



Reg Nr: 1973/013260/07

Technical & General Distribution (Pty) Ltd
Part of the Technical Group

Tel: (011) 886 4122
93 Milner Road, Kensington B, Randburg, 2194
Email: sales@magnets4u.co.za
www.magnets4u.co.za

CUSTOMER

Table with 2 columns and 7 rows for customer information: Registered Name, Trading Name, Industry / Field of Business, Registration Number, VAT Number, Postal Address, Physical Address.

CONTACT DETAILS (Responsible person for Invoicing Purposes)

Form for contact details with fields for Title, Name, Surname, ID Number, Tel Nr, Mobile Nr, Fax Nr, and Email address.

COMPANY DETAILS

Form for company details containing: TECHNICAL GENERAL DISTRIBUTION (PTY) LTD, Part of the Technical Group, Tel: (011) 886 4122, 93 Milner Road, Kensington B, Randburg, 2194, Email: sales@magnets4u.co.za

DATED at _____ on this the _____ day of _____ 2023.

Signature box for THE COMPANY

THE COMPANY

Signature box for THE CUSTOMER

THE CUSTOMER



Cash Sales – Terms and Conditions

1. DEFINITIONS

- 1.1 **“Company”** means Technical & General Distribution (Pty) Ltd (“TGD”), the entity providing products or performing services under the contract.
- 1.2 **“Conditions”** means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Company and the Customer.
- 1.3 **“Contract”** means the contract for the purchase and sale of Goods.
- 1.4 **“Customer”** is the person who accepts the quotation of the Company for the sale of the Goods or Services provided by the Company.
- 1.5 **“Date of Delivery”** means the date as agreed upon between the parties, alternatively the date after which the full purchase price has been paid.
- 1.6 **“Due Date”** means that date upon which full payment of the purchase price is due and the date upon which the products/goods will be available for collection or delivery.
- 1.7 **“Ex works”** means that the Company’s responsibility for the goods ends when the goods are placed at the disposal of the Customer at the named place of delivery on the date or within the period agreed to.
- 1.8 **“Goods”** means the goods or products (including any installment of the goods or any part for them) which the Company is to supply in accordance with these Conditions.
- 1.9 **“List Price”** means the latest official price of the products or goods as quoted in the Company’s price list.
- 1.10 **“Products/Goods”** and/or **“Services”** means the subject matter of the contract, as supplied or to be supplied by the Company, including but not limited to equipment, parts, materials and other goods the Company has agreed to supply to the Customer under the contract.
- 1.11 **“Purchase Price”** means the price agreed upon stated in the contract for the sale of products and services, including adjustments, if any, in accordance with the said contract.
- 1.12 **“Transaction”** or **“Contract”** means any agreement between the Company and the Customer to enter into a contract in which the Company undertakes to supply products or services to the Customer in return for payment of the purchase price.
- 1.13 **“Writing”** includes telex, cable, facsimile transmission, email and comparable means of communication.
- 1.14 Any reference in these conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.
- 1.15 The headings in these Conditions are for convenience only and shall not affect their interpretation.
- 1.16 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company.
- 1.17 The Company shall sell and the Customer shall purchase the Goods or Services in accordance with any written quotation of the Company which is accepted by the Customer, or any written order of the Customer which is accepted by the Company, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Customer.
- 1.18 No variation to these conditions shall be binding unless agreed in writing between the authorised representatives of the Customer and the Company.
- 1.19 The Company’s employees or agents are not authorised to make representations concerning the Goods or Services whether as storage application or use unless confirmed by the Company in writing. In entering into the Contract, the Customer acknowledges that it does not rely on, and waives any claim for breach of, any such representation not so confirmed.

