

Johannesburg (use for applications & legal notices):	Telephone number: +27 11 233 3333 / Fax Number: +27 11 233 3286 No 9 Cambridge Commercial Park, 22 Witkoppen Road, Paulshof P O Box 1968, Kelvin, 2054
Cape Town:	Telephone number: 0861 249 333 or +27 21 525 2280
Durban:	Telephone number : +27 31 583 8400

<u>Please submit the following documentation with this application:</u>	- Copy of Company registration certificate/CK2;
- Copy of Company Tax clearance certificate;	- Copy of authorised signatory's ID;
- Copy of Company letterhead;	- Copy of a Company cancelled cheque

RESELLER APPLICATION , CREDIT APPLICATION, CESSION OF BOOK DEBTS, COVERING DEED OF SURETYSHIP

I, the undersigned (the "Customer") do hereby apply to [PLEASE MARK WITH AN "X" THE APPLICABLE COMPANY]
 Westcon SA (Pty) Ltd (Company registration number: 1995/008890/07, VAT number 4700185715) and/or
 Biodata IT South Africa (Pty) Ltd (Company registration number: 2001/003485/07), VAT number 4870193150) as the case may be (the "SELLER") for the opening of an account for the purchase of goods, materials and/or services all of which are to be governed by the terms and conditions of sale of the SELLER as annexed hereto, marked "Annexure A" (Terms and Conditions) and "Annexure B" (Deed of Suretyship). In signing this "Reseller Application, Credit Application, Cession of Book Debts and Covering Deed of Suretyship" ("the Application") I hereby confirm that I have read and understood the contents of the Application (which includes Annexure A and Annexure B) and that there are no matters contained in the Application which are unfamiliar/unclear to me.

All fields must be completed correctly and all pages must be initialed.

CUSTOMER DETAILS:			
Public Co.	<input type="checkbox"/>	Private Co.	<input type="checkbox"/>
	<input type="checkbox"/>	Close Corporation	<input type="checkbox"/>
	<input type="checkbox"/>	Sole Proprietor	<input type="checkbox"/>
Trading Name	_____		
Registered Company name	_____		
Company registration number	_____	Number of years trading	_____
Postal Address	_____		
Delivery address	_____		
Physical address	_____		
	Domicilium citandi et executandi (physical address for serving of court notices, other legal documentation or communications)		
Telephone number	_____	Fax number	_____
VAT Registration Number	_____	Email address	_____
Type of Business	_____	Premises: Owned or leased	_____
Number of Branches	_____	Location of branches	_____
Name of Holding Company or majority holder/s	_____		
FINANCIAL INFORMATION:			
Name of Auditors	_____	Annual turnover	_____
Name of Bank	_____	Telephone number	_____
Account Number	_____	Branch Name	_____
		Branch Code	_____
(please provide at least 3 regular and relevant suppliers – i.e. not utility, stationers, courier or telephone service providers)			
Trade Reference:	Company name	Contact name	Telephone number
	_____	_____	_____
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____

Details of Director(s)/Member(s)/Partner(s)/Owner(s) (Attach separate list if space not sufficient):

Name: _____ Capacity: _____ ID Number: _____
Tel: _____ Mobile: _____ Residential Address: _____

Name: _____ Capacity: _____ ID Number: _____
Tel: _____ Mobile: _____ Residential Address: _____

Name: _____ Capacity: _____ ID Number: _____
Tel: _____ Mobile: _____ Residential Address: _____

LIST OF SURETIES and/or CESSION OF DEBTORS granted to other suppliers:

Total Credit Limit Required from the Seller: R _____, 00

CUSTOMER TO SIGN THIS SECTION

I, the undersigned, duly authorized signatory of the Customer, do hereby warrant that the information recorded in this Application is true and correct in each and every respect and may be relied upon, and undertake to notify the Seller in writing of any change of details. I acknowledge that any credit facilities granted by the Seller to the Customer shall be at the sole discretion of the Seller as to the nature, duration and extent thereof.

I, the undersigned, the duly authorized signatory of the Customer, do hereby accept and undertake irrevocably to be bound by the terms and conditions of sale, as set out in "Annexure A" to this application which terms and conditions I acknowledge having read and understood and agree that these terms and conditions are applicable to all transactions relating to the sale and purchase of goods, materials and/or services from any facility made available by the Seller.

Duly Authorized Signatory: _____ Full Name: _____
Capacity: _____ Date: _____
Witness signature: _____ Witness name: _____

SELLER TO SIGN THIS SECTION

I the undersigned, duly authorized signatory of the Seller, do agree to these terms and conditions of Sale on behalf of the Seller.

Duly Authorized Signatory: _____ Full Name: _____
Capacity: _____ Date: _____
Witness signature: _____ Witness name: _____

