

Armco Superlite (Pty) Ltd
Terms and Conditions of Purchase for Goods and Services

1. For the purpose of this agreement:
 - 1.1. "The Supplier" shall mean Armco Superlite (Pty) Ltd
 - 1.2. "The Purchaser" shall be the person, close corporation, private company public company, firm, partnership, association or trust which transacts with the supplier in terms hereof.
 - 1.3. These terms and conditions shall apply to any transaction for the sale of any goods or services supplied by the supplier from time to time whether that transaction or transactions arise out of any offer made by the supplier and accepted by the purchaser, or otherwise, and shall specifically include an offer to purchase or purchase order made by the purchaser in response to a quotation received from the supplier, and shall include but shall not be limited to goods and or services relating to galvanizing, road safety and construction products. The terms and conditions herein contained shall be deemed to be binding on the parties for any and all subsequent transactions.
2. The parties may not amend these conditions unless recorded in writing and signed by the supplier's authorized representative. These terms and conditions take effect on the date of signature of the quotation ("the acceptance") prepared by the supplier and presented to the purchaser and shall therefrom be binding upon the parties.
3. The terms and conditions herein contained, together with the quotation and any drawings presented to the supplier, collectively, shall form the basis of the contract between the supplier and the purchaser ("the contract").
4. No variation of these terms and conditions shall apply, either at the time the quotation is accepted or at any time afterwards, unless the variation in question is expressly agreed to in writing and signed by an authorised representative of the supplier and the purchaser.
5. If the goods, the subject of the order ("equipment") are required by the purchaser for the purposes of another contract between the purchaser and anyone else, none of the provisions of that other contract shall apply to or be incorporated in this contract between the supplier and the purchaser unless expressly confirmed in writing by the supplier.
6. Should a purchase order received from the purchaser contain terms and conditions which are inconsistent with the contents hereof, the supplier shall not be bound thereto, and the terms and conditions herein contained shall supersede the terms and conditions of the purchase order which shall not be binding on the supplier.
7. Price of goods and services supplied: The price of the goods and services will be as set out in the quotation (the purchase order price) issued by the supplier, and which shall be binding on the purchaser from date of signature by the purchaser on the quotation (acceptance).
8. The price set out in the quotation shall be deemed accepted by the purchaser's signature and may not be amended without the prior written notice to, and with the written consent, of the supplier.
9. The purchaser will make payment of the price levied by the supplier for the goods and services as specifically set out in the supplier's quotation which shall not include any goods and or services not mentioned therein.

DEPOSIT ON CUSTOM DESIGNED GOODS

10. Purchaser's without a credit facility shall be required to make prior payment to the supplier of a non-refundable deposit in a sum equal to one half (50%) of any orders for custom designed products, without which the supplier shall not be required to commence or execute any orders on behalf of the purchaser.
11. Without derogating from the generality of clause 10 above, the supplier shall be entitled, but not obliged, to request a non-refundable deposit from purchasers who hold a credit facility with the supplier, and in the absence of the requested deposit, the supplier shall not be required to commence or execute any orders on behalf of the purchaser.
12. Orders for custom designed products may not under any circumstances whatsoever be cancelled, and the purchaser shall remain liable for the full price of the goods and/or services as set out in the quotation.
13. In the event of a cancellation of an order for custom designed goods, by purchasers with or without a credit facility, the purchaser shall be liable to the supplier for all costs incurred by the supplier in executing the order, or part thereof, including but not limited to raw and wasted materials, transportation and the like.

SPECIFICATIONS

14. The equipment shall be manufactured and or assembled by the supplier in accordance with his specification and dimensions (specifications) set out in the acceptance, and it is the responsibility of the purchaser to check and ensure that the specifications detailed therein are correct. Consequently, the supplier will not be liable for any defects in the equipment and/or the specifications should the specifications not correctly have been stated in the quotation/acceptance. The limitation on liability shall apply irrespective of whether the design calculations were carried out by the purchaser's or the supplier's nominated engineers, and/or whether or not the specifications were obtained from the suppliers brochure, which shall in any event serve merely as a guideline. It shall at all times remain the responsibility of the purchaser to ensure correct specifications as reflected on the supplier's quotation prior to signature thereof. The supplier cannot be held responsible for any errors or omissions contained in the quotation and subsequent acceptance.
15. Should there be any conflict between the description of the equipment, the specifications, or other terminology of a technical nature set out in the acceptance, and those used by these purchasers, the description set up in the acceptance shall prevail.
16. The supplier reserves the right to make minor and or necessary alterations and improvements, without notice, in the design or methodology of manufacturing the equipment.

