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## STANDARD CONDITIONS OF PURCHASE

### 1. DEFINITION

For the purposes of this Agreement the following words shall have the meaning assigned to them unless the context indicates otherwise –

- 1.1 **“Agreement”** shall mean the vendor application, the Purchase Order and these Terms of Purchase combined;
- 1.2 **“Company”** shall mean any one of the entities which together comprise the Rema Tip Top Holding South Africa (Pty) Limited (Registration Number: 1980/009786/07) group of companies and shall include the following entities:
  - 1.2.1 Dunlop Industrial Products (Pty) Ltd (Registration Number: 2001/004023/07);
  - 1.2.2 Insika Industrial Services (Pty) Ltd (Registration Number: 2002/021927/07)
  - 1.2.3 Rema Tip Top Automotive (Pty) Ltd (Registration Number: 2004/009581/07);
  - 1.2.4 Rema Tip Top Belting and Rubber Ghana Ltd (Registration Number: \_\_\_\_/\_\_\_\_/\_\_);
  - 1.2.5 Rema Tip Top Belting and Rubber Madagascar Ltd (Registration Number: \_\_\_\_/\_\_\_\_/\_\_);
  - 1.2.6 Rema Tip Top South Africa (Pty) Ltd (Registration Number: 2004/010680/07);
  - 1.2.7 Rema Tip Top SPRL DRC (Registration Number: \_\_\_\_/\_\_\_\_/\_\_);
  - 1.2.8 Rema Tip Top Surface Protection (Pty) Ltd (Registration Number: 2004/009520/07);
  - 1.2.9 Rema Tip Top Technology (Pty) Ltd (Registration Number: 2011/001535/07);
  - 1.2.10 Rema Tip Top Training Foundation (Pty) Ltd (Registration Number: 2009/010658/07);
  - 1.2.11 Rema Tip Top Zambia Ltd (Registration Number: \_\_\_\_/\_\_\_\_/\_\_).
- 1.3 **“CPA”** shall mean the Consumer Protection Act No 68 of 2008, as amended, and any regulations promulgated thereunder;
- 1.4 **“Parties”** shall mean the Company and the Vendor;
- 1.5 **“Price”** shall mean the form or document specifying the Product, the Vendor and price to which these terms and conditions of purchase are attached, and form an integral part;
- 1.6 **“Product”** shall mean those goods or services specified in the order;

- 1.7 **“Purchase Order”** shall mean the request or order from the Company to the Vendor to supply the Product;
- 1.8 **“SHE Requirements”** shall mean all relevant law and government requirements relating to workplace health and safety and the environment, and the most current version of the Company's policies with respect to health and safety, the environment and stake holder relationships; and
- 1.9 **“Vendor”** shall mean the corporate body or person specified as such in the Purchase Order, including the Vendor's successors in title and permitted assigns.

### 2. APPLICATION

- 2.1 These terms and conditions shall apply to any agreement for the purchase of any Product by the Company to the exclusion of any other terms or conditions which the Vendor purports to apply under any quotation, proposal, invoice, and confirmation of order, specification or other document.
- 2.2 The Vendor acknowledges that the supply of the Product to the Company is not exclusive and that nothing contained in this Agreement prohibits the Company from appointing anyone else to supply, package, transport or otherwise deal in the Product. The Company does not provide any guarantee regarding the volume or frequency of orders that may be placed with/on the Vendor.
- 2.3 Notwithstanding the threshold limitations contained in the CPA, the parties wish to incorporate specific sections of the CPA through reference and for these to be applicable to them as part of these terms and conditions.
- 2.4 Should there be any conflict between these terms and other terms of purchasing proposed by the Parties, these terms will apply.



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### 3. PURCHASE ORDER

- 3.1 The Agreement is concluded when the Purchase Order is accepted. Acceptance must be received within 48 (forty eight) hours from the date on the Purchase Order, unless a shorter period is stipulated on the Purchase Order.
- 3.2 The Vendor undertakes to confirm the acceptance of the Purchase Order by signing and returning a duplicate of the Purchase Order to the Company.
- 3.3 The Purchase Order shall stipulate which entity of the Rema Tip Top Group of Companies is purchasing the Products.
- 3.4 The Company reserves its rights of ownership and copyright regarding photos, drawings, calculations and other documents and shall be used in terms of the provisions of clause 15.

