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**GENERAL CONDITIONS FOR BUYING**

Made and entered into

Entity Name

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Entity Type – e.g. (Pty)Ltd / Ltd / CC

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Registration No

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Registered Address

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**Hereinafter referred to as Vendor**

and

COLUMBUS STAINLESS (PTY) LTD

a private company with limited liability duly incorporated in terms of the laws of the Republic of South Africa  
under registration No. 1999/002477/07, having its registered address at Hendrina Road, Middelburg, 1050


**Hereinafter referred to as Columbus**

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COLUMBUS

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VENDOR

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## **WHEREAS:**

Columbus requires the Goods or the Service from the Vendor, on an Ad-hoc basis and the Vendor is willing and able to provide the Goods or render the Services, subject to the following Conditions:

### **1. DURATION**

These Conditions will remain in existence and apply to each and every Order concluded between Columbus and the Vendor, as from the last date of signature hereto until terminated in terms of Clause 27 or 28.

### **2. DEFINITIONS**

Unless inconsistent with or otherwise expressly indicated by the context:

#### **2.1. “Act of Insolvency”** in relation to a Party:

the liquidation or insolvency of the Party (whether provisional or final) or the passing of a resolution for the winding up of the Party;

the appointment of a liquidator, receiver, or trustee in respect of any property of the Party;

the Party compromising or making any arrangements with its creditors for the discharge of its debts;

the commission by the Party of an Act of Insolvency as that term is defined in the Insolvency Act No. 24 of 1936, as amended or replaced;

the Party being deemed to be unable to pay its debts in terms of the Companies Act;

the Party becoming financially distressed (as defined in terms of Section 128(1)(f) of the Companies Act);

the board of the Party passing a resolution to take business rescue proceedings (as defined in terms of Section 128(1)(b) of the Companies Act) in respect of that Party or any person taking any step to apply to Court or actually applying to Court for the business rescue of the Party;

#### **2.2. “Affiliates”** means in relation to a Party, any entity that directly or indirectly Controls, is Controlled by, or is under common Control with that Party;


#### **2.3. “Agreement”** means this Agreement signed between Columbus and the Vendor together with any subsequent written amendments to the Agreement.

#### **2.4. “Anti-Bribery Laws”** means (i) the South African Prevention and Combatting of Corrupt Activities Act (2004), (ii) the U.S. Foreign Corrupt Practices Act 1977, (iii) the UK Bribery Act 2010, (iv) the other public and commercial anti-bribery laws which may apply and (v) international anti-corruption treaties such as the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the United Nations Convention against Corruption);

#### **2.5. “Conditions”** means the terms and conditions contained in the Order, and in this Agreement entered into between Columbus and the Vendor, and all attachments together with any subsequent written amendments to the Order or the Agreement.

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- 2.6. **“Control”** means with respect to a corporation, the right to exercise, directly or indirectly, more than 50% of the voting rights attributable to the shares of the controlled corporation and, with respect to any person other than a corporation, the possession, directly or indirectly of the power to direct or cause the direction of the management or policies of such person, and the terms Controlled by, Controlling and under common Control will shall have a similar meaning;
- 2.7. **“Goods”** means all Goods covered by each specific Order, whether raw materials, processed materials, or fabricated products.
- 2.8. **“Order”** means Columbus’ written Purchase Order, together with any subsequent written amendments thereto issued by Columbus.
- 2.9. **“Party / Parties”** means Columbus or the Vendor or both as may appear from the context.
- 2.10. **“Public Official”** means: (i) an employee or officer of a government entity, department, or agency; (ii) any person acting in an official capacity for or on behalf of any such government; (iii) an employee or officer of an organization authorized by the government to perform government functions; (iv) a legislator (whether full or part-time); (v) a person holding an honorary or ceremonial government position; (vi) any political party official, or candidate for political office; and (vii) where the public body is a corporation the corporation incorporated as such;
- 2.11. **“Sanctions”** means trade, economic or financial sanctions provisions, laws, regulations, embargoes or restrictive measures imposed, administered or enforced from time to time by a Sanctions Authority;
- 2.12. **“Sanctions Authority”** means the United Nations; the European Union; the Government of the United States of America; the Government of the United Kingdom; the Government of South Africa and any of their governmental authorities;
- 2.13. **“Sanctioned Country”** means a country or territory which is, or whose government is, subject to comprehensive (broad-based and geographically oriented) Sanctions;
- 2.14. **“Sanctioned Entity”** means a person or entity, which is listed on a list issued by a Sanctions Authority or is otherwise subject to Sanctions; a person who is ordinarily resident in Sanctioned Country; an entity that is located or incorporated in a Sanctioned Country; and/or an entity that is owned or controlled by a Sanctioned Entity;
- 2.15. **“Services”** means the rendering of all Services covered by each specific Order.

