

LANDMARK MINING AND MINERALS

STANDARD TERMS AND CONDITIONS OF SALE

- 1) **GENERAL:** These terms and conditions of sale (“Agreement”) are applicable to any order/tender placed with and accepted by Landmark Mining and Minerals (referred to herein as “Supplier”). Any order given to the Supplier, or the acceptance of the Supplier's tender, shall be deemed to constitute an agreement to be bound by such terms and conditions. Any stipulation or condition contained in any of these conditions, or which in any way purports to qualify or negate any of them, shall not be applicable.
- 2) **PERIOD FOR ACCEPTANCE OF TENDER/ORDER:** Any tender made by the Supplier may be withdrawn at any time before acceptance. If not accepted within one month from the date thereof, the tender shall be deemed to have been withdrawn.
- 3) **INTELLECTUAL PROPERTY:** Any and all inventions, discoveries, patent applications, patents, copyrights, trademarks and trade names, commercial symbols, trade secrets, work product and information embodying proprietary data existing and owned by Buyer as of the date of the Order or made or conceived by employees of Buyer during the Term of the Order shall be and remain the sole and exclusive property of Buyer provided that Buyer grants to Supplier a license to use, display and distribute (and to sub-license its affiliates and sub-contractors to use, display and distribute) any intellectual property rights delivered to Supplier as reasonably necessary to perform any Order. Any and all inventions, discoveries, patent applications, patents, copyrights, trademarks and trade names, commercial symbols, trade secrets, work product and information embodying proprietary data existing and owned by Supplier as of the date of the Order or made or conceived by employees, consultants, representatives or agents of Supplier during the term of this Agreement shall be and remain the sole and exclusive property of Supplier.
- 4) **DRAWINGS AND SPECIFICATIONS:** All the information contained in any specifications, drawing and brochures (or which accompanies or forms part of any quotation/tender made by the Supplier), is subject to alteration at any time without prior notice and the Supplier will not be bound to comply exactly therewith. The Supplier shall not be liable for any inaccuracies in any drawings, specifications or other information supplied by the user, and the Supplier shall not be liable for any defects accidents or happenings arising out of such faulty information.
- 5) **PRICE AND TERMS OF PAYMENT.** (a) The prices payable by Buyer for goods and services to be supplied by Supplier under this Agreement will be specified in the applicable Order. Unless otherwise expressly stated in an Order, all prices exclude freight, insurance and VAT. (b) Payment terms are net thirty (30) calendar days from the date of the invoice. If Buyer does not pay an invoiced amount within terms, Buyer will in addition pay finance charges of two percent (2%) per month on the late balance and Supplier reserves the right to (1) withhold shipment of the Work until full payment is made; and/or (2) revoke any credit extended to Buyer. In the event that Buyer's account is more than sixty (60) days in arrears, Buyer shall reimburse Supplier for the reasonable costs, including attorney's fees, of collecting such amounts from Buyer. In the event of any dispute regarding an invoice, no finance charges will apply in the event that Buyer provides written notice of the dispute prior to the due date for such payment. (c) Upon reasonable request by the Supplier, Buyer shall provide copies of its most recent audited financial statements or other reasonable evidence of its financial capacity and such other information as Supplier reasonable requests to determine credit status or credits limits. (d) Buyer shall provide notice within seven (7) business days of the occurrence of any event which materially affects Buyer's ability to perform its obligations under this Agreement including but not limited to: (i) the material default of any supplier or sub-contractor; (ii) labor strike or dispute; or (iii) material uncured default with respect to any debt obligations of Buyer. (e) Pricing schedules (whether attached to this Agreement or an Order) are subject to change upon a change in the price of applicable raw materials (as reflected on a recognized trade or commodity pricing tracker) in excess of five percent (5%) from the date of such

schedule. (f) Unless otherwise specified in the Order, Work will be delivered FOB Supplier's manufacturing facility and will be shipped to Buyer via carriers selected by Supplier.