### 4. PRICE

- 4.1 The Price shall be less any discount, other than settlement discount, given by the Vendor.
- 4.2 The Price shall include –
- 4.2.1 Value Added Tax;
- 4.2.2 All delivery costs to destination, irrespective of the manner of time thereof, including the costs of off-loading unless stipulated otherwise on the order;
- 4.2.3 All packaging and/or container expenses.
- 4.3 Modifications of the Price shall only be allowed if the Company consents thereto in writing, and signed by a director of the Company.
- 4.4 Unless otherwise specifically stated in the Purchase Order, the Prices are fixed and free from any and all escalation. Likewise any variations in foreign exchange rates which affect the Purchase Order value will not be for the Company account.

- 4.5 Prices are deemed to include all applicable duties, import charges, landing & wharfage fees and other costs incurred or likely to be incurred in the importation of the Products.

### 5. PAYMENT

- 5.1 All payments are conditional upon the receipt of the Vendor's tax invoice that complies in all instances with the Value Added Tax Act 89 of 1991 (as amended) and must reflect the Purchase Order number.
- 5.2 Payment will be made as per the payment terms set out on the Purchase Order.
- 5.3 If no terms of payment appear on the Purchase Order, the Company shall pay the Price on 60 (sixty) days following the rendering of the Vendor's statement to the Company.
- 5.4 The Vendor's statement of account shall be rendered in duplicate on the 25<sup>th</sup> day of a calendar month, or on the closest following business day, in respect of deliveries made during the preceding 30 (thirty) day period.
- 5.5 On request by the Company, the Vendor shall furnish the Company with the appropriate delivery note to any statement of account.
- 5.6 The date of payment will be deemed to be that when the electronic transfer has been effected, or actual payment has been made.
- 5.7 To the extent that other credit terms have been agreed to in writing between the Company and the Vendor, those terms shall apply.
- 5.8 The Company shall be entitled to deduct or set off any amounts owing by the Vendor to the Company.
- 5.9 The Company shall not be liable for any interest for late payments unless expressly agreed to in writing and signed by a director of the Company.



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#### 6. AUTHORITY

The Company shall not be liable for the payment of any amount of money which appears on the Purchase Order which purports to be issued in the name of the Company where such Purchase Order was issued without the appropriate authority. It shall be incumbent on the Vendor to make due enquiry regarding authority. The Vendor will have no claim for damages of any nature due to the cancellation of the Agreement on account of lack of authority.

#### 7. DELIVERY

- 7.1 The Vendor shall deliver the Product to the Company –
  - 7.1.1 at the address specified on the Purchase Order and to no other address;
  - 7.1.2 during normal working hours unless stipulated otherwise on the order;
  - 7.1.3 at the time and date specified on the order, and where such time is not specified, during normal working hours from Monday to Friday.
- 7.2 Where applicable, the Product delivered by the Vendor to the Company shall be accompanied by a separate delivery note and, where applicable, an itemised waybill.
- 7.3 The Vendor shall supply the exact Product required by the Company in terms of this Agreement, unless the Company consents in writing to a replaced order. The Vendor shall, at its own cost, replace any Product lost or damaged in transit howsoever caused.
- 7.4 The Company shall not accept any Product in excess of the quantity specified in the Purchase Order. Such Product as may be in excess of the specified quantity in the Purchase Order shall be removed by the Vendor from the Company's site within 7 (seven) days, at the Vendor's own cost, and the title and risk in the Product shall remain with the Vendor.
- 7.5 The Vendor acknowledges that time and place of delivery are of the essence and in the event that the Vendor fails to deliver the Product timeously and/or to the correct address, the Company may, without prejudice to any other rights

- 7.6 In the case of delays of delivery, the Company is entitled to charge contractual damages in the amount of 1% (one percent) of the value of the Purchase Order for each full week of delay, however not more than 10% (ten percent) of the value of the Purchase Order.
- 7.7 The Company reserves the right to claim further damages as are permitted in law.
- 7.8 Should the Company be in default of acceptance or in default of payment, the Vendor's claim will be limited to 0.5% (zero point five percent) of the value of the Purchase Order for each full week of delay.
- 7.9 If the delivery is made in instalments, then the provisions of this clause 7 shall apply to each instalment.
- 7.10 The Company reserves the right to prohibit the Vendor's vehicles, and/or vehicles delivering the Vendor's Product, entry to the Company's premises or off-loading point should the Company, in its sole and absolute discretion, deem the Product or those vehicles to pose any safety risk to the Company and/or its employees, representatives, agents or property. Should the Company fail to accept and the Products when exercising its discretion, the Company shall not be liable to the Vendor for any cost or damages of any nature.
- 7.11 The Company reserves the right to search the Vendor's vehicles, and/or vehicles delivering the Vendor's Product before it enters or leaves the Company's premises or the off-loading point, and in addition, reserves the right to search any Vendor's personnel or any sub-contractor, representative or



