



New Heights 519 (Pty) Ltd
T/A SHAW GROUP
Co Reg No:
2003/019298/07

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INTRODUCTION AND CONDITION OF MEMBERSHIP

INTRODUCTION

The SHAW GROUP is an organisation acting as purchasing agents on behalf of independent retailers of furniture, electrical appliances, televisions, video, audio products, cellular phones, sport goods, computers and other merchandise from various suppliers.

AIMS, OBJECTIVES AND BENEFITS

As South Africa's largest Furniture and Appliance buying group, we pass on advantages on bulk pricing, better discounts and give easy access to a wide variety of products and financial services.

DETAILS AND TERMS OF MEMBERSHIP

1. Orders for goods can be placed with Shaw Group offices or directly with the suppliers. In all of the above cases SHAW GROUP is recognised and acknowledged as the agent for the member and the supplier.
2. The Supplier will submit invoices for purchases by the member to SHAW GROUP as agents for those members. SHAW GROUP will discharge the indebtedness on behalf of its members on due date.
3. On receipt of the suppliers invoice, we debit the member concerned on a SHAW GROUP invoice and provide a copy of the original supplier's invoice for his records. Negotiated discounts and incentives obtained from various suppliers for members are deducted off our invoice to them for their immediate benefit. Should you become a member certain discounts (commissions or rebates) will be retained by SHAW GROUP in view of the fact that it acts as an agent for the member.
4. All prices, discount, kick-backs and special deals are **STRICTLY PRIVATE AND CONFIDENTIAL**, and in the members own interest should not be divulged to **ANYONE**. Members should not endeavour to persuade (or demand) that our suppliers give them SHAW GROUP deals and promotions on a members own account, as this only creates embarrassment and problems for the suppliers, and has in fact caused the cancellation of "specials" to the detriment of all our members.

TERMS AND METHOD OF PAYMENT

Unless a credit facility and terms of payment have been agreed to in writing by the company, payment of the purchase price of any goods is as follows:

Statements will be rendered by us on the last day of each month to be settled by the 25th day of the following month.

Rebates allowed on invoices are subject to settlement within the agreed period of time, failing which the rebate will be reversed.

All payments to be made by electronic transfer or by cheque to a bank account to be notified by the company.

CLAIMS

It is essential that you immediately (within 7 days after delivery) notify your Shaw Group credit controller when you have a claim. This will enable Shaw Group to deduct your claim from payment to the Shaw Group Suppliers. Should you fail to notify your credit controller within the above stated period you will be liable for payment regardless of the claim

**MEMBERSHIP AGREEMENT
TERMS AND CONDITIONS OF CONTRACT**

A DEFINITIONS

- A.1 Any reference to the singular includes a reference to the plural and vice versa;
A.2 Any reference to the masculine includes a reference to the feminine and vice versa;
A.3 "THE COMPANY" – New Heights 519 (Pty) Ltd
A.4 "THE SUPPLIER" – any entity manufacturing or distributing any goods;

1. APPLICATION

- a) The terms and conditions override and supersede all other conditions and are without prejudice to any securities and /or guarantees which the COMPANY holds.
b) This contract, as amplified by the APPLICATION FOR MEMBERSHIP and INTRODUCTION AND CONDITIONS OF MEMBERSHIP constitutes the entire contract between the parties and no representation by any person, or variations or consensual cancellations of or amendments to any of the terms and conditions hereof shall be valid or binding on the COMPANY unless reduced to writing and signed by and authorised representative of the COMPANY.
c) To the extent that there is any conflict between these terms and a written agreement between the COMPANY and the APPLICANT in respect of a particular transaction, the terms of that Agreement will prevail.