2. NOTICE

- 2.1 The sale of any products or services by the Company is subject to the Customer’s express assent to these Terms and Conditions. The acceptance of any offer proposed by the Company is expressly limited to the Customer’s acceptance of these Terms and Conditions, and the Company expressly objects to any additional or different terms proposed by the Customer, unless specifically agreed upon by the parties in writing. Any order to purchase products or receive services shall constitute the Customer’s assent to these Terms and Conditions.
- 2.2 The sale of all products/goods are sold on a strictly cash basis, and products/goods shall only be released to the Customer upon payment for the goods either in cash or via EFT in which case the amount shall first reflect on the Company’s bank statement as being received.
- 2.3 It is recorded that in line with clause 2.2 above, the National Credit Act 34 of 2005 is not applicable to the sale of products/goods as envisaged herein.
- 2.4 In the event that the Customer, being a juristic person, whose annual turnover exceeds the threshold value as determined by the Minister, then the Consumer Protection Act 68 of 2008 shall not be applicable to the sale of products/goods as envisaged herein.
- 2.5 Should any of the Terms and Conditions herein be void or unenforceable for any reason whatsoever, the Customer hereby accepts that the transaction will still be subject to the remaining Terms and Conditions

contained herein and the validity thereof shall not be affected in any way and will remain fully enforceable.

3. APPLICABILITY

- 3.1 The terms hereof shall form part of and apply to all contracts entered into, unless specifically excluded or amended by the parties, and such exclusion or amendment is to be in writing and signed on behalf of both parties.
- 3.2 Unless otherwise specifically stipulated in writing to the contrary by the Company, the terms hereof shall supersede and prevail over any terms and conditions contained in any documentation submitted by the Customer.

4. ORDER AND ACCEPTANCE

- 4.1 Each sale shall be subject to a separate contract governed by these Terms and Conditions.
- 4.2 Any contract in terms of which the Company agrees to sell products to the Customer, to the exclusion of any terms and conditions that the Customer may seek to make applicable, will be subject to these Terms and Conditions.
- 4.3 The goods offered by the Company and the acceptance of any order is subject to the availability of the goods at date of acceptance.
- 4.4 All illustrations, diagrams, price lists, delivery dates and performance figures furnished by the Company in regard thereto, are approximate and are furnished for information purposes only, and unless specifically recorded by the Company in writing to the contrary, shall not form part of this contract nor bind the Company in any way whatsoever.

5. PURCHASE PRICE

- 5.1 The purchase price payable by the Customer for the products or goods shall be the Company's list price for such products at the date of delivery of the products, unless otherwise specifically agreed to in writing by the Company.
- 5.2 The full purchase price is payable, without deduction or set off of whatever nature on the due date so specified by the Company, unless otherwise specifically agreed to in writing by the Company.
- 5.3 Where any payment is effected by cheque or by electronic transfer or where any cheque is sent in the post, all risks arising from the use of a cheque, electronic transfer or the use of the post shall lie with the Customer who shall be liable for all damages/losses sustained as a result thereof.
- 5.4 The Company reserves the right to vary its list prices from time to time without notice to the Customer.
- 5.5 In the event of there being any increase in the cost of the goods to the Company for any reason including but not limited to an increase in wages, an increase in prices charged to the Company by its suppliers or otherwise, or in an instance where the Company's list prices are varied in accordance with 5.2 above, between the date of

quotation and the date of delivery, such increase shall be payable by the Customer.

- 5.6 The price of the Goods or Services shall be the Company's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the current price listed of the Company at the date of acceptance of the order. Where the Goods are supplied for export from South Africa, the Company's export price list for the Customer's country shall apply. All prices quoted are valid for 15 days only or until earlier acceptance by the Customer, after which time they may be altered by the Company without giving notice to the Customer.
- 5.7 The Customer reserves the right, by giving notice to the Customer at any time before delivery (due to circumstances out of the Company's control, described more in detail below), to increase the price of the Goods or Services to reflect any increase in the cost to the Company which is due to any factor beyond the control of the Company (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), due to any change in delivery dates, quantities or specifications for the Goods or Services which is requested by the Customer, or any delay caused by any instructions of the Customer; or failure of the Customer to give the Company adequate information or instructions.
- 5.8 Unless otherwise agreed in writing between the Company and the Customer, all prices are given by the Company on an "ex works basis", and where the Company agrees to deliver the Goods otherwise than at the Customer's premises, the Customer shall be liable to pay the Company's charges for transport, packaging and insurance together with value added tax as appropriate.

