

**WEBILL HARDWARE TERMS AND CONDITIONS****1. INTRODUCTION**

- 1.1. WeBill means WeBill (Pty) Ltd, a company duly incorporated in accordance with the laws of the Republic of South Africa, with registration number 2016/538436/07 and with its registered address at 147 North Reef Road, Bedfordview, Gauteng Province, 2007.
- 1.2. Customer means the person or entity who purchases hardware or related equipment from WeBill in accordance with these Hardware Terms and Conditions.
- 1.3. WeBill is permitted to supply to the Customer, who hereby elects to purchase from WeBill, Meters ("WeBill Hardware") on the terms and conditions set out in this Agreement.
- 1.4. For purposes of this Agreement, WeBill Hardware means any Electricity Meter/s (whether single phase or three phase) or any Water Transmitter or any other hardware supplied by WeBill to the Purchaser, comprising various built-in apparatus, parts, consumables and equipment.

2. ORDERS FOR WEBILL HARDWARE

- 2.1. The Customer may request in writing Quotation/s from WeBill based on the Customer's interest to purchase WeBill Hardware from WeBill, who, may in turn and at its sole direction, submit to the Customer a Quotation to give effect to a sale of such WeBill Hardware.
- 2.2. A quotation issued by WeBill shall remain valid for acceptance by the Customer within **30 (thirty) calendar days** unless this period is extended by WeBill in its sole discretion.
- 2.3. The Customer, through its authorised representative(s), is obliged to confirm its acceptance of any Quotation in writing, i.e. by signing and applying his/her full names on any Quotation supplied to it by WeBill and returning same to WeBill.
- 2.4. Any signed Quotation will be open for acceptance by WeBill within **72 (seventy-two)** hours from receipt of the signed Quotation and will confirm its acceptance or refusal in writing within this period.
- 2.5. Should WeBill accept the Customer's signed Quotation, a valid and irrevocable contract of sale and purchase ("the Order") will come into existence and will be governed by the terms of this Agreement.
- 2.6. Any signed Quotation supplied to WeBill reflecting the Customer's name as the person or entity from which the signed Quotation emanates, shall be deemed, in good faith, to have emanated from the Customer, notwithstanding the fact that the signed Quotation may have been given or signed by a person not duly authorised by the Customer.
- 2.7. All prices quoted by WeBill are exclusive of value-added tax levied in terms of the Value-Added Tax Act, 89 of 1991, as amended and currently calculated and levied at the vat rate in the Republic of South Africa which is currently 15% (fifteen percent).
- 2.8. In the event that the Value-Added Tax rate is amended by statute or regulation, the VAT rate

or charge shall be adjusted in line with the new rate. Accordingly, any increase or decrease in VAT shall be automatically reflected in the amounts payable by the Customer in terms of this Agreement and any increase or decrease in VAT shall take effect from the date on which the adjusted VAT rate becomes legally effective. The Customer expressly agrees to pay any additional VAT or benefit from any VAT reduction resulting from a change in the VAT rate without objection, set-off or delay and further acknowledge that such changes do not constitute a breach or variation of this Agreement.