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agent of the Vendor and the vehicles of those persons. It shall be the Vendor's responsibility to ensure that such persons are aware of this provision.

7.12 The Vendor shall be responsible for the off-loading or discharge of the Product in the manner specified by the Company, unless otherwise stipulated in the order. In this regard the Vendor shall be liable for any damages caused to the property of the Company or to any thing on the premises of the Company by the Vendor or its agent.

7.13 The Vendor is to ensure that the delivery note is signed by a properly authorised person employed by the Company. Such signature shall, however, not be deemed to confirm the accuracy of the contents of the delivery note.

7.14 Notwithstanding any other provision of this Agreement, should the Company wish to test the Product, the Vendor agrees that delivery of the Product will be deemed to have taken place after testing of the Product has, to the satisfaction of the Company, been completed.

#### 8. LABELLING AND NOTICE

8.1 The Vendor shall ensure that the Product is packaged as per the instructions on the Purchase Order.

8.2 In the event that there are no packaging instructions on the Purchase Order, the Vendor shall ensure that the labelling of the Product complies with the applicable laws.

8.3 The Product must display, on or in association with the packaging of the Product, a notice in the prescribed manner and form that discloses the presence of any genetically modified ingredients or components of the Product in accordance with any statutes.

8.4 The Vendor shall comply with all statutes, and is responsible for the correct indication of mass and/ or volume on all packaging within the tolerances provided by law and undertakes to have all measuring equipment regularly

calibrated and to have such calibrations certificates available for inspection at all times.

8.5 The Vendor shall supply the Product with adequate instructions or warnings pertaining to any hazard arising or associated with the use of any product and for the safe handling and use thereof. Such notice shall comply with the provisions of Section 22 of the CPA and any other applicable standards.

#### 9. MASS AND OTHER SPECIFICATIONS

9.1 The Company shall have the right, at its option, to determine the net mass of the Product by whatever means required, including the use of its own weighbridges. Should the Vendor dispute the mass of the Product delivered, the Vendor must furnish the Company with the reasons for such dispute in writing within 4 (four) days of the date the Company communicated the mass of the Product to the Vendor, failing which the rights of the Vendor shall be deemed to be waived.

9.2 All size, weights and other specifications given by the Vendor shall be accurate, and in terms of the Trade Metrology Act of 1973, as amended.

9.3 The mass of the Product must be reflected by the Vendor on all documents pertaining to the Product, including without limitation, all statements of accounts, invoices and waybills.

#### 10. RISK

10.1 Notwithstanding any other provisions contained in the Agreement, ownership in the Products and the risk of loss, damage or destruction of the Products shall pass to the Company only once the Product is delivered, off-loaded or discharged at the off-loading point referred to in 7.1.1 above and accepted by the Company.

10.2 The Vendor warrants that the Product as at the date of delivery are free and clear of any lien, claim, demand, security, interest or any other encumbrance.



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- 10.3 No provision contained in this Agreement shall be construed so as to limit in any manner whatsoever the Company's right to institute the claim based on the existence of a defect in the Product, including, without limitation, a claim for the replacement of the defective Product and any consequential damages.
- 10.4 In addition to any other rights which the Company may have in law or in terms of this Agreement, any defects in the Product shall, at the Company's option either be made good by the Vendor free of charge or the Vendor shall be obliged to supply replacement Products to the Company at the Vendor's expense. Should the Company in its sole and absolute discretion deem the instance in question to be one of emergency, it shall be entitled to purchase replacement products from any other supplier thereof, or repair the defects itself or employ any other person to do so at the Vendor's expense.
- 10.5 Should the Vendor use any facilities, equipment containers, silo's or bins of the Company, the Vendor shall be responsible for such property by endorsing the order with the details thereof.
- 10.6 The Company shall not be liable under any circumstances whatsoever for any damages, loss of profit, demurrage, whether direct or indirect, consequential or otherwise, alleged to be sustained by the Vendor.
- 10.7 Risk of loss or damage to the Product during delivery remains with the Vendor.
- 10.8 The Company will, as soon as practicably possible, record in writing and report to the Vendor any shortage of, or damage to any of the Products discovered. The Vendor will be responsible for any such shortage or damage.