2. PAYMENT

- a) The contract price shall be paid by the member without any deduction or set-off within the period stipulated in the INTRODUCTION AND CONDITIONS OF MEMBERSHIP.
b) If more than one delivery is made, then each delivery will be invoiced.
c) The COMPANY shall be entitled to charge interest at the maximum rate possible, from time to time on all overdue amounts as set forth in the "Limitation and Disclosure of Finance Charges Act No 73 of 1968", as Amended or any other applicable legislation.
d) Should the APPLICANT default in paying his account the COMPANY shall be entitled, but not compelled, to forthwith demand that the whole amount outstanding by the APPLICANT, from whatsoever cause arising, will immediately become due and payable notwithstanding the fact that a portion of the amount would not be owing in accordance with the agreed terms of payment.
e) The APPLICANT agrees that in the event of any portion of an invoiced indebtedness being disputed then in that event, the APPLICANT will nevertheless forthwith pay the undisputed amount of such indebtedness according to the agreed terms of credit allowed to the APPLICANT, failing which any discount permitted in respect of the invoice indebtedness will be forfeited.
f) If the purchase price is not paid on due date or if the APPLICANT ceases to carry on business, the COMPANY without prejudice to any other rights which it may enjoy may cancel the sale, retain all payments made and recover possession of the goods.
g) Until the purchase price of any goods has been paid, the APPLICANT shall ensure that the goods or services will be the COMPANY's current price ruling on the date they are delivered or rendered to the APPLICANT. The COMPANY may vary any quoted price by adding thereto any increased cost.

4. DISCOUNTS

- a) No Discount can be given on the official rate of VAT

5. DELIVERY

- a) Delivery shall be completed when goods are off-loaded at their destination.
b) Should the COMPANY or SUPPLIER agree to engage a carrier to transport the goods for the APPLICANT then (i) the COMPANY or SUPPLIER is authorised to engage a carrier on such terms and conditions as it deems fit. (ii) the APPLICANT shall indemnify the COMPANY against all demands and claims which may be made against it by the carrier so engaged and all liability which the COMPANY may incur to the carrier arising out of the transportation of goods.
c) The risk in the goods shall pass to the APPLICANT on delivery of the goods to the APPLICANT, its agent or carrier referred to in 5(b) above.
d) If the APPLICANT fails to take delivery of the goods on due date then (i) the risk shall immediately pass from the COMPANY to the APPLICANT (ii) the APPLICANT shall refund to the COMPANY on demand the reasonable cost (including storage and insurance) of keeping the goods during the period of that delay.
e) The COMPANY shall be exempted from and shall not be liable under any circumstances for any complaints or claim for any alleged shortage or failure of the alleged goods to comply with the contract unless written notice is received by the COMPANY within 7 days after delivery of the goods to the APPLICANT.
f) The signature of any employee or agent of the APPLICANT which appears on the SUPPLIER's or COMPANY's, or its agents, official delivery note or waybill, or the delivery note of any authorised independent carrier, will constitute conclusive evidence of delivery of goods purchased.
g) If more than one delivery is to be made then the provisions of clause 5 apply to each delivery.
h) Time shall not be of the essence of the contract.

6. OWNERSHIP AND SET-OFF

For purposes of this agreement the COMPANY shall be deemed to be the owner of the goods, and notwithstanding the delivery of any goods to the APPLICANT, ownership shall not pass until the COMPANY has received payment in full of all and any indebtedness of the APPLICANT to the COMPANY. In the event of the COMPANY or any holding or subsidiary or fellow subsidiary company of the COMPANY becoming indebted to the APPLICANT, the COMPANY may set off such indebtedness against any monies which may be or become owing by the APPLICANT to the COMPANY unless otherwise proved by the APPLICANT and a certificate issued under the hand of the manager of the COMPANY (whose appointment does not have to be proved) shall provide prima facie proof, for all purposes, to this effect.

7. EXCLUSIONS

- a) The COMPANY shall in no circumstances whatsoever be liable for any loss of profit or any damage direct or indirect consequential or otherwise sustained by the APPLICANT whether or not caused by the negligence of the COMPANY and/or the SUPPLIER, its agents or employees.

- b) The APPLICANT shall not have any claim of any nature whatever against the COMPANY for any failure by the COMPANY to carry out any of its obligations under the contract as a result of causes beyond the COMPANY's control, including but without being limited to any strike, lock-out, shortage of labour or material delays in transport, accidents of any kind, any default or delay by any sub-contractor or supplier of the COMPANY not, political or civil disturbances, the elements any act of any State of Government any delay in securing any permit, consent or approval required by the COMPANY for the supply of goods under the contract, or any other authority or any other cause whatever beyond the COMPANY's absolute and direct control, including the liquidation or insolvency of any supplier.