PRODUCTS

17. In respect of galvanising and galvanised products: -
 - 17.1 The supplier adheres to and carries out galvanising in accordance with minimum standards as set out in the SANS 121/ISO 1461 specifications.
 - 17.2 It is the responsibility of the purchaser to check and ensure that the specifications detailed in the acceptance are true and correct in all respects as the supplier shall not be accountable for any defective products resulting from incorrect specifications provided to the supplier, and or as contained in the accepted quotation (the acceptance).
 - 17.3 It is the responsibility of the purchaser to ensure that the material supplied for galvanizing will be structurally sound and able to safely undergo the forces of the galvanizing process. The supplier shall not be responsible for any defects or damage of whatsoever nature, either due to

warping, handling damages or otherwise which might occur as a result of inferior steel, welding, and materials provided to the supplier for galvanizing.

- 17.4 Non-account purchasers shall be required to make payment to the supplier of the full contract price as set out in the acceptance prior to the commencement of any galvanising works.
- 17.5 Instructions to galvanise cannot be cancelled for any reasons whatsoever and the purchaser shall remain liable for the full costs as set out in the acceptance irrespective of whether or not the purchaser collects the galvanised products.
18. In respect of road safety and construction products: -
- 18.1 The purchaser shall at its own costs prepare and provide the supplier with drawings upon which the supplier will prepare its quotation for the purchaser's acceptance. On acceptance of the quotation (the acceptance) the purchaser shall immediately and irrevocably be bound to the terms herein contained and the charges as set out in the acceptance.
- 18.2 Non-account holding purchasers are required to make payment to the supplier of a non-refundable deposit in a sum equal to 50% of the acceptance failing which the supplier reserves the right to withdraw from the agreement and or suspend the preparation of the order pending payment of the required deposit. The remaining 50% of the purchase price shall be payable before dispatch of the goods.
- 18.3 After acceptance, orders for custom designed products cannot under any circumstances be cancelled and the purchaser shall remain lawfully indebted to the supplier for the full sum as set out in the acceptance.
- 18.4 The purchaser shall be responsible for the correctness of the drawings presented to the supplier, and for the concomitant detail as set out in the quotation presented by the supplier to the purchaser. The supplier shall take no responsibility for any damages or losses suffered by the purchaser as a result of incorrect drawing and or incorrect information contained in the acceptance.
19. Installation
- 19.1 If the installation of the equipment and/or the provision of advisory services are specifically included in the quotation or acceptance, then these terms and conditions shall apply mutatis mutandis to the installation of the equipment and the provision of advisory services, as the case may be.
- 19.2 The following additional provisions shall apply in respect of installations:
- 19.2.1 A valid tax invoices will be delivered to the purchaser by the supplier in respect of each completed installation of the equipment.
- 19.2.2 In the event that the installation period extends over a period of more than 1 (one) calendar month, then a valid tax invoices shall be delivered to the purchaser at the end of each calendar month reflecting the amount owing at the end of that month in respect of such completed installation of that portion of the equipment for the relevant month to which the said invoice relates. The purchaser shall be obliged to make payment in respect of such invoices.
- 19.3 The Purchaser shall –
- 19.3.1 notify the Supplier in writing of the desired sequence of installation; and
- 19.3.1.1 be liable for increased costs incurred as a result of changes of previously agreed sequences.
- 19.3.1.2 the purchaser shall at its own cost prepare and make the site ready for the installation of the equipment and shall supply all power, water and other facilities which may be required for that purpose unless otherwise stated in the quotation and/or acceptance.
- 19.3.1.3 the purchaser shall provide facilities for continuous working until the completion of the installation;
- 19.3.1.4 the purchaser shall provide the supplier with proper access to and possession of the site for the purposes of the installation;
- 19.3.1.5 the purchaser warrants that the supplier will be able to commence the installation on the date specified in the order and complete it in the ordinary course without interruption;
- 19.3.1.6 in the event that the supplier suffers a loss and/or incurs an expense which was not in the reasonable contemplation of the supplier at the time of preparation of the quotation and/or the acceptance, and such loss and/or expense arises from a cause beyond the supplier's control and through no fault on its part, then the supplier shall be entitled to recover such additional amount equal to such loss or expense from the Purchaser;
- 19.3.1.7 the purchaser shall allow adequate and safe storage for all tools and equipment left by the supplier and its workmen on the site during the installation.
- 19.3.1.8 The purchaser hereby indemnifies the supplier against any loss or damages, patrimonial or non-patrimonial suffered by the supplier during the installation.

