

RHOTECH HOLDINGS CC AND SUBSIDIARIES: TERMS AND CONDITIONS

1. INTERPRETATION AND DEFINITIONS

In this Agreement unless inconsistent:

- 1.1 Words importing the singular shall include the plural and vice versa. Words importing the masculine gender shall include the other gender and vice versa and natural persons shall include juristic persons and vice versa;
- 1.2 Headings are for reference only and shall not be used in interpreting the meaning of the text;
- 1.3 A reference to a party includes the party's successors in this and permitted cessionates and assigns, and
- 1.4 Goods mean all and any products ordered by the Customer for the Company and/or sold by the Company to the Customer and includes services rendered either on instruction or by necessary requirement.
- 1.5 The Company shall mean RHOTECH HOLDINGS CC Group and its subsidiary companies or any derivative or assignee thereof.
- 1.6 The Customer shall mean that Party contracting with the Company.
- 1.7 The Terms and Conditions shall refer to the provision of goods or services with either term being interchangeable with the other in the interpretation of this Agreement. It is agreed that the *contra proferentum* rule shall not apply in the interpretation of this Agreement. It is further agreed that any clause which is unenforceable shall be capable of being excised from the remainder of the Agreement which shall remain valid and binding.

2. APPLICATION

- 2.1 All goods sold and/or services rendered by the Company to the Customer from time to time shall be sold and/or rendered as the case may be on the terms and subject to the conditions set out herein.
- 2.2 The Company shall have the right at any time and in its sole and absolute discretion to withdraw or vary the nature and/or extent of the credit facilities afforded to the Customer in terms of this Agreement.

3. ORDERS

- 3.1 Orders for goods or services shall be made to the Company in writing and shall where feasible, include a Customer order number.
- 3.2 Notwithstanding Clause 3.1, the Company shall be entitled (but not obliged) to accept verbal orders and/or orders placed without an order number provided that in such event the Company shall not be responsible for any errors in or arising from such orders.
- 3.3 Orders whether written or verbal shall constitute irrevocable offers by the Customer to purchase the goods so ordered, which offers shall be capable of acceptance by the Company by the delivery of the goods and/or by written acceptance of the Order.
- 3.4 The Company shall be entitled (but not obliged to) accept return of any goods on such terms and subject to such conditions as it may in its sole discretion determine.

4. PRICE AND DISCOUNTS

- 4.1 The price payable by the Customer for the goods shall subject to Clause 4.2 be the full list price as shown on the Company's price list from time to time, provided that the Company shall have the right to change its prices without notice.
- 4.2 The Company shall be entitled to apply discounts in its sole and absolute discretion.

5. PAYMENT AND INTEREST

- 5.1 The Customers shall pay for the goods within 30 (thirty) days of the date of Statement, except if there is a separate written agreement reflecting payment terms.
- 5.2 All payments shall be made by the Customer:
 - 5.2.1 to the Company's main place of business or at such other address as may be selected or advised by the Company in writing from time to time.
 - 5.2.2 without any deduction or set-off of whatsoever nature or for whatsoever cause and free of any and all exchange, bank or other like charges.
- 5.3 Should the Customer fail to make any payment on due date, all amounts payable by the Customer to the Company shall immediately become due by the Customer to the Company, notwithstanding the date of invoice or the date of order or purchase or delivery of goods.
- 5.4 The Company may at any time and in its sole discretion, appropriate or re-appropriate any monies received from the Customer towards any indebtedness of the Customer to the Company and the Customer expressly waives its right to name the debt or account to which any payment made by it shall be applied.
- 5.5 The Company shall be entitled to charge and the Customer shall be liable to pay interest on all overdue amounts at the maximum rate permissible from time to time in terms of the Usury Act No 75 of 1955, as amended, or alternatively as provided in the National Credit Act 34 of 2005, as amended, or other relevant legislation, from time to time, and as calculated daily and compounded monthly in arrears from due date to date of payment.
- 5.6 Nothing herein nor in the future conduct of the Company shall be construed as constituting any courier or postal service as an agent of the Company and the risk of loss of payment arising through the use of such postal or courier service shall remain with the Customer at all times.

