



## ASSOCIATED ADDITIVES

### ZIMCO GROUP (PTY) LTD, trading as ASSOCIATED ADDITIVES ("THE SUPPLIER") STANDARD TERMS AND CONDITIONS

#### 1. INTERPRETATION:

1.1 In this agreement, the following words and phrases have the following meanings:

- 1.1.1 "business day" means any day other than a Saturday, Sunday or public holiday in the Republic of South Africa;
  - 1.1.2 "calendar month" means one of the 12 named months of the year from the 1st to the last day of such month;
  - 1.1.3 "Commencement Date" means the earlier of the date of last signature of this agreement or the date of the first Quotation issued by the Supplier;
  - 1.1.4 "Customer" means the person or entity who is described as the Customer on the credit application form annexed to these STC's;
  - 1.1.5 "day" means a calendar day, from 00:00 to 24:00;
  - 1.1.6 "Equipment" means Supplier's equipment, consumables and materials used in providing the Services;
  - 1.1.7 "Goods" means the additives and other products supplied by the Supplier to the Customer at the Customer's request, as detailed in the Quotation;
  - 1.1.8 "invoice" means a tax invoice as defined in the Value Added Tax Act, 89 of 1991;
  - 1.1.9 "law" means the common law, statutes and all subordinate legislation, including regulations, bylaws and collective agreements and "laws" has a corresponding meaning;
  - 1.1.10 "Order" means a written order from the Customer to the Supplier setting out the Goods and Services to be provided and the anticipated delivery date;
  - 1.1.11 "Premises" means the Customer's premises detailed in its Order;
  - 1.1.12 "Quotation" means the written quotation from the Supplier to the Customer confirming the Goods and Services to be provided, the anticipated date of supply and the prices for the Goods and the relevant INCOTERM which applies to that purchase of the Goods;
  - 1.1.13 "Services" means any other services supplied by the Supplier in relation to the Goods;
  - 1.1.14 "Supplier" means Zimco Group (Pty) Ltd, reg. number: 1947/025245/07, trading as Associated Additives;
  - 1.1.15 "STC's" means these Standard Terms and Conditions;
  - 1.1.16 "VAT" means value added tax charged or payable in terms of the Value Added Tax Act, 89 of 1991;
  - 1.1.17 "week" means a period of 7 consecutive days;
  - 1.1.18 "year" means a period of 365 consecutive days.
- 1.2 A reference to the singular includes the plural and vice versa and a reference to any particular gender includes the other gender and the neuter.
- 1.3 If any notice period prescribed in this agreement expires on a Saturday, Sunday or a public holiday, it will be deemed to expire on the next business day thereafter. Any notice period will be calculated by excluding the first day, and including the last day, thereof.
- 1.4 A reference to any law means that law as it applies on the date a contract is concluded and as that law is amended or replaced from time to time thereafter.
- 1.5 These STC's must be exclusively governed by, and interpreted according to, the laws of the Republic of South Africa.

#### 2. GRANTING OF CREDIT

- 2.1 All sales will be on a strictly cash basis with payment secured in advance, unless the Supplier in its sole discretion agrees in writing to extend the Customer credit terms. Associated Additives– STC's Page 5 Feb 2019

#### Associated Additives

Division of ZIMCO Group (Pty) Ltd

Reg. No. 1947/025245/07

245 Lansdowne Road, Jacobs, 4052

P.O. Box 12043, Jacobs, KwaZulu-Natal 4026, South Africa.