Terms and Conditions of Sale

1. **PRICES & QUOTATIONS**
- 1.1 The price of the goods sold or services rendered shall be the usual price charged by the Seller for those goods or services, as stipulated in the price list, as set out in the Seller's invoice to the Customer at the time of the sale of the goods.
- 1.2 The Seller's price lists shall be considered merely as a guide by the Customer, and the Seller has the right, from time to time, to vary the prices of its goods without prior notice having to be given to the Customer. Once a Customer has been invoiced, any subsequent price changes will not affect the prices charged to the Customer in that invoice.
- 1.3 Quotations remain valid for a period of 7 (seven) calendar days from date of the quotation, or until the date of issue of a new price in respect of goods, whichever occurs first. All quotations are subject to availability of goods.
- 1.4 Quotations may be changed at any time before acceptance by the Customer.
- 1.5 The price of the goods sold to the Customer is strictly net and not subject to any discounts unless otherwise agreed.
- 1.6 Discounts, agreed to in writing by the Seller, shall only apply if payment is received by the Seller by the due date. The agreed discount will be on the net price of the goods only, and not in respect of value added tax, transport costs, storage charges, insurance, duties or taxes.
- 1.7 Applied discounts are subject to vendor approval confirmation.
2. **PAYMENT**
- 2.1 Payment terms are strictly Cash on Delivery ("COD"), save where the Customer is a credit approved customer in which event payment will be due within 30 (thirty) calendar days of the date on which the Customer is invoiced.
- 2.2 In respect of COD Customers, payment shall be due on collection or before delivery of goods. In the event that the Customer fails to collect or accept delivery of the goods, payment shall automatically become due 14 (fourteen) calendar days after the Seller has provided written or verbal notification to the Customer that goods are available for delivery or collection.
- 2.3 The Customer agrees to pay the amount reflected on the Seller's invoice and shall not be entitled to claim set off or deduction in respect of any payment due by the Customer to the Seller for goods supplied or services rendered, except to the extent that the Customer has a successful liquidated claim against the Seller in relation to the Seller's breach of these terms and conditions.
- 2.4 The Seller may appropriate and/or allocate all payments made by the Customer to such accounts as the Seller, in its sole and absolute discretion, decides.
- 2.5 The Seller shall have the right to suspend deliveries without notification and to exercise its rights in terms of clause 3 if any amount due by the Customer is unpaid.
- 2.6 The Customer agrees that if any amount owed by it is not settled in full (a) on demand; or (b) within the period agreed in clauses 2.1 and/or 2.2 above the Seller will be entitled to:-
- 2.6.1 immediately institute action against the Customer; and/or
- 2.6.2 cancel the sale and, subject to the Seller fulfilling any requirements imposed by law, take possession of any goods delivered to the Customer, including goods sold, disposed of or installed by the Customer, which have not been paid for in full, and claim damages.
- These remedies are without prejudice to any of the Seller's other rights.
- 2.7 Should any amount not be paid by the Customer on due date, then the full outstanding amount in respect of all purchases by the Customer shall immediately become due, owing and payable irrespective of the dates when the goods were purchased, and the Customer shall be liable to pay interest in respect of amounts unpaid at the Seller's banker's prime lending rate plus 2% or such lesser rate as prescribed for credit agreements in compliance with the National Credit Act (Act 34 of 2005) or equivalent legislation, as amended. Interest shall be calculated from the due date of such payment to the date of final payment thereof.
- 2.8 The following terms in relation to all payments apply:
- 2.8.1 No third party cheques will be accepted.
- 2.8.2 Electronic transfers must reflect on the Seller's bank account, regardless of value, before goods are released (in the case of a COD Customer).
- 2.8.3 Acceptable methods of payment are:
- 2.8.3.1 Electronic Funds Transfer; or
- 2.8.3.2 Credit and debit card up to a maximum of R20,000 for COD purchases only; or
- 2.8.3.3 Cheque subject to a maximum of R5,000,000 per individual cheque (and acceptance is subject to cheque acceptance provisos in clause 2.9); or
- 2.8.3.4 Cash up to a maximum value of R5,000.
- 2.9 Cheque acceptance provisos:
- 2.9.1 Post-dated cheques will not be accepted as payment unless prior arrangements have been made with the Seller's Credit Manager;
- 2.9.2 For COD purchases all cheques for amounts above R5,000 must be bank guaranteed, unless prior arrangements have been made with the Seller, failing which the cheque will require a 7 (seven) working day clearance period (which excludes Saturdays and Sundays), before collection or delivery of the products is approved.
3. **WITHDRAWAL OF CREDIT FACILITIES**
- 3.1 The Seller reserves the right to withdraw any credit facility at any time without prior notice, and the nature and extent of such facility shall at all times be at the Seller's sole discretion.
