

## STANDARD TERMS AND CONDITIONS FOR PURCHASE OF GOODS AND SERVICES

### 1. Definitions

For the purpose of these conditions, unless the context indicates otherwise, the words and expressions set out below shall have the meanings assigned to them and cognate expressions shall have corresponding meanings, namely:

- 1.1. **"ABAC Laws"** means any and all applicable laws relating to anti-bribery and -corruption and anti-money laundering which may be applicable to the Company and/or the Supplier, including but not limited to the *Corruption of Foreign Public Officials Act* (Canada), the *Foreign Corrupt Practices Act* (USA), the *Bribery Act* (UK), and the *Prevention and Combating of Corrupt Activities Act* (RSA);
- 1.2. **"Business Day"** means any day other than a Saturday, Sunday or official public holiday within the meaning of the Public Holidays Act, 1994;
- 1.3. **"Company"** means Ivanplats Proprietary Limited, a private limited liability company duly incorporated in accordance with the company laws of South Africa under registration number 1988/000334/07;
- 1.4. **"Conditions"** means these standard terms and conditions of purchase and all the schedules hereto;
- 1.5. **"Delivery Date"** means the date specified as such in the applicable Order;
- 1.6. **"Goods"** means the goods specified in the applicable Order;
- 1.7. **"Intellectual Property"** means any and all patents, designs, copyright, trade marks, know-how or other intellectual property, regardless of whether they are registered and/or capable of being registered;
- 1.8. **"Ivanhoe Codes"** means the Ivanhoe Mines Group's corporate policies (available electronically online at <https://www.ivanhoemines.com/about/corporate-governance>), including without limitation (i) the *Code of Business Conduct and Ethics*; (ii) the *Companion Booklet to the Code of Business Conduct and Ethics*; and (iii) the *Corporate Citizenship Statement of Values and Responsibilities*;
- 1.9. **"Losses"** means any and all damages, penalties, claims (including without limitation claims by third parties), demands, expenses or other liabilities of any nature incurred or suffered by a party;
- 1.10. **"Order"** means a purchase order for Goods and/or Services placed by the Company with the Supplier in terms of these Conditions;
- 1.11. **"Price"** means the price of the Goods or Services as specified in the Order in question;
- 1.12. **"Services"** means the services specified in the Order in question;
- 1.13. **"Supplier"** means the party to whom an Order is addressed;
- 1.14. **"Tax Invoice"** means a tax invoice which complies with all the requirements of the VAT Act; and
- 1.15. **"VAT Act"** means the Value Added Tax Act, 1991.

### 2. Application of these Conditions

- 2.1. These Conditions govern all Orders placed by the Company and all contracts and sub-contracts entered into by the Company with the Supplier for the purchase of any Goods from the Supplier and/or the supply of any Services by the Supplier, save where expressly varied or altered in writing and signed by or on behalf of both parties.
- 2.2. These Conditions constitute the only contractual basis on which the Company is willing and/or authorised to enter into any transaction contemplated in an Order. These Conditions apply notwithstanding the reference in any prior or subsequent proposal, quotation, order or other standard form relating to the Order, to other terms and conditions.
- 2.3. The Company shall not be liable for any Orders other than those issued or confirmed on our official printed order forms duly signed on our behalf by an authorised signatory, and any extensions or amendments thereto shall only be binding on the Company if issued on the like forms and duly signed by an authorised signatory on our behalf.

### 3. Acceptance of Orders

Unless withdrawn prior to acceptance, each Order shall be open for acceptance during the period stated therein, or where no period is stated, within a period of 30 days calculated from the date of the Order in question, provided that no acceptance of any Order shall be binding on the Company unless issued in writing by the Supplier and received by the Company within the aforementioned periods, whichever is applicable.