6. DELIVERY

- 6.1 In the event that delivery has been agreed, in writing, then the goods shall be delivered by the Company to the Customer and delivery of the goods shall be deemed to have been made by Company to the Customer:
 - 6.1.1 where the Company transports the goods when the goods are offloaded at the Customer's premises or at such other address as may have been nominated by the Customer; and
 - 6.1.2 where the Customer collects the goods when possession of the goods is given to the Customer or the Customer's nominated courier or agent.

RHOTECH HOLDINGS CC AND SUBSIDIARIES: TERMS AND CONDITIONS

6.2 Signature of a Company delivery note/invoice by any employee of the Customer or the Customer's nominated courier or agent as the case may be, shall be prima facie proof of delivery to the Customer of the goods reflected in such delivery note/invoice.

6.3 The Customer hereby waives its right to dispute or query the delivery of any goods reflected in a Company delivery note/invoice which has been signed as contemplated in Clause 6.2 unless such dispute or query is indicated in writing on the delivery note/invoice at the time of signature.

6.4 The Company does not guarantee or warrant delivery of any goods and the Company shall not be liable for any loss or damages including, without limitation, any loss of trade or profit, arising from or consequent upon the non delivery or delayed delivery of any goods to the Customer for whatsoever reason or cause. Should the Company make delivery of part only of any order then the Customer shall be liable to pay for, and shall not be liable to cancel the order in respect of, those goods delivered.

7. OWNERSHIP, RISK AND INSURANCE

7.1 Ownership of the goods shall remain vested in the Company until paid in full.

7.2 Notwithstanding 7.1, risk in and to the goods shall pass to the Customer on delivery of the goods by the Company to the Customer.

7.3 The Customer shall notify the Landlord/Lessor/Owner of the premises where the goods are kept of the Company's ownership of all and any goods which have not been fully paid for, and shall, if required by the Company, furnish the Company with the name and contact details of such Landlord/Lessor/Owner.

7.4 Until the goods have been paid for in full the Customer shall, at its own costs and expense, comprehensively insure the goods with a registered insurer against third party claims and against all loss and damage. Pending payment for the goods the Customer hereby cedes to the Company all its rights in and to such insurance and agrees and shall procure that all proceeds paid by any insurer in respect of the goods so insured shall be paid to the Company.

8. WARRANTIES AND INDEMNITY

8.1 Save for any manufacturer's warranty on the goods, the Company does not give or make any warranties, guarantees, undertakings or representations of whatsoever nature, whether express or implied, as to the quality or condition of the goods or their fitness or suitability for any purpose.

8.2 The Company's liability for the breach of any manufacturer's warranty shall be limited to, and shall be fully discharged by the replacement of the relevant goods, provided that regard will be had to any use of the goods by the Company.

8.3 Save to the extent set out above, the Customer hereby indemnifies and hold the Company harmless against any and all losses, injury, damage, fines, penalties and claims of whatsoever nature and howsoever arising from or connected with the goods or the use or possession thereof and whether or not such claims are caused by any act or omission of the Customer or by anyone else.

8.4 It is recorded that time is not of the essence in respect of the goods or services, and unless stipulated in writing by the Company, time shall not be regarded as being of the essence.

9. NOTIFICATION BY THE CUSTOMER

9.1 The Customer shall give the Company at least 14 (fourteen) days prior written notice of any intended change in its shareholding, members, directors, owners or partners and/or of any intended sale of its business of the major portion of the assets and/or of any change of its business address and failure to do so will constitute a material breach of this Agreement. Notwithstanding any such change or sale the Customer shall at all times remain ultimately liable for its obligations to the Company under this Agreement.

9.2 The Customer shall furthermore notify the Company in writing immediately there is any change in its financial or business affairs which change might reasonably have the effect of prejudicing the Company's rights, or the Customer's ability to meet its obligations under this Agreement.

10. UNDERTAKING/WARRANTIES BY THE CUSTOMER

10.1 The Customer undertakes on request to submit annual financial statements and/or interim financial statements and/or management accounts to the Company. If the Customer is a Company then the Annual Financial Statements shall be independently audited and copies provided to the Company within three months of each financial year end of the Customer.