- 6) **CONFIDENTIAL INFORMATION.** Any information that parties receive or otherwise have access to incidental to or in connection with this Agreement (collectively, the "Confidential Information"), shall be and remain the property of the disclosing party. Confidential Information shall not include information which: (i) was in the possession of the Receiving Party at the time it was first disclosed by the Disclosing Party; (ii) was in the public domain at the time it was disclosed to the Receiving Party; (iii) enters the public domain through sources independent of the Receiving Party and through no breach of this provision by the Receiving Party; (iv) is made available by the Disclosing Party to a third party on an unrestricted, non-confidential basis; (v) was lawfully obtained by the Receiving Party from a third party not known by the Receiving Party to be under an obligation of confidentiality to the Disclosing Party; or (vi) was at any time developed by the Receiving Party independently of any disclosure by the Disclosing Party. Confidential Information may be used to the extent necessary to perform this Agreement and the parties shall not disclose Confidential Information to any third party, except to its agents (who have executed confidentiality agreements containing terms substantially similar to the terms) as necessary to provide the Work hereunder. In no event, shall Buyer acquire any right, title or interest in and to any product or process information, including related know how, either existing or developed during the course of the business relationship with Supplier and Buyer, and in no event shall Supplier acquire and right, title, or interest in and to any materials or information provided to it by Buyer.
- 7) **BREACH.** In addition to all other rights to which a party is entitled under this Agreement, if either party breaches any term of the Order or the Agreement, the non-breaching party shall have the right to: (a) terminate the Order immediately upon written notice to the other party; and (b) seek to obtain injunctive relief to prevent such breach or to otherwise enforce the terms of this Agreement. Failure to properly demand compliance or performance of any term of the Order or this Agreement shall not constitute a waiver of Supplier's rights hereunder and prior to any claim for damages being made for non-conformance or breach, Buyer shall provide Supplier with reasonable notice of any alleged deficiencies in the Work or performance under the Order or this Agreement and Supplier shall have a reasonable opportunity to cure any such alleged non-conformance or breach.
- 8) **RESERVATION OF OWNERSHIP:** Notwithstanding delivery to the Buyer, all goods sold by the Supplier shall remain Landmark Mining and Minerals' s sole property until payment in full therefore has been made by the Buyer.
- 9) **DELIVERY:** The period of time stated by the Supplier for delivery of goods ordered or tendered for is to be measured from the date the Supplier receives a written order to proceed together with all information necessary to enable the Supplier to put the work in hand and to deliver the goods. The Supplier will not be responsible or accountable for any delay occasioned by any cause outside its control, but shall be allowed a corresponding extension of time. In particular, but without limitation, the Supplier will not be responsible or accountable for any delay occasioned by strike, lock-out, war, fire, ice, accident (wherever any of the said causes shall occur), defective material, or any failure on the part of any supplier to make delivery. Should the Supplier be prevented from delivering any goods especially manufactured by reason of any of the said causes, the Buyer shall take goods as the Supplier is able to deliver and shall pay for the same at the agreed prices.
- 10) **STATUS:** Buyer and Supplier are separate entities. Nothing in the Order or this Agreement shall be construed as creating an employer-employee or joint venture relationship.
- 11) **GOODS RETURN POLICY:** Goods will only be accepted for credit under the follow conditions:(a) The goods have not been used, mounted, or tested in any way or form, (b) The goods are in the original packaging, and were purchased less than one (1) months prior to return, (c) Positive proof of purchase is provided, A standard 15% of the purchase price will be levied on goods accepted for return as a handling fee, provided all 3 conditions are met. The said handling fee will be subject to a minimum charge of R300,00. Should the Supplier accept, at the Suppliers' discretion, returns that do not comply to all 3 conditions, a handling fee of 75% will be levied. Nonstandard, or customer specific (configurable), Supaslurry goods will only be accepted if above 3 conditions are met, and will be subject to a 75% handling fee. No buy-out Items will be accepted for credit.