8. WARRANTY

All goods are supplied voetstoots and without any warranties whatsoever, except for such warranties issued directly by the SUPPLIER to the APPLICANT, in which case the COMPANY will not be regarded as a party to such warranties and will be exempt from any liability whatsoever nature and effect.

9. SUSPENSION OF COMPANY'S OBLIGATIONS

If any amount owed by the APPLICANT is not paid on due date, then without prejudice to any other right it may have, the COMPANY may immediately suspend the carrying out of any of its then uncompleted obligations until the payment is made.

10. CANCELLATION

- a) The COMPANY may cancel the contract or any uncompleted part of it if the APPLICANT commits a breach of any of the terms or conditions of the contract or, being an individual dies or is provisionally or finally sequestered or surrenders or makes application to surrender his estate; or, being a partnership, the partnership is terminated; or, being a company, close corporation or trust, are placed under a provisional or final order of liquidation or judicial management; or, has a judgment recorded against it which remains unsatisfied for 7 days; or, compromises or attempts to compromise generally with any of the APPLICANT's creditors, or closes the business for a period of 2 business days or more.
b) The COMPANY's rights in terms of (a) shall not be exhaustive and shall be in addition to its common law rights.
c) No relaxation which the COMPANY may have permitted on any one occasion in regard to the carrying out of the APPLICANT's obligations shall prejudice or be regarded as a waiver of the COMPANY's rights to enforce those obligations on any subsequent occasion.
d) Upon the cancellation of the contract for any reason whatever (i) all amounts then owed by the APPLICANT to the COMPANY in terms of the contract shall become due and payable forthwith, (ii) the COMPANY may retake possession of goods in respect of which ownership has not passed.
e) Should the COMPANY institute action against the APPLICANT for payment of any amount, the APPLICANT hereby agrees that the COMPANY shall be entitled, as security for such an amount due and owing, to make an interim attachment of all the APPLICANT's assets of whatsoever nature and effect and to retain such assets in safe custody until such time that the action has been finalised and the COMPANY been paid in full.

11. JURISDICTION

- a) The COMPANY shall be entitled but not obliged to institute any proceedings against the APPLICANT, arising out of the contract, for the full balance outstanding including current purchases in any Magistrate's Court having jurisdiction over the APPLICANT notwithstanding that the claim or the value of the matter in dispute may exceed the jurisdiction of the Magistrate's Court. Further, the APPLICANT agrees to be liable for all legal costs, including costs on the attorney-and-client scale and collection charges including tracing costs which may arise.
b) A certificate signed by any Manager of the COMPANY (whose appointment does not have to be proved) showing the amount due and owing by the APPLICANT to the COMPANY at any given time shall be prima facie proof of the facts therein stated for the purpose of all legal proceedings against the APPLICANT for recovery of the said amount.

12. DOMICILIUM

The APPLICANT nominates its physical trading address as reflected in This Agreement, as amplified, as its domicilium citandi et executandi for service upon it of all notices and processes whether in connection with any claim for any sum due to the COMPANY or otherwise.

13. NEGOTIABLE INSTRUMENTS

Any promissory note, bill of exchange, or other negotiable instrument received by the COMPANY from the APPLICANT shall not be a novation of the debt for which it is given and the APPLICANT waives presentment, notice of dishonour and protest where applicable.

14. RETURN OF GOODS

If in the exercise of its discretion the COMPANY shall agree, at the request of the APPLICANT, to accept the return of goods for credit to the SUPPLIER, which goods were correctly supplied by the SUPPLIER and are not faulty or subject to any claim, then the COMPANY shall be entitled without the necessity of any further agreement to claim from the APPLICANT a handling charge of 10% of the invoice price of the goods so returned.

15. NO WAIVER

No extension of time or any other relaxation or indulgence granted by the COMPANY to the APPLICANT shall operate as or be deemed to be a waiver by the COMPANY of any of its rights under this contract or a novation of any of the terms and conditions of this contract.

16. INTERPRETATION

The headings in these Conditions are for convenience only and are not to be taken into account for the purpose of interpreting the Contract.

17. LAW APPLICABLE

This contract is governed by the laws of the Republic of South Africa.

18. INFORMATION

The APPLICANT hereby authorises the COMPANY irrevocably and in rem suam to obtain any such information required by the COMPANY from time to time from any instance including but not limited to the APPLICANT's bankers and auditors.