- 3.2 Despite the fact that the Seller may grant the Customer a credit limit or a credit facility up to a certain amount, the Seller reserves the right to increase or decrease this amount at its sole discretion. The credit limit shall not be deemed to be the limit of a Customer's indebtedness to the Seller.
4. **DEPOSIT**
- 4.1 If the Customer is a COD Customer or is a credit approved Customer whose credit terms are not sufficient to cover the cost of an order, the Customer shall pay a deposit on acceptance by the Seller of the Customer's purchase order on the following terms:
- 4.1.1 When such a Customer places an order which requires the Seller to place an order with a Manufacturer in order to fulfil the Customer order (i.e. the goods ordered are special-order goods as they are not in the Seller's available stock when the Customer places its order), then:
- 4.1.1.1 For software licences, the Customer will be required to pay a deposit of 100% (one hundred percent) of the invoice amount/s for software licenses;
- 4.1.1.2 For other goods the Customer will be required to pay a deposit of 50% (fifty percent) of the invoice amount/s for the goods.
- 4.1.2 The deposit is refundable if the Seller cannot deliver, but is not refundable under the following circumstances:
- 4.1.2.1 If the Customer cancels or varies, or purports to cancel or vary, its order, while the Seller has an open, irrevocable order with the Manufacturer; or
- 4.1.2.2 If the Customer fails to pay the remaining portion of the order value within 14 (fourteen) calendar days after the Seller has provided notification to the Customer that the goods are available for collection or delivery.
- 4.1.3 The deposit forfeited under the above circumstances shall be forfeited as a pre-estimation of the damages suffered by the Seller, without prejudice to any other rights that the Seller may have, including, without limitation, the right to cancel the contract, reclaim if it so wishes any goods already delivered to the Customer, claim the balance from the Customer or to claim further damages from the Customer.
5. **ORDERS**
- 5.1 The Seller will accept written orders only. All such orders must have a unique reference number. All such orders and any variations to orders agreed in writing will be binding, subject to these terms and conditions, and may not be cancelled without written consent from the Seller, which consent shall be deemed to have been granted where the Customer has a right in terms of any consumer laws (including the Consumer Protection Act (Act 68 of 2008)) to cancel an advance order. A reasonable cancellation penalty may be imposed by the Seller for cancelled orders.
- 5.2 Should the Customer purport to attach any conditions to or in respect of any business conducted from time to time which vary, amend or are in conflict with any of these terms or conditions, then notwithstanding anything to the contrary stipulated by the Customer, these terms and conditions shall prevail and be of full force and effect.
- 5.3 Any term contained in the purchase order which seeks to provide for cancellation in the event of the Seller's failure to deliver within a specified period of time shall be of no force and effect.
- 5.4 Orders shall constitute irrevocable offers to purchase the specified goods at the usual prices of the Seller as at the date when the Customer places the order for goods, and the order shall be capable of acceptance by the Seller for the delivery of the goods, by written acceptance or confirmation of the order.
6. **DELIVERY**
- 6.1 Unless the Seller receives written notice to the contrary, as provided for in clause 6.8, the Customer and/or its authorized representative and/or its nominated agent, in signing the delivery note, thereby confirms that the goods were indeed delivered and inspected, and that the Customer is satisfied and confirms that the goods delivered duly represent, in quantity and quality, the goods ordered by the Customer at the prices agreed as reflected on the invoice issued, and that the Customer is satisfied that the goods are free from any defects. This does not affect any rights that the Customer may have in relation to defective products in terms of any consumer law.
- 6.2 Any delivery note (copy or original) in the possession of the Seller and purportedly signed by the Customer and/or its authorized representative and/or its nominated agent, shall be *prima facie* (legitimate) proof for the purposes of any litigation on its mere production in evidence.
- 6.3 The Seller shall be entitled to split the delivery of the goods ordered in the quantities and on the dates it decides, with the prior consent of the Customer, which consent shall not be unreasonably withheld.
- 6.4 The Seller is entitled to engage a third party on its behalf to transport all goods purchased by the Customer to the delivery address stipulated by the Customer.
- 6.5 Should the Customer wish to receive delivery of the goods by a more expensive method of transportation than that normally engaged by the Seller, the Customer shall make such request in writing and, in the event that the Seller agrees to arrange such special delivery, the additional charges shall be debited to the Customer's account and shall become payable by the Customer on delivery of the goods.
- 6.6 The Seller does not guarantee that the goods will be delivered on any particular

