.5. The dealer hereby agrees that Rectron shall not be required to furnish security in terms of the relevant rules of the Rules of the Magistrate's Court and the relevant rules of the Rules of the High Court.  
The dealer consents that Rectron shall have the right to institute any action in either the relevant Magistrate's Court or the High Court at its sole discretion irrespective if the amount claimed exceeds that particular courts jurisdiction.

**21. DOMICILIUM AND NOTICES**

- 21.1. The dealer and surety choose their domicilium citandi et executandi ("domicilium") for the purposes of the giving of any notice, the payment of any sum, serving of any process and for any other purpose arising from this agreement at their addresses and telefacsimile numbers as set in the dealer application annexed hereto. The dealer and the surety agree that should any notice be received in terms of the NCA, that such notice may be given by pre-paid registered post.
- 21.2. Rectron shall in its sole discretion regard either of the addresses as the dealer's and surety's domicilium if the dealer and the surety's addresses differ in the dealer application.
- 21.3. Each of the parties shall be entitled from time to time, by written notice to the other, to vary its domicilium to any other address which is not a post office box or poste restante.
- 21.4. Any notice given and any payment made by any party to any other ("the addressee") shall be in writing and if:
- 21.4.1. delivered by hand during the normal business hours of the addressee at the addressee's domicilium for the time being shall be presumed, until the contrary is proved by the addressee, to have been received by the addressee at the time of delivery;
- 21.4.2. posted by prepaid registered post to the addressee at the addressee's domicilium for the time being shall be presumed, until the contrary is proved by the addressee, to have been received by the addressee on the 4th day after the date of posting;
- 21.4.3. transmitted by telefacsimile to the addressee's telefacsimile address for the time being shall be presumed, until the contrary is proved by the addressee, to have been received by the addressee on the 1st business day after the date of transmission.

**22. GENERAL**

- 22.1. This agreement is personal to the dealer, which may not without the written consent of Rectron assign, mortgage, charge or dispose of any of its rights hereunder, or subcontract or otherwise delegate any of its obligations hereunder.
- 22.2. The dealer is an independent contractor and nothing in this agreement shall create, or be deemed to create, a partnership or the relationship of principal and agent or employer and employee between the parties.
- 22.3. The dealer acknowledges that, in entering into this agreement, it does not do so on the basis of, and does not rely on, any representation, warranty or other provisions except as expressly provided herein, and all conditions, warranties or other terms implied by statute or common law are hereby excluded to the fullest extent permitted by law.

**23. NO CESSION**

The dealer shall not be entitled to cede or assign any rights and/or obligations which it may have in terms of this agreement to any third party.

**24. SECURITY FOR OBLIGATIONS**

Rectron reserves the right to require satisfactory security from the dealer for the due performance of any of the dealer's obligations hereunder including but not limited to the payment of the purchase price. If Rectron so requires, the dealer shall deliver to Rectron prior to Rectron complying with any of its obligations hereunder, confirmed irrevocable letters of credit by financial institutions acceptable to Rectron. If such security or guarantees or letters of credit are not furnished within 7 days after any such demand, Rectron shall be entitled to withdraw from the agreement in whole or in part.

**25. COSTS**

- 25.1. The dealer shall be liable for all costs incurred by Rectron 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 and costs of counsel as on brief 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.
- 25.2. The dealer undertakes to pay the costs of the suretyship and cession contained herein, including any stamp duty payable thereon and agrees that such costs can be debited to the dealer's account upon acceptance.

