

## TERMS OF PURCHASE

### 1. DEFINITIONS

In these terms of purchase the following definitions shall apply:

- Order shall mean the written instruction issued by Aberdare to the supplier for the supply of goods or services
- Aberdare shall mean Aberdare Cables (Pty) Ltd or its subsidiaries
- Conditions of Purchase shall mean this document

### 2. ORDERS

Acceptance of the order constitutes acceptance of the terms and conditions stated herein and overrules any other variations which may have appeared in the supplier's quotation of acknowledgement unless such conditions are expressly accepted by Aberdare in writing.

Any special conditions on the order shall apply over and above these Conditions of Purchase but in the event of conflict, the special conditions shall apply.

No order shall be valid unless given on the Aberdare official order form and no account shall be paid unless it bears an authentic Aberdare order number. The said order number shall be quoted on all delivery notes, invoices, correspondence and the like. No changes in, or cancellations of orders shall be recognised by Aberdare unless authorised by an Official Change Order, issued by the Aberdare Buying Department.

The goods shall be supplied and delivered strictly in accordance with the instructions contained in the order.

Aberdare reserves the right to cancel the order in whole or in part, if the order, or any consignment, is not completed in all respects in accordance with the instructions on the order and with these Conditions of Purchase and for the purpose of this condition, time shall be of the essence of the order and these Conditions of Purchase. Aberdare reserves the right to claim penalties in the event of any or all outstanding terms of the order not being delivered to Aberdare in terms of the order by the time specified. The amount of the penalties shall be 1 (one) percent per completed week or part thereof of delay of goods outstanding and shall automatically be deducted from any monies owing to the supplier by Aberdare. The provisions of this clause shall not apply if the delay incurred are the result of Aberdare not fulfilling its obligations or the supplier can prove to Aberdare's satisfaction that the delays were caused by events over which the supplier had no control.

### 3. DELIVERIES

All deliveries shall be made to the delivery address stated on the purchase order, unless Aberdare has changed or varied same otherwise in writing.

Part deliveries shall not be accepted unless arranged with or requested by the Aberdare Buying Department. Aberdare reserves the right at any time, or from time to time, to request the supplier to suspend any delivery or deliveries due to the execution of any work covered by the order to such extent and for such period as in Aberdare's absolute discretion it may decide and the supplier shall suspend such delivery or deliveries as requested at no cost to Aberdare.

Every delivery or consignment shall bear the supplier's name and the Aberdare order number. Waybills and/or delivery notes and/or advice notes shall accompany all deliveries made by road transportation or any other means, except by rail. For rail deliveries the waybill and/or delivery notes and/or advice notes shall be posted by Aberdare immediately the goods have been dispatched.

### 4. PAYMENTS

Unless otherwise stated in the order of all payments shall be made in S.A. Rand and shall be made on the 25<sup>th</sup> of the month following delivery of the goods provided.

The goods and relevant invoices are received before the 25<sup>th</sup> of the current month, it being recorded that Aberdare's accounting month is from the 26<sup>th</sup> of any month to the 25<sup>th</sup> of the following month.

Statements made up include all invoices to the 25<sup>th</sup> of the month are received by Aberdare not later than the 5<sup>th</sup> of the following month.

Payment for deliveries made prior to the date specified in the order shall be withheld and shall be paid only in the month upon which the order should have been delivered.

It is the responsibility of the supplier to obtain written proof of delivery to Aberdare or to its agents for all deliveries made. Such proof may be requested by Aberdare before any payments in terms of the order are made.

No statements shall be valid of goods delivered until all the supplier's obligations have been met in terms of the order.

Packing cases, containers and packing, unless otherwise stated in the Aberdare order, shall not be paid for. In the event that the said packing cases, container and packing are marked as returnable, they shall be dispatched to the suppliers at its expense. If Aberdare are charged for said containers, they will be regarded as Buy-Backs and Aberdare shall issue the Supplier with a Tax Invoice for the return thereof. All prices quoted to Aberdare shall be considered firm, unless any agreed escalation clauses are specifically accepted by Aberdare in writing in the order.

### 5. QUALITY INSPECTION, RISK AND WARRANTIES

5.1 Every consignment of goods to Aberdare shall confirm in all respects with the requirements as to material quality and specifications stated in the order and unless otherwise agreed in writing, shall also confirm with any applicable SABS standards if existing, or industry standards in the event of Aberdare submitting an order based on the material quality and specifications of the sample.

