

## Section 6: CONDITIONS OF SALE

1. In these conditions "the Seller" shall mean REHAU POLYMER (PROPRIETARY) LIMITED and "the Buyer" shall mean the person or entity purchasing or intending to purchase goods from the Seller or whose name appears in any Credit Application form. "The goods" shall mean any items offered for sale by the Seller which the Buyer purchases or intends to purchase and "the price" shall mean the total price payable by the Buyer for the goods described in each delivery note and/or invoice, including the Value Added Tax.
2. These conditions are the sole conditions of the contract between the Seller and the Buyer. No variation of these conditions shall be valid unless made in writing and signed by both the Seller and the Buyer. Any inconsistent term or condition in any document of the Buyer is agreed to be void and of no effect and to form no part of the contract between the Seller and Buyer. Should any provision be unenforceable by law, void or voidable, such provision shall be severable from the remaining provisions hereof which shall remain in full force and effect
3.
  - 3.1. The goods are supplied at the Seller's price ruling at the date of dispatch. If, between the date of the contract and the date of delivery, the Seller's price of goods is increased, the Seller shall notify the Buyer and the Buyer may by written notice to the Seller within 7 (seven) days of dispatch of the Seller's notice, cancel the contract. In the event of such cancellation, the Seller shall repay any deposit to the Buyer, but shall be under no further liability to the Buyer whatsoever. If the Buyer does not notify the Seller, the contract will remain in force and the Buyer shall be liable to pay to the Seller the increased price as notified by the Seller;
  - 3.2. Payment of the amount is due before dispatch or as per agreed terms, either by means of Electronic Fund Transfer, Cash or Direct Deposit. Payments by means of Electronic Fund Transfer or Direct Deposit must reflect on the Seller's Bank account on the due date. Payments by cheque must reach the seller at least 2 (two) working days before the due date. The price payable shall be the net price ruling at the date of despatch. The Buyer shall, in addition to the purchase price, pay any new and/or additional taxes, duties, import charges or fees or the like, imposed by any competent authority, on the goods and/or the sale and/or the purchase thereof and/or the importation thereof after the date of the order.
4.
  - 4.1. The Buyer agrees to pay interest to the seller. Interest at the rate of 2% (two per centum) above the prime bank **lending** rate, as **set from time to time by First National Bank, per annum calculated daily and capitalised monthly in arrears shall accrue** on any sum overdue;
  - 4.2. In the event of the Buyer failing to fulfil any terms of payment agreed with the Seller or if the Sellers shall at any time have any doubts as to the solvency or financial responsibility of, the Seller has the sole and absolute authority and discretion as to whether to make any further delivery of goods under this or any other contract except upon the receipt of cash or other security satisfactory to the Seller prior to delivery of the goods.
5.
  - 5.1. If no time for delivery is specified in the contract, the Buyer shall be bound to accept the goods when the goods are ready for delivery by the Seller;
  - 5.2. Unless otherwise agreed in writing, the place of delivery of the goods shall be the Seller's premises;
  - 5.3. A variance of up to 20% (twenty per centum) is allowable on each delivery on the quantity stated on the order placed by the Buyer and the price payable by the Buyer shall be increased or decreased pro rata;
  - 5.4. In the event of delivery being wholly or partly suspended or delayed by Act of God, fire, accident, riot, civil commotion, hostilities, war, strikes, lock-outs, import and/or export restrictions, emergency regulations, breakdown of plant, non-delivery of raw materials or any other event of any kind whatsoever which is beyond the control of the Seller, the Buyer shall have no right to cancellation of the contract but shall accept delivery of the goods at such time after the termination of such suspension or delay as the Seller is reasonably able to deliver the goods, having regard to the Sellers' commitments to other customers. If, however, the delivery of any goods is suspended or delayed for a period exceeding four months from the date when the goods would have otherwise been due for delivery to the Buyer, then unless otherwise agreed in writing, so much of the contract as relates to those goods not delivered shall automatically be cancelled and the contract shall remain in force with regard to any goods delivered in terms of the contract;