- date or time, and the Customer shall not have any right of action against the Seller in respect of any loss occasioned by any reasonable delay in delivery of any goods and/or services rendered, nor may the Customer cancel any order by reason of such reasonable delay.
- 6.7 **Whilst every effort will be made to dispatch goods as advised, the Seller does not guarantee dispatch on any specific date or time and shall not be liable for any damages of any nature whatsoever for failure to effect delivery or timely dispatch for any reason beyond the Seller's reasonable control, including but not limited to inability to secure transport, labour, power, materials, equipment or supplies or by any reason of any act of God, war, civil disturbance, riot, state of emergency, strike, lock out or other labour dispute, fire, flood, drought or legislation. The Customer shall not be entitled to cancel any order by reason of such delay.**
- Short delivery of any goods and/or any claim that the goods are not of the type or quality ordered have to be notified in writing to the Seller's head office within 7 (seven) calendar days of delivery of the goods, failing which the Seller will not be liable to entertain any such claim.
- 6.8 Where the Seller is requested by the Customer to withhold or postpone delivery, in the event that the Seller agrees to do so, all the risk in and to all ordered goods shall pass to the Customer on the date of the Seller agreeing to such a request and the Customer shall pay the costs of storage, demurrage, interest, insurance and any other charges occasioned by the postponement of delivery.
- 6.9 The Seller may provide a no-charge delivery service for orders in excess of R5,000 per order in the following areas:
- 6.9.1 Johannesburg City, Sandton, Randburg, Braamfontein, Rosebank, Pretoria, Bedfordview;
- 6.9.2 Durban Metropolitan area;
- 6.9.3 Cape Peninsula and Northern Suburbs;
- 6.9.4 Port Elizabeth Metropolitan.
- 6.10 A charge may be levied for deliveries for orders under R5,000 or for deliveries to other areas. This charge may be determined and amended from time to time based on courier cost increases at the sole discretion of the Seller.
- 6.11 This charge can be levied, at the Seller's sole discretion, even if not included on the quote as the delivery details may not be available at the time of quote.
- 6.12 The Seller will use its best endeavours to accommodate any other delivery requirements of the Customer at the cost of the Customer.
7. **OWNERSHIP AND RISK**
- 7.1 All risk in and to all goods sold by the Seller to the Customer shall pass to the Customer on delivery, however, ownership in all goods sold and delivered shall remain vested in the Seller until the full purchase price has been paid. 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 judgment granted against it within 3 (three) calendar days of the date of judgment or changes the structure of its ownership, the Seller shall, subject to having complied with any further legal requirements, be entitled to take possession of the goods irrespective of whether or not the goods have been installed without prejudice to any further rights vested in the Seller. **The Customer hereby indemnifies the Seller against all claims, losses, damages, liabilities and expenses of whatsoever nature, including consequential claims, should the Seller remove goods as a result of non-payment on the part of the Customer. Nothing contained in this clause precludes the Seller from proceeding in terms of this clause with a Court order.**
- 7.2 **Goods in the possession of the Customer bearing either the Seller's name or trade mark or labels shall be deemed to be those for which payment has not yet been made, and should any breach of these terms and conditions occur, may be re-possessed by the Seller in terms of clause 7.1 above.**
- 7.3 **Prior to delivery, the Customer shall adequately insure the goods to be delivered and/or supplied by the Seller against any form of loss or damage until the full purchase price has been paid by the Customer to the Seller for such goods. Pending payment to the Seller for goods purchased, all the benefits in terms of the insurance policy relating to the insurance of such goods are hereby ceded to the Seller.**
- 7.4 **The Customer shall inform the landlord of the premises at which the goods are kept that such goods are the sole and absolute property of the Seller until such time as the full purchase price has been paid to the Seller by the Customer.**
- 7.5 **The Customer hereby indemnifies the Seller against all claims, losses, damages, liabilities and expenses of whatsoever nature, including consequential claims, arising from or in connection with, the Customer failing to comply with its obligations in terms of this clause 7.**
8. **RETURNED GOODS AND ORDER CANCELLATIONS**
- 8.1 The Customer may have further rights in terms of applicable consumer laws to return goods and cancel orders. These rights may be in addition to and different from these terms and conditions. These terms and conditions are subject to any such rights.
- 8.2 The Seller is under no obligation to accept the return of goods, except if the Customer has a right in terms of any consumer law to return goods. If, however, the goods are defined by the Seller as stocked items, and were purchased from the Seller, then the Customer may apply to the Seller for permission to return goods. If written permission is given by the Seller for such return, then it will be on the following basis:
- 8.2.1 Goods, save for the goods dealt with clause 8.2.4 below, will be accepted for credit, subject to a restocking charge of 15% (fifteen percent) of the invoice price of the goods so returned if the goods are delivered to the Seller's Head Office, Customer Services, within 21 (twenty one) calendar days of delivery, unused, with sealed disk packs, original contents and shrink wrapping intact.
- 8.2.2 No goods returned to the Seller after a period of 21 (twenty one) calendar days from delivery will be accepted for credit.