INVOICES AND PAYMENTS

- 20 Account holding purchasers' will pay invoices without any deduction or set off of whatsoever nature for goods and services supplied by the supplier to the purchaser within 30 days from the date of invoice (unless otherwise agreed in writing between the parties), provided that the goods and services have been received by the purchaser prior to or at the date of the invoice. If the purchaser disputes any amount of an invoice, the purchaser will pay the non-disputed amount of the invoice on the due date for the invoice. payment will be made by direct credit to a bank account nominated by the supplier in its invoice.
- 21 Once a purchase order has been received, the purchaser may not cancel, or vary, an order unless the supplier agrees to such variation/ cancellation in writing. In this event, notice of such cancellation, or variation, must be provided to the supplier at least 20 business days prior to the time specified for delivery or performance of such order and provided that the supplier has not delivered the goods or performed the services, or part thereof, in accordance with the contract.

DELIVERY

22. If the quotation is for the manufacture and supply of equipment:-
- 22.1 the purchaser shall be obliged to collect the equipment at the physical address of the supplier, or as specified on the acceptance, or at another such address as having been supplied by the purchaser, and delivery shall be deemed to have taken place on making the equipment available to the purchaser or to a third party nominated by the customer for this purpose; or
- 22.2 if delivery is made to any independent carrier(s) (including the South African Railways) delivery shall be deemed to have taken place upon making the equipment available to such carrier at the address specified on the acceptance. The carrier(s) shall be the purchaser's agent(s) and delivery to the carrier shall be considered as delivery to the purchaser, notwithstanding the fact that the supplier arranges transport and invoices to the purchaser.
- 22.3 After delivery to the purchaser in terms of (20.2), the supplier shall not be responsible for the arrival of the equipment at its destination or for any loss, damages or deterioration to the equipment.
23. If the quotation is for the manufacture and installation of equipment:-
- 23.1 the supplier shall be responsible for the factual delivery of the equipment to the designated address, at the cost of the purchaser as stipulated in the order ("the site"), provided that should the purchaser seek to vary the delivery address for any reason whatsoever, the purchaser shall be liable for any and all further delivery charges.
- 23.2 Any delivery date specified in the quotation is approximate only and therefore the supplier shall not be bound by any date(s) agreed upon in the contract for delivery but shall make all reasonable endeavours to deliver the equipment by such date(s). In the event that the supplier is unable to deliver the equipment by the date specified in the contract, the Supplier shall send written notice to the purchaser within 48 hours before the delivery date in order to advise the purchaser that delivery will not occur on the delivery date agreed upon and provide a new delivery date.
24. Notwithstanding any other provision in the contract to the contrary, the supplier's obligation to deliver the equipment shall in all cases be subject to the following:-
- 24.1 The availability to the supplier of the materials from which the equipment is to be manufactured, having regard, inter alia, to the availability of supplies of the materials to the supplier in relation to the demands of all its purchasers; and/or