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**26. SURETYSHIP AND WARRANTY OF AUTHORITY**

- 26.1. The surety, by his signature hereto, binds himself in favour of Rectron, its successors-in-title and assigns as surety for and co-principal debtor in solidum with the dealer for the due and punctual performance by the dealer of all its obligations to Rectron in terms of this agreement. The suretyship obligation is an unlimited obligation with regard to any and all present and future indebtedness already incurred or to be incurred by the dealer, notwithstanding any agreed limit from time to time.
- 26.2. The suretyship in 26.1 shall remain of full force and effect notwithstanding:
  - 26.2.1. any indulgence, concession, leniency or extension of time which may be shown or given by Rectron to the dealer;
  - 26.2.2. any amendment/s to this agreement and/or other agreement for the time being subsisting between the parties.
- 26.3. The surety hereby renounces the benefits of the legal exceptions "non causa debiti", "errore calculi", "excussion", "division", "no value received" and "revision of accounts", with the meaning and effect of all of which he declares himself to be fully acquainted.
- 26.4. The signatory warrants, as a material warranty which Rectron relies on in entering into this agreement, that he is duly authorised to represent and bind the dealer to this agreement, and that he has read and understood each term and condition of this agreement and accepts them as binding on him and the dealer.
- 26.5. The surety shall be liable for all costs incurred by Rectron 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 and costs of counsel as on brief 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.
- 26.6. The surety shall forthwith after the conclusion of the contract, furnish Rectron with all information reasonably required by Rectron to enable it to comply with its obligations. The surety warrants that the information given is true and correct in every respect. The surety undertakes to update the information furnished to Rectron in order to ensure that the information is accurate and up to date.
- 26.7. Any judgement, whether formal or informal, in Rectron's favour against the dealer shall, notwithstanding that the surety has not been joined in the proceedings giving rise to the judgement, preclude the surety from being entitled to dispute the merits of the claim in respect of which the judgement has been granted, in proceedings against the surety.
- 26.8. The surety acknowledges that he has been given an opportunity to read through, seek advice and ask questions on the contents of this clause 26.

**27. EXEMPTION AND INDEMNITY**

- 27.1. The dealer shall have no claim of any nature whatsoever for damages, a remission of the purchase price, cancellation or otherwise, against Rectron, its servants, agents or others on whose behalf Rectron would be liable, in respect of any loss or damage sustained by the dealer of any nature whatsoever or any damage caused to the assets of the dealer or assets kept on its premises by any third parties or in regard to the dealer's business or sustained by any of its dealers, howsoever caused including the negligent (excluding grossly negligent) acts or omissions of Rectron, its servants, agents or others for whom it may be liable in law. (the agreement between Rectron and the dealer as contemplated in this clause is for the benefit of Rectron's servants, agents or any other persons for whom Rectron is liable for in law).
- 27.2. In the event that the dealer who acts as a supplier to the customer and as such becomes a supplier as defined in the CPA, and such dealer does not comply with the provisions of the CPA in any manner whatsoever and the customer proceeds with a claim against Rectron, then the dealer indemnifies Rectron to the fullest extent permitted in law against any claims made against Rectron by the customer.

**28. CONSEQUENTIAL LOSS**

Under no circumstances whatsoever including as a result of its negligent (excluding grossly negligent) acts or omissions or those of its servants, agents or contractors or other persons for whom in law it may be liable, shall Rectron be liable for any consequential loss sustained by the dealer.

**29. SEVERABILITY**

Each paragraph or clause in this agreement is severable the one from the other and if any paragraph or clause is found by any competent court to be defective or unenforceable for any reason whatever, the remaining paragraphs or clauses shall be of full force and effect and continue to be of full force and effect.

**30. FORCE MAJEURE**

Any transaction is subject to cancellation by Rectron due to force majeure from any cause beyond the control of Rectron, including, without restricting the generality of the foregoing, inability to secure labour, power, materials or supplies, or by reason of an act of G-d, war, civil disturbances, riot, state of emergency, strike, lockout, or other labour disputes, fire, flood, drought or legislation.