### 4. Price, invoicing and payment

- 4.1. Unless otherwise specified in the Order, the consideration payable to the Supplier shall be payable within 60 days of the date of statement.
- 4.2. The Price payable for the Goods and/or Services is specified in the Order, and the Supplier shall not be entitled to claim any payment in excess of the Price. For the sake of clarity, the Parties agree and record that should the Company require the Supplier to supply any additional Goods or to provide any additional Services not forming part of the initial Price of the Order, then the Supplier is required to ensure that the Company approves and issues a new Order covering such additional Goods or additional Services. Should the Supplier supply any additional Goods or provide any additional Services without a new Order, then the Company shall be absolved of all liability for any Losses in relation to the additional Goods or additional Services.
- 4.3. The Supplier shall clearly note the number of the Order in question on all Tax Invoices and other source documents submitted to the Company. The Supplier must deliver to the Company in a format acceptable to the Company, a Tax Invoice that must be accompanied by a report for the relevant month prepared by the Supplier, which details the performance for the relevant month and clearly shows the basis of calculation of each of the amounts referred to in the Tax Invoice. The Company shall be entitled to demand any additional supporting documentation it deems fit. If any item or a part item is disputed in a Tax Invoice submitted by the Supplier, the Company will give notice and shall not be obliged to effect payment until the cause of the dispute has been resolved. The cause of the dispute will be resolved by the Parties before the next payment date or referred to the dispute resolution procedures outlined under clause 20.
- 4.4. The Company shall be entitled to withhold payment in respect of Goods and Services:
  - 4.4.1. which have been rejected in accordance with the Order and/or these Conditions; or

- 4.4.2. which have not been delivered or rendered in accordance with the Order and/or these Conditions; or
- 4.4.3. in respect of which the Supplier has not issued a valid Tax Invoice.
- 4.5. Payment shall be made by electronic funds transfer into a bank account nominated in writing by the Supplier.
- 4.6. The Price shall include all taxes, levies and duties of any kind payable by the Supplier in connection with the sale of the Goods to the Company or the provision of Services to the Company in terms of these Conditions, as well as any and all costs incurred by Supplier in executing the Order, and all minor parts or services not shown explicitly in the Order, but required for its final completion and the fulfilment of Supplier's obligations.
- 4.7. Price increases and adjustments shall only be in accordance with the Order or as agreed in writing between the Parties from time to time.
- 4.8. A separate delivery note shall accompany all Goods delivered to the Company.
- 4.9. The Company shall not forfeit any prompt payment discount due to the Supplier's failure:
  - 4.9.1. to send on the day of dispatch of each consignment such advice(s) of dispatch and Tax Invoice(s) as may be indicated in the Order;
  - 4.9.2. to mark clearly the Company's Order number on the consignment package, delivery notes, packing notes, advice notes, Tax Invoices, monthly statements and all correspondence relating thereto; and
  - 4.9.3. to issue to the Company with a Tax Invoice.
- 4.10. If the Supplier manufactures or supplies Goods in accordance with a drawing, pattern, plan, design, sample or illustration supplied by the Company, the Company may withhold payment for such Goods until the Supplier returns such drawing, pattern, plan, design, sample or illustration to the Company.

## **5. Delivery of Goods**

- 5.1. Unless otherwise specified in the Order, the Supplier shall deliver the Goods at the Company's business address indicated on the Order, on or before the Delivery Date.
- 5.2. The Company shall, in its discretion, be entitled to impose a penalty for late delivery of Goods at a rate not exceeding 0,5% of the Price per day and in total not exceeding 10% of the Price. The Parties agree that the penalty so imposed shall be deemed to be the reasonable, pre-estimated liquidated damages suffered by the Company resulting from such delay.
- 5.3. The Company shall only accept Goods at the address specified in clause 5.1 during the hours displayed at each of the Company's sites, unless the Company advises the Supplier in writing to the contrary.
- 5.4. Unless otherwise agreed in writing by the parties, the Supplier shall make all arrangements for and procure the transportation of the Goods from the Supplier's premises to the point of delivery referred to in clause 5.1.
- 5.5. The Supplier shall package and transport all Goods suitably to secure the lowest transportation and insurance rates. Unless otherwise agreed by the parties in writing, the Supplier shall bear all costs in respect of wrapping, packaging, cartons, boxing, crating of the Goods and/or any other related costs.
- 5.6. Risk and benefit in the Goods shall pass to the Company upon delivery of the Goods at the agreed point of delivery. Ownership in the Goods shall pass to the Company upon payment of the Price in respect of such Goods.
- 5.7. Acceptance by the Company of any delivery in terms of this clause 5 shall not release the Supplier from any of its obligations, representations, warranties or undertakings in terms of these Conditions or otherwise. The signature of the Company, given on any delivery note or other documentation presented for signature in connection with the delivery of the Goods, shall constitute evidence only of the number of packages received by the Company. In particular, such signature shall not constitute evidence that the correct quantity or quality of Goods have been delivered to the Company.
- 5.8. The Company shall be entitled to reject Goods which do not comply with the requirements of the Order and/or these Conditions, in which case the Supplier shall not be entitled to payment for such Goods and shall remove such Goods at its own cost.