6. TERMS OF PAYMENT

- 6.1 The Company shall be entitled to invoice the Customer for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be collected by the Customer or the Customer wrongfully fails to take delivery of the Goods, in which event the Company shall be entitled to invoice the Customer for the price at any time after the Company has notified the Customer that the Goods are ready for collection or (as the case may be) the Company has tendered delivery of the Goods.
- 6.2 The Customer shall pay the price of the Goods or Services within 1 day of the date of the Company's invoice, unless otherwise agreed in writing by the Company and the Company shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Customer. The time of payment of the price shall be of the essence of the Contract.
- 6.3 If the Customer fails to make any payment on the due date, then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:

- 6.3.1 Cancel the contract or suspend any further deliveries to the Customer; and
 - 6.3.2 Charge interest at the rate of 2.5% per month to the Customer (both before and after any judgement) on the amount outstanding and unpaid, until payment in full is made. A part of a month being treated as a full month for the purpose of calculating interest.
- 6.4 Only in specific cases, and as agreed between the parties, and in writing, an Upfront Deposit of 50% of the Value of the Order must be paid to secure any Sale Order placed. Upon receipt of the balance of the value of the Order or purchase price, only then shall the products/goods be released or delivered. Should the Order be cancelled, a Handling Charge of 5% of the Total Value of the Order will be payable on "As Is" Equipment and 20% on Refurbished Equipment.

7. DELIVERY

- 7.1 Unless otherwise expressly stated by the Company, the prices quoted are ex works, and the Customer shall take delivery of the goods as soon as they are placed at the Customer's disposal at the Company's premises, and shall bear and be liable for all charges and risks pertaining to and in respect of the goods from the time in which the said goods have been so placed at the Customer's disposal, provided that the goods have been clearly set aside or otherwise identified as the contract goods.
- 7.2 Should the Company be requested by the Customer to deliver the goods by an alternative method, any increase in the cost of such an alternative method of delivery will be payable by the Customer.
- 7.3 The Company accepts no liability for any loss or damage whatsoever resulting from a delay in supplying goods, or for their non-availability or non-supply, and any dates agreed or arranged for delivery or performance are to be regarded as estimated only.
- 7.4 Should any deliveries be delayed, hindered, prevented or interfered with by any circumstances whatsoever outside the Company's control, the period for such deliveries shall be extended until the lapse of a reasonable period after the cessation of the said circumstances, the Company shall not be liable for any claims, loss or damage caused by such delay.

8. RISK AND LIABILITY

- 8.1 The risk in the goods will pass from the Company to the Customer upon delivery of the Goods to the Customer.
- 8.2 In the event that it is agreed upon by the parties that the deliveries are to be transported or railed by a recognised independent carrier, the said carriers shall be considered as the Customer's agent, and the risk in and to the goods shall then pass to the Customer upon delivery thereof by the Company to the said carrier, and delivery of the goods to the Customer shall then be regarded as having been delivered.

- 8.3 In the event of the Customer appearing to sell the goods to a third party before payment has been made to the Company, the Customer acknowledges and agrees that the Company will not stand in a fiduciary relationship to the Customer and the Company will not be liable to any third party for delivery of the product/goods.

9. RETENTION OF OWNERSHIP AND TITLE

- 9.1 Notwithstanding delivery of the goods and the transfer of the possession thereof to the Customer, full legal and beneficial ownership of the goods shall remain vested in the Company and shall not pass to the Customer until the payment of the full purchase price to the Company has been received.
- 9.2 In the event that the products/goods are collected or delivered prior to receipt by the Company of the full purchase price:
 - 9.2.1 then the Customer agrees to keep the goods in good order and at all times to allow the Company and/or its representatives and/or its permitted assigns to inspect the said goods and have the said goods returned or collected immediately until payment of the full purchase price has been received, and the Company shall be entitled to recover from the Customer any reasonable charges, rental or other consideration for so doing.
 - 9.2.2 Pending return of the goods, collection of the goods or payment of the full purchase price, the Customer shall not be entitled to cede, assign, hypothecate, pledge or pass possession of the goods to any intended third party.