10.2 The Customer represents and warrants that there are no pending or threatened investigations, litigation or proceedings affecting the Customer which may adversely affect its business or its ability to meet its obligations to the Company under this Agreement including but not limited to the threat of Business Rescue or any other form of Corporate rescue.

11. SECURITIES

11.1 The Customer shall provide and/or procure the signature and/or conclusion and/or execution to and in favour of the Company, of such securities (the securities) as the Company may from time to time consider necessary to secure the Customer's obligations to the Company hereunder.

11.2 The securities shall be in such terms and shall contain such terms and conditions as may be required and/or acceptable to the Company, in the Company's sole and absolute discretion and the Customer undertakes to do all such things and to sign such documents necessary and/or required to give effect to the preparation, signature and registration of the securities.

11.3 Notwithstanding anything to the contrary contained in this Agreement, the Company shall not be obliged to extend or maintain any credit facilities to the Customer, or delivery any goods to the Customer unless and until the securities have been provided to the satisfaction of the Company (in the Company's sole and absolute discretion). To the extent that the Company may have already extended any credit to the Customer, the Company shall be entitled to withdraw or vary the nature and/or extent thereof as provided for in Clause 2.2 herein.

12. BREACH

12.1 If the Customer should breach any provision of this Agreement, or commit any act of insolvency or assign, surrender or attempt to assign or surrender its estate or be sequestrated or wound up (whether provisionally or finally) or enter Business Rescue proceedings or compromise with any of its creditors or endeavour or attempt to do so or suffer any judgment to be entered against it and fail to take steps to rescind such

RHOTECH HOLDINGS CC AND SUBSIDIARIES: TERMS AND CONDITIONS

judgment within seven days of the judgment coming to its knowledge or fail to satisfy such judgment within seven days of the refusal of rescission thereof, or make any incorrect or untrue statements or representation in connection with this Agreement and/or its application for credit facilities, then and upon the happening of any of these events the Company shall be entitled in its election and without prejudice to any of its other rights at law or thereunder to retake possession of all goods not fully paid for hereby reserving full rights of ownership. The Customer shall allow the Company and/or its authorised agents or representatives, access to the premises at which such goods are kept to enable such goods to be uplifted by the Company.

- 12.2 The Customer shall be liable to pay the Company all costs and disbursements incurred by the Company in enforcing its rights under this Agreement in tracing the Customer or any goods not fully paid for by the Customer, and in recovering possession of such goods, including without limitation, legal costs on the scale as between Attorney and own Client, tracing costs, collection commission, transport costs and all other fees/charges of a similar nature.

13. DOMICILIUM

For all purposes of and in connection with this Agreement, the Customer chooses as its domicilium citandi et executandi (domicilium) the physical and/or postal address/es set out in the Schedule, at which address all notices, demands, communications and court process may be given, made or served provided that the Customer may change its domicilium to another address which includes a physical address within the Republic of South Africa, by written notice delivered by hand or sent by pre-paid registered mail to the Company. No change will be deemed effective until the Company acknowledges such receipt.

14. JURISDICTION

- 14.1 The Customer hereby consents to the jurisdiction of the Magistrate's Court having jurisdiction over its person in respect of all legal proceedings arising from this Agreement, notwithstanding that the amount of the matter in dispute exceeds the Court's jurisdiction, provided that the Company shall be entitled to institute such proceedings in any division of the High Court having jurisdiction.
- 14.2 In the event that the Customer and/or the goods are at any time domiciled or situated outside of the Republic of South Africa, the Customer hereby consents to the jurisdiction of the High Court of South Africa having jurisdiction over the person of the Company from time to time alternatively at the election of the Company, to the relevant High Court of South Africa, in respect of all matters arising out of and disputes in connection with or in relation to this Agreement, provided that the Company shall be entitled at its election to institute proceedings against the Customer in any other Court in such other Country having jurisdiction in the matter.

