

STANDARD TERMS AND CONDITIONS

The Standard Terms and Conditions set out in this document govern the relationship between Power Protect (Proprietary) Limited and the relevant Customer of Power Protect (Proprietary) Limited.

INDEX

	<u>Paragraph</u>
Introduction	1
Interpretation	2
Definitions	3
Duration of the agreement	4
Charges and payments	5
Variation of charges and terms	6
Orders for Product	7
Delivery and installation	8
Returns	9
Warranty	10
Limitation of liability	11
Intellectual property rights	12
Settlement of disputes	13
Legal costs	14
Domicilium	15
General	16

STANDARD TERMS AND CONDITIONS**1. INTRODUCTION**

- 1.1 Power Protect (Pty) Ltd ("Power Protect") provides engine protection units and ancillary products to Customers, which units may be installed by Power Protect or its authorised Dealers.
- 1.2 The provision of these units, their installation, warranties, charges and payments shall be governed by these Standard Terms and Conditions.
- 1.3 The Customer agrees to be bound by the provisions of any notice or directive issued by Power Protect from time to time. Such changes shall be notified to the Customer as set out in these Standard Terms and Conditions and such changes shall come into effect one month after notification has been given of the changes.
- 1.4 Power Protect may amend the Standard Terms and Conditions and services if this is considered by Power Protect to be in the best interests of both the Customer and Power Protect.

2. INTERPRETATION

- 2.1 The clause headings in these Standard Terms and Conditions have been inserted for convenience only and will not be taken into consideration in its interpretation.
- 2.2 Words and expressions defined in any subclause will, for the purposes of the clause of which that subclause forms a part, bear the meaning assigned to the words and expressions in that subclause.
- 2.3 Notwithstanding anything to the contrary in any order form or other similar document completed or supplied by the Customer, an agreement will only come into being between Power Protect and a Customer on the date of sale of the Units. These Standard Terms and Conditions constitutes the whole agreement between the parties and supersedes all prior verbal or written agreements or understandings or representations by or between the parties regarding the subject matter of these Standard Terms and Conditions, and the parties will not be entitled to rely, in any dispute regarding these Standard Terms and Conditions, on any terms, conditions or representations not expressly contained in these Standard Terms and Conditions.
- 2.4 The Standard Terms and Conditions as set out herein constitute the entire agreement between Power Protect and the Customer and supersede all representations made to the Customer, all amendments effected by the Customer to any quotation, order or other similar document submitted by him and all communications between Power Protect and the Customer relating to the subject matter hereof.
- 2.5 The provision by Power Protect of any or all of the Units applied for by the Customer shall be deemed to be acceptance by Power Protect of a Customer's application on the terms and conditions set out in this agreement, notwithstanding anything to the contrary in any order form or other similar document.
- 2.6 The validity and interpretation of this Agreement will be governed by the laws of the Republic of South Africa.
- 2.7 Any reference to the singular includes the plural and vice versa.
- 2.8 Any reference to natural persons includes legal persons and vice versa and references to any gender include references to the other genders and vice versa.

3. DEFINITIONS

In this agreement, unless inconsistent with or otherwise indicated by the context, the following terms will have the meanings assigned to them in this clause:

- 3.1 "Standard Terms and Conditions" shall mean these Standard Terms and Conditions;
- 3.2 "Power Protect" shall mean Power Protect (Proprietary) Limited, a company registered under the laws of the Republic of South Africa;
- 3.3 "Customer" shall mean that person or corporate body who has purchased a Product or Products from Power Protect;

STANDARD TERMS AND CONDITIONS

- 3.4 "Product(s)" shall mean engine protection units and ancillary products as supplied by Power Protect;
- 3.5 "LubriVENT" shall mean the engine protection unit supplied by Power Protect under the brand name of LubriVENT;
- 3.6 "LubriSPLIT" shall mean the engine protection unit supplied by Power Protect under the brand name of LubriSPLIT;
- 3.7 "LubriGUARD" shall mean the turbo lubrication unit supplied by Power Protect under the brand name LubriGUARD;
- 3.8 "FleetVMS" and/or "FleetSAFE" and/or "BusSAFE" and/or "ProSAFE" shall mean the electronic engine protection units/systems supplied by Power Protect under those brand names;
- 3.9 "RSI" shall mean the rev/speed and idle control unit supplied by Power Protect under the brand name "Fleet RSI";
- 3.10 "Schedule of Charges" shall mean those charges referred to in the Agreement, which charges are obtainable from Power Protect;
- 3.11 "Location" shall mean the physical address of the Customer or the installation/maintenance address of the Customer as determined in relation to the context of the particular clause;
- 3.12 "The Act" shall mean the Consumer Protection Act No 68, 2008.