## **6. Rendering of Services**

- 6.1. Unless otherwise specified in the Order, the Supplier shall render the Services at the Company's business address indicated on the Order, on or before the Delivery Date.
- 6.2. The Supplier shall exercise reasonable care, skill and diligence in the provision of the Services and act in accordance with the standards of expertise and ethics ordinarily expected from any professional and/or experienced provider of the Services in question. The Supplier shall ensure that all its employees rendering the Services to the Company are properly trained, qualified and experienced. Where employees rendering a Service are required to be registered or affiliated with, or licensed by, a statutory authority or professional association in order to perform such Service, the Supplier shall ensure that the relevant employees are appropriately licensed, registered and/or affiliated.
- 6.3. Unless otherwise specified in the Order, the Supplier shall furnish all equipment and materials necessary for the proper performance of its obligations in terms of the Order, and shall ensure that such equipment and materials are in a good working condition and comply with all applicable statutory and regulatory requirements, as well as all applicable industry standards.
- 6.4. The Company, in its reasonable discretion, shall be entitled to select or decline any personnel of the Supplier rendering the Services, which discretion shall not be unreasonably exercised, and the Supplier shall forthwith replace such personnel at Supplier's cost.

## **7. Insurance**

- 7.1. The Supplier shall take out and/or maintain, for the duration of the Order, the insurance policies specified in the Order.
- 7.2. The Supplier shall provide copies of the insurance policies concerned, and proof (to the Company's reasonable satisfaction) that the policies remain valid and paid up, to the Company within 5 Business Days of receiving a written notice requiring it to do so.

## **8. Representations and warranties in respect of Goods**

- 8.1. The Supplier of any Goods in terms of an Order represents and warrants to the Company that the Goods shall:
  - 8.1.1. be fit for the purposes specified in the Order and free from any defects;
  - 8.1.2. comply with the specifications set out in the Order and/or any plans, patterns, designs, specifications, drawings, samples, illustrations, models and/or other data provided by the Company to the Supplier pursuant to the Order in question;
  - 8.1.3. be manufactured in accordance with sound principles and techniques using good quality materials, in compliance with all applicable statutory and/or regulatory requirements and industry standards.
- 8.2. In addition to any other rights which the Company may have in law or in terms of any Order, the Supplier shall, at its own cost, repair any defects in the Goods appearing within a period of twelve months from the date of delivery of the Goods.
- 8.3. If, within a period of six months after any particular Goods have been repaired pursuant to clause 8.2 or this clause 8.3, the same Goods develop the same type of defect, the Supplier shall at its own cost and at the option of the Company: (i) repair the Goods in question; or (ii) replace the defective Goods with new Goods of the same type. The Supplier shall regain ownership of any defective Goods removed pursuant to this clause 8.3.