- 8.2.3 Goods returned for credit will only be accepted from those Customers who initially purchased the stock from the Seller.
- 8.2.4 Goods defined as non-stocked items or goods specifically ordered for the Customer (Back-to-Back orders) will not be accepted by the Seller for credit.
- 8.2.5 If on inspection of the returned goods the Seller's Customer Services determine that the goods have been opened or used or that the sealed disk packs, contents and shrink wrap are not intact, the Seller will be under no obligation to accept the returned goods, however, the Seller may at their sole and absolute discretion agree to accept the goods and a restocking charge of 50% (fifty percent) of the invoice price of the goods so returned will be payable by the Customer to the Seller.
- 8.3 Purchase orders issued to the Seller may not be cancelled. The Seller may at its sole and absolute discretion agree to the cancellation of an order received from the Customer. Such a decision will be based on whether the Seller is in a position to cancel its order with the Manufacturer for the supply of those goods and if the item is a regularly stocked item. Any relaxation of this no cancellation policy in any one instance should not be construed as a change to the standard terms and conditions.
9. **REFUND POLICY**
- 9.1 If goods are accepted for return, subject to clause 8 above, then credit card transactions may be reversed once the credit note has been passed against the relevant invoice.
- 9.2 If goods are accepted for return, subject to clause 8 above, then debit card transactions, electronic fund transfers, cheque payments and cash payments will require a 7 (seven) working day administrative period to be effected. All requests for refunds to be submitted in writing to the Seller's debtors administration clerk and must include confirmation of the Customer's banking information.
10. **NEGOTIABLE INSTRUMENTS**
- 10.1 Acceptance of a promissory note, bill of exchange or any other negotiable instrument by the Seller from the Customer shall not be deemed to be a waiver of the Seller's rights under these terms and conditions. In relation to cheque(s) furnished by the Customer to the Seller, the Customer waives its rights to insist on notice of dishonour or protest being given to it in the event of the cheque being dishonoured.
11. **BREACH**
- 11.1 Subject to the provisions of clauses 2 and 7 above, in the event of a breach by the Customer of any of these terms and conditions, and should the Customer fail to remedy such breach within 48 (forty eight) hours after receipt of notice to that effect from the Seller, or should the Customer repeatedly breach any of these terms and conditions in such manner as to justify the Seller in holding that the Customer's conduct is inconsistent with the intention or ability of the Customer to carry out these terms and conditions, or if the Customer is sequestered or placed under liquidation or enters judicial management or commits any act of insolvency or enters into a compromise with its creditors or fails to satisfy a judgment granted against it within 3 (three) calendar days of the date of judgment or changes the structure of its ownership, without notifying the Seller, the Seller shall be entitled to cancel its agreement with the Customer forthwith and without prejudice to its right to claim specific performance and/or damages.
- 11.2 The Seller's rights in terms of clause 11.1 shall not be exhaustive and shall be in addition to its common law rights or any other right it has in terms of these terms and conditions.
- 11.3 No claim, except as provided in clause 8, against the Seller, pursuant to these terms and conditions, will arise unless the Customer has, within 7 (seven) calendar days of the alleged breach or defect occurring, given the Seller 30 (thirty) calendar days written notice to rectify any defect or breach of these terms and conditions.
12. **WARRANTIES, REPRESENTATIONS & INDEMNITIES**
- 12.1 The Customer may have additional rights and warranties in terms of applicable consumer laws that cannot be changed or excluded by contract. These terms and conditions are subject to any such rights and warranties.
- 12.2 The Seller makes no warranties or representations to the Customer regarding the goods or services or their fitness for a particular purpose other than those contained in the manufacturer's product specific warranty as at the time of delivery or collection of the goods.
- 12.3 Goods are guaranteed according to the manufacturer's product specific warranties only, as at the time of delivery or collection of the goods.
- 12.4 Services rendered carry no guarantee whatsoever.
- 12.5 All guarantees are immediately null and void, should any equipment be tampered with, or should the "seals" on equipment be broken by anyone other than the Seller or its appointed nominee, or should the goods be operated outside the manufacturer's specifications.
- 12.6 To be valid, guarantee claims must be supported by the original tax invoice, and the goods must be in their original packaging and must be accompanied by all accessories and manuals, which must be intact.
- 12.7 No warranties other than those provided in these terms and conditions, express or implied, shall apply. The Seller specifically disclaims the implied warranty of merchantability or fitness for a particular purpose, except to the extent that this is prohibited by any consumer laws. No representation or warranty, including but not limited to statements of capacity and suitability for use or performance, made by employees of the Seller shall be considered to be a warranty by or binding on the Seller. Any such statements shall not give rise to any liability of whatsoever nature on the part of the Seller. The Seller, its employees, subcontractors or subsidiaries renounce all liability in respect of the Seller's special, indirect or consequential damages including but not limited to loss of profits.

