

WONDERSTONETM

STANDARD CONDITIONS OF AGREEMENT

1. The Customer agrees that (a) this Agreement represents the entire Agreement between the Customer and Wonderstone Ltd (hereinafter called Wonderstone) and that no alterations or additions to this Agreement may be effected unless agreed to by both parties, reduced to writing and signed by the Customer and a duly authorised representative of Wonderstone; (b) this Agreement will govern all future contractual relationships between the parties; (c) this Agreement is applicable to all existing debts and future debts between the parties; (d) this Agreement is final and binding and is not subject to any suspensive or resolutive terms or conditions; (e) any conflicting conditions stipulated by the Customer are expressly excluded; (f) these terms supersede all previous conditions of Agreement without prejudice to any securities or guarantees held by Wonderstone and (g) these terms apply to all agents and subcontractors of Wonderstone.
- 2.1 This Agreement only becomes final and binding on receipt and acceptance of this offer by Wonderstone at its business address in Spartan.
- 2.2 Any order only becomes final and binding on receipt and acceptance of such order by Wonderstone at its business address per clause 2.1.
- 3.1 The signatory hereby binds himself / herself in his / her personal capacity as Shareholder (in the case of a company), Member (in the case of a close corporation) or Owner or Partner as surety and co-principal debtor jointly and severally for the full amount due to Wonderstone and agrees that these Standard Conditions will apply in the exact same way to him / her.
- 3.2 I/ we guarantee payment to Wonderstone for any debts incurred by the Customer and agree that my/our liability will be for the full amount of the debts incurred by the Customer and that such amounts will become due and payable immediately upon any application for business rescue by the Customer or the liquidation of the Customer. I/we agree that the extent of my/our liability will not be affected by any compromise or settlement reached with the Customer pursuant to any business rescue plan as provided for in the Companies Act 71 of 2008.
4. The Customer acknowledges that it does not rely on any representations made by Wonderstone in regard to the goods or any of its qualities leading up to this Agreement other than those contained in this Agreement. All specifications, price lists, performance figures, advertisements, brochures and other technical data furnished by Wonderstone in respect of the goods orally or in writing will not form part of the Agreement in any way unless agreed to in writing by Wonderstone.
- 5.1 The Customer agrees that neither Wonderstone nor any of its employees will be liable for any negligent or innocent misrepresentations made to the Customer.
- 5.2 It is the sole responsibility of the Customer to determine that the goods ordered are suitable for the purposes of intended use.
- 5.3 The Customer agrees to pay all additional costs resulting from any acts or omissions by the Customer including suspension of work, modification of requirements, failure or delay in giving particulars required to enable work to proceed on schedule or requirements that work be completed earlier than agreed.
- 5.4 Wonderstone reserves the right at its sole discretion to provide alternative goods of the same quality and quantity at the prevailing prices to those ordered by the Customer should such goods be superseded, replaced or their manufacture terminated.
- 6.1 All quotations will remain valid for a period of 7 days from the date of the quotation.
- 6.2 All quotations are subject to the availability of the goods and subject to correction of good faith errors by Wonderstone and the prices quoted are subject to any increases in the cost price of Wonderstone before acceptance of the order. If goods are exported, should any new duty, tax or increase in any existing duty or tax in the country of origin or in the country of destination, be imposed during the continuance of this Agreement increasing the cost of the goods to be delivered herein, the same shall be paid by Wonderstone to the extent imposed by the country of origin and by the Customer to the extent imposed by the country of destination.
- 6.3 If the Customer disputes the amount of increase, the amount of the increase may be certified by any independent auditor and such certificate shall be final and binding on the Customer.
- 6.4 The Customer hereby confirms that the goods on any Tax Invoice issued duly represent the goods ordered by the Customer at the prices agreed to by the Customer and, where delivery has already taken place, that the goods were inspected and that the Customer is satisfied that these conform in all respects to the quality and quantity ordered and are free from any defects.