**31. CESSION**

- 31.1. The dealer hereby irrevocably cedes, assigns and transfers, makes over unto and in favour of Rectron, all the dealer's right title and interest in and to its claims against its debtors, both present and future and from whatsoever cause arising, as security for all or any of the amounts which the dealer may now or at any time in the future owe to Rectron.
- 31.2. The dealer irrevocably and in rem suam authorises Rectron in its absolute discretion to claim from all or any of the dealer's debtors the whole or any portion of the indebtedness of any one or more of them, to give a valid receipt or discharge for such indebtedness, to take any action in its name in any court of competent jurisdiction and to proceed in execution thereunder against all or any of the said debtors, to cede, transfer, negotiate, pledge or otherwise deal with all or any of the said debtors, to exchange promissory notes, cheques, agreements, documents of title or any other security held by the dealer.
- 31.3. The security created by the cession shall be a continuing one, notwithstanding any fluctuation in the amount of indebtedness of the dealer to Rectron.
- 31.4. The dealer hereby undertakes on demand, to furnish Rectron with such information concerning its debtors as may be reasonably required, to enable Rectron to give effect to the provisions of this clause.

**32. FURNISHING OF INFORMATION BY THE DEALER AND USE OF INFORMATION**

- 32.1. The dealer shall prior to the conclusion of the contract, furnish Rectron with all information reasonably required by Rectron to enable it to comply with its obligations. The dealer warrants that the information given is true and correct in every respect. The dealer undertakes to update the information furnished to Rectron in order to ensure that the information is accurate and up to date.
- 32.2. The dealer consents that Rectron may disclose all information relating to the dealer's account to any other creditor, credit bureau and / or credit grantor.
- 32.3. The dealer undertakes to inform Rectron in writing at least 30 days prior to the intended sale or alienation of part or the whole of the dealer's business or changing the principal and / or shareholding of / in the dealer's business. The signatory and the surety as recorded on the dealer application will remain liable to Rectron for any amount payable to Rectron notwithstanding the sale of the business to a third party, alternatively the signatory and the surety are estopped from denying their liability, notwithstanding the sale or alienation or transfer of the part or whole of the dealer's business and / or membership interest and / or shareholding.

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32.4. The dealer and surety hereby agree to update their respective information in terms of the Financial Intelligence Centre Act 38 of 2001 and the NCA. The failure to update information may at the Rectron's sole discretion lead to a termination or reduction or suspension of the dealer's credit facility with Rectron.

33. **ORIGINAL DOCUMENTATION**

33.1. The dealer undertakes to deliver the original signed dealer application together with all information and / or documentation required by Rectron to Rectron.

33.2. The dealer's failure to deliver the original signed dealer application together with all information and / or documentation required by Rectron to Rectron may at Rectron's sole discretion lead to a termination or reduction or suspension of the dealer's credit facility with Rectron.

34. **LAW AND JURISDICTION**

This agreement shall be governed by and construed in accordance with the laws of the Republic of South Africa and the parties hereby submit to the non-exclusive jurisdiction of the courts.

35. **RECEIPT OF DOCUMENTS, CHEQUES ETC**

No notices, cheques, cash or other documents sent to Rectron through the post shall be deemed to have been received unless and until actually received by Rectron.

36. **INTEREST**

The dealer shall pay interest at the publicly quoted basic rate per annum ruling from time to time at which The Standard Bank of South Africa Limited lend on overdraft, which rate shall be proved by way of a certificate signed by any employee of such bank, compounded monthly in arrears on all amounts owing by the dealer to Rectron which have not been paid on the due date thereof, reckoned from the due date thereof until date of payment. Such interest shall be payable on demand.

**AUTHORISED SIGNATORY:**

Full names: \_\_\_\_\_

Signature: \_\_\_\_\_

***(For and behalf of the customer who warrants that he/she is duly authorised hereto and in his/her capacity as surety for the customer as contained in clause 26 herein).***

Signed at \_\_\_\_\_ on \_\_\_\_\_ Year \_\_\_\_\_

**WITNESSESS: *(to be witnessed by someone other than the signatory)***

Full names: \_\_\_\_\_

Signature: \_\_\_\_\_

Signed at \_\_\_\_\_ on \_\_\_\_\_ Year \_\_\_\_\_