### 11. WARRANTIES

- 11.1 The Vendor undertakes in favour of and warrants to the Company that –
- 11.1.1 it has access to the appropriate number of properly trained and qualified personnel, in order to ensure that it is able to deal with the Products in a safe, professional and timely manner and in accordance with the terms and conditions set out in this Agreement;

- 11.1.2 the Products transported by the Vendor to the Company will be supplied in accordance with any safety standards and all applicable laws and statutes, free of defects and hazards, whether patent or latent and fit for the purpose of their intended use and, in particular, that the Products comply with the requirements and standards of Section 55 of the CPA to which the Vendor declares itself to be fully acquainted with;
- 11.1.3 it shall, at all times, comply fully and timeously with all obligations imposed on it in terms of this Agreement and the statutes;
- 11.1.4 all Products transported and delivered to the Company have been properly and lawfully cleared by the relevant authorities and that customs and any other taxes or duties have been duly paid to the correct classification; and
- 11.1.5 the Products will neither be counterfeit goods, infringe upon the rights of any third party under any trademark, trade name, patent, design or any other intellectual property rights, nor will the Products constitute grey market goods.
- 11.2 In this Agreement, the terms "defect", "failure", "hazard" and "unsafe" or any derivatives thereof shall have the same meaning as that ascribed to them in terms of Section 53 of the CPA, which the Vendor declares itself to be fully acquainted with.
- 11.3 The Vendor warrants that none of the Products to be transported to the Company shall, as a result of its doing, be defective, prone to failure, constitute a hazard or be unsafe.
- 11.4 The Parties take cognisance of the provisions of Section 55 of the CPA that every consumer has the right to receive goods that –
- 11.4.1 are reasonably suitable for the purpose for which they are generally intended;
- 11.4.2 are of good quality, good working order and free of any defects;



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- 11.4.3 will be usable and durable for a reasonable period of time having regard to the use to which they would normally be put and to all the surrounding circumstances of their supply; and
- 11.4.4 conform with all relevant requirements of any statute, law, regulation or legal requirement which may be in force in the Republic of South Africa.
- 11.5 Furthermore, the Parties take cognisance of the provisions of Section 56 of the CPA, and acknowledge that it is warranted that the Product supplied or transported by the Vendor comply with the requirements of the provisions of Section 55 of the CPA.
- 11.6 Without any prejudice to any other rights reserved in its favour in terms of this Agreement, the Company shall be entitled to return the Products to the Vendor should any of the Products not comply with the provisions of this Agreement or be returned by a Customer of the Company if the Products fail to satisfy the requirements of Section 55 of the CPA or if it is so claimed by a Consumer. The Vendor shall forthwith compensate the Company in respect of the returned Products.
- 11.7 Where applicable, the Vendor warrants, and must ensure that the Product conforms with the exact requirements and stipulations of the Company and the plans, specifications, drawings and other data supplied by the Company to the Vendor.

### 12. INDEMNITY AND LIMITATION OF LIABILITY

- 12.1 The Vendor shall be liable for and hereby indemnifies the Company, each company in the Group, their Directors and their Shareholders against all loss, liability, damage or expense of whatever nature which the Company, any company in the Group, Customers or any third party may suffer as result of, or which may be attributable to the failure by the Vendor to perform any of its