  - 5.5. The Seller shall under no circumstances be liable to the Buyer for loss or damage howsoever caused resulting from non-delivery or late delivery of any of the goods;
  - 5.6. Acceptance of delivery by or on behalf of the Buyer shall be conclusive proof that the Buyer has examined the goods and found them to be in every way satisfactory and fit for any purpose for which they might be required.
6.
  - 6.1. Unless otherwise agreed by the Seller in writing, the risk of the goods shall pass to the Buyer from the moment the goods leave the Seller's premises or to the carriers of such goods, whether such carrier be the agent or nominee of the Seller or of the Buyer,
  - 6.2. The ownership of the goods delivered to the Buyer shall remain vested in the Seller until all sums due by the Buyer to the Seller under this or any other contract shall have been paid in full. Until payment is so effected in full, the Buyer shall be deemed to hold all such goods as security for the Seller and shall, if so required by the Seller, store all such goods separately from any other goods in their possession;
  - 6.3. While goods as described in 6.2 are so held by the Buyer, the Seller has the right to sell the goods in question from the Buyer's place of business. The Buyer shall be obliged to grant the Seller the right to introduce prospective Buyers, who shall be afforded the right of inspection of goods at the Buyer's premises;
  - 6.4. Where the Seller manufactures or provides models, moulds, tools, dies or other manufacturing equipment on behalf of the Buyer, the Seller will invoice part of the costs incurred. Because the amounts charged do not cover the expenditure on the drawings, construction, running in, know-how and maintenance, the models, patterns, tools and dies, including all accessories, remain the property of the Seller. The same applies to alterations, replacements, models, tools and dies, and subsequent moulds. Costs for tools, moulds, etc. including VAT are payable immediately on invoicing. The Seller is not obliged to retain tools, etc. longer than three years after the last delivery.
7.
  - 7.1. All conditions and/or warranties as to the conformity of any goods with samples or descriptions as to the condition, quality or fitness for any purpose whatsoever of the goods, be and are hereby excluded;
  - 7.2. The Seller shall not be liable for any loss or damage whether caused by the negligence of the Seller, their servants or agents or in any other way whatsoever and shall under no circumstances be liable for any loss of profit, business or production or any similar loss or damage whether direct, indirect or consequential, however caused;
  - 7.3. If for any reason beyond the control of the Seller's, including, without prejudice to the generality of the aforesaid, war hostilities (whether or not war is declared), riots, insurrection, vis major, the Seller is unable to or is prevented from fulfilling any of its obligations to the Buyer, the Buyer shall have no claims for damages or otherwise against the Seller arising directly or indirectly out of or in connection with the sale of the goods in question.
  - 7.4. Unless otherwise stated, the goods are subject to the following tolerances:  
 for sections, if measurable, width, height and diameter  $\pm 2.5\%$  wall thickness or web thickness  $\pm 10\%$   
 for insulating tubing (special dimensions) internal diameter  $\pm 5\%$  wall thickness  $\pm 10\%$   
 for other tubing's internal diameter  $\pm 2.5\%$  wall thickness  $\pm 10\%$   
 for rigid PVC pipes (special dimensions) diameter  $\pm 2.5\%$   
 wall thickness  $\pm 10\%$   
 Tolerance on make up – Production lengths (excluding pipes):  
 1. rigid PVC sections  $\pm 0.5\%$  minimum  $\pm 2\text{mm}$   
 2. flexible PVC sections  $\pm 1\%$  minimum  $\pm 2\text{mm}$   
 3. CAB sections  $\pm 1\%$  minimum  $\pm 2\text{mm}$   
 Bundles and rolls:  
 1. from 5,50 mm  $\pm 0,5\%$