3. PRICE AND PAYMENT

- 3.1. Any Quotation issued from time to time, will depict the sale price per WeBill Hardware and/or related equipment and payment terms and will be open for acceptance for a period of **30 (thirty) calendar days** from the date of issuance thereof by WeBill.
- 3.2. The sale price of the WeBill Hardware outlined in the Quotation will be quoted in South African Rand (ZAR).
- 3.3. Upon acceptance of a Quotation by the Customer, WeBill will issue a Tax Invoice to the Customer for payment within **14 (fourteen) calendar days**.
- 3.4. Payment of the full amount as denoted on the Quotation must be made by the Customer by means of EFT.
- 3.5. The Customer may not withhold or defer payment for any reason whatsoever and the Customer is further prohibited to set-off any amount which the Customer alleges is owed by WeBill to the Customer from any amount which the Customer is obliged to pay to WeBill.
- 3.6. **For the avoidance of doubt, and unless otherwise agreed to by WeBill, the following costs/expenses do not form part of any Quotation issued by WeBill, and do not form part of the price associated with the WeBill Hardware and will be payable over and above the cost associated with the sale price of the WeBill Hardware:**
 - 3.6.1. Any costs/expense associated with an initial or subsequent site survey/s by WeBill to determine the viability and feasibility of the WeBill Hardware;
 - 3.6.2. The costs/expense for the delivery of the WeBill Hardware;
 - 3.6.3. The cost/expense of the installation of the WeBill Hardware;
 - 3.6.4. The costs/expense of insuring the WeBill Hardware;
 - 3.6.5. Any costs/expenses associated with the procurement and/or installation of any booster/s or antennae/s to be installed in conjunction with the WeBill Hardware in the event of a signal deficiency to be determined post installation of the WeBill Hardware;
 - 3.6.6. Any costs/expenses associated with any Sim cards;



- 3.6.7. Any costs/expenses associated with any communication modules;
- 3.7. The Customer acknowledges that the Customer is aware of fraudulent activities which are perpetrated pertaining to the change of banking details. The Customer agrees that any payment made to any other bank account shall not constitute a valid discharge of the Customer's obligation to make such payment. The Customer is obliged to notify WeBill of any receipt by the Customer of a notification of the change in banking details and must only give effect thereto if such change is confirmed telephonically and in writing by the Director/s of WeBill. All losses suffered because of any amount being erroneously paid by the Customer into any bank account other than the account of WeBill, due to any error on the part of Customer, shall be borne solely by the Customer.
- 4. UNLAWFUL CANCELLATION OF – OR REFUSAL OF ACCEPTANCE OF ORDER**
- 4.1. Should –
- 4.1.1. The Order be cancelled by the Customer after WeBill confirmed its acceptance of the Order in writing; or
- 4.1.2. The Customer reject acceptance of the Order upon delivery thereof –
Then, the Customer acknowledges that any such act, will be deemed to be a repudiation of the Agreement by the Customer, in which event, the Customer agrees that WeBill will be entitled hold the Customer liable for all damages incurred by WeBill as a result of such repudiation and resultant cancellation.
- 4.2. The Customer agrees that a fair and reasonable liquidated damages amount equates to the payment of the full Rand value depicted on the Quotation (including VAT) ("the liquidated damages amount").
- 4.3. The Customer shall make payment of the liquidated amount within 10 (ten) business days of receiving a Tax Invoice from WeBill outlining the liquidated damages amount.
- 4.4. WeBill agrees to mitigate damages by making reasonable efforts to minimize the impact of the unlawful cancellation, such as seeking alternative buyers for the WeBill Hardware and such efforts will be considered when determining the liquidated damages amount owed by the Customer.
- 5. DELIVERY & RISK**
- 5.1. Delivery of the WeBill Hardware will take place only after the Customer has paid the full amount shown on the Quotation.
- 5.2. Ownership in the WeBill Hardware will transfer from WeBill to the Customer upon delivery of the WeBill Hardware to the Customer. For the avoidance of doubt, "delivery" means the physical handover of the WeBill Hardware, whether delivered to or collected by the Customer.
- 5.3. Risk of damage to, destruction or theft of the WeBill Hardware shall pass from WeBill to the Customer upon delivery of the WeBill Hardware to the Customer.
- 5.4. WeBill does not give any undertakings or warranties regarding the delivery date of any Order neither that any Orders will be delivered timeously or as expected by the Customer. Late deliveries of any Order will not invalidate any agreement concluded between the parties and Customer shall be obliged to accept any late delivery. The Customer indemnifies and holds WeBill harmless against all and any costs, damages, claims or expenses incurred or suffered by the Customer because of such delay.
- 5.5. Upon delivery of the WeBill Hardware, the Customer is required to sign receipt thereof and such acceptance shall be regarded as the WeBill Hardware reflected in the delivery documents has been properly and completely delivered.
- 5.6. If delivery of the WeBill Hardware for any Order is delivered in instalments, each instalment is deemed to be the subject of a separate agreement and non-delivery or delay in delivery of any instalment of WeBill Hardware, shall not affect the balance of the contract concluded between the parties or entitle the Customer to cancel the Order.
- 6. DAMAGED OR DEFECTIVE WEBILL HARDWARE AND WARRANTY**
- 6.1. The WeBill Hardware is not manufactured by WeBill and is therefore subject to a Manufacturer's Warranty issued by the applicable Manufacturer of the WeBill Hardware and which will be valid for a period of **24 (twenty four) months** from the date of delivery of any WeBill Hardware to the Customer and which applies only to defects in workmanship or material.
- 6.2. The Manufacturer's Warranty will apply in the following circumstances:
- 6.2.1. Any faults in the WeBill Hardware discovered or arising under normal use of the WeBill Hardware;
- 6.2.2. The fault must relate to a design fault, or in respect of the materials used;
- 6.2.3. Poor workmanship;
- 6.2.4. Latent defects not capable of being observed by the Customer;
- 6.2.5. Replacement of a faulty WeBill Hardware and the costs associated therewith (if applicable);
- 6.2.6. Any other provision catered for by the Manufacturer of the WeBill Hardware;
- 6.3. The Manufacturer's Warranty will not apply in the following circumstances:
- 6.3.1. Damage arising from normal wear and tear;
- 6.3.2. Damage arising from lightning or power surges;
- 6.3.3. Damage arising from negligence, misuse or abuse to the WeBill Hardware;
- 6.3.4. Damages arising from a failure to adequately care for the WeBill Hardware.