4. DURATION OF AGREEMENT

- 4.1 The Agreement shall continue from the date of delivery of the Product until the day following the expiration of the warranty period as defined under clause 10 hereof.
- 4.2 In the event of the death of the Customer or in the event that either party is provisionally or finally liquidated, wound up or declared insolvent or in the event that either party enters into a scheme of arrangement or compromise with its creditors or allows judgement to be entered against the name of the party and does not take steps for the rescission thereof within a period of 21 (twenty-one) business days after the date of judgement then the other party shall be entitled to immediately terminate this agreement.
- 4.3 Termination of this agreement does not relieve the Customer from the liability to pay any charges.

5. CHARGES AND PAYMENT

- 5.1 The Customer shall pay to Power Protect all applicable charges, tariffs, fees and other amounts ("charges") as may be set out in Power Protect's Schedule of Charges, as amended by Power Protect from time to time in its sole and absolute discretion, in respect of the provision of the Product and/or installation and/or maintenance of the Product.
- 5.2 The current Power Protect's charges include only the standard charges of Power Protect as set out therein and the cost of any material and/or services supplied additional to that set out in the Power Protect Schedule of Charges or rendered necessary by the order of any government, telecommunications or municipal authority, will be charged separately to the Customer.
- 5.3 Any travel and accommodation costs incurred by Power Protect in rendering the installation/maintenance services provided for in this Agreement will be charged out to the Customer in addition to the Power Protect charges.
 - 5.3.1 Motor vehicle travel costs will be charged to The Customer in accordance with the applicable rates as set out in the Schedule of Charges.
 - 5.3.2 Where the Location to be visited is outside the Alberton municipal area, the time involved in travelling will be taken into account in the calculation of the hourly service charge to be charged to the Customer, the travelling time being the actual time taken to travel from and return to the offices of Power Protect.
 - 5.3.3 Motor vehicle travel costs will include any parking costs incurred.

STANDARD TERMS AND CONDITIONS

- 5.3.4 Where a visit to the Location involves air travel, the travel charges will include:
 - 5.3.4.1 The cost of all air tickets;
 - 5.3.4.2 Motor vehicle expenses spent in travelling to and from airports;
 - 5.3.4.3 Taxi and motor vehicle rental expenses where no reasonable alternatives exist; and
 - 5.3.4.4 Parking expenses.
- 5.3.5 In the event that representatives of Power Protect are required to reside overnight away from their normal place of residence, Power Protect will charge all accommodation costs to the Customer, which cost will include all accommodation and meal expenses. Representatives of Power Protect will use hotels with a star rating no higher than four stars, unless otherwise agreed.
- 5.3.6 Where the Customer instructs Power Protect to perform services outside of normal working hours, the Customer will be charged at the rate for the particular service as shown in the Power Protect Schedule of Charges in force at the time.
- 5.4 All payments due to Power Protect are due 30 days from date of statement, unless alternative payment arrangements have been made in writing between the Customer and Power Protect.
- 5.5 All payments due to Power Protect shall be effected -
 - 5.5.1 by way of a bank transfer transferred directly into the bank account of Power Protect; or
 - 5.5.2 by way of a cheque drawn on a cheque account operated by a registered bank; or
 - 5.5.3 in cash, free of the cost of transfer of funds and without any deduction or set-off.
- 5.6 Any payment due to Power Protect not made on the due date thereof shall bear interest at a rate of 2% (two per centum) above the prime rate per annum as quoted by Standard Bank of South Africa Limited from time to time, calculated from the date payment was due until date of actual payment in full, capitalised monthly in arrear.
- 5.7 The Customer shall, on demand, pay to Power Protect all costs and expenses incurred by Power Protect in or about the enforcement of the terms of this agreement.
- 5.8 The Customer will not be entitled to withhold payment of any amount payable to Power Protect to satisfy any claim of the Customer arising from this or any other agreement between the Customer and Power Protect, nor will the Customer be entitled to set off such an amount payable to Power Protect in terms of this or any other agreement.