- obligations in terms of this Agreement including, without limitations, any loss or damage caused by or arising from –
  - 12.1.1 any loss of the Products or damage to the Products while at the risk of the Vendor;
  - 12.1.2 any failure to transport and deliver the Products timeously, adequately or at all, or to the correct off-loading point;
  - 12.1.3 any Products returned or recalled pursuant to the provisions of the CPA;
  - 12.1.4 any damage or injury suffered or sustained by the Company, Customer or any third party in relation to the Products;
  - 12.1.5 the acts or omissions of the Vendor's agents, representatives and/or subcontractors;
  - 12.1.6 any breach by the Vendor of any of the warranties given by or obligations imposed on the Vendor in terms of this Agreement; and/or
  - 12.1.7 any liability that is described under section 61 (5) of the CPA caused wholly or partly as a consequence of the supply or delivery of any unsafe products, product failure, defect or hazard in any goods or inadequate instructions or warnings provided to the Customer pertaining to any hazard arising from or associated with the use of any goods as contemplated in Section 61(1) of the CPA, irrespective of whether the harm resulted from any negligence on the part of the Vendor or the subcontractor of the Vendor.
- 12.2 The Company shall not be liable to the Vendor for any indirect or consequential loss or damage, including without limitation, loss or profit, revenue, anticipated savings, business transactions or goodwill or other contracts.
- 12.3 The indemnity provided by the Vendor in terms of this clause 12 includes any consequential damages that may be suffered by the Company or any company in the Group, including the incurrance of legal charges in order to defend claims and/ or to engage in litigation.



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- 12.4 Acceptance by the Company of any delivery of the Product shall not release the Vendor from any of its obligations, warranties or undertakings in terms of this Agreement or otherwise.
- 12.5 The Vendor shall be liable to the Company and/or any other person for all damages, including direct and/or indirect financial loss, which may directly or indirectly be sustained by the Company and/or any other person from any defects in the Products or any other breach of the Vendor's obligations, warranties and undertakings in terms of this Agreement.
- 12.6 The Vendor indemnifies the Company against any claim for infringement or unauthorised use of any intellectual property, patent rights, trademarks or other protected rights which may occur in the manufacture, supply, acceptance or other use of the Products in terms of this Agreement. All royalties and expenses of whatsoever nature arising out of any patent right, trademark or other protected rights shall be payable by the Vendor.

### 13. RETURN OF PRODUCTS

- 13.1 Notwithstanding anything to the contrary contained in this Agreement, the Company shall, at its election be entitled to stop the loading or off-loading of the Products, alternatively, reject the Product(s) concerned after the delivery thereof –
  - 13.1.1 if the Product supplied by the Vendor does not meet the safety standards and any additional requirements stipulated in the Purchase Order;
  - 13.1.2 in the event of non-compliance by the Vendor of any of its obligations in terms of this Agreement;
  - 13.1.3 as a result of a product recall under the circumstances envisaged in clause 14 below.

### 14. PRODUCT RECALL

- 14.1 On the occurrence of any of the events stipulated in clauses 11.6 and/or 13.1.3 above, and at the election of the Company, the Vendor shall –
  - 14.1.1 replace at no extra cost to the Company, the rejected Products with Products meeting the specification and requirements set out in the order, it being agreed that the Vendor will reimburse the Company with costs, taxes and expenses incurred as a result of the supply of defective Products; or
  - 14.1.2 issue the Company with a credit note in respect of the rejected Products; and
  - 14.1.3 reimburse the Company with its applicable standard handling fee, if so charged.
- 14.2 The Company may, at any time, initiate a product recall if, in its sole discretion, the Product does not conform to applicable safety standards or that it may otherwise pose a safety or health issue. Such a recall may be initiated if the Company has become aware or suspects that the Product does not conform with the abovementioned requirements or as a result of Consumer complaints or reports on the Product failures, defects, hazards or personal injury, illness or damages to property.
- 14.3 The Vendor is also under an obligation to inform the Company and to initiate a product recall should it become aware of any of the circumstances referred to in clause 14.1 above. In addition to the aforementioned, it also acknowledges that the National Consumer Commission may, in terms of the provisions of Section 60 of the CPA, carry out the recall programme on any terms required by it.
- 14.4 In the event of a product recall under the abovementioned circumstances, the Company shall be entitled to return all recalled products to the Vendor, which shall be collected by the Vendor at its own expense from the Company's premises and forthwith issue a credit note to the Company in respect thereof.





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The Vendor shall immediately remove any trade names and/or own brands of the Company from the products so returned.

#### 15. CONFIDENTIALITY

15.1 The Vendor shall keep the contents of the Purchase Order and any information of or relating to the Company or its operations or affairs or the Products which may be acquired by the Company, confidential, save and except for information:

15.1.1 which enters the public domain other than as a result of this Agreement;

15.1.2 which is lawfully received from a third party not subject to any duty of confidentiality to the Company with respect to such information;

15.1.3 which is known other than as a result of a disclosure in breach of any duty of confidentiality to the Company with respect to such information; and

15.1.4 where such disclosure made as required by law or enforceable legal process, or by the rules of any securities exchange or regulatory authority having jurisdiction over such person.