## **9. Indemnity**

- 9.1. The Supplier hereby indemnifies the Company against Liabilities arising from the Supplier's (or any of its sub-contractors'): (i) supply of defective Goods or Services; (ii) negligence in performing its obligations under any Order; (iii) breach of the terms and conditions of any Order (including these Conditions); (iv) breach of any warranty under clause 8; and/or infringement or unauthorized use of any Intellectual Property.
- 9.2. Should a third party make a claim against the Company which is indemnified under clause 9.1, the Company shall give the Supplier written notice thereof within a reasonable time after the Company becomes aware of the claim.
- 9.3. The Supplier shall be entitled, within 5 Business Days of receipt of the notice, to elect in writing to:
  - 9.3.1. contest the claim in the name of the Company; or
  - 9.3.2. pay the amount of the indemnified claim forthwith to the Company.
- 9.4. If the Supplier contests an indemnified claim pursuant to clause 9.3.1, the Supplier shall:
  - 9.4.1. bear all of the costs arising directly or indirectly from contesting such claim (without any limitation);
  - 9.4.2. indemnify the Company against all orders as to costs which may be made against the Company as a consequence of its participation in any process or legal proceeding associated with contesting such claim; and
  - 9.4.3. pay the amount of the indemnified claim forthwith to the Company if its contestation of the indemnified claim is discontinued for any reason, or if the Supplier is not successful in seeking to defend the claim.

## **10. Limitation of Liability**

- 10.1. Neither party shall be liable to the other party for any special, indirect or consequential damages not foreseen at the time of conclusion of the Order.
- 10.2. Unless otherwise specified in these Conditions or the Order, the Supplier's total aggregate liability for all Losses incurred or suffered by the Company as a result of the Supplier's delay, failure to perform, and/or breach of the Order and/or these Conditions shall be limited to a value equal to the Price.
- 10.3. Notwithstanding the provisions of clauses 10.1 and 10.2, any party's (hereinafter "**the defaulting party**") liability for Losses incurred or suffered by the other party arising from the defaulting party's fraud, and/or the death or injury of any person caused by the defaulting party's negligence, shall not be limited.

## **11. Intellectual Property rights**

- 11.1. The Parties shall retain their respective Intellectual Property rights existing prior to the acceptance of the Order.
- 11.2. The Supplier hereby assigns to the Company all its rights, title and interest in and to any Intellectual Property developed for the benefit of, and/or at the request of, the Company pursuant to any Order. The Price shall be deemed to include all amounts that might otherwise be payable in respect thereof by the Company to the Supplier.
- 11.3. All royalties and expenses of whatsoever nature arising out of the use of any Intellectual Property in connection with the manufacture, supply, acceptance or use of the Goods or the rendering of the Services shall be paid by the Supplier.
- 11.4. All requirements, stipulations, plans, patterns, designs, specifications, drawings, samples, illustrations, models, other data, jigs, tools, dies, components, materials or other items or information of whatsoever nature supplied or to be supplied by the Company in respect of any Order, or in connection with the Goods, shall at all times: (i) remain the sole and absolute property of the Company; (ii) be maintained in good condition by the Supplier; (iii) be at the sole risk of the Supplier from the date of their delivery to the Supplier until the date of their return to the Company; (iv) be returned to the Company by the Supplier as and when demanded by the Company by notice in writing to the Supplier; (v) be kept confidential by the Supplier and shall not be copied, reproduced, sold, disposed of, disclosed or handed to any third party without the prior

written consent of the Company; (vi) be used by the Supplier only, who shall only use such requirements, stipulations, plans, patterns, designs, specifications, drawings, samples, illustrations, models, other data, jigs, tools, dies, components, materials or any other items or information of whatsoever nature for the purpose of the relevant Order and for no other purpose whatsoever.

- 11.5. Should the Supplier discover any errors or deficiencies in the documentation provided by the Company, the Supplier shall forthwith give written notice to the Company, so that the Company may take any appropriate action.

## **12. Inspection**

- 12.1. The Company shall be entitled, upon reasonable arrangement with the Supplier, to access the premises, site, workshop or place where the Goods or any portion thereof is manufactured. The Company shall have the right to inspect and/or test any portion of such premises, site, workshop or place or the Goods, and/or to give such directions in writing as may, in the sole and absolute discretion of the Company, be desirable to ensure that the Goods conform in all respects with the requirements applicable thereto.
- 12.2. The Supplier undertakes to accept and implement, as soon as is reasonably possible, the Company's reasonable instructions given in terms of clause 12.1.