Telephone: (031) 468 1561

Associated Additives Directors: S Ngcobo (Managing), V Nanyiager (FD), L Moodley (Sales)

ZIMCO Group (Pty) Ltd Directors:

A Scott (Managing Lead); P Douglas (Group Finance Director)

- 2.2 Subject to the written approval of a director of the Supplier, the Customer shall be entitled to place orders for Goods and Services up to the maximum amount stipulated on the application form ("the credit limit"), provided the relevant security remains valid and executable.
- 2.3 The credit limit may, on the request of the Customer, be increased by the Supplier in its sole discretion. The credit limit and/or the provision of credit may be varied or terminated at any time by the Supplier in its sole and absolute discretion and without notice, for any reason including breach of any of the provisions of this agreement by the Customer.
- 2.4 The Customer must periodically provide Supplier with such financial information or security required by the Supplier to support any request for credit or increase in the credit limit. If the financial capacity of the Customer becomes impaired or unsatisfactory to the Supplier, advance cash payment or security satisfactory to the Supplier shall be given by the Customer on demand by the Supplier and provision of the Goods and Services may be withheld until such payment or security is received.
- 2.5 Should the provision of credit be terminated by the Supplier for any reason, then all amounts outstanding in respect of Goods and Services provided, but not yet paid, will immediately become due and payable on demand.

### 3. APPOINTMENT AND DURATION

- 3.1 This Agreement commences on the Commencement Date and continues, subject to its other provisions, for the duration of each Quotation.
- 3.2 The Customer appoints the Supplier to supply the Goods and the Services as set out in the Quotation to the Customer at the Premises.
- 3.3 The Supplier is an independent contractor.

### 4. PRICE AND FEES

- 4.1 The price for the Goods and the fees for the Services are as set out in the Quotation, which will escalate, based on the Supplier's input costs and other market-related factors, from time to time on not less than 60 days' prior written notice from the Supplier to the Customer.
- 4.2 The Customer must pay any delivery charges as stated in the Quotation.
- 4.3 All quoted fees are exclusive of VAT, which the Customer must pay to the Supplier, in addition to the prices for Goods and fees for the Services, at the applicable rate.
- 4.4 The Supplier shall be entitled to charge a sundry fee for the recovery of bank charges and other related costs.

### 5. PAYMENT

- 5.1 The Supplier shall invoice the Customer for each order for Goods and Services placed under these STCs and deliver a statement to the Customer at the end of each calendar month.
- 5.2 The Customer shall make payment without deduction or set-off to the Supplier of the sums shown to be due on the invoice and/or statement cash on delivery with or without a retainer to be held by the Supplier, which retainer may be applied by the Supplier towards payment of any amount whatsoever, which may become owing and payable by the Supplier to the Customer; or within the period of credit allowed; or on due date, as may be agreed between the Customer and the Supplier from time to time.
- 5.3 Any amount not paid on the due date thereof shall bear interest calculated daily and capitalised monthly in arrears at the rate of 15.5% per annum.
- 5.4 The Supplier may at any time require the Customer to furnish the Supplier with:
  - 5.4.1 An unconditional and irrevocable bank guarantee in favour of the Supplier from a bank and on the terms and conditions acceptable to the Supplier, in its sole and unfettered discretion, for the payment of all amounts due under and in terms of this agreement;
  - 5.4.2 Such other security as the Supplier may require, which the Customer must provide within the time period requested by the Supplier, failing which the Supplier may require immediate payment of all amounts then due to the Supplier by the Customer.
- 5.5 Notwithstanding anything to the contrary herein contained and without prejudice to the Supplier's rights and obligations at law and in terms hereof, the Supplier shall be entitled from time to time and in its discretion to withhold provision of any Service ordered should any amount due to the Supplier be outstanding.

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5.6 Customer is solely responsible for ensuring that payment is made to Supplier's correct bank account. For payment diversion fraud avoidance purposes, Supplier will never initiate bank account payment method changes via telephone or updated bank information on invoices. If the Supplier needs to change its payee bank account information or payment method, then it will send Customer a specific bank account change notification letter via post or email from a known email account. Upon receipt of such letter and prior to changing bank account information or payment method, Customer must contact Supplier's representative, via valid/established contact channels, to positively confirm and validate the account change request. At all times, Customer is responsible for ensuring that payment is made to Supplier's correct bank account and Customer accepts responsibility for misdirected funds.