- 6.3.5. Damages arising from unauthorised alterations to the WeBill Hardware;
- 6.3.6. Where the serial number or security seal has been interfered with;
- 6.3.7. Where the WeBill Hardware is used for experimental, developmental, prototype or pilot purposes;
- 6.3.8. Damages arising from an incorrect attempt to repair the WeBill Hardware;
- 6.3.9. Accidental damage;
- 6.3.10. Where the WeBill Hardware is used on a higher amperage than specified;
- 6.3.11. Where the WeBill Hardware is exposed to elements of nature;
- 6.3.12. Where the WeBill Hardware comes into contact with Water or Liquids;
- 6.3.13. Where the WeBill Hardware comes into contact water which contains levels of foreign matter, including but not limited to dirt, sand, minerals, debris, deposits, biofilms, chemical substances or other impurities which interfere with or degrade WeBill Hardware;
- 6.3.14. Where the WeBill Hardware is exposed to unusual environmental conditions;
- 6.3.15. Where the WeBill Hardware is used in a fraudulent or illegal manner;
- 6.3.16. Where the WeBill Hardware is used outside the border of South Africa;
- 6.3.17. Where the WeBill Hardware is improperly stored, commissioned, installed, by the Customer or a third party;
- 6.3.18. Any other provision catered for by the Manufacturer of the WeBill Hardware;
- 6.3.19. The discontinuation of third party network or communication services or the phase out or replacement of the network and/or communication technologies supporting the WeBill Hardware if such changes render the WeBill Hardware unable to function as represented at the time of entering into this Agreement;
- 6.3.20. Where the WeBill Hardware is used after the discovery of a defect.
- 6.4. Provided that the WeBill Hardware is still under the Manufacturer's Warranty, any faulty WeBill Hardware due to manufacturing faults can be returned to WeBill at no additional cost to the Customer. The faulty WeBill Hardware will be replaced and installed by WeBill at WeBill's costs.
- 6.5. If the origin of the fault cannot be attributed to the manufacturing of the WeBill Hardware, the Customer will be charged for the costs associated with the replacement and installation of the WeBill Hardware as well as any materials needed, including shipment and/or transportation costs and a reasonable fee for work performed by the Manufacturer of the WeBill Hardware in investigating the claimed defective WeBill Hardware.