6. VARIATION OF CHARGES AND TERMS

- 6.1 Power Protect reserves the right and shall be entitled-
 - 6.1.1 to vary any or all of its charges, such variation to become effective at the time of such variation;
 - 6.1.2 to introduce additional charges for the provision of any service at any time by publishing an amended or updated Schedule of Charges, such additional charges to become effective at the time of such amendment; and
 - 6.1.3 to vary the terms and conditions of this agreement in its sole and absolute discretion from time to time, provided that Power Protect shall take all reasonable steps to notify the Customer of any such variation by making the details thereof generally available to all Customers, to its best ability. In this regard the Customer acknowledges and undertakes to familiarise himself with and ensure that he is kept continuously apprised of all such variations from time to time.

STANDARD TERMS AND CONDITIONS

- 6.2 The Customer hereby acknowledges that he is aware that all variations to these terms and conditions shall be reflected in the terms and conditions published on the Power Protect internet site and that, by accessing or connecting to the Power Protect system and website, he hereby binds himself to the terms and conditions in force at that time.
- 6.3 Subject to the remaining provisions of this agreement, the Customer shall be entitled to terminate this agreement by giving written notice to Power Protect within 10 (ten) days after the coming into effect of any such variation hereof in terms of 6.1.3.

7. ORDERS FOR PRODUCT

- 7.1 Orders for the Product shall be made to Power Protect or to a Dealer in writing specifying the Product being ordered, vehicle details for installation, vehicle availability for installation, and any other information pertinent to the delivery and installation of the Product being ordered, so long as such information is not contrary to these Standard Terms and Conditions.
- 7.2 Power Protect may cancel any order or part of any order at its sole discretion.

8. DELIVERY AND INSTALLATION

- 8.1 Delivery shall be deemed to have taken place:
 - 8.1.1 Where the Product is to be installed in an engine designated by the Customer, upon completion of the installation as evidenced by signature on the job card relating to the installation; or
 - 8.1.2 Where the Customer purchases the Product or ancillary products and/or spares, upon receipt by the Customer, or his duly appointed agent, of the Product as evidenced by a signature on the delivery note generated by Power Protect for that Product. For the purposes of this clause, a duly appointed agent of the Customer shall include, but not be limited to, courier or delivery companies collecting the Product from the premises of Power Protect or its Dealer.
- 8.2 Power Protect or its Dealer shall not be required to prove that the signatory accepting delivery of the Product has the necessary authority to take delivery of the Product on behalf of the Customer.
- 8.3 The Customer shall be deemed to have accepted the Product, unless Power Protect is notified by the Customer in writing 14 (fourteen) days from date of delivery.
- 8.4 Power Protect or its authorised Dealer shall install the Product at such place and such time in terms of the written instructions of the Customer contained in the order from the Customer.
- 8.5 Where either party is unable to carry out the installation, for whatsoever reason, including but not limited to availability of the vehicle in which the Product is to be installed, then that party shall advise the other party timeously, but not later than 24 hours prior to such installation, so that the other party can make the necessary rearrangement in either its installation scheduling or vehicle availability.
- 8.6 The Customer shall not be entitled to withhold payment of the Product where a delay in the installation of the Product is as a result of the vehicle not being available for the necessary installation.
- 8.7 Upon completion of the installation, the Customer shall sign off the relevant job card, which job card shall be returned to the installation technician.

9 RETURNS

- 9.1 Power Protect shall be entitled to charge 15% (fifteen per centum) of the invoice value for any returns of Product correctly supplied by Power Protect against an order for Product as determined under clause 7 hereof.

STANDARD TERMS AND CONDITIONS

- 9.2 Power Protect shall not be obliged to accept for return any Product correctly delivered against a Customer's order if such return is made longer than 14 days from date of delivery.
- 9.3 Product so returned shall not have been used by the Customer and shall be returned intact together with all ancillaries and accessories, together with reasons for such return in writing.
- 9.4 Power Protect reserves the right to set off any credit arising from such returns against any outstanding balance owing by the Customer at the time of such return.
- 9.5 Should there be any amounts owing by Power Protect to the Customer arising from such return, then Power Protect undertakes to reimburse the Customer within 30 days after the return by direct transfer or by cheque to the banking account of the Customer.