## **13. Sub-contractors**

- 13.1. The Supplier may not sub-contract any of its obligations in terms of any Order or these Conditions (or any part thereof) without the prior written consent of the Company.
- 13.2. Any consent granted by the Company to a sub-contract shall not imply a contract between the Company and the sub-contractor concerned or any responsibility or liability on the part of the Company to the sub-contractor concerned.
- 13.3. In the event that the Company approves the appointment of a sub-contractor, the Supplier undertakes to: (i) advise the sub-contractor of the terms and conditions contained in the Conditions; (ii) appoint the sub-contractor on substantially the same terms and conditions as are applicable to the Supplier; and (iii) ensure compliance by the sub-contractor with all applicable terms, conditions, standards and policies.
- 13.4. The Supplier's obligations under the Conditions are not lessened or otherwise affected by sub-contracting and the obligations applicable to the Supplier (and its employees) under the Conditions shall apply *mutatis mutandis* to all sub-contractors (and their employees).
- 13.5. The Supplier shall be liable for all acts, defaults and omissions of the sub-contractor, the sub-contractor's agents and/or employees as if they were the acts, defaults and omissions of the Supplier.

## **14. Conflicts of interest, corruption and fraud**

- 14.1. The Supplier undertakes to comply with the provisions of the Ivanhoe Codes and the ABAC Laws.
- 14.2. Should the Supplier, or any person employed by or acting on behalf of the Supplier, contravene any material provisions of the Ivanhoe Codes and/or the ABAC Laws, the Company shall have the right to cancel or terminate the Order without any liability or obligation, and to recover from Supplier any Losses suffered or incurred by the Company as a result of such early termination. The Supplier's liability for such Losses shall not be limited in any manner.

## **15. Health, safety and environment**

- 15.1. The Supplier shall comply with all applicable laws regarding health, safety and protection of the environment.
- 15.2. The Supplier (and its employees, agents and sub-contractors) shall comply with the Company's Environmental Policies and Procedures and follow the Company's reasonable instructions in respect of environmental matters.
- 15.3. The Supplier shall comply with all reasonable instructions issued by the Company with regard to the health and safety of employees of the Supplier (and/or any sub-contractors, agents or third parties under its control, as the case may be).
- 15.4. In respect of any of its employees who are required to be present at the Company's premises, the Supplier shall:
- 15.4.1. provide safety training;
  - 15.4.2. ensure that all of its employees wear appropriate personal protective equipment; and
  - 15.4.3. record and promptly report to the Company all safety-related incidents and implementation of actions to prevent the recurrence of such incidents.
- 15.5. The Supplier shall ensure that a health and safety system is implemented which at least addresses the following:
- 15.5.1. carrying out appropriate hazard identification and risk assessments ("**HIRAs**"), consisting of base line, issue-based and continued HIRAs;
  - 15.5.2. drafting and implementing appropriate measures to address the identified hazards and the assessed risks, consisting of codes of practice, standards, procedures and instructions;
  - 15.5.3. providing health and safety training which includes health and safety training on the identified hazards, the assessed risks, and the measures to be implemented in order to remove or mitigate the hazards and risks;
  - 15.5.4. implementing a system of over-inspection, consisting of over-inspection by line supervision, health and safety personnel, external parties (where appropriate), and planned task observations;
  - 15.5.5. implementing an appropriate contractor management system, in the event that the Supplier makes use of any sub-contractors to it;

- 15.5.6. ensuring that all persons employed by it and/or any sub-contractors to it, are subjected to the medical surveillance system, at its cost, and that such employees are at all times in possession of a valid certificate of fitness; and
- 15.5.7. nominating competent persons, to be appointed by the Company, as appropriate in terms of the Mine Health and Safety Act, 1996 ("**MHSA**"), the appointments to include the appointment of a manager in terms of section 3(1)(a) MHSA read with section 7(2) MHSA, a competent person in terms of section 7(4) MHSA read with regulation 2.13.2, and a safety officer, appointed in terms of section 7(4) MHSA read with regulation 2.17.1.