- 24.2 The timeous receipt by the supplier from the purchaser of any and all additional instructions (including all drawings and specifications) required by the supplier for the manufacture of the equipment.
- 24.3 Time shall not be of the essence in the contract.
- 24.4 If the purchaser delays taking delivery of the equipment then the risk shall immediately, upon placing the equipment at the disposal of the purchaser, pass from the supplier to the purchaser.
- 24.5 The purchaser shall pay or refund to the supplier on demand the reasonable costs (including storage and insurance) associated with the warehousing of the equipment during the period of that delay.
- 24.6 In the event that the delay in taking delivery of the equipment exceeds 30 (thirty) days, the supplier shall, without prejudice to its right to recover damages from the purchaser, and shall be entitled to sell the equipment to any third party for purposes of defraying costs and expenses incurred.
- 24.7 The supplier shall deliver the goods to (or perform the services, where relevant) at the address specified in the order by the date stated in the order. In the event that the supplier is unable to perform its obligations in terms of this contract for any reason beyond its reasonable control or due to the purchaser's own conduct, the purchaser acknowledges that the supplier shall not be held liable for any breach arising from such failure.
- 24.8 The supplier must quote the order number and the item number (if applicable) on all documents and packages sent by it to the purchaser in respect of the order. On delivery of each consignment of the goods and at the conclusion of the performance of the services, the supplier may deliver to the purchaser such documents as are required by the order, including, certificates of conformity, galvanising certificates, and if the supplier is not the original manufacturer of the goods, copies of the original manufacturer's certificate of conformity together with test figures may be provided where the supplier is in possession of such and where applicable.
- 24.9 Notice of any Delivery Delay: If the supplier becomes aware that it will not be able to comply with a specified delivery or performance date as shown on an order, the supplier will immediately notify the purchaser and provide an explanation and reasons for the delay and any suggestions for any proposed alternative delivery or performance date. The supplier will obtain the purchaser's prior approval for any change to the original delivery or performance date.
- 24.10 Deliveries will be subject to delivery charges to be included by the supplier in its invoice issued to the purchaser. Delivery of back-ordered products comprising part of a previously supplied order, will be at the expense of the purchaser. Delivery costs accepted by the purchaser will be stated on the supplier's quotation or on its invoice as it applies. The supplier reserves the right to select the method of transport for all goods agreed to deliver to the purchaser. All products delivered to the purchaser's location are acknowledged as unloaded and stored at the purchaser's cost and risk.
- 24.11 All special delivery requests and circumstances made by a purchaser i.e. delivery or overnight express, must be relayed to the supplier in writing and received within a reasonable time for any special conditions to be met. All special delivery requests will be at the purchaser's expense unless otherwise agreed to in writing by the supplier. The supplier will not be liable for any loss, damage or delay suffered by the purchaser because of late or non-delivery of goods or services if the supplier makes all reasonable efforts to meet deadlines specified.