10. DISCLAIMER

- 10.1 The Company shall under no circumstances be liable for any loss of profit or any damages whether direct or indirect, consequential or otherwise, sustained by the Customer arising from any cause whatsoever, including any damages arising as a result of the negligence of the Company, its representatives, agents or permitted assigns.
- 10.2 The Company shall under no circumstances whatsoever at any time be liable for any damages or loss howsoever arising, or for any claims for consequential loss or damage which may be sustained by the Customer, or for any claims whatsoever made by another person in connection with any contract between the Company and the Customer for the sale of goods, and the Customer hereby further indemnifies the Company against all such claims.

11. WARRANTY

- 11.1 In the event that the goods forming part of the subject matter of the contract are second hand or used goods:
 - 11.1.1 Then the Customer hereby acknowledges that the goods may contain defects, and that the Customer has inspected the goods and satisfied

himself/herself as to the condition of the goods, and hereby accepts the goods as they are, whether with or without defects, without any warranty whatsoever.

11.1.2 No warranty on the part of the Company as to the condition, state or quality of the said goods, or as to their fitness for any purpose has been given or is implied by the Company.

11.2 All Sales of Second hand Equipment shall be deemed to be "As Is" or "Voetstoots". Should refurbishment be required, a Refurbishment Charge of R2,500.00 per ton will be due and payable before preparation of the order.

12. RETURN OF GOODS

12.1 In the case of the termination or rescission of the contract, whether at the instance of the Customer or the Company, or of both the Customer and the Company, the Customer shall not be entitled to any allowance, credit, return or set-off of any payments or deposits previously made and which shall be forfeited to and retained by the Company without prejudice to the rights of the Company to recover any damages suffered by it.

12.2 All goods returned will be in the same condition as when originally delivered by the company, and any failure by the Customer to comply with such a requirement will nullify any further claims for credit against the Company.

12.3 The Company does not accept the return of goods, other than goods delivered in error, or goods not corresponding with specifications stipulated in the contract. Such goods may only be returned to the Company upon agreement in writing by the Company.

13. RISKS AND PROPERTY

13.1 Risk of damage to or loss of the Goods shall pass to the Customer.

13.1.1 In the case of Goods to be delivered at the Company's premises, at the time when the Company notifies the Customer that the Goods are available for collection; or

13.1.2 in the case of Goods to be delivered otherwise than at the Company's premises, at the time of delivery or, or if the Customer wrongfully fails to take delivery of the Goods, the time when the Company has tendered delivery of the Goods.

13.2 Notwithstanding delivery and the passing of risk in the Goods, or any others provisions of these Conditions, the property in the Goods shall not pass to the Customer until the Company has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Company to the Customer for which payment is then due.

13.3 Until such time as the property in the Goods passes to the Customer, the Customer shall hold the Goods as the Company's fiduciary agent and bailee, and shall keep the Goods separate from those of the Customer and third parties and properly stored, protected and insured and identified as the Company's property. Until that time the Customer shall be entitled to resell or use the Goods in the ordinary course of the Customer's business, but shall account to the Company for the proceeds of sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any monies or property of the Customer and third parties and, in the case of tangible proceeds, properly stored, protected and insured.

13.4 Until such time as the property in the Goods passes to the Customer (and provided the Goods are still in existence and have not been resold), the Company shall be entitled at any time to require the Customer to deliver up the Goods to the Company and, if the Customer fails to do so forthwith, to enter upon any premises of the Customer or any third party where the Goods are stored and repossess the Goods.

13.5 The Customer shall not be entitled to pledge or in any way charge by way of security any of the Goods which remain the property of the Company, but if the Customer does so all monies owing by the Customer to the Company shall (without prejudice to any other right or remedy of the Company) forthwith become due and payable.

14. PROTECTION OF PERSONAL INFORMATION ACT 4 OF 2013 CONSENT TO PROCESS PERSONAL INFORMATION IN TERMS OF THE PROTECTION OF PERSONAL INFORMATION ACT NO 4 OF 2013 ("POPIA")

14.1 The Customer hereby agrees to provide the Company with personal information.

14.2 The Customer acknowledges that the purpose for which the personal information is being collected is in order to ensure that the Company is able to provide an adequate service and supply of goods.