2. above 50m ± 0.4%

Shore. A hardness data is subject to a tolerance range of ± 3 for thermoplastics and ± 5 for elastomers.

8. 8.1 Under no circumstances shall the Seller be bound by or in any way liable for any representation made or any information or advice given to the Buyer or any person whatsoever by the Seller or by any person who is, or who is deemed by law to be, a servant or agent of the Seller, whether such representation is made or information or advice is given in pursuance of this or any other contract or in any other way whatsoever;
- 8.2. The Seller shall under no circumstances be bound by or liable for any description, information or illustration contained in any catalogue, price list, brochure, leaflet or other document of any kind and nothing contained in any such document shall form part of this or any other contract between the Seller and the Buyer;
- 8.3. In placing an order for the goods the Buyer warrants that it has tested the goods of the description and specification and that such goods are suitable for any purpose for which the Buyer requires them;
9. 9.1. Notwithstanding anything contained in these conditions, the Seller shall be under no liability to the Buyer unless written notice of the Buyer's claim is received by the Seller within 10 (ten) working days of the Seller's invoice;
- 9.2. Where a claim is received by the Seller, the Seller may at its discretion, elect to accept the return of the goods and, if the Seller so elects, the Seller shall be entitled within a reasonable time of such return, to tender further goods in the performance of the contract and the terms of the contract shall apply to such goods tendered by the Seller as if they were the goods originally delivered pursuant to the contract. Nothing in this condition shall place the Seller under any obligation to make such election and if such election is made it shall not be taken as any admission of any liability or obligation to the Buyer in respect to the Buyer's claim.
10. 10.1 The Seller shall be entitled to terminate this contract upon the happening of any of the following events:
  - 10.1.1 failure by the Buyer to pay any sum due to the Seller under the contract on the due date;
  - 10.1.2 breach of the Buyer of any provision, condition and/or warranty given in this contract;
  - 10.1.3 the Buyer suffering a judgement to be entered against them; upon the death of an individual, should the Buyer be an individual; upon the Buyer entering into a compromise or arrangement with their creditors or suffering an Order, provisional or final Order of sequestration or liquidation, as the case may be, or be placed under judicial management;
- 10.2. In any such event, the Seller shall be entitled, without prejudice to its other rights in law to demand that the Buyer forthwith pay to the Seller all sums due to the Seller under this contract or to claim immediately specific performance of all the Buyer's obligations. Any deposit paid by the Buyer shall be forfeit to the Seller and irrecoverable by the Buyer. The Seller shall be entitled immediately to repossess all goods in the possession or control of the Buyer or of any servants or agents of the Buyer in which property has not passed to the Buyer and shall be entitled to enter upon any premises of the Buyer or under the control of the Buyer for such purpose. The Seller shall give credit to the Buyer to the value of goods repossessed against any sums due under the contract.
11. 11.1 The Seller gives no warranty that the goods conform to any statutory requirement or that the goods do not infringe any patent or trademark (whether registered or not), the risk whereof shall be at all times upon the Buyer;
- 11.2. Where the goods are manufactured and supplied to the requirements or specifications of the Buyer, the Buyer shall indemnify the Seller against all claims made against the Seller in respect of any breach of any statutory requirement or the infringement of any copyright, patent, or trademark (whether registered or not).
12. This contract is neither cessionable, assignable nor transferable by the Buyer in whole or in part except with the written consent of the Seller, however should the Seller wish to dispose of and/or cede any or all of its rights, by any means whatsoever, then the Buyer hereby consents that the Seller may do so at its sole instance and discretion.
13. No indulgence or relaxation which the Seller may allow to the Buyer in regard to the carrying out of its obligations shall prejudice the Seller's rights in any manner whatsoever, or be regarded as a waiver of the Seller's rights, or be construed to act as estoppel against the Seller to otherwise strictly enforce compliance of the Buyer's obligations.
14. If, as consequence of any default by the Buyer, the Seller finds it necessary to consult its attorneys or to incur any legal costs in connection with or relating to the enforcement of the Seller's rights, the Buyer undertakes to pay to the Seller, on demand, the full amount of any such legal costs on an Attorney and Client scale, plus Collection Commission on each payment received from the Buyer.
15. This contract shall be construed in accordance with and governed in every respect by the laws of the Republic of South Africa and all actions arising out of or connected with this agreement shall be brought in a Magistrate Court as chosen by the seller, even though the cause of action may exceed the jurisdiction of such Court.