10 WARRANTY

- 10.1 Power Protect undertakes to replace or repair, in its sole discretion, at the premises of Power Protect, or such other premises as Power Protect may designate:
 - 10.1.1 LubriVENT engine protection product, where there is a failure resulting from faulty workmanship or material, occurring within 12 (twelve) months from date of delivery. This warranty excludes service exchange valves, pipes, fittings and bracketry.
 - 10.1.2 LubriSPLIT engine protection product, where there is a failure resulting from faulty workmanship or material, occurring within 12 (twelve) months from date of delivery. This warranty excludes service exchange valves, pipes, fittings and bracketry.
 - 10.1.3 LubriGUARD turbo lubrication product, where there is a failure resulting from faulty workmanship or material, occurring within 12 (twelve) months from date of delivery. This warranty excludes service exchange valves, pipes, fittings and bracketry.
 - 10.1.4 "FleetVMS" and/or "FleetSAFE" and/or "BusSAFE" and/or "ProSAFE" engine protection product, where there is a failure resulting from faulty workmanship or material, occurring within 12 (twelve) months from date of delivery.
 - 10.1.5 FleetRSI product, where there is a failure resulting from faulty workmanship or material, occurring within 12 (twelve) months from date of delivery.
 - 10.1.6 Valves, pressure valves, heat sensors, service exchange valves, pipes, fittings and bracketry, where there is a failure resulting from faulty workmanship or material, occurring within 6 (six) months from date of delivery.
- 10.2 The warranties as set out in clause 10.1 above shall be void in the following circumstances, which circumstances Power Protect may determine in its sole discretion:
 - 10.2.1 Improper use of the Product; or
 - 10.2.2 Interference in the utilisation of the Product; or
 - 10.2.3 Incorrect installation by the Customer, where the Customer has installed the Product themselves, without utilising the services of qualified personnel of either Power Protect or an authorised Dealer of Power Protect.
- 10.3 Upon a failure of the Product for whatsoever reason, which failure the Customer deems to be a failure which may result in a claim against this Warranty, the Customer shall immediately contact Power Protect. Power Protect reserves the right to send qualified personnel to inspect such failure, within a reasonable time from notification of such failure. Where Power Protect chooses not to inspect such failure, as notified in writing by Power Protect, then the Customer shall ship the Product to Power Protect at the address notified by Power Protect
- 10.4 Power Protect shall replace or repair, in its sole discretion, the Product and return such Product at the cost to Power Protect to the Customer, within a reasonable time from receipt of the damaged Product.

STANDARD TERMS AND CONDITIONS

11 LIMITATION OF LIABILITY

- 11.1 Power Protect' liability for damage shall be in terms of section 61 of the Act.
- 11.2 Power Protect does not warrant the Product or the use thereof except as set out in clause 10 hereof.
- 11.3 Under no circumstances whatsoever will Power Protect's liability, if any, and whether in contract or otherwise, exceed the aggregate of the amount actually paid by the Customer to Power Protect for the Product applicable to the claim by the Customer.

12 INTELLECTUAL PROPERTY RIGHTS

- 12.1 The Customer acknowledges that any and all of the intellectual property rights including trademarks, trade names, copyright and other rights used or embodied in or in connection with the Product are and will remain the sole property of Power Protect.
- 12.2 The Customer will not question or dispute the ownership of any such rights at any time during the continuation in force of this Agreement or thereafter.
- 12.3 Power Protect warrants that, to the best of its knowledge, the Product infringes upon or violates any patent rights or copyright of any third party.

13 SETTLEMENT OF DISPUTES

- 13.1 Should any dispute arise between the parties in connection with the interpretation or application of the provisions of this Agreement or its breach or termination or the validity of any documents furnished by the parties pursuant to the provisions of this Agreement, that dispute will, unless resolved amongst the parties, be referred to and be determined by arbitration in terms of this clause.
- 13.2 Any party to this Agreement may demand that a dispute be determined in terms of this clause by written notice given to the other party.
- 13.3 This clause will not preclude any party from obtaining interim relief on an urgent basis from a Court of competent jurisdiction pending the decision of the arbitrator.
- 13.4 The arbitration will be held:
 - 13.4.1 In Johannesburg;
 - 13.4.2 With only the legal and other representatives of the parties to the dispute present;
 - 13.4.3 In accordance with the formalities and procedures settled by the arbitrator, and may be held in an informal and summary manner, on the basis that it will not be necessary to observe or carry out the usual formalities or procedures, pleadings and discovery or the strict rules of evidence, it being the intention that the arbitration will be held and completed as soon as possible; and
 - 13.4.4 On the basis that the arbitrator will be entitled to decide the dispute in accordance with what he considers to be just and equitable in the circumstances.
- 13.5 The arbitrator will be acceptable to both parties and, if the matter in dispute is principally:
 - 13.5.1 A legal matter, a practising attorney or advocate of Johannesburg of at least 10 (ten) years' standing;
 - 13.5.2 An accounting matter, a practising chartered accountant or Johannesburg of at least 10 (ten) years' standing;
 - 13.5.3 Any other matter, any independent person.
- 13.6 Should the parties to the dispute fail to agree whether the dispute is principally a legal, accounting or other matter within 7 (seven) days after the arbitration was demanded, the matter will be deemed to be a legal matter.