15.2 The Vendor shall not, without the prior written consent of the Company:

15.2.1 take any photographs of the Company's premises or any part thereof; or

15.2.2 publish any article, story or advertisement in connection with the Products on the premises or elsewhere.

#### 16. INSPECTION

The Company or its representatives or any inspector nominated by the Company shall at all times have access to the premises, works, workshops or places where any Product or portion thereof is being manufactured or stored, and shall have the right to inspect and/or test any portion of the Product and/or give such directions in writing as may be deemed desirable in

connection with the manufacture or design of the Product, or the materials used in the manufacture thereof. Failure by the Vendor to comply with any directions, shall entitle the Company to cancel this Agreement and claim any damages.

#### 17. SUBCONTRACTING

17.1 The Vendor will be entitled to make use of the services of any subcontractor or agent for the purpose of complying with its obligations in terms of this Agreement.

17.2 The Vendor warrants to the Company that any such contractor subcontractor or agent appointed by it, possess the necessary skills, expertise and experience needed to comply with the Vendor's obligation in terms of this Agreement and will comply with all laws that regulate the supply, packaging and transportation of the Products.

#### 18. CONTAINERS

18.1 The Company shall not be liable for any damage of whatsoever nature caused to any container or package of whatsoever nature in which the Product is delivered to the Company. Such liability refers to any loss or damage whilst the containers or packages are in the possession of the Company howsoever arising, including, and without limitation, any act or omission on the part of the Company or its employees, representatives or agents.

18.2 All containers or packages, of whatsoever nature, in which the Vendor delivers the Product, shall be marked clearly with the reference or order number which appears on the order.

18.3 Any container or package in which the Product is delivered, shall be removed from the Company's premises, unless stipulated otherwise on the order or in writing by the Company, within a period of 14 (fourteen) days, failing which the Company shall be entitled to either –





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- 18.3.1 sell such containers or packages so as to meet any costs associated with the storage thereof on the Company's premises; and
- 18.3.2 attend to the removal of such containers or packages from the Company's premises and claim the cost of such removal from the Vendor, notwithstanding the amount of such costs.

### 19. HAZARDOUS SUBSTANCES

In the event that the Products supplied by the Vendor are hazardous substances as defined in the Hazardous Substances Act 15 of 1973 (as amended), the Vendor warrants that the Product is safe and without risk to the health and safety when used, handled, processed, stored or transported; and the Vendor shall provide the Company with detailed documented information about, *inter alia*, the use of the substance, the safety precautions to be implemented to ensure that the substance is without risk to health and safety, and the procedure to be followed in the event of an accident involving exposure to these substances.



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**20. SITE AND SAFETY**

- 20.1 The Vendor shall comply with the SHE Requirements when on the Company's premises.
- 20.2 The Vendor shall comply with the Purchaser's Corporate Polices, as amended from time to time.
- 20.3 The Vendor undertakes to comply with all applicable legislation including (but not limited to):
  - 20.3.1 the Occupational Health And Safety Act 85 of 1993;
  - 20.3.2 the Mine and Health Safety Act 29 of 1996;
  - 20.3.3 Compensation of Occupational Injuries and Diseases Act 130 of 1993; and
  - 20.3.4 the Hazardous Substances Act 15 of 1973.
- 20.4 The Company, or its authorised representative, shall have the right to inspect the Vendor's Health and Safety records at the premises of the Vendor. Should the Health and Safety records of the Vendor be incomplete or not up to date, the Company shall have the right to terminate the agreement and/or claim damages from the Vendor in terms of clauses 26 and 27.

**21. INSURANCE**

- 21.1 The Vendor undertakes and warrants that it has and will continue to maintain for the duration of this Agreement, adequate insurance policies (with an independent and reputable insurer) to cover its risks in terms of this Agreement, including and without limitation, insurance against loss and/or accidental damage to the Products and death or injury to any person resulting from the use, consumption, supply, packaging and transportation of the Products.
- 21.2 The Vendor shall-
  - 21.2.1 provide proof to the Company's satisfaction, on request by the Company, that adequate insurance has been obtained in accordance

- with the provisions of this Agreement, and should it be that this is not to the Company's satisfaction, then the Company may require the Vendor to insure with a reputable insurer approved by the Company and for an amount as may be prescribed by the Company;
- 21.2.2 promptly pay all premiums and duties in respect of such insurance and on request provide proof to the Company's satisfaction that all such premiums and duties have been paid;
- 21.2.3 if so requested by the Company, note the Company as a beneficiary under such insurance policy/policies and the Company shall be entitled to claim and receive all monies payable under the aforementioned insurance policy/policies and to sign all documents on the Vendor's behalf as may be necessary to recover all amounts payable under the insurance policies; and
- 21.2.4 not permit or do anything which might prejudice any such insurance.