- 5.2 Aberdare shall have the right to inspect goods at any stage of manufacture, wherever the goods are being manufactured. The supplier shall guarantee the sustainability of the goods for the purpose for which they are to be used by Aberdare.
- 5.3 If required by Aberdare, any goods which fail to pass the Aberdare inspector's test shall be immediately replaced by the supplier at its expense, in default of which Aberdare shall have the option to cancel the order as provided in clause 2.4, either as to the goods in question or as to the whole of the undelivered balance of goods covered by the order. The above shall be without prejudice to any other rights that Aberdare may have in law, in particular to claim damages.
- 5.4 Aberdare shall not accept either the goods or any risk in respect thereof unless and until the goods have passed the Aberdare inspectors test and in the meantime the goods shall remain the supplier's risk in all respect.
- 5.5 Notwithstanding that payment for the goods may not have been received by the supplier, Aberdare shall be entitled to deal with and sell the goods in the ordinary and normal course of its business.
- 5.6 If in terms of the order any goods or materials are delivered by Aberdare to the supplier for the purpose of having work or a service performed on them, then such goods or materials shall remain the property of Aberdare, but be the risk of the supplier until such time as the materials or goods are re-delivered to and accepted by Aberdare's inspectors.
- 5.7 If any default in design, material or workmanship of the goods should become apparent within 12 (twelve) months of delivery, such defects shall be at Aberdare's sole option be repaired or replaced at the supplier's expense, or a full credit in respect of the defective goods shall be passed by the supplier.
- 5.8 Without detracting from any other warranties or indemnities that may be contained elsewhere herein, the supplier:
- 5.8.1 Warrants that no failure, defect, wrong calculation or result, stoppage, breakdown or any other malperformance of the goods will occur as a result of, directly or indirectly, the passage from the year 1999 to 2000, or as a result of any date occurring after 1 January 2000 or from any leap year occurring after 1 January 2000; and
- 5.8.2 Undertakes to rectify at its cost any faults of whatsoever nature occurring in the goods as a result of or based on any failure arising through the passage from the year 1999 to 2000 or as a result of any data occurring after 1 January 2000, and hereby indemnifies Aberdare against and agrees to make good to Aberdare any damage, loss, liability or other harm that Aberdare may suffer as a result of this warranty being breached.

## 6. INDENMITIES

- 6.1 The supplier shall indemnify from all actions, costs, claims, demands and liabilities whatsoever brought or made arising under any statute or at any common law, or in any way, in respect of personal injury to or the death of any person or in respect of

any loss or destruction of, or damage to property attributable to any act of neglect of. Aberdare or any person from whom Aberdare is responsible, but which shall have occurred in connection with any work executed by the supplier against the order or shall be attributable to some defect in the goods.

- 6.2 The supplier warrants that neither the sale of or the use of the goods shall infringe any South African or foreign patent, trade mark, trade name or registered design and the supplier shall indemnify Aberdare against all actions, costs, claims, demands, expenses and liabilities whatsoever, resulting from any actual or alleged infringement.
- 6.3 Nothing in these Conditions of Purchase shall prejudice Aberdare's rights in relation to any condition or warranty (expressed or implied) or other remedies to which Aberdare would be entitled in relation to the goods of services forming the subject of the order by virtue of any common law.

## 7. ABERDARE'S EQUIPMENT

All patents, specifications, drawings, dies, jigs, tools, designs and the like supplied by Aberdare in connection with the order shall remain Aberdare's property and shall be returned to Aberdare immediately upon completion of the order, carriage paid, and shall not be used in connection with the production of other goods than for Aberdare.

## 8. CONFIDENTIALITY

- 8.1 No part of the order or any documents relating thereto may be disclosed to any third party, nor may the reorder or any part thereof (except for raw materials and standard parts) be subcontracted without first obtaining Aberdare's permission in writing.
- 8.2 The supplier may not refer to Aberdare's trade name, trademarks or products in connection with any advertising without prior written permission from Aberdare.

## 9. CESSION

The supplier shall not be capable of ceding this agreement or any part thereof to any third party without first obtaining Aberdare's prior written consent to such cession.

## 10. GOVERNING LAW

The agreement shall be governed by and construed in accordance with the laws of the Republic of South Africa.

The parties consent to the jurisdiction of the Gauteng Local Division of the Supreme Court.