OWNERSHIP

25. Notwithstanding the delivery of the equipment to the purchaser, ownership shall not pass to the purchaser until the supplier has received full payment of the contract price of the goods.
26. Failing payment on due date the purchaser hereby irrevocably consents to deliver, at its costs, the equipment wheresoever it may be situated to the supplier without delay on receipt of written request to do so and without prejudice to the supplier's claim for damages arising from breach of contract.

CANCELLATION/BREACH

27. **Material Breach:** A material breach by either the supplier or purchaser of any of the terms of the contract will constitute an event of default. On the occurrence of an event of default the non-defaulting party may (without prejudice to any other remedy available to it) in its absolute discretion immediately terminate the contract by giving written notice to the defaulting party.
28. **Default:** Without limiting the foregoing, the purchaser may terminate the contract pursuant to this clause, in whole or in part, if the supplier:
 - 28.1 Subject to clause 24.9 above, fails to make delivery of the goods or perform the services within the time specified in the order;
 - 28.2 fails to replace defective goods or re-perform the services in accordance with these conditions;
 - 28.3 becomes insolvent or bankrupt, ceases to carry on all or substantially all of its business, is unable to pay its debts when due, makes an assignment for the benefit of creditors, stops payments to its creditors generally or anything having a similar effect to any of these events happens under the law of any applicable jurisdiction.
29. **Rights Unaffected:** Termination of the contract for any reason will not affect any rights of either party against the other which accrued prior to the time of the termination or the provisions of the contract which expressly or by their nature survive termination.
30. The supplier may cancel the contract or any uncompleted part of it if the purchaser:-
 - 30.1 fails to make any payment to the supplier by due date, or breaches any of the terms of this agreement;
 - 30.2 being an individual, dies or is provisionally or finally sequestered or surrenders his estate; or
 - 30.3 being a partnership, the partnership is dissolved; or
 - 30.4 being a supplier, is placed under a provisional or final order of liquidation or judicial management;
 - 30.5 compromises or attempts to compromise generally with any of the purchaser's creditors.
31. The supplier's rights in terms of (28) shall not be exhaustive and shall be in addition to its common law rights.
32. No relaxation which the supplier may permit at any time in regard to the carrying out of the terms of the contract shall prejudice or be a waiver of the supplier's rights under the contract.
33. Upon the termination of the contract by the supplier in terms of (28) above:-
 - 33.1 All amounts then due owing and payable by the purchaser to the supplier shall immediately become due owing and payable by the purchaser to the supplier;
 - 33.2 the Supplier hereby irrevocably consents to deliver any equipment in respect of which ownership has not passed to the supplier forthwith on receipt of written demand to do so.
 - 33.3 The purchaser shall be liable to the supplier for all costs incurred by the supplier in enforcing its rights as set out herein and undertakes to make payment on demand to the supplier.
34. **Arbitration**
 - 34.1 Any dispute between the parties in regard to the interpretation of, or the effect of, the parties' respective rights and obligations under, a breach of the terms of the contract, or any matter arising out of the contract **may** be decided by arbitration in the manner set out in this clause.
 - 34.2 The said arbitration shall be held subject to the provisions of this clause in the Gauteng province, informally, otherwise in accordance with the provisions of the Arbitration Act No. 42 of 1965, as amended; it being the intention that if possible it shall be held and concluded within 21 Business Days after it has been demanded.
 - 34.3 If the parties cannot agree upon a particular arbitrator within 7 Business Days after the arbitration has been demanded, the nomination shall be made by the President of the Legal Practice Council of the Northern Provinces within 7 business days after the parties have so failed to agree.
 - 34.4 The parties irrevocably agree that the decision in these arbitration proceedings shall be binding on them, shall be carried into effect, and may be made an order of any court of competent jurisdiction.

PROTECTION OF PERSONAL INFORMATION

35. The supplier respects the personal information of the purchaser, which information shall be held confidential and will only be processed for lawful and fair purpose including:-
 - 35.1 if you consented thereto;
 - 35.2 if it is necessary to conclude or perform in terms of a contract with you;
 - 35.3 the law requires it, and/or
 - 35.4 the purchaser, the supplier or a third party's lawful interest is being protected.
36. **Processing consent** – the purchaser acknowledges and confirms that the supplier may, to the extent applicable, process the personal information, including, inter alia, information regarding marital status, national origin, age, language, birth, education, financial, identity number or registration number, telephone numbers, online identifier, biometric information, names, trade conduct (the processing of information includes the collection, storage, updating, use, making available or destruction thereof) to, inter alia:-
 - 36.1 comply with legislative, risk and compliance requirements (including directives, sanctions and rules), voluntary and involuntary codes of conduct and industry agreements or to fulfill reporting requirements and information requests;
 - 36.2 Detect, prevent and report theft, fraud, money laundering and other criminal offences;
 - 36.3 Enforce and collect on any contract, including this contract, when the purchaser may be in default or breach of the contract, and for tracing purposes;
 - 36.4 Perform statistical, historical and research purposes;
 - 36.5 Do affordability assessment, credit assessment and credit scoring, or enable the Supplier to participate in the debt review process under the National Credit Act;
 - 36.6 Enable the Supplier to deliver documents to the purchaser;
 - 36.7 Conduct security, and to verify identity and/or registration numbers and to check the accuracy of information provided by the purchaser.
37. **Sharing of Information** – The supplier may share information with the following persons (amongst others) who similarly have an obligation to keep the shared information secure and confidential:-
 - 37.1 Attorneys, tracing agents, debt collectors and other persons that may assist in the enforcement of this contract;