## 6. GOODS AND SERVICES

6.1 The Supplier must provide the Goods and Services to the standards of a reasonable expert in its field.  
6.2 Unless the Supplier receives written notice to the contrary within 48 hours of the date of delivery of the Goods to the Customer, a delivery note signed by the Customer shall be prima facie proof that the Goods were delivered timeously, in the ordered quantities and in the ordered quality, in good order and free of any and all patent and latent defects.

## 7. DELIVERY OR COLLECTION

7.1 The Customer must timeously and regularly order any of the Goods from Supplier. Customer must comply with any instruction from Supplier regarding the ordering forms and processes.  
7.2 Unless Supplier agrees in writing to arrange for a transporter to deliver any consignment of the Goods ordered by the Customer to Customer, Customer must collect the Goods ordered from Supplier's warehouse or other collection point as notified by Supplier in writing from time to time.  
7.3 If Supplier agrees to arrange a transporter to deliver the Goods ordered by the Customer to the Customer, Supplier shall be liable for the costs incurred by such delivery method and insurance.  
7.4 Unless otherwise provided in the relevant INCOTERM stated in the Quotation, delivery of the Goods by Supplier to the Customer shall be deemed to have occurred:  
7.4.1 if Supplier arranges for a courier or agent to deliver any consignment of the Goods ordered by the Customer, on commencement of off-loading of the Goods at the Customer's Premises;  
7.4.2 if the Customer collects the Goods, on commencement of loading of the Goods by the transporter or signature of the despatch notice by a representative of Supplier, whichever occurs earlier.

## 8. OWNERSHIP AND RISK

8.1 Unless otherwise stated in the relevant INCOTERM stated in the Quotation, ownership of the Goods shall at all times remain with the Supplier until the price for the Goods delivered and the fee for the Services rendered are paid for in full by the Customer and risk in and to the Goods passes to the Customer upon delivery as defined in clause 7.1.

## 9. CUSTOMER'S OBLIGATIONS

The Customer must, at its cost:  
9.1 provide safe access to and exit from the Premises;  
9.2 not impede or obstruct the Supplier in making delivery of the Goods or performing the Services;  
9.3 exercise due care in storage and use of the Goods and shall not be entitled to pledge, damage, dispose of or in any way encumber or alienate the Goods until it has been fully paid for,  
9.4 on receipt of the Goods, forthwith in writing notify the landlord of the premises where the Goods is delivered and/or stored of the Supplier's title to the Goods. The Customer shall in any event notify the Supplier in writing of the details of the premises where the Goods is to be delivered, stored or used as well as the details of the landlord of such premises,  
9.5 disclose and make available to Supplier copies of all statutes, regulations, rules, policies, procedures and documentation which may be relevant to the performance by Supplier of the Services to the Customer at the Premises and/or which may in any way affect, regulate or impact on Supplier's employees;  
9.6 provide the Supplier, its personnel unhindered access to the Premises in order to deliver the Goods or perform the Services at all time;

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9.7 acknowledge and agree that:

- 9.7.1 times and dates provided by Supplier for Delivery of the Goods or provision of the Services are given as reasonable estimates and that Supplier is not obliged to the Goods or provide the Services on those dates or times;
- 9.7.2 the Goods are the standard goods supplied by Supplier unless otherwise agreed in writing;
- 9.8 from time to time permit the Supplier's representatives, on at least 2 business days' notice, to inspect and audit the Customer's records and books of account relating to the delivery, handling, warehousing and sales of the Products to ensure compliance with this agreement.

## 10. HEALTH AND SAFETY

- 10.1 Neither party to this agreement shall withhold co-operation when requested thereto regarding assistance to the other party in compiling health, safety and environmental procedures and/or the updating thereof from time to time in order to comply with any statutory obligations or otherwise. Such co-operation shall be at the cost of the party requesting assistance.
- 10.2 Both parties recognise the hazardous nature of the Goods and undertake to exercise the appropriate degree of care in the handling, transport and application thereof.
- 10.3 Without prejudice to a party's right to recover the costs thereof, or other rights under this agreement, both parties undertake to render all necessary advice, equipment, materials and skills when so requested by the other in order to remedy a spill.
- 10.4 The Customer shall ensure compliance with all applicable laws and the conditions of any relevant permits, licences, approvals and the like of public authorities including those relating to the handling, labelling and transport of the Goods.