7. BREACH AND CANCELLATION

- 7.1. Should the Customer breach any term, condition, undertaking, or representation contained in this Agreement and fails to remedy such breach within 7 (seven) calendar days after receipt of written notice to that effect from WeBill, then WeBill will be entitled, without prejudice to any other right which it may have in terms of this Agreement and in law, to:
 - 7.1.1. claim specific performance by the Customer of its obligations (accompanied by any claim for damages);
 - 7.1.2. claim payment of an amount to the extent of the damages resulting to WeBill from such breach; or
 - 7.1.3. cancel this Agreement and damages.
 - 7.2. WeBill may elect whether to claim relief from any court of competent jurisdiction or referring the dispute to arbitration, which arbitration shall be conducted in terms of the Arbitration Act, 42 of 1965 (as amended or replaced from time to time) and the Arbitration Foundation of Southern Africa's ("AFSA") Rules for Expedited Arbitration, which prevails at the time when the matter is referred to arbitration.
 - 7.3. On cancellation of this Agreement, any Order accepted by WeBill but not yet fulfilled, will be required to be fulfilled, delivered and paid for in accordance with this Agreement.
- ## **8. WEBILL'S INABILITY TO SUPPLY WEBILL HARDWARE**
- 8.1. Should WeBill be unable to fulfill its obligations under this Agreement, whether partly or wholly, due to circumstances beyond its control, including but not limited to manufacturing issues, sourcing difficulties pertaining to component or chip or relay shortages, political unrests, government regulations, strikes, acts of war, acts or terrorism, natural disasters, delays at custom for releasing componentry or other goods involved in the manufacturing process, industrial action affecting the manufacturing process or part thereof, declaration of local or national epidemic disaster or stay at home or curfew, or any other event not necessarily mentioned hereinabove but which can be classified as Force Majeure, WeBill shall not be liable for any failure to deliver WeBill Hardware as agreed upon.
 - 8.2. If circumstances as aforementioned arise, WeBill will, notify the Customer promptly and in writing, providing details of the circumstances giving rise to its inability to supply the WeBill Hardware (where required in its sole discretion), whereafter, WeBill reserves its right to terminate this Agreement or any Orders placed in accordance herewith, without any liability.
 - 8.3. In the event of the cancellation of this Agreement or any Orders (whether partly or wholly) as a result of an event of Force Majeure only, that may have already been placed by the Customer and paid for, WeBill will refund to the Customer the consideration received in respect of such unfulfilled Order, in full, within 30 (Thirty) calendar days from date of cancellation of such Order. Apart from the refund to the Customer, the Customer shall