- 12.8 **Under no circumstance will the Seller be liable for any damage arising from any misuse of the goods supplied and/or services rendered.**
- 12.9 The Customer agrees that neither the Seller nor any of its employees will be liable for any negligent or innocent misrepresentations made to the Customer, nor shall the Customer be entitled to cancel any contract on those grounds.
13. **REPAIRS**
- 13.1 Any liability arising in terms of the manufacturer's warranty is restricted to the cost of repair or replacement of faulty goods or the granting of a credit note. It is in the sole discretion of the Seller as to which remedy will be afforded to the Customer.
- 13.2 In the case of repairs undertaken by the Seller, repair times given are merely estimates and are not binding on the Seller.
- 13.3 The Customer hereby agrees that any item handed in for repair may be sold by the Seller to defray the cost of the such repairs if the item remains uncollected for a period of 30 (thirty) days after notification that the repair is complete.
14. **LIMITATION OF LIABILITY**
- 14.1 **Except to the extent prohibited by any consumer laws, the Seller shall not be liable for any loss, injury, death, damage, costs, expenses, loss of profits or other special damages or any consequential loss or other damages arising from any cause whatsoever (whether or not the Seller is negligent or grossly negligent) suffered or incurred by the Customer and/or its employees, contractors, sub-contractors, agents, authorised representatives and/or any third party in connection with any goods or services supplied by the Seller.**
- 14.2 **The Customer indemnifies and holds harmless the Seller for any claims described in clause 14.1 above instituted by the Customer and/or its employees, contractors, sub-contractors, agents, authorised representatives and/or any third party.**
15. **LEGAL PROCEEDINGS**
- 15.1 In the event of either party, being the Customer or the Seller, breaching any of its obligations and/or failing to timeously make payment of any amount due to the other party, the breaching party agrees to pay, and shall be liable to pay, all legal costs incurred by the other party in enforcing its rights in terms of these terms and conditions on the attorney/own client scale including collection charges, tracing agent's fees, air fares and expert witness fees.
- 15.2 The Seller shall have the right at its sole discretion to institute any action arising out of or in connection with these conditions and/or any business dealings with the Customer in any Magistrate's Court having jurisdiction notwithstanding that the cause of action may exceed the jurisdiction of that court and the Customer hereby consents to the jurisdiction of the Magistrate's Court for this purpose. Nothing herein contained, however, shall preclude the Seller from electing to institute action in the appropriate High Court having jurisdiction.
- 15.3 These terms and conditions shall be governed and construed according to the laws of the Republic of South Africa and shall be subject to the exclusive jurisdiction of the courts of the Republic of South Africa.
16. **NOTICES & DOMICILIUM CITANDI ET EXECUTANDI**
- 16.1 Any document will be deemed duly received by the Customer within:-
- 16.1.1 3 (three) working days of pre-paid registered mail to any of the Customer's business or postal addresses or the domicilium address of the Customer, or to the personal address of any director, member or owner of the Customer; or
- 16.1.1.1 24 (twenty four) hours of being faxed to any of the Customer's fax numbers, or any director, member or owner's fax numbers; or
- 16.1.1.2 24 (twenty four) hours on being delivered by hand to the Customer or any director, member or owner of the Customer; or
- 16.1.1.3 48 (forty eight) hours if sent by overnight courier; or
- 16.1.1.4 24 (twenty four) hours of being telefaxed and/or e-mailed to the Customer's fax number and/or e-mail address.
- 16.2 The Customer hereby chooses its *domicilium citandi et executandi* (physical address for serving of court notices, other legal documentation or communications) for all purposes under these terms and conditions as the physical address as set out on Page 1 of the agreement to which these terms and conditions are attached. The Seller hereby chooses its *domicilium citandi et executandi* (physical address for serving of court notices, other legal documentation or communications) for all purposes under the agreement to which these terms and conditions are attached as No 9 Cambridge Commercial Office Park, 22 Witkoppen Road, Paulshof.
17. **DISCLOSURE OF INFORMATION**
- 17.1 The Customer understands that the information given in this credit application form is to be used by the Seller for the purposes of assessing his credit worthiness. The Customer confirms that the information given by him in this 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 Seller will not be liable for any errors or mistakes resulting there from.
- 17.2 The Seller has the Customer's consent, at any time, to contact and request information from any persons, credit bureaus or businesses, including those mentioned in the credit application form and to obtain any information relevant to the Customer's credit assessment.
- 17.3 The Customer agrees and understands that information pertaining to the Customer and given in confidence to the Seller by a third party will not be disclosed to the Customer.
- 17.4 The Customer hereby consents and authorizes the Seller, at any time, to furnish credit information concerning the Customer's dealing with the Seller to a credit bureau and to any third party seeking a trade reference regarding the Customer in his dealings with the Seller.
18. **NATIONAL CREDIT ACT 34 OF 2005 – WARRANTY BY CUSTOMER**
- 18.1 The Customer by his signature hereto warrants that at the date of signature hereof and each date which the Customer purchases goods from the Seller that:
- 18.1.1 The aggregate annual sales or turnover of the Customer exceeds R1,000,000 (One million rand); and/or
- 18.1.2 The net asset value of the Customer exceeds R1,000,000 (One million rand).
- 18.2 **The Customer hereby irrevocably unconditionally agrees to indemnify and keep indemnified, the Seller, on demand, for any and all, liabilities, damages, penalties, actions, judgments, costs, expenses or disbursement of any kind whatsoever which may be imposed on, incurred by or asserted against the Seller in any way resulting from or arising of a breach of any warranty contained in clause 17.1 above.**
19. **CESSION OF DEBTORS**
- 19.1 **The Customer hereby irrevocably cedes, assigns and transfers, makes over unto and in favour of the Seller, all the Customer'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 Customer may now or at any time in the future owe to the Seller.**
- 19.2 **The Customer irrevocably and in terms hereof authorises the Seller in its absolute discretion to claim from all or any of the Customer's debtors the whole or any portion of the indebtedness or give a valid receipt for 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 Customer.**
- 19.3 **The security created by the cession shall be a continuing one notwithstanding any fluctuation in the amount of indebtedness of the Customer to the Seller.**
- 19.4 **The Customer hereby undertakes on demand to furnish the Seller with such information concerning its debtors as may be reasonably required, to enable the Seller to give effect to the provisions of this clause.**
- 19.5 **Should it transpire that the Customer entered into prior deeds of cession, then this cession shall operate as a cession of all the Customer's reversionary rights.**
20. **GENERAL**
- 20.1 These terms and conditions shall govern all future contractual relationships between the Seller and the Customer and shall also be applicable to all debts which the Customer may owe to the Seller prior to the Customer's signature hereto.
- 20.2 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 director of the Seller.
- 20.3 No warranties, representations or guarantees have been made by the Seller or on its behalf which may have induced the Customer to sign this document.
- 20.4 No relaxation or indulgence that the Seller 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 Seller's rights in terms of these terms and conditions.
- 20.5 The Customer shall not cede his rights nor assign his obligations contained herein unless the Seller agrees in writing to such cession or assignment.
- 20.6 The Seller 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.
- 20.7 The Customer undertakes to notify the Seller within a period of 7 (seven) calendar days of any change of address or any changes in the information as set out in this contract.
- 20.8 Each of the terms herein, shall be separate and divisible and if any provision of these terms and conditions, which is not material to its efficacy as a whole, is rendered void, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
- 20.9 The Customer undertakes to inform the Seller in writing at least 14 (fourteen) calendar days prior to the intended selling or alienating of the whole of or any part of the Customer's business and a failure to do so will constitute a material breach of these terms and conditions entitling the Seller to cancel the contract, entered into between the Seller and the Customer pursuant to these terms and conditions, without further notice to the Customer.
- 20.10 The Customer confirms that all goods purchased in terms of these terms and conditions are for the purposes of resale and not for use by the Customer.
- 20.11 The Seller has the right, from time to time, to amend the terms and conditions of sale.