## 11. FORCE MAJEURE

- 11.1 Supplier is not liable for any failure to meet any of its obligations in terms of this agreement, or any delay in meeting them, to the extent to which the failure or delay is caused by force majeure.
- 11.2 "Force majeure" means any event or circumstance:
  - 11.2.1 which is beyond Supplier's reasonable control;
  - 11.2.2 which Supplier could not reasonably have provided against before entering into the agreement; and
  - 11.2.3 which, having arisen, could not reasonably have been avoided or overcome by Supplier.
- 11.3 Supplier shall give notice to the Customer immediately upon the occurrence of an event of force majeure and shall resume performance of its obligations as soon as the cause preventing delay has ceased.

## 12. IP RIGHTS AND CONFIDENTIALITY

- 12.1 Each party undertakes that all information which it has or obtains at any time relating to the other, including but not limited to technical and commercial information, which is not available on request to the general public:
  - 12.1.1 shall be kept confidential and shall not be disclosed by such party and its sub-contractors, or by their officers, employees and agents, to any third party;
  - 12.1.2 shall not directly or indirectly be used by such party and its sub-contractors, or by their officers, employees and agents for their own benefit or the benefit of any third party.
- 12.2 A party shall on demand use its best endeavours to obtain secrecy undertakings in the form reasonably specified by the other from any relevant sub-contractor or agent of the other.
- 12.3 Each party agrees not to use the name of the other or any of the other's brand names or trademarks in publicity releases or advertising or for other promotional purposes, without the prior written consent of the other party.
- 12.4 All copyright and other intellectual property pertaining to the Goods and Services remains vested in the Supplier at all times.
- 12.5 The provisions of this clause shall survive the cancellation or termination of this agreement for any reason, and shall remain binding on the parties after termination of this agreement for any reason.

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### 13. OHS

- 13.1 Each party accepts that it is an "employer" in its own right as defined in the Occupational Health and Safety Act, 1993, as amended from time to time ("the OHS Act"), and that it must fulfil all its obligations as an employer in terms of the OHS Act and the Regulations thereunder ("the OHS Regulations").
- 13.2 The Customer warrants that it is familiar with all the relevant sections of the OHS Act and OHS Regulations and that it has taken and will continue to take all the steps necessary to comply with the OHS Act and OHS Regulations and that it shall at all times comply with all laws, including but not limited to those dealing with the conditions of work of its labour, the safety of the work performed and the health and safety of all persons on the site at which such work is performed. The Customer must ensure that its employees do not do or omit to do any act which would be an offence in terms of the OHS Act and to take all reasonable steps to prevent any such act or omission.
- 13.3 The Supplier must ensure that its employees, agents and representatives are provided with and, at all material times, wear adequate personal protective equipment for the work they may perform and in accordance with the requirements of General Safety Regulation 2(1) of the OHS Act.
- 13.4 The provisions of this clause are intended to satisfy the requirements of the OHS Act, and in particular, but without limiting the generality of the foregoing, the provisions of section 37(2) of the OHS Act.

### 14. DATA PROTECTION

- 14.1 The Customer agrees that in supplying the Goods and Services, the Supplier may become privy to certain personal information of the Customer's and its employees, including, without limitation, its name, company details, addresses, contact numbers, email address, etc ("Personal Info").
- 14.2 The Supplier may collect this Personal Info to provide improved Goods and Services to its customers and related purposes. It is mandatory for the Customer to provide some Personal Info in order for the Supplier to supply the Goods and Services.
- 14.3 By signing this agreement, the Customer explicitly consents to Supplier using, disclosing and further processing the Personal Info in the following circumstances:
- 14.3.1 for communication purposes from time to time, provided that the Customer may request to be removed from a communication system;
- 14.3.2 de-identified or aggregated Personal Info may be used for statistical and data analysis purposes;
- 14.3.3 to improve the Goods and Services and for promotions and marketing;
- 14.3.4 for transmission and use by its business partners for commercial or marketing purposes;
- 14.3.5 for transmission to any party if it believes that it is required by law or by a court to do so or if Supplier believes that this is necessary to prevent or lessen any unlawful or harmful actions.
- 14.4 In terms of the Protection of Personal Information Act, 2013, a person about which Personal Info is collected has the right : (1) of access to and the right to rectify the Personal Info collected; (2) to object to the processing of Personal Info; (3) to lodge a complaint to the Information Regulator whose details may be obtained from the Supplier.