14.3 The Company will not be able to supply the goods, should the Customer fail to provide the requisite information.

14.4 The Customer hereby agrees that the Company may transfer the information as a result of legitimate processing to a third party in order to provide the goods, or to any Country outside South Africa where such countries data privacy laws are equivalent to or stricter than POPI or where suitable agreements have been entered into with third parties which comply with the relevant provisions of POPI allowing the processing of personal information.

14.5 The information supplied has been so supplied voluntarily and with consent, and whilst being aware of the Customer's rights to access, object or lodge a complaint to the Information Regulator regarding the information so collected. The complaint can be lodged with the Regulator at (infoirs@justice.gov.za).

15. DAMAGES

15.1 The Customer must pay to the Contractor any costs, expenses or losses incurred by the Contractor as a result of the Customer's failure to pay to the Contractor all sums outstanding as owed by the Customer to the Contractor including without limiting the generality of the forgoing any debt collection and legal costs incurred in enforcing payment on a solicitor and own client basis.

16. LEGAL ACTION

16.1 Should the Customer fail to make payment upon receipt of the Contractor's invoice, and the account falls in arrears by 30 (thirty) days due to non-payment, the Contractor shall immediately hand the account over to its legal representatives, namely Gemini Tracing and Credit Management (Pty) Ltd, for outstanding debt recovery.

16.2 The Customer shall be liable for all legal costs, disbursements, interest and collection commission on an attorney and own client scale.

17. RETENTION OF TITLE

17.1 Title

Notwithstanding the delivery of the Goods or their installation, title in any particular Goods shall remain with the Contractor regardless of whether the Goods are on-sold by the Customer until the Customer has paid and discharged any and all monies owing pursuant to any invoice issued by the Contractor for the Goods, including all applicable and other taxes, levies and duties. Where the Goods have been on-sold by the Customer, the Customer will be taken to hold the proceeds of sale of such Goods upon trust for the Contractor and to account to the Contractor for these proceeds. Any payment made by or on behalf of the Customer which is later avoided by the application of any Statutory Provisions shall be deemed not to discharge the Contractor's title in the Goods, nor the Customer's indebtedness to the Contractor and, in such an event, the parties are to be restored to the rights which each respectively would have had if the payment had not been made.

17.2 Repossession

The Customer hereby irrevocably grants to the Contractor the right, at its sole discretion, to remove or repossess any Goods from the Customer and sell or dispose of them, and the Contractor shall not be liable to the customer or any person claiming through the Customer and the Contractor shall be entitled to retain the proceeds of any Goods sold and apply same towards the Customer's indebtedness to the Contractor.

If the Customer commits an act of bankruptcy, enters into any form of administration or liquidation, makes any composition or arrangement with its creditors, ceases to carry on business or breaches any fundamental clause of this agreement, then the Contractor may, without prejudice to any other remedies it may have, repossess any Goods delivered to the Customer on any account which has not been paid in accordance with the Terms and Conditions herein and commence proceedings to recover the balance of any monies owing the Contractor by the Customer.

18. SCHEDULE OF WARRANTIES

To the extent required by the laws of South Africa, the Contractor warrants that:

18.1 The Works will be carried out in accordance with all relevant laws and legal requirements in an appropriate and skilful way, in accordance with the plans and specifications (where relevant) using Goods that are good and suitable for the purpose for which they are intended to be used and that, unless otherwise stated in the Contract, those Goods will be new; and

18.2 Each provisional sum item allowance, if calculated by the Contractor, has been calculated with reasonable skill and care, having regard to all the information reasonably available when the Contract is entered into (including information about the nature and location of the Site).

18.2.1 The Contractor warrants that the Works are, and that Goods supplied are, free of defects at the time of completion and/or installation.

18.2.2 If the Contractor be directed to reuse any materials or components from the Site or elsewhere, then the Contractor will not accept any responsibility for the aesthetic finishes, structural entity or any warranties whatsoever attached to those materials or components. The Customer shall indemnify the Contractor from any costs, losses or expenses associated with the rectification or resupply of such materials or components.