## **16. Confidentiality**

- 16.1. The Supplier shall keep all information supplied to, or acquired by it in connection with any Order in terms of these Conditions strictly confidential, shall not use such information or any part thereof for any purpose other than permitted under these Conditions and shall not disclose or publish to any third party the fact of or any information concerning any Order without the Company's prior written consent.
- 16.2. The Supplier shall ensure that its employees, agents and duly authorised sub-contractors comply with the provisions of clause 16.1.

## **17. Termination**

- 17.1. Notwithstanding anything to the contrary herein, the Company shall, without reason or for any reason whatsoever, by providing 10 Business Days written notice thereof to the Supplier, be entitled to terminate any Order at any point in time prior to:
  - 17.1.1. delivery of the relevant Goods (or any portion thereof, if a portion of the Goods have already been delivered); or
  - 17.1.2. performance of the relevant Services (or any portion thereof, if a portion of the Services have already been performed).
- 17.2. Upon such termination, the Supplier shall be compensated by the Company for any reasonable costs incurred by the Supplier in carrying out that Order until the date of termination of that Order, provided:
  - 17.2.1. that such compensation shall in no circumstances whatsoever exceed the Price; and
  - 17.2.2. that the termination of the Order is not as a result of any breach of contract on the part of the Supplier.
- 17.3. Should the Supplier default in the performance of any term or condition of any Order, and fail fully to remedy such default within 20 Business Days after receipt of written notice by the Company requiring the Supplier so to do, then the Company shall be entitled, without prejudice to any other rights which it may have in law, immediately to cancel the Order in question in whole or in part, and/or to claim damages from the Supplier.
- 17.4. Either party may terminate an Order immediately when the other party:
  - 17.4.1. is a natural person who dies or is sequestered, surrenders his estate or is placed under any form of judicial management, curatorship or trusteeship;
  - 17.4.2. is a partnership which is dissolved;
  - 17.4.3. is a company which is placed, or becomes liable to be placed, in business rescue, provisional- or final liquidation or any form of judicial management, trusteeship or receivership;
  - 17.4.4. becomes factually or commercially insolvent;
  - 17.4.5. compromises or attempts to compromise generally with any of its creditors.

## **18. Force majeure**

- 18.1. To the extent that any cause beyond a party's reasonable control ("**force majeure event**") prevents or restricts that party from carrying out any of its obligations under any Order and/or these Conditions:
  - 18.1.1. the Company shall be entitled, in its sole and absolute discretion, immediately to terminate the Order in question by notifying the Supplier in writing (in which case the Supplier shall be entitled to compensation on the same basis as the compensation calculated in accordance with clause 17.2), or to maintain the Order in force;
  - 18.1.2. if the Company elects to maintain the Order in force, the party affected by force majeure shall be relieved of its obligations for the duration of the force majeure event, subject to the provisions of this clause 18. For the avoidance of doubt, a party shall not be excused from performing any of its obligations to the extent that they may still be objectively capable of being performed despite the force majeure event;
  - 18.1.3. if the force majeure event persists for more than 90 calendar days after the Company elected to maintain the Order in force, the Company may terminate the Order in question at any time by notifying the Supplier in writing. In this case the Supplier shall be entitled to compensation on the same basis as the compensation calculated in accordance with clause 17.2.
- 18.2. The party contemplated in clause 18.1.2 shall not be liable for any Losses caused by its failure to perform its obligations in terms of the relevant Order and/or these Conditions for the duration of the force majeure event.
- 18.3. The Supplier may not rely on force majeure unless it notifies the Company of the force majeure event within 48 hours of its commencement.
- 18.4. A Supplier affected by force majeure shall use its reasonable endeavours to avoid or terminate the force majeure event and, upon termination of the force majeure event, shall forthwith give written notice thereof to the Company.