- 12) **COMPLIANCE WITH LAW.** Each party shall comply with all South African laws and local regulations applicable to its performance hereunder.
- 13) **FORCE MAJEURE.** Neither party shall be liable for any failure to perform or delay in performance of this Agreement to the extent that any such failure arises from acts of God, war, civil insurrection or disruption, riots, government act or regulation, strikes, lockouts, labor disruption, cyber or hostile network attacks, inability to obtain raw or finished materials, inability to secure transport, or any cause beyond such party's commercially reasonable control.
- 14) **GUARANTEE OF PRODUCTS MANUFACTURED:** Subject to the conditions hereinafter contained, the Supplier guarantees all products that have been manufactured by itself for a period of 6 months from the date of delivery against any defect attributable to faulty material or workmanship. Should any defect develop within that period the Supplier will repair or (at its option) replace the defective product or the defective part at the Supplier's premises without charge provided that:(a) The Buyer shall have reported any defect to the Supplier immediately the defect manifested itself;(b) The product was not subjected to abnormal use, or to use under abnormal conditions, or beyond its capacity as rated and recommended by the Supplier;(c) The defect was not caused or contributed to by exposure to direct weather conditions or by operation in abnormal atmospheric conditions;(d) No repairs or alterations to the product were carried out by the Buyer or any third party; and(e) The Supplier has fulfilled its obligations under the contract. The onus of showing that the conditions set out above have been complied with shall rest on the Buyer. The Buyer shall, at its own expense, return the defective product or part to the Supplier's premises. The Supplier shall have a reasonable period of time during which to effect the repairs (or at its option make the replacement), and the guarantee period stated above shall be extended by that time.
- 15) **GUARANTEE OF PRODUCTS NOT MANUFACTURED:** The Company will use its best endeavours to pass to the Purchaser the benefit (with the corresponding liabilities) of any guarantee received by the Company from the supplier of goods not manufactured by the Company. Nothing herein contained shall impose upon the Company a greater liability than would be imposed by its own guarantee set out above, nor shall the Company have any obligation to enforce that guarantee by litigation or other proceedings.
- 16) **EXCLUSION OF LIABILITY:** It is expressly agreed that the Supplier shall not be liable for any damage, loss, injury, or expenses of any sort or kind caused directly or indirectly to any person or property by any goods sold or delivered by the Supplier or arising from the use thereof; and all such liability, whether general, special, consequential or otherwise, arising out of or due to any of the acts, omissions, negligence or wilful default of the Supplier or its servants, whether at common law, by statute or otherwise, and whether arising from any condition representation or warranty (express or implied) relating to the goods sold or delivered is expressly excluded.
- 17) **ERECTION AND INSTALLATION:** Any erection or installation included in the quotation, unless otherwise arranged, shall be performed by the Supplier on condition that the Buyer provides suitable foundations and structures ready and free for use when required, with satisfactory means of access to the site. If the Supplier is prevented from proceeding with the work by circumstances beyond its control, and the Supplier's workmen are required to be sent back to complete the work, a charge will be made by the Supplier to cover the additional expenses incurred. If the terms for erection and installation provide only for work by the Supplier's skilled men, all necessary and adequate unskilled labour and tackle shall be provided free of cost by the Buyer as and when required, but such labour shall at all times be deemed to remain in the employ of the Buyer and the Buyer undertakes all liability in respect of claims made under the Workmen's Compensation Act. It is also the responsibility of the Buyer to provide water and electricity for the purpose of any erection or installation.
- 18) **RIGHT OF CANCELLATION:** The Supplier shall have the right to cancel all outstanding orders by written notice to the Buyer in the event that the Buyer is placed under provisional or final liquidation, judicial management or sequestration or commits any act of insolvency as defined in the Insolvency Act or ceases to carry on business.
- 19) **GOVERNING LAW:** No alteration of any of the above conditions shall be binding on the Supplier unless agreed thereto by the Supplier in writing. These conditions and every contract in which they are incorporated, shall be governed by and construed in accordance with the laws of the Republic of South Africa.