- 6.5 Notwithstanding the provisions of clause 1 above, all orders or agreed variations to orders, which must be in writing in the form of a Purchase order, shall be binding and subject to these Standard Conditions of Agreement and may not be revoked by the Customer.
- 6.6 Wonderstone shall be entitled in its sole discretion to split the delivery of the goods ordered in the quantities and on the dates it decides.
- 6.7 Wonderstone shall be entitled to invoice each delivery actually made separately.
- 6.8 Any delivery note or waybill (copy or original) signed by the Customer or a third party engaged to transport the goods and held by Wonderstone shall be prima facie proof that delivery was made to the Customer.
- 6.9 The risk of damage to, destruction or theft of goods shall pass to the Customer on acceptance of any order placed in terms of this Agreement and the Customer undertakes to comprehensively insure the goods until paid for in full. Wonderstone may recover insurance premiums from the Customer for such ordered and uninsured goods.
- 6.10 Delivery and performance times quoted are merely estimates and are not binding on Wonderstone.
- 6.11 If Wonderstone agrees to engage a third party to transport the goods, Wonderstone is hereby authorised to engage a third party on the Customer's behalf and on the terms deemed fit by Wonderstone.
- 6.12 The Customer indemnifies Wonderstone against any claims against Wonderstone that may arise from such agreement in clause 6.11.
- 7.1 Goods are guaranteed according to the Manufacturer's product specific warranties only and all other guarantees including common law guarantees are hereby specifically excluded.
- 7.2 Wonderstone manufactures goods according to the drawings provided by the Customer. The Customer agrees that if the drawings were wrong, the Customer shall pay for the goods manufactured. The Customer shall then re-order the right goods, by providing the right drawings.
- 7.3 Wonderstone manufactures goods according to the specifications given by the Customer. If the goods manufactured are dimensionally out of specifications according to the Customer, the Customer is obliged to send a sample back to Wonderstone. If Wonderstone is of the opinion that it was the mistake of Wonderstone, Wonderstone will replace the components for free. The Customer agrees to dispose of the faulty goods and send proof of the disposal to Wonderstone.
- 7.4 The Customer agrees that if there is a failure in the use of the product by the Customer, the Customer will not hold Wonderstone liable for any damage from whatsoever nature.
- 7.5 All Wonderstone products excluding ROM or powder products are to be free from visible cracks. Wonderstone is not responsible for cracks or breakages, but will ensure that the goods are packed suitably to preserve the quality of the goods during transit.
- 7.6 No claim under this Agreement shall arise unless the Customer has, within 14 days of an alleged breach of contract and/or defect occurring, given Wonderstone written notice by prepaid registered post of such breach or defect, and has afforded Wonderstone at least 30 days to rectify such defect or breach.
- 7.7 Any item delivered to Wonderstone shall serve as pledge in favour of Wonderstone for present and past debts and Wonderstone shall be entitled to retain or realise such pledges as it deems expedient at the value as determined in clause 15.1. The sworn or realised value of pledged goods will be offset against the Customer's debts any excess balance will be paid to the Customer.
- 8.1 Under no circumstances shall Wonderstone be liable for any consequential damages including loss of profits or for any delictual liability of any nature whatsoever whether caused negligently or innocently.
- 8.2 Under no circumstances shall Wonderstone be liable for any damage arising from any misuse, abuse or neglect of the goods.
9. Delivery of the goods to the Customer shall be deemed to have taken place at the place of business of Wonderstone.
- 10.1 The Customer agrees that the amount contained in a Tax Invoice issued by Wonderstone shall be due and payable unconditionally (a) according to the contracted payment terms, signed by both parties; or (b) if the Customer is a Credit Approved Customer, within 30 days from the end of the month in which a Tax Invoice has been issued by Wonderstone.
- 10.2 The Customer agrees to pay the amount on the Tax Invoice at the offices of Wonderstone.
- 10.3 The risk of payment by cheque through the post rests with the Customer.
- 11.1 The Customer has no right to withhold payment for any reason whatsoever and agrees that no extension of payment of any nature shall be extended to the Customer and any such extension will not be applicable or enforceable unless agreed to by Wonderstone, reduced to writing and signed by the Customer and a duly authorised representative of Wonderstone.
- 11.2 The Customer is not entitled to set off any amount due to the Customer by Wonderstone against this debt.