### 15. CONFLICT MINERALS POLICY AND ETHICS

- 15.1 The Supplier strictly complies with the United States Securities and Exchange Commission (SEC) rules regarding Conflict Minerals (known as '3TG' – Tantalum, Tin, Tungsten and Gold) as defined in section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act August 2012, and is therefore committed to:
- 15.1.1 identifying which products are impacted and targeting our efforts accordingly
- 15.1.2 not buying products and materials containing Conflict Minerals directly from Conflict Mines
- 15.1.3 working with our suppliers to ensure that any Conflict Minerals contained in the products and materials supplied to ABB originate from Conflict Free sources
- 15.1.4 contributing to conflict-free trade by encouraging our suppliers not to discriminate against legitimate sources of Conflict Minerals
- 15.1.5 engaging with our customers regarding their disclosure obligations.
- 15.2 The Customer is required to implement a code of conduct to ensure that it avoids purchasing conflict minerals.

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- 15.3 The Supplier and its holding company, Eco-Bat Technologies Ltd, take seriously their corporate responsibility to ensure materials used in their products are sourced in an ethical manner. In line with its corporate culture and ethics, the Supplier is committed to managing its obligations in relation to Conflict Minerals and expects a similar commitment to compliance with the SEC Dodd Frank Act Section 1502 on Conflict Minerals from its global supply chain partners.
- 15.4 The Supplier has determined that it currently requires the use of one or more listed minerals for the production of some of its products. However, Eco-Bat endeavours not to directly purchase any Conflict Minerals that directly or indirectly finance or benefit armed groups in the DRC or adjoining countries. To this end, Eco-Bat requires its suppliers, direct or indirect, to be DRC conflict-free. Supplier represents and warrants that it and its supply chain are currently in compliance, and it covenants that it and its supply chain shall continue to comply, with existing and future law relating to "conflict minerals" as such term is defined in Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Supplier shall be responsible for and shall release, defend, indemnify and hold harmless buyer from and against any liability resulting from the breach of the aforementioned representation and warranty and covenant
16. PROHIBITED PARTIES
- 16.1 This agreement requires both parties to be compliant with government regulations and orders. These include individuals, entities, and countries published in government prohibited/debarred parties and/or embargoed/sanctioned countries lists in all jurisdictions where the Company/Eco-Bat does business.
- 16.2 No transactions, directly or indirectly, involving Syria, Iran, Yemen, Sudan, Myanmar, North Korea or Cuba, will be accepted. Nor should any transaction be pursued if there is reason to believe that the goods or services will eventually end up in one of these countries or on the United Nations, the European Union and/or the United States lists of embargoed/sanctioned countries as amended from time to time.
- 16.3 The Customer agrees to maintain complete and accurate records of every transaction in this relationship for at least five years. Should there be reasonable evidence that the Customer is not in compliance with governmental regulations on prohibited parties and the above listed sanctioned countries, then the Company shall have the right to terminate this agreement with immediate effect.
17. JURISDICTION
18. Both parties submit to the non-exclusive jurisdiction of the High Court of South Africa, KwaZulu-Natal division for the determination of any disputes arising out of these terms and conditions.
19. CERTIFICATE OF INDEBTEDNESS
20. The Customer hereby agrees that a certificate signed by any director of the Supplier (whose appointment, qualification or authority need not be proved) reflecting the amount of the Customer's indebtedness to the Supplier or any increases or additional changes and the fact that same is due and payable will be prima facie proof of the amount of the Customer's indebtedness and the fact that same is due and payable; and will in the absence of evidence to the contrary, be sufficient proof for the purposes of the Supplier obtaining provisional sentence or summary judgment against the Customer.
21. NO WARRANTIES
- 21.1 **The Supplier does not give any warranties regarding the Goods such as the warranty that the Goods will be free from material patent and latent defects.**
- 21.2 **The Supplier makes no warranties or representations about the Goods or the Services which are all supplied on a voetstoets basis, unless stated otherwise in writing by the Supplier.**
22. WAIVER AND INDEMNITY
- 22.1 **The Customer hereby waives any claim it may have, and indemnifies the Supplier and holds it harmless against any and all claims that a third party may have, in relation to the Goods and Services, including any loss of or damage to property or profits or any injury, illness or death of any person, except to the extent cause by an act or omission by the Supplier or any defect in the Goods and then the Supplier's liability will be limited to the replacement of such Goods.**
- 22.2 **The Customer hereby indemnifies the Supplier and holds it harmless against any and all liability, loss, damage or claim of whatsoever nature suffered by any third party in relation to any act or omission by the Customer or the Customer's members, employees, representatives, agents or assigns or any third party in relation to the Goods and Services**