- 37.2 Debt counsellors, payment distribution agents and other persons assisting with debt review processes under the National Credit Act;
 - 37.3 Payment processing service providers, merchants, banks and other persons who assist with the processing of payment instructions;
 - 37.4 Law enforcement and fraud prevention agencies;
 - 37.5 Regulatory authorities, government departments, local and international tax authorities and other persons with whom the Supplier is obliged to share information through the operation of law;
 - 37.6 Persons to whom the Supplier may cede its rights under this contract.
38. Sharing Information outside of RSA – The supplier may share information outside the borders of the Republic of South Africa according to the safeguards and requirements of the law. The person processing information of the purchaser will apply the same level of protection as required in South Africa.
39. Processing Information by Automated means – The supplier may process information using automated means (without human intervention) to make decisions about the purchaser and /or its application for any products, services or credit.
40. Access to Information – The purchaser shall have the right to access the information held by the supplier from time to time, in accordance with the privacy manual and policy documents relating to the supplier and the purchaser may request the supplier to correct or delete the information if it is inaccurate, irrelevant, excessive, obsolete, incomplete, misleading, unlawfully obtained or no longer authorised to be kept, and the purchaser may file a complaint with the information regulator about an alleged contravention of the protection of the purchaser's information. The purchaser may similarly withdraw consent which allows the supplier to process information of the purchaser, except if otherwise allowed and or required by the operation of law.

RETURNS

- 41. Any claim for shortage of supply or damage to goods must be notified in writing to the supplier within 24 hours. The supplier does not offer returns on custom design, special-made, galvanised or other such personalised products.
- 42. Return of any goods is to be negotiated as required and any fees or conditions may apply at the discretion of the supplier for the return of such goods. All returns are to be authorised in writing by the supplier in advance and a copy of the relevant invoice must accompany the returned goods with delivery costs applicable thereto.

RISK

- 43. Risk in goods or services passes to the purchaser on the collection, delivery or supply of the goods or services to the purchaser or the purchaser's agent for delivery to the purchaser.
- 44. The purchaser shall inspect all goods on receipt from the supplier and shall, within 24 hours give notice to the supplier in writing that the goods or services are not in accordance with the supplier's terms.
- 45. Failure to comply with the requirement set out in 42 will deem the supplier having met its supply obligations.

WARRANTY AND REFUNDS POLICY

- 46. The supplier offers a twelve (12) months material defects warranty on all steel products. However, save and except as required by law, no warranty is given where the supplier is not the manufacturer of products other than the warranty offered by the manufacturer and that the goods and services are fit for their usual purpose.
- 47. Products are sold subject to each and all manufacturer's trading terms and conditions and are protected by a manufacturer's specified warranty and that the goods and services are fit for their usual purpose. The supplier acknowledges a manufacturer's warranty under the Consumer Protection Act, provided that the liability for a breach of a condition or warranty implied does not extend beyond and is limited to:
 - 47.1 in the case of goods, any one or more of the following:
 - 47.1.1 the replacement of the goods or the supply of equivalent goods;
 - 47.1.2 the repair of the goods;
 - 47.1.3 the payment of the cost of replacing the goods or of acquiring equivalent goods;
 - 47.1.4 the payment of the cost of having the goods repaired; or
 - 47.2 in the case of services:
 - 47.2.1 the supplying of the services again; or the payment of the cost of having the services supplied again, at the discretion of the supplier;
 - 47.2.2 The purchaser must retain the original purchase invoice for all refund negotiations, the purchaser may request a refund if goods:
 - 45.2.2.1 become faulty through no fault of the purchaser;
 - 45.2.2.2 are not fit for a stated purpose or a purpose made known to the supplier;
 - 45.2.2.4 do not match the product description or sample provided at the time of purchase or quote;
 - 45.2.2.4 has defects that were not obvious at the time of purchase or delivery.

- 48. The goods must be returned within the arrangements detailed in these terms. The purchaser will be asked for proof of purchase. The purchaser

may be asked to demonstrate the problem or fault prior to return agreement being validated and also prove that the problem was not caused by the purchaser. In the event that an alternative to a refund may be made then the following provisions are made by the supplier:-

- 48.1 The supplier will arrange for the goods to be repaired under the conditions specified by the relevant manufacturer.
- 48.2 The Supplier will arrange for the goods to be exchanged under conditions specified by the relevant manufacturer.
- 48.3 The Supplier may at its discretion offer a credit to be taken up by the purchaser.
- 48.4 Custom design and special-made products manufactured to a purchaser drawing specifications will be excluded from this return policy.