**19. Nature of the relationship**

- 19.1. The Supplier is an independent contractor. The relationship between the Company and the Supplier does not constitute a fiduciary relationship, partnership or employment.
- 19.2. Unless otherwise stipulated in the Order, the Supplier shall have no authority to bind the Company or incur any liability on behalf of the Company by means of any actions, omissions, representations, statements or agreements.

**20. Dispute resolution**

- 20.1. Any dispute between the parties in connection with any Order shall be determined by arbitration. Unless otherwise agreed, such arbitration shall take place in Johannesburg, in English. This clause does not prevent either party from obtaining urgent interdictory relief in any court of competent jurisdiction.
- 20.2. The parties may agree on the arbitrator within 10 Business Days of any party demanding an arbitration in writing. If the parties cannot agree on the arbitrator, either party may request the chairperson for the time being of the Johannesburg Society of Advocates (or its successor in title) to appoint the arbitrator having regard to the nature and complexity of the dispute.
- 20.3. The decision of the arbitrator shall be final and binding on the parties. Any party may apply to any court of competent jurisdiction to make the award an order of court.
- 20.4. The parties hereby submit to the jurisdiction of the Gauteng Local Division of the High Court of South Africa, Johannesburg, in respect of any matter which is capable of being litigated under these Conditions.

**21. Addresses for notices and legal proceedings**

- 21.1. The parties choose their addresses set out in the Order as their respective *domicilia citandi et executandi* at which all notices, legal processes and other communications may be delivered for the purposes of these Conditions:
- 21.2. Any notice or communication required or permitted to be given in terms of these Conditions shall be valid and effective only if in writing. It shall be competent to give notice by e-mail.
- 21.3. Any notice by e-mail to a party at its chosen e-mail address shall be deemed, unless proven otherwise, to have been received within 2 hours of transmission where it is transmitted during normal business hours or within 2 hours of the opening of business on the first Business Day after it is transmitted where it is transmitted outside those business hours.
- 21.4. Any party may by written notice to the other parties amend its chosen address. The change shall become effective on the 10th Business Day after the receipt of the notice by the addressee.
- 21.5. Any notice to a party actually received by or on behalf of that party shall be valid and effective, regardless of whether it was addressed to and/or delivered to the correct address.

**22. Governing law**

- 22.1. The Order and these Conditions shall be governed by the laws of South Africa.

**23. Interpretation**

- 23.1. In these Conditions, unless the context requires otherwise: (i) words importing any one gender shall include all other genders; (ii) the singular shall include the plural and *vice versa*; and (iii) references to natural persons shall include created entities (corporate or unincorporated) and *vice versa*;
- 23.2. Any reference to any enactment is to that enactment as at the date of signature hereof and as amended or re-enacted from time to time.
- 23.3. Any time period prescribed in these Conditions shall be calculated exclusively of the first and inclusively of the last day, unless the last day is not a Business Day, in which case the last day shall be the next Business Day.
- 23.4. In these Conditions, the headings have been inserted for convenience only and shall not affect its interpretation.

**24. General**

- 24.1. These Conditions and the applicable Order contain the entire agreement between the parties in relation to the Order. Neither party shall have any claims, rights or obligations in respect of any Order arising from any undertaking, representation or warranty not in these Conditions and/or the applicable Order.
- 24.2. No agreement to vary, add to or cancel, these Conditions and/or the applicable Order shall be of any force or effect unless reduced to writing and signed by or on behalf of the parties.
- 24.3. Each party warrants that it is acting as a principal and not as an agent for an undisclosed principal.
- 24.4. Neither party shall cede any of its rights or delegate any of its obligations under these Conditions.
- 24.5. No failure by either party to enforce any provision of these Conditions shall constitute a waiver of such provision or affect in any way that party's right to require performance of any such provision at any time in the future, nor shall the waiver of any subsequent breach nullify the effectiveness of the provision itself.
- 24.6. Should one or more of the terms of these Conditions be held to be invalid or unenforceable for any reason whatsoever, the validity of any of the other terms of these Conditions shall not be affected thereby and such remaining terms as are applicable shall remain in force.