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**and/or arising from the provisions of this agreement, including any loss of or damage to property or profits or any injury, illness or death of any person.**

**22.3 Notwithstanding anything to the contrary in these conditions, Supplier will not be liable for any indirect, special or consequential loss or damages arising from any circumstance, including any act or omission or statement by Supplier, its agents, servants or nominees, whether negligent or otherwise.**

**23. BREACH:**

Supplier may suspend supply of the Goods or Services to the Customer, cancel any Order or Quotation and/or stop granting it credit and claim payment of all amounts which it may owe to Supplier, if:

- 23.1 the Customer fails to pay any amount which it owes to Supplier by the due date for payment;
- 23.2 the Customer is subject to business rescue proceedings or takes steps to place itself, or is placed in sequestration or liquidation, whether voluntary or compulsory and whether provisionally or finally;
- 23.3 the Customer commits any act of insolvency listed in section 8 of the Insolvency Act, 24 of 1936, or what would be an act of insolvency if committed by a natural person;
- 23.4 the Customer fails to notify Supplier in writing within 7 days after any change in ownership of its business, or change in shareholding or members' interest which constitutes a change in the majority shareholders or members; or
- 23.5 any material information which Customer gives in the credit application is incorrect or undisclosed.

**24. GENERAL:**

- 24.1 This Agreement and any Quotations constitute the whole agreement between the parties containing all of the provisions agreed on with regard to the subject matter hereof. In the event of any discrepancy, the terms of the Quotation will prevail over this Agreement.
- 24.2 No variation, addition, deletion or termination of this Agreement (including this clause) and no waiver of any right under this Agreement is effective unless in writing and signed by or on behalf of both parties.
- 24.3 The Customer may not, without Supplier's prior written consent, cede, assign or otherwise transfer any of your rights or obligations in terms of this Agreement to a third party. The Supplier may at any time, cede assign or subcontract any of its rights and/or obligations in terms of this Agreement to any third party.
- 24.4 The Customer consents to the jurisdiction of the Magistrate's Court in respect of any action arising out of these STC's or the Goods and Services which are supplied to the customer.

**25. ADDRESS FOR NOTICES:**

- 25.1 Unless the parties agree otherwise in writing, all notices and documents must be delivered by hand or electronic mail to each other at the address set out below their signatures on this Agreement.
- 25.2 Any notice or communication must if delivered by hand during business hours at that party's selected physical address, be deemed to have been received on the date of delivery; if emailed to the selected email address, be deemed to have been received on the first business day following the date of transmission.

**26. SURETYSHIP**

**In the event that the Customer is a corporate entity or trust, the Customer's signatory hereto binds itself as surety and co-principal debtor jointly and severally with the Customer in favour of the Supplier for all amounts which may become due to the Supplier at any time in terms of this agreement or any transaction between the Supplier and the Customer.**

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