FORCE MAJEURE

- 49. In the event of any act of God, acts or omissions of any government or provincial or local or similar authority, war, warlike operation, rebellion, riot, civil commotion, fire, accident, industrial unrest, lawful strike, lockout, combination of workmen, interference of trade unions, suspension of labour or (without regard to the foregoing enumeration) of any circumstances arising or action taken beyond or outside the reasonable control of the parties hereto preventing them or any of them from the performance of any obligation hereunder (any such event hereinafter called "force majeure"), then the party affected by such force majeure will be relieved of its obligations hereunder during the period that such force majeure continues, but only to the extent so prevented and will not be liable for any delay or failure in the performance of any obligations hereunder, or loss or damage which the other party may suffer due to or resulting from the force majeure, provided always that written notice will be promptly given of any such inability by the affected party. Any party invoking force majeure will upon termination of such force majeure give prompt written notice thereof to the other party. Should Force Majeure continue for a period of more than 30 days, then the party not affected by force majeure will without any agreed mechanism in place to overcome or abate the force majeure, be entitled forthwith to cancel the terms and conditions.

BREACH

- 50. If any Party breaches any material provision or term of the terms and conditions and fails to remedy such breach within 14 business days of receipt of written notice from the aggrieved party requiring it to do so (or if it is not reasonably possible to remedy the breach within 14 business days, within such further period as may be reasonable in the circumstances, provided that the party in breach furnishes evidence within the aforementioned period of 10 business days, reasonably satisfactory to the aggrieved party, that it has taken whatever steps are available to it to commence remedying the breach), then the aggrieved party shall be entitled without notice, in addition to any other remedy available to it at law or under the terms and conditions (including obtaining an interdict, or cancellation), to claim specific performance without prejudice to the aggrieved party's rights to claim damages.

NOTICES AND DOMICILIUM CITANDI ET EXECUTANDI

- 51. The parties select as their respective domicilia citandi et executandi at the physical addresses reflected on the suppliers quotation/acceptance for the purposes of giving or sending any notice provided for or required under these terms and conditions.
- 52. Provided that a party may change its domicilium to another physical address in the Republic of South Africa (provided that such physical address is not a post office box or poste restante, or a delivery address not been that of the purchaser), or may change its address for the purposes of notices to any other physical address or email address by written notice to the other party to that effect. Such change of address will be effective 5 business days after receipt of the notice of the change.

GENERAL

- 53. The terms and conditions contained herein, together with the drawings (if any) and acceptance, constitutes the whole agreement between the parties relating to the matters dealt with herein and, save to the extent otherwise provided herein, no undertaking, representation, term or condition relating to the subject matter of the terms and conditions not incorporated in the terms and conditions shall be binding on either of the parties.
- 54. These terms and conditions supersede and replace any and all terms and conditions between the parties (and other persons, as may be applicable) and undertakings given to or on behalf of the parties (and other persons, as may be applicable) in relation to the subject matter hereof, including any and all terms and conditions which may be contained in the purchaser's purchase order or like documents.
- 55. No indulgence which either party ("grantor") may grant to the other party ("grantee") shall constitute a waiver of any of the rights of the grantor, who shall not thereby be precluded from exercising any rights against the grantee which might have arisen in the past or which might arise in the future.
- 56. The parties undertake at all times to do all such things, to perform all such acts and to take all such steps and to procure the doing of all such things, the performance of all such actions and the taking of all such steps as may be open to them and necessary for or incidental to the putting into effect or maintenance of the terms, conditions and import of the contract.
- 57. Save as is specifically provided in the contract, the purchaser shall not be entitled to cede or assign any of their rights or obligations under the contract without the prior written consent of the supplier.
- 58. If any one or more of the provisions of this contract shall be declared (formally or informally) by competent authority to be illegal, invalid or unenforceable under any law applicable in any jurisdiction in which this contract is to be performed (the "severable provision"), the severable provision shall be severed and divisible from the other terms and conditions of this contract, and the parties shall retain all the other terms of this contract as valid and enforceable. The parties record that they would have entered into this contract on all the other terms hereof even if the severable provision were not agreed upon.
- 59. The headings in these conditions are for convenience only and are not to be taken into account for the purpose of interpreting the contract.
- 60. The interpretation of this agreement shall be governed by the laws of the Republic of South Africa.