STANDARD TERMS AND CONDITIONS

- 13.7 Should the parties fail to agree on an arbitrator within 14 (fourteen) days after the giving of notice in terms of clause 12.2, the arbitrator will be appointed at the request of any party to the dispute by the Chairman for the time being of the Johannesburg Bar Council according to the provisions of clauses 12.5 and 12.6.
- 13.8 The decision of the arbitrator will be final and binding on the parties to the dispute and may be made an order of any Court to whose jurisdiction the parties are subject at the instance of any of the parties to the dispute.
- 13.9 The arbitrator will be entitled to make such award, including an award for specific performance, an interdict, damages or a penalty or otherwise as he in his sole discretion may deem fit and appropriate and to deal as he deems fit with the question of costs, including if applicable, costs on the attorney and client scale, and his own fees.
- 13.10 The provisions of this clause:
- 13.10.1 Constitute an irrevocable consent by the parties to any proceedings in terms hereof and no party will be entitled to withdraw therefrom or claim at any such proceedings that it is not bound by such provisions.
- 13.10.2 Are severable from the rest of this agreement and will remain in effect despite the termination of or invalidity for any reason of this agreement.

14 LEGAL COSTS

Should Power Protect instruct its attorneys to enforce any of Power Protect's rights arising from this agreement or to institute action against the Customer, then the Customer shall be liable for all legal costs on an attorney and own client scale, including any collection commission incurred by Power Protect and the Customer shall on demand pay such costs.

15 DOMICILIUM

- 15.1 The parties choose as domicilium citandi ex executandi ("domicilium") the addresses set out below
- 15.1.1 Power Protect at:
2 Chloor Street
Alrode
Alberton
1451
South Africa
- 15.1.2 The Customer at the physical or residential address specified in the order of the Customer in terms of clause 7 of this Agreement.
- 15.2 Either party shall be entitled from time to time, by written notice to the other, to vary its domicilium to any other address within the Republic of South Africa which is not a post office box or poste restante.
- 15.3 The Customer hereby acknowledges and agrees that acceptance of this agreement, the services provided by Power Protect to the Customer in terms hereof and payment of all monies due to Power Protect by the Customer hereof takes place at and/or are rendered from Power Protect's chosen domicilium. The Customer hereby waives any right that he may have to deny, question or dispute that the whole cause of any action which Power Protect may have instituted against the Customer arose within the jurisdiction of the Magistrate's court which has jurisdiction in respect of Power Protect's said chosen domicilium.

16 GENERAL

- 16.1 The Customer hereby agrees that Power Protect may, in addition to any of its other rights in terms of this agreement or otherwise, list any default information on the Customer with any credit information bureau and the Customer agrees to the disclosure by Power Protect to any third party, of any information pertaining to the

STANDARD TERMS AND CONDITIONS

Customer of this agreement, to the extent that such disclosure is necessary for the conduct of Power Protect's business, or is required by any relevant statute, regulation or licence.

- 16.2 Power Protect shall be entitled to cede its rights and/or to delegate its obligations arising from this agreement and/or assign this agreement wholly or partly, to any third party. The Customer shall not be entitled to cede or delegate his rights and/or obligations arising out of this contract, unless accepted in writing by the credit control manager or a director of Power Protect.
- 16.3 No alteration, variation or addition to this agreement or this clause shall be of any force or effect unless reduced to writing and signed by the Customer and a director of Power Protect. This document contains the sole and entire record of the agreement between the parties. No party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein or otherwise created by operation of law and no indulgence, leniency or extension of time which either party ("the grantor") may grant or show to the other, shall in any way prejudice the grantor or preclude the grantor from exercising any of its rights in the future.
- 16.4 Where Power Protect is represented by any duly authorised representative, his authority need not be proved.
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