



WENKEM S.A.

REG NR 1988/003854/07

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AMENDED TERMS AND CONDITIONS - APRIL 2011

I, _____ ID number: _____
on behalf of, _____ (Name of Client) Registration nr.: _____
(hereafter the "Purchaser")

The Purchaser confirms that he / she / they have read the terms and conditions as set out in this document, which also appear on the reverse side of Wenkem's sales document, and accepts it.

I/we further confirm that I/we, am/are aware that the terms and conditions apply to all verbal / written agreements between myself / ourselves and Wenkem SA (Pty) Ltd (hereafter the "Seller").

SIGNATURE OF APPLICANT OR THE AUTHORISED REPRESENTATIVE

DATE

Name, Surname and Capacity: _____

AS WITNESSES (Agent or representative or both)

1 _____

2 _____

Name and Surname

Name and Surname

SIGNATURE OF THE DIRECTOR OF THE SELLER

DATE

Name and Surname

AS WITNESSES:

1 _____

2 _____

Name and Surname

Name and Surname

FOR OFFICE / DEPOT USE

ACCOUNT NUMBER

DISTRIBUTOR'S CODE

DEPOT CODE

CREDIT LIMIT

ORIGINAL DOCUMENT

TERMS

Initial _____

TERMS AND CONDITIONS

1. Interpretation

- 1.1 "Purchaser" means the party who places a verbal or written order with the Seller.
- 1.2 "Seller" means Wenkem S.A. (Pty) Ltd.
- 1.3 "Products" means any of products which the Seller sold or will sell to the Purchaser.

2. Undertaking and acknowledgement by the Purchaser

- 2.1 The Purchaser undertakes to study the labels on the Products and any technical literature supplied with Products and to acquaint himself/herself/themselves with the content thereof before using the Products.
- 2.2 The Purchaser undertakes and warrants that the Purchaser will not give away, sell, exchange or otherwise dispose of any Products, or apply or use any Products on behalf of a third party or allow a third party to acquire or use any Products until the ownership of the Products has passed to the Purchaser.
- 2.3 The Purchaser undertakes not to use the Products if, at delivery, the container was not closed properly or has been opened previously or it seems as if the Products were tampered with.
- 2.4 The Purchaser acknowledges that the Purchaser is aware thereof that he or the person who handles the Products can suffer physical damages and/or financial loss if the Products are not use strictly in accordance with the user instructions, other information on the label and any guide provide to the Purchaser.

3. Prices and Terms

- 3.1 The price payable shall be the Seller's or its representative's listed price at the date of acceptance of order unless otherwise agreed to in writing. The price list can be provided to the Purchaser on request.
- 3.2 The Seller and/or its representative reserves the right to vary its listed prices from time to time without notice to the Purchaser.
- 3.3 All transactions are concluded on a cash sale basis unless the Purchaser's credit application was successful.
- 3.4 If the Purchaser has credit facilities with the Seller and the Purchaser buys Products on credit, the purchase price must be paid within the term as indicated on the statement on which the invoice first appears.
- 3.5 Ownership of the Seller's Products shall only pass to the Purchaser when the purchase price has been paid in full.
- 3.6 Any agreement reached between the Purchaser and the Seller's representative or agent with regard to discounts or payment will only be binding if it is recorded on the Purchaser's order/proof of delivery note and will in any event be subject to acceptance by the Seller.
- 3.7 All overdue amounts, including overdue interest amount, will bear interest at the rate of 5% above the prime lending rate as quoted by Standard Bank Limited from time to time.
- 3.8 If any payment is in arrears or if the Purchaser fails to comply with any obligations it has towards the Seller, all outstanding amounts will become due and payable immediately.

4. Delivery

- 4.1 A delivery note must be signed on delivery of the Products and such signature by the Purchaser or any other person at the place of delivery will be *prima facie* proof that the Products was in a good conditions when it was delivered.
- 4.2 Risk is transferred to the Purchaser once the Products have been delivered to the Purchaser.
- 4.3 The Purchaser must inform the Seller within seven (7) days after delivery of the Products of any damage caused to the Products by any carrier.
- 4.4 No return of Products, which was correctly delivered in terms of the agreement, will be accepted without the Seller's prior consent.
- 4.5 Should the Seller agree that the Products be returned, the cost of the return, including packaging and insurance, will be for the account of the Purchaser. The Purchaser bears the risk of the Products the Purchaser is returning until the Seller receives the Products.