15. CERTIFICATE OF INDEBTEDNESS

A Certificate signed by any manager or director of the Company whose capacity and authority need not be proved shall be prima facie proof of the evidence stated therein in respect of any indebtedness of any the Customer to the Company or in respect of any other fact for the purpose of obtaining a judgment or order against the Customer in any competent Court.

16. CESSION AND DELEGATION

- 16.1 The Customer may not cede any of its rights or delegate any of its obligations under this Agreement and waives all the benefits conferred upon it by the Prescription Act 56 of 1969 as amended and agrees that it is thereby precluded from pleading prescription (whether acquisitive or extinctive) as a defence against any claim of the Company.
- 16.2 The Company shall be entitled, without notice to the Customer, to cede or sell all or any part of its right under this Agreement, including its rights of ownership in the goods, or to assign or delegate any of its obligations hereunder, without the consent of the Customer, and in respect of such cession and/or assignment, the Customer shall act in accordance with the instructions and directions of any such cessionary in places of and instead of the Company, and, if so required by any such cessionary, shall make all payments directly to such cessionary.

17. CREDIT ASSESSMENT AND INFORMATION

The Customer acknowledges and agrees:

- 17.1 That all information and details given by it to the Company is/are to be used to assess the Customer credit and financial position for the purposes of granting it credit;
- 17.2 and warrants that all such information and details are true and correct and complete in all respect and that it has disclosed all facts material to such assessment;
- 17.3 that the Company shall be entitled from time to time to obtain from any person or credit bureau, information relevant to the Customers credit and financial position for the purpose of assessing the credit facilities afforded the Customer, and
- 17.4 authorises the Company to furnish information concerning the Customers dealing with the Company to any credit bureau or other person seeking trade references or credit information on the Customer.

18. GENERAL

18.1 WHOLE AGREEMENT

This Agreement is the whole agreement between the parties and no variation or amendment thereof will be of any force and effect reduced to writing and signed by both parties.

18.2 NO REPRESENTATION

The parties acknowledge that no representations or warranties have been made other than those recorded herein.

18.3 INDULGENCES

No relaxation or indulgence granted by the Company to the Customer in regard to any of the terms and conditions herein shall be deemed to be a waiver of any of the Company's rights nor is any such relation or indulgence deemed to be a novation of any of the terms and conditions of that Agreement.

18.4 APPLICABLE LAW

This Agreement is in all respects governed and construed in accordance with the laws of the Republic of South Africa in force from time to time.

RHOTECH HOLDINGS CC AND SUBSIDIARIES: TERMS AND CONDITIONS

18.5 SEVERABILITY

If any provision of the Agreement is or becomes illegal, invalid or unenforceable, such provision shall be severed and the remaining provisions of this Agreement shall continue unaffected.

18.6 WARRANTY OF AUTHORITY

If the person signing this Agreement is signing on behalf of a juristic or other person, then the person so signing expressly warrants his authority to do so.

18.7 JOINT AND SEVERAL LIABILITY

Should two or more persons sign this Agreement as the Customer, then the said persons shall be liable jointly and severally in solidum for the due performance of the Customer obligations in terms hereof.

SIGNED AT _____ ON THE
_____ DAY OF _____ 20_____

AS WITNESSES:

1.1 _____

1.2 _____

for and on behalf of "**THE COMPANY**"
RHOTECH HOLDINGS GROUP
And it's Subsidiary Companies

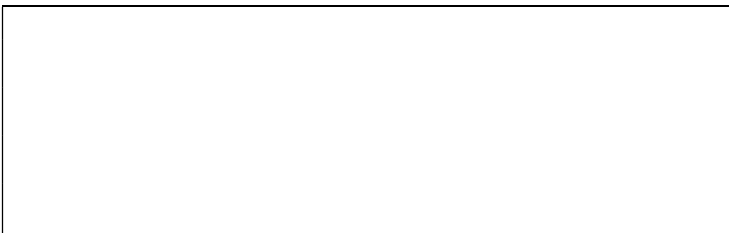
SIGNED AT _____ ON THE
_____ DAY OF _____ 20_____

AS WITNESSES:

1.1 _____

1.2 _____

for and on behalf of "**THE CUSTOMER**"



Company Stamp