ANNEXURE B - Deed of Suretyship (Westcon SA (Pty) Ltd)

I/We, the undersigned do hereby unconditionally and irrevocably interpose and bind myself/ourselves unto and in favour of the Seller, its successors or assigns as surety/sureties and co-principal debtor/s jointly and severally *in solidum* for and with the Customer for the repayment on demand for any sum or sums of money owing to the Seller by the Customer on the terms and conditions set out below:

1. This Suretyship is for the due and punctual performance by the Customer to or in favour of the Seller for each and every indebtedness and obligation (past, present and future) of the Customer to the Seller of whatsoever nature and howsoever arising and also in respect of all charges and expenses of whatsoever nature (including any sum owing in respect of the agreed terms and conditions in Annexure A and including attorney and own client costs, collection charges and tracing expenses) incurred by the Seller in securing the implementation of any right or claim against the Customer, and this Suretyship shall remain of full force and effect notwithstanding any fluctuation in, or variation in, or any cessation of the Customer's indebtedness to the Seller.
2. I/We understand that my/our liability for amounts owing by the Customer to the Seller is not limited to any credit limit granted by the Seller to the Customer.
3. I/We further agree that the Seller shall be at liberty without affecting any of its rights hereunder against me/us to release, or to compound or make other arrangements with, the Customer or with us or any other surety/ies for the Customer and that in the event of the estate of the Customer being sequestrated (or if it be a company or Closed Corporation, being wound up) as insolvent, no dividends or payments which the Seller may receive from the Customer or other surety/ies or from me/us shall prejudice the right of the Seller to recover from me/us to the full extent of this Suretyship any sum which, after receipt of such dividends or payments, may remain owing by the Customer, but in any event, the fact that the Seller will or may receive any such dividend or payment shall not entitle me/us to any deferment of my/our immediate liability meanwhile to pay under this Suretyship.
4. Any leniency or extension of time which may be granted by the Seller to the Customer in respect of any payment or other obligation, and any cancellation, variation or modification of any of the indebtedness of the Customer to the Seller shall not prejudice or affect, novate or terminate this Suretyship or release me/us whether such leniency and/or extension and/or variation and/or modification be granted or take place prior or subsequent to the due date for any payment or obligation.
5. I/We hereby renounce the benefits of the legal exceptions including, but not limited to, "non numeratae pecuniae" (no value received), "non causa debiti", "errore calculi" (faulty calculation), excussion and division (the benefit of division of co-sureties) with the full force, meaning and effect of which I/we declare myself/ourselves to be fully acquainted.
6. In the event of any conflict between Annexure A and Annexure B, the terms of Annexure B shall prevail.
7. In the event of more than one surety signing this Suretyship, or in the event of any other surety or sureties having signed or subsequently signing a Suretyship in favour of the Seller in respect of any indebtedness in favour of the Seller, then each of us shall still remain fully bound jointly and severally hereunder, and any release by the Seller of any one or more of us and/or such other surety/ies shall in no way affect or reduce or delete the liability of us hereunder insofar as I/we have not been so released.
8. A certificate signed by a director of the Seller stating the amount at that date owing and delivered in writing to me/us at any time and from time to time shall constitute evidence in any legal proceedings, or for any other purpose whatsoever, and shall constitute *prima facie* evidence of its contents and of the amount then owing by me/us to the Seller.
9. In respect of any costs claimable by the Seller from us, such costs shall include attorney and client costs, on the scale as between attorney and own client.
10. For all purposes under this Suretyship, including any notice to us, I/we hereby choose *domicilium citandi et executandi* at my/our address stated below, and any notice or process delivered thereat shall be deemed to have been received by me/us on the date of such delivery, or if sent to me/us by telefax, to my/our chosen telefax number, shall be deemed to have been received on the date of despatch.
11. I/We warrant that all contracts entered into and to be entered into by the Customer with the Seller were or will be at the time of conclusion thereof within the scope, authority, power and objects of the Customer and that the signatory thereto on behalf of the Customer was duly authorised.
12. This Suretyship shall be continuing covering security notwithstanding the death or legal incapacity of the surety until the Customer's obligation to the Seller has been fulfilled.
13. This Suretyship shall be interpreted and governed in all respects by the laws of the Republic of South Africa.
14. The Seller shall have the right at its sole discretion to institute any action against me/us arising out of or in connection with this Suretyship in any Magistrates Court having jurisdiction notwithstanding that the cause of the action may exceed the jurisdiction of that court and I/we hereby consent to the jurisdiction of the Magistrates Court for this purpose. Nothing herein contained, however, shall preclude the Seller from electing to institute action in the appropriate High Court having jurisdiction.
15. Where this Suretyship is signed by the signatory hereto on behalf of a company, close corporation, trust or other corporate entity, then such signatory warrants his authority to do so.
16. I/We acknowledge that I/we have read and understood each term of the Terms and Conditions of Sale (Annexure A) and accept them as binding and acknowledge that the content reflects the true intention of both parties and that this agreement has been entered into for the benefit of both the Customer and the Seller.

EXECUTING THE DEED OF SURETYSHIP

THIS DONE AND SIGNED AT _____ ON THIS THE _____ DAY OF _____ 20__

SURETY PROVIDER 1: _____ (signature) _____ (full name)

Physical address and *domicilium citandi et executandi* _____
 _____ FAX No: _____

WITNESS 1: _____ (signature) _____ (full name)

WITNESS 2: _____ (signature) _____ (full name)

THIS DONE AND SIGNED AT _____ ON THIS THE _____ DAY OF _____ 20__

SURETY PROVIDER 2: _____ (signature) _____ (full name)

Physical address and *domicilium citandi et executandi* _____
 _____ FAX No: _____

WITNESS 1: _____ (signature) _____ (full name)

WITNESS 2: _____ (signature) _____ (full name)

ANNEXURE B - Deed of Suretyship (Biodata IT South Africa (Pty) Ltd)

I/We, the undersigned do hereby unconditionally and irrevocably interpose and bind myself/ourselves unto and in favour of the Seller, its successors or assigns as surety/sureties and co-principal debtor/s jointly and severally *in solidum* for and with the Customer for the repayment on demand for any sum or sums of money owing to the Seller by the Customer on the terms and conditions set out below:

1. This Suretyship is for the due and punctual performance by the Customer to or in favour of the Seller for each and every indebtedness and obligation (past, present and future) of the Customer to the Seller of whatsoever nature and howsoever arising and also in respect of all charges and expenses of whatsoever nature (including any sum owing in respect of the agreed terms and conditions in Annexure A and including attorney and own client costs, collection charges and tracing expenses) incurred by the Seller in securing the implementation of any right or claim against the Customer, and this Suretyship shall remain of full force and effect notwithstanding any fluctuation in, or variation in, or any cessation of the Customer's indebtedness to the Seller.
2. I/We understand that my/our liability for amounts owing by the Customer to the Seller is not limited to any credit limit granted by the Seller to the Customer.
3. I/We further agree that the Seller shall be at liberty without affecting any of its rights hereunder against me/us to release, or to compound or make other arrangements with, the Customer or with us or any other surety/ies for the Customer and that in the event of the estate of the Customer being sequestrated (or if it be a company or Closed Corporation, being wound up) as insolvent, no dividends or payments which the Seller may receive from the Customer or other surety/ies or from me/us shall prejudice the right of the Seller to recover from me/us to the full extent of this Suretyship any sum which, after receipt of such dividends or payments, may remain owing by the Customer, but in any event, the fact that the Seller will or may receive any such dividend or payment shall not entitle me/us to any deferment of my/our immediate liability meanwhile to pay under this Suretyship.
4. Any leniency or extension of time which may be granted by the Seller to the Customer in respect of any payment or other obligation, and any cancellation, variation or modification of any of the indebtedness of the Customer to the Seller shall not prejudice or affect, novate or terminate this Suretyship or release me/us whether such leniency and/or extension and/or variation and/or modification be granted or take place prior or subsequent to the due date for any payment or obligation.
5. I/We hereby renounce the benefits of the legal exceptions including, but not limited to, "non numeratae pecuniae" (no value received), "non causa debiti", "errore calculi" (faulty calculation), excussion and division (the benefit of division of co-sureties) with the full force, meaning and effect of which I/we declare myself/ourselves to be fully acquainted.
6. In the event of any conflict between Annexure A and Annexure B, the terms of Annexure B shall prevail.

7. In the event of more than one surety signing this Suretyship, or in the event of any other surety or sureties having signed or subsequently signing a Suretyship in favour of the Seller in respect of any indebtedness in favour of the Seller, then each of us shall still remain fully bound jointly and severally hereunder, and any release by the Seller of any one or more of us and/or such other surety/ies shall in no way affect or reduce or delete the liability of us hereunder insofar as I/we have not been so released.
8. A certificate signed by a director of the Seller stating the amount at that date owing and delivered in writing to me/us at any time and from time to time shall constitute evidence in any legal proceedings, or for any other purpose whatsoever, and shall constitute *prima facie* evidence of its contents and of the amount then owing by me/us to the Seller.
9. In respect of any costs claimable by the Seller from us, such costs shall include attorney and client costs, on the scale as between attorney and own client.
10. For all purposes under this Suretyship, including any notice to us, I/we hereby choose *domicilium citandi et executandi* at my/our address stated below, and any notice or process delivered thereat shall be deemed to have been received by me/us on the date of such delivery, or if sent to me/us by telefax, to my/our chosen telefax number, shall be deemed to have been received on the date of despatch.
11. I/We warrant that all contracts entered into and to be entered into by the Customer with the Seller were or will be at the time of conclusion thereof within the scope, authority, power and objects of the Customer and that the signatory thereto on behalf of the Customer was duly authorised.
12. This Suretyship shall be continuing covering security notwithstanding the death or legal incapacity of the surety until the Customer's obligation to the Seller has been fulfilled.
13. This Suretyship shall be interpreted and governed in all respects by the laws of the Republic of South Africa.
14. The Seller shall have the right at its sole discretion to institute any action against me/us arising out of or in connection with this Suretyship in any Magistrates Court having jurisdiction notwithstanding that the cause of the action may exceed the jurisdiction of that court and I/we hereby consent to the jurisdiction of the Magistrates Court for this purpose. Nothing herein contained, however, shall preclude the Seller from electing to institute action in the appropriate High Court having jurisdiction.
15. Where this Suretyship is signed by the signatory hereto on behalf of a company, close corporation, trust or other corporate entity, then such signatory warrants his authority to do so.
16. I/We acknowledge that I/we have read and understood each term of the Terms and Conditions of Sale (Annexure A) and accept them as binding and acknowledge that the content reflects the true intention of both parties and that this agreement has been entered into for the benefit of both the Customer and the Seller.

EXECUTING THE DEED OF SURETYSHIP

THUS DONE AND SIGNED AT _____ ON THIS THE _____ DAY OF _____ 20____

SURETY PROVIDER 1: _____ (signature) _____ (full name)

Physical address and *domicilium citandi et executandi* _____

_____ FAX No: _____

WITNESS 1: _____ (signature) _____ (full name)

WITNESS 2: _____ (signature) _____ (full name)

THUS DONE AND SIGNED AT _____ ON THIS THE _____ DAY OF _____ 20____

SURETY PROVIDER 2: _____ (signature) _____ (full name)

Physical address and *domicilium citandi et executandi* _____

_____ FAX No: _____

WITNESS 1: _____ (signature) _____ (full name)

WITNESS 2: _____ (signature) _____ (full name)