- have no further claim against WeBill for any additional compensation or damages arising from such cancellation.
- 8.4. The Customer agrees that in the event of termination under this clause, neither party shall be liable to the other for any damages, losses, or expenses, including but not limited to consequential damages or loss of profit.
- 9. LIMITATION OF LIABILITY**
- 9.1. Save for what has been referred to in this Agreement, WeBill shall under no circumstances be liable for the following and the customer agrees to indemnify, defend and hold WeBill (and its employees or representatives) harmless against:
- 9.1.1. Loss or damage to the WeBill Hardware whilst the WeBill Hardware is in WeBill's possession (barring loss or damage resulting from WeBill's gross negligence);
- 9.1.2. Loss or damage suffered under any circumstances listed under clause 6.3 above;
- 9.1.3. Loss or damage suffered to the interruption in power, network or water supply;
- 9.1.4. Indirect or consequential loss or damage, including without limitation loss of business, data, profits, revenue, or anticipated savings howsoever arising, suffered by the Customer or arising in any way in connection with this Agreement;
- 9.1.5. Loss or damage suffered by the Customer arising out of or in connection with any breach of this Agreement by the Customer or any act, misrepresentation, error or omission made by or on behalf of the Customer or its employees or representatives;
- 9.1.6. Loss of or damage to any property or injury to or death of any person;
- 9.1.7. Loss, damage (including legal fees), costs and expenses which WeBill may suffer or incur arising directly or indirectly from or caused by any willful misconduct, fraud or any other criminal act committed by the Customer.
- 10. DOMICILIUM AND NOTICES**
- 10.1. WeBill choose its respective *domicilium citandi et executandi* ("domicilium") for all purposes under this Agreement the physical address which appears under clause 1.1 and in terms of the Customer, the registered or physical address denoted on the Information Sheet.
- 10.2. Either party may change its *domicilium* to another street address within the Republic of South Africa by written notice to the other Party. Any change of *domicilium* will take effect on the 7th (seventh) day after receipt by the recipient of such notice.
- 10.3. All notices may be delivered by hand at the *domicilium* of the recipient (in which case it will be deemed to have been received when delivered) or sent by email (in which case it will be deemed to have been received on the next business day after transmission thereof, unless the contrary is proved).
- 10.4. Notwithstanding anything to the contrary herein contained, a written notice actually received by a party will be adequate written notice to it.
- 11. ENVIRONMENTAL CORRECT WASTE MANAGEMENT**
- 11.1. In addition to any local applicable laws, the Customer must dispose of end-of-life WeBill Hardware in an environmentally friendly and correct manner, either by returning the WeBill Hardware to WeBill (only if so agreed by WeBill) or by handing the WeBill Hardware over to the nearest certified disposal facility. If the Customer returns the WeBill Hardware to WeBill, the Customer will be liable for the transportation costs to WeBill's registered address. If the Customer elects to dispose of the WeBill Hardware itself/himself/herself, the Customer will be liable for the costs associated therewith.
- 12. GENERAL**
- 12.1. This Agreement constitutes the entire agreement between WeBill and the Customer. No other conditions, stipulations, guarantees, warranties or representations whatsoever that have been made by any party or its party's representatives, other than as specifically included herein, will be binding on the parties.
- 12.2. No amendment or deletion to this Agreement, or this clause, or novation of this Agreement shall be effective unless it is reduced to writing and signed by authorised signatory of the parties.
- 12.3. No granting of time or forbearance shall be, or be deemed to be, a waiver of any term of this Agreement and no waiver of any breach shall operate as a waiver of any continuing or subsequent breach.
- 12.4. If the whole or any part of a term of this Agreement is void or voidable by either Party or unenforceable or illegal, the whole or that part (as the case may be) of that term, shall be severed, and the remainder of this Agreement shall have full force and effect, provided the severance does not alter the nature of this Agreement between the Parties.
- 12.5. This Agreement shall be governed by and construed according to the laws of the Republic of South Africa.
- 12.6. The Customer shall not be entitled to cede, assign, delegate or otherwise transfer the benefit or burden of all or any part of this Agreement, however this Agreement will be for the benefit of and be binding upon the successors in title and permitted assigns of the parties or either of them.
- 12.7. Nothing in this Agreement shall be construed as creating a partnership between the Parties and neither Party shall have any authority to incur any liability on behalf of the other or to pledge the credit of the other Party.
- 12.8. The Parties shall at all times owe each other a duty of good faith and shall, in all dealings with each other and in respect of each Party's obligations hereunder, act according to the standard.
- 12.9. Each party warrants to the other that it has the authority and legal right to perform in



terms of this Agreement and that any signed and accepted Quotation or Tax Invoice giving rise to the conclusion or enforceability of this Agreement, have been duly authorised by all the necessary actions of the parties' directors or representatives and constitutes valid and binding obligations on them in accordance with the terms of this Agreement.

- 12.10. The rule of construction that a contract shall be interpreted against the party responsible for the drafting or preparation of the contract, shall not apply.
-