5. Warrantees, guarantees, representations and liability

- 5.1 The Seller shall ensure that the delivered Products correspond with the label descriptions prescribed by law. Except for this obligation, the Products is sold "voetstoots", free of any representation or influence, and without any express, tacit or common law warranty of whatsoever nature or concerning quality or fitness for any purpose, which warranties the purchaser expressly waived by his signature to the agreement.
- 5.2 The Purchaser agrees that he / she / they will not rely on any representations made, advice given, information provided or technical assistance rendered by or on behalf of the Seller, any of its employees, representatives or agents unless it is contained in / or on: -
 - 5.2.1 written communication directed to the Purchaser and signed by an employee, representative or agent of the Seller;
 - 5.2.2 the registered label of a product; or
 - 5.2.3 official technical literature provided by or on behalf of the Seller with regard to the product.
- 5.3 Should any Product have a material defect which was not caused by the Purchaser or the Purchaser's representative, such Product will be replaced free of charge by the Seller or, should the Purchaser so desire, the full purchase price will be refunded to the Purchaser.
- 5.4 Any liability of the Seller in respect of a breach of any term of this agreement shall be limited to the substitution of such Product, free of charge, or refund of the paid purchase price, by the Seller to the Purchaser, provided the purchase price has been paid in full.

6. Complaint Procedure

- 6.1 Within seven (7) days after becoming aware of any circumstances which could lead to a possible claim by the Purchaser against the Seller, the Purchaser must:
- 6.1.1 inform the Seller's representative, employee or agent telephonically or in person thereof;
 - 6.1.2 complete a claim form.
- 6.2. After receiving the claim form referred to in paragraph 6.1.2, the Seller will arrange for an inspection of the cultivated fields, crops / harvest or live-stock.
- 6.3 After completing the inspection referred to in paragraph 6.2, the Seller may advise the Purchaser in writing of further steps to be taken to limit any possible damage or loss.
- 6.4 The Purchaser will be liable of the costs of implementing the advice referred to in paragraph 6.3.

7. Cancellation

- 7.1 The Seller may cancel any order or a part thereof which has not yet been delivered if:
- 7.1.1 the Purchaser is in breach of any of the terms and conditions; or
 - 7.1.2 the Purchaser has passed away; or
 - 7.1.3 the Purchaser has a provisional or final sequestration/ liquidation order against him/her/them or if he/she/they is placed under judicial administration, or his/her/their estate is surrendered or he/she/they is/are applying for such surrender; or
 - 7.1.4 a court order obtained against the Purchaser remains unsatisfied for a period of seven (7) days; or
 - 7.1.5 the Purchaser endeavours to or reaches a compromise with any of his / her / their creditors.
- 7.2 The rights of the Seller referred to in paragraph 7.1 is not comprehensive and is in addition to the common-law rights at the disposal of the Seller.
- 7.3 If any agreement between the Seller and Purchaser is cancelled for any reason whatsoever, all outstanding amounts will become due and payable immediately.

8. General

- 8.1 The Seller is not the producer of the Products, and the Purchaser agrees that he/she/it has knowledge thereof.
- 8.2 These terms and conditions will apply to every agreement between the Seller and Purchaser, written or verbal, and any amendment or abandonment of these terms and conditions must be in writing and signed by the Purchaser and by a director of the Seller in order to be valid.
- 8.3 No failure, delay, latitude or extension of time or other indulgence which may be given or allowed by the Seller to the Purchaser in respect of this agreement shall operate as a waiver, novation or otherwise affect any of the Seller's rights in terms of or arising from these terms and conditions.
- 8.4 A certificate signed by any director or manager of the Seller (whose appointment, authority or qualification does not have to be proven) will serve as *prima facie* proof of the amount owed.
- 8.5 The Purchaser undertakes not to withhold the purchase price in case of a dispute between the parties concerned, which the seller is required to transfer to an interest bearing trust account after receipt of the purchase price until the dispute is resolved.
- 8.6 The Seller may institute any legal proceedings in terms hereof from the Gauteng North Division of the Supreme Court of South Africa, or any other Court which has jurisdiction over the Purchaser or, at the choice of the Seller, the Magistrates' Courts which has jurisdiction over the Purchaser in accordance with Section 28 of the Magistrates' Court Act, No. 32 of 1944, irrespective of the fact that the amount claimed exceeds the jurisdiction of the last mentioned Court.
- 8.7 The Purchaser is liable for all legal costs on the scale as between attorney and client incurred due to any collection or legal actions instituted in terms hereof, including all collection fees.
- 8.8 All agreements concluded between the Purchaser and Seller shall be governed by the laws of Republic of South Africa.
- 8.9 If any clause or term of this agreement should be invalid, unenforceable, defective, illegal for any reason whatsoever, then the remaining terms and provisions of this agreement shall be deemed to be severable therefrom and shall continue to be of force and effect.
- 8.10 The Purchaser choose:
- 8.10.1 Its postal address and / or email address as the address to which the Seller can send invoice, statements and notices in terms hereof and in terms of the National Credit Act 34 of 2005; and
 - 8.10.2. the physical address set out on the application for credit facilities or the reverse side hereof as his/her/its *domicilium citandi et executandi*, being the address where the Seller can deliver court documents.