18.3 Subject to the Agreement, the Contractor does not have to fix any problem caused by misuse, abuse, wear and tear, damage caused by vermin, lizards and insects, or normal shrinkage or movement, minor colour variation in natural products, work done by others or any defects in Goods supplied by the Customer.

19. LIABILITY

19.1 Non-excludable Rights

The parties acknowledge that, under the laws of the Republic of South Africa, certain conditions and warranties may be implied in these Terms and Conditions and there are rights and remedies conferred on the Customer in relation to the provision of the Goods and Services which cannot be excluded, restricted or modified by the contract ("Non-excludable Rights").

19.2 Disclaimer of Liability

The Contractor disclaims all conditions and warranties expressed or implied, and all rights and remedies conferred on the Customer, by statute, the common law, equity, trade, custom or usage or otherwise and all those conditions and warranties and all those rights and remedies are excluded other than any Non-excludable Rights. To the extent permitted by law, the liability of the Contractor for a breach of a Non-Excludable Right is limited, at the Contractor's option, to the supplying of the Goods and Services again or payment of the cost of having the Goods and Services supplied again.

19.3 Indirect Losses

Notwithstanding any other provision of these Terms and Conditions, the Contractor is in no circumstances (whatever the cause) liable in contract, including without limitation, negligence or breach of statutory duty or otherwise to compensate the Customer for:

- 19.3.1 Any increased costs or expenses;
- 19.3.2 Any loss of profit, revenue, business, contracts or anticipated savings;
- 19.3.3 Loss or expense resulting from a claim by a third party; or d) any special, indirect or consequential loss or damage of any nature whatsoever caused by the Contractor's failure to complete or delay in completing the Services within a reasonable time.

19.4 Force Majeure

The Contractor will have no liability to the Customer in relation to any loss, damage or expense caused by the Contractor's failure to complete the Services or to deliver the Goods as a result of fire, flood, tempest, earthquake, riot, civil disturbance, theft, crime, strike, lockout, breakdown, war, the inability of the Contractor's normal suppliers to supply products or any other matter beyond the Contractor's control.

20. ARBITRATION AND MEDIATION

Any dispute or difference between the Customer and the Contractor may be notified by a party to the other party and the parties shall firstly meet to negotiate,

in good faith, resolution of the dispute and secondly, if negotiation fails to achieve a resolution of the dispute within five (5) working days of the notification of the dispute, attend mediation, administered in accordance with procedures as set out by the Arbitrators and Mediators, provided that this provision shall not prevent the Contractor from instituting legal action at any time to recover monies owing by the Customer to the Contractor.

21. SECURITY AND CHARGE

The Customer hereby charges all property, both equitable and legal, present or future of the Customer in respect of any monies that may be owing by the Customer under these Terms and Conditions or otherwise and hereby authorises the Contractor or its legal representatives to execute any consent form as its attorney for the purpose of registering assets over any real property owned by the Customer at any time.

22. GENERAL MATTERS

22.1 Non-Waiver

Failure by the Contractor to enforce or delay in enforcing any right or provision of these Terms and Conditions will not constitute a waiver of such right or provision unless acknowledged by in writing.

22.2 Amendments to these Terms and Conditions

The Contractor reserves the right to vary these Terms and Conditions at any time with notice in writing to the Customer. Any subsequent signed quote or work order will represent the Customer's agreement to these Terms and Conditions as amended.

22.3 Severability

Any provision in these Terms and Conditions which is invalid or unenforceable in any jurisdiction must be read down for the purposes of that jurisdiction, if possible, so as to be valid and enforceable. If that provision cannot be read down then it is capable of being severed to the extent of the invalidity or unenforceability without affecting the remaining provisions of these Terms and Conditions or affecting the validity or enforceability of that provision in any other jurisdiction.

22.4 Governing Law and Jurisdiction

These Terms and Conditions are governed by the laws of the Republic of South Africa which are in force. All disputes arising between the Customer and the Contractor will be submitted to a court of competent jurisdiction selected by the Contractor and such court shall possess territorial jurisdiction to hear and determine such proceedings.