**22. GOVERNING LAW**

This Agreement shall be governed by and interpreted in accordance with the laws of the Republic of South Africa, in all respects.

**23. JURISDICTION**

- 23.1 The Vendor consents to the jurisdiction of the Magistrate's Court as required by Section 45 of Act 32 of 1944, as amended, in respect of any action or proceedings which may be brought against it by the Company provided that the Company shall be entitled to bring proceedings in the High Court if such proceedings would, but for the foregoing consent, fall outside the jurisdiction of the Magistrate Court.
- 23.2 If the Vendor is not a resident of and does not carry on business in South Africa, then the Vendor consents and submits to the jurisdiction of either –



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- 23.2.1 the division of the High Court of South Africa in which the Company or a company in the Group has its registered address or principal place of business; or
- 23.2.2 the High Court of South Africa, Gauteng Local Division, Johannesburg; and all courts of appeal therefrom, for all purposes arising out of this Agreement.

#### 24. FORCE MAJEURE

- 24.1 Should the Company be prevented or restricted directly or indirectly from carrying out any of the obligations under this Agreement by any cause beyond its reasonable control, including, without limitation, war, civil commotion, riot, insurrection, strikes, lockouts, fire, explosion, flood, earthquake, bad weather, acts of God and acts of State ("force majeure"), the Company shall be relieved of such obligations during the period that force majeure continues.
- 24.2 Should the force majeure continue for a period in excess of 1 (one) month, the Company shall be entitled to terminate the Agreement in its sole and absolute discretion.

#### 25. SUSPENSION OF THE COMPANY'S OBLIGATIONS

If the Vendor has not met any of its obligations, for whatsoever reason, without prejudice to any right which the Company may have, the Company may, until the obligations are met by the Vendor, suspend the carrying out of its obligations to the Vendor.

#### 26. TERMINATION

- 26.1 Should the Vendor default in the performance of any term or condition of this Agreement the Company shall be entitled, without prejudice to any other rights, which it may have in law, to forthwith terminate this Agreement in whole or in part, and/or claim damages from the Vendor.

- 26.2 Notwithstanding the generality of the foregoing, the Vendor shall be deemed to be in default if –
  - 26.2.1 the Vendor is in a partnership which is dissolved; or
  - 26.2.2 the Vendor is a company, which is place under a provisional or final order of liquidation or business rescue; or
  - 26.2.3 the Vendor compromises or attempts to compromise generally with any of its creditors.

#### 27. DAMAGES

- 27.1 Should the Vendor breach any of the provisions of this Agreement, the Company may, without prejudice to any other rights it may have, impose contractual damages, in an amount equivalent to the value of the Purchase Order, for each case of non-compliance.
- 27.2 The Company reserves the right to claim further damages as are permitted in law.
- 27.3 The Company's right to claim for damages and/or fulfilment is not affected by payment by it of any amounts due to the Vendor in terms of this Agreement.

#### 28. GENERAL

- 28.1 This Agreement contains the entire Agreement between the Company and the Vendor.
- 28.2 The Company or the Vendor shall have no claim or right of action arising from any undertaking, representation or warranty not included in this Agreement.
- 28.3 No failure by the Company to enforce any terms and conditions of this Agreement shall constitute a waiver of any such terms and conditions, or affect in any way the Company's right to demand performance of any such terms and conditions at any time in the future, nor shall the waiver of any subsequent breach nullify the effectiveness of the terms and conditions hereof.



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#### STANDARD CONDITIONS OF PURCHASE

- 28.4 The Vendor shall not cede any of its rights or delegate any of its obligations under this Agreement.
- 28.5 No alteration or variation of these terms and conditions or this Agreement shall apply unless the alterations or variation in question is expressly agreed to in writing and signed by an authorised representative of the Company.