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12.1 The Customer agrees that the amount due and payable to Wonderstone may be determined and proven by a certificate issued and signed by any director or manager of Wonderstone, whose authority need not be proven or by any independent auditor. Such certificate shall be binding and shall be prima facie proof of the indebtedness of the Customer.

12.2 Any printout of computer evidence tendered by any party shall be admissible evidence and no party shall object to the admissibility of such evidence purely on grounds that such evidence is computer evidence or that the requirements of the Electronic Communications and Transactions Act 25 of 2002 have not been met.

13.1 The Customer agrees that interest shall be payable at the maximum legal interest rate prescribed by the National Credit Act 34 of 2005 if that Act is applicable, or at double the repurchase rate as declared by the Reserve Bank from time to time if that Act is not applicable, on any moneys past due date to Wonderstone and that interest shall be calculated daily and compounded monthly from the date of acceptance of the order.

13.2 The Customer expressly agrees that no debt owed to Wonderstone by the Customer shall become prescribed before the passing of a period of six years from the date the debt falls due.

14.1 The Customer agrees that if an account is not settled in full (a) against order; or (b) within the period agreed in clause 10.1 above in the case of a Credit Approved Customer; Wonderstone is: (i) entitled to immediately institute action against the Customer at the sole expense of the Customer; or (ii) to cancel the Agreement and take possession of any goods delivered to the Customer and claim damages. These remedies are without prejudice to any other right Wonderstone may be entitled to in terms of this Agreement or in law. Wonderstone reserves its right to stop supply immediately on cancellation or on non-payment.

14.2 A Credit Approved Customer will forthwith lose this approval when payment is not made according to the conditions of clause 10.1 and all amounts then outstanding shall immediately become due and payable.

14.3 Wonderstone shall be entitled to withdraw credit facilities at any time within its sole discretion.

15.1 In the event of cancellation, the Customer shall be liable to pay (a) the difference between the selling price and the value of the goods at the time of repossession and (b) all other costs incurred in the repossession of the goods. The value of repossessed or retained pledged goods shall be deemed to be the value placed on them by any sworn valuator after such repossession, and such valuation shall be conclusive proof of the value. If the goods are not recovered for any reason whatsoever, the value shall be deemed to be nil.

15.2 In the event of cancellation of the Agreement by Wonderstone, it shall be entitled to repossess any goods that have been delivered to the Customer and remains unpaid by the due date.

15.3 In the event of cancellation of the Agreement by Wonderstone, it is entitled not to produce any unmade balance of a contract and to recover any loss sustained thereby from the Customer.

16.1 All goods supplied by Wonderstone remain the property of Wonderstone until such goods have been fully paid for whether such goods are attached to other property or not.

16.2 The Customer is not entitled to sell or dispose of any goods unpaid for without the prior written consent of Wonderstone. The Customer shall not allow the goods to become encumbered in any manner prior to the full payment thereof and shall advise third parties of the rights of Wonderstone in the goods.

17.1 The Customer shall be liable to Wonderstone for all legal expenses on the attorney-and-own-client scale incurred by Wonderstone in the event of (a) any default by the Customer or (b) any litigation in regard to the validity and enforceability of this Agreement. The Customer shall also be liable for any tracing, collection or valuation fees incurred as well as for any costs, including stamp duties, for any form of security that Wonderstone may demand.

17.2 The Customer agrees that Wonderstone will not be required to furnish security in terms of Rule 62 of the Rules of Court of the Magistrate's Courts or in terms of Rule 47 of the Law of the Supreme Court 59 of 1959.

18. The Customer agrees that no indulgence whatsoever by Wonderstone will affect the terms of this Agreement or any of the rights of Wonderstone and such indulgence shall not constitute a waiver by Wonderstone in respect of any of its rights herein. Under no circumstances will Wonderstone be estopped from exercising any of its rights in terms of this Agreement.

19. The Customer hereby consents that Wonderstone shall have the right to institute any legal action in either the Magistrate's Court or the South Gauteng High Court at its sole discretion.

These South African courts shall have exclusive jurisdiction in any litigation between the parties arising from whatsoever source.

20.1 Any document shall be deemed duly presented to and accepted by the Customer (i) within 5 days of prepaid registered mail to any of the Customer's business or postal addresses or to the personal address of any director, member or owner of the Customer; or (ii) within 24 hours of being faxed to any of the Customer's fax numbers or any director, member's or owner's fax numbers; or (iii) on being delivered by hand to the Customer or any director, member or owner of the Customer; or (iv) within 48 hours if sent by overnight courier or (v) within 7 days of being sent by surface mail; or (vi) within 24 hours of being e-mailed to any e-mail address provided by the Customer.

20.2 The Customer chooses its address for any notification or service of legal documents or processes as the business address or the physical addresses (domicilium citandi et executandi) of any Director (in the case of a company), Member (in the case of a close corporation) or of the Owner(s) or Partner(s).

20.3 The Customer undertakes to inform Wonderstone in writing within 7 days of any change of Director, Member, Shareholder, Owner or Partner or address or 14 days prior to selling or alienating the Customer's business and failure to do so will constitute a material breach of this Agreement. Upon receipt of such written notification, Wonderstone reserves the right, at its sole discretion, to withdraw any credit facility advanced to the Customer.

20.4 The Customer hereby consents to the storage and use by Wonderstone of the personal information that it has provided to Wonderstone for establishing its credit rating and to Wonderstone disclosing such information to credit control companies, banks and other institutions involved in rating credit. The Customer agrees that Wonderstone will not be held liable for the good faith disclosure of any of this information to such third parties and that no further specific consent needs to be obtained for the transfer of such information to a specific third party.

20.5 The Customer hereby consents that Wonderstone can provide personal information of the Customer to third parties, if the Customer has indicated Wonderstone as a trade reference to third parties and the Customer agrees that Wonderstone will not be liable for the good faith disclosure of any of this information to such third parties.

20.6 The Customer hereby agrees that the credit facility is a variable credit facility and that Wonderstone shall be entitled to increase its credit limit from time to time.

21. The Customer agrees to the Standard Rates of Wonderstone for any goods rendered, which rates may be obtained on request.

22. Each provision of this Agreement is severable from the other provisions. Should any provision be found to be invalid or unenforceable for any reason, the remaining provisions of this Agreement shall nevertheless remain binding and continue with full force and effect.

23. Any order is subject to cancellation by Wonderstone due to acts of God or any circumstance beyond the control of Wonderstone, including (without restricting this clause to these instances): inability to secure labour, power, materials or supplies, war, civil disturbance, riot, state of emergency, strike, lockout, or other labour disputes, fire, flood, drought or legislation.

24. Any order is subject to cancellation by Wonderstone if the Customer breaches any term of this Agreement or makes any attempt of compromise, liquidation, sequestration, termination or judgement is recorded against the Customer or any of its principals.

25. The Customer agrees that Wonderstone will be immediately and irrevocably released from any contractual damages and penalty obligations should any event in clause 23 or 24 occur.

26. If the National Credit Act 34 of 2005 is applicable the following clauses shall not be applicable to this Agreement: clause 5.1, clause 19 and clause 20.6.

27. If the Consumer Protection Act 68 of 2009 is applicable the following clauses shall not be applicable to this Agreement: clauses 5.1, 6.2, 6.4, 6.9, 7.1, 7.2, 7.3, 7.4, 7.5, 8.1, 11.2, 13.2, 17.1, 19, 20.1, 20.2, 20.6.

28. This Agreement and its interpretation is subject to South African law.

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I, the undersigned, acknowledge that I have read, understood and hereby accept the contents of the above Standard Conditions of Agreement as set out above.

Authorised Signatory

Name: _____ **Designation:** _____ **Date:** _____