### 3. ACCEPTANCE OF CONDITIONS

If the Vendor accepts an Order or commences work under the Order, without signing these Conditions, the Vendor shall be deemed to have accepted and shall be bound by the Order and these Conditions.

### 4. ORDER PRICE BASIS

- 4.1. All prices are inclusive of all duties, delivery costs, charges, license and other fees but exclusive of VAT.
- 4.2. The prices shown in the Order cannot be varied except by a duly executed amendment. All applications for price adjustments in the Goods/Services forming the subject matter of the Order are entirely at the

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discretion of Columbus. Any requested adjustment to the Order Price shall be supported by relevant documentary evidence thereof, and shall be subject to negotiation and mutual agreement prior to implementation.

- 4.3. All Orders shall be delivered and invoiced in accordance with the price as at the date of Order placement, irrespective of the expected delivery date of the Goods/rendering of the Service.
- 4.4. Payment is subject to any deductions and retentions authorized in terms of these Conditions and the performance by the Vendor of all of its obligations in strict accordance with the terms of the Order. Payment will be made in the currency specified in the Order.
- 4.5. Payment made by Columbus will not affect the rights of Columbus hereunder or be interpreted as approval or acceptance of the Goods and/or Service.
- 4.6. The Vendor will, if so required, furnish Columbus with acceptable security in such form as Columbus may require, for the timely and due performance of all of its obligations in terms of the Order.

## 5. PAYMENT AND INVOICING


- 5.1. Payment shall be made, without prejudice to the rights of Columbus as specified in the Order provided that:
  - 5.1.1. A tax invoice, debit note or credit note is received by Columbus Stainless (Pty) Ltd, Attention: Creditors Control, Private Bag 251844, Middelburg, 1050, or in the case of electronic invoices to [finance.creditors@columbus.co.za](mailto:finance.creditors@columbus.co.za) on or before the 7<sup>th</sup> day of the month following the month of deliveries and /or Services;
  - 5.1.2. All invoices, debit notes or credit notes must be as required by the Value-Added Tax Act 89 of 1991 as amended. In addition, electronic invoices must comply with the Tax Administration Act 28 of 2011, the VAT 404 Guide for Vendors and the VAT News 20.
  - 5.1.3. Tax invoices, statements and all correspondence are to reflect the Columbus Order number.
- 5.2. All Services rendered/Goods delivered after the last day of the month shall be considered as being part of the following Service/delivery month.
- 5.3. In the event that either a tax invoice, debit note or credit note is received after the date specified, payment may be deferred until the accounts for the next payment period falls due.

## 6. SET OFF

All liquidated or unliquidated costs, monies or expenses for which the Vendor is liable to Columbus may be deducted from and set off against monies due or becoming due to the Vendor.

## 7. TIME OF ESSENCE

- 7.1. The time specified in the Order for rendering the Services and/or delivering the Goods is of the essence and of the utmost importance. The Order is placed on the definite understanding that delivery will be effected not later than the date or dates specified in the Order. Partial delivery is not permitted without Columbus' written approval. The Vendor shall furnish such schedules of delivery as Columbus may reasonably require. The Vendor shall give notice to Columbus immediately and confirm in writing if such schedules are, or are likely to be delayed or varied, including the status of any sub-contracts.
- 7.2. If the Vendor's performance is behind schedule, Columbus shall have the right by notice in writing in addition to its other remedies, to require that the Vendor take appropriate corrective action. Failure of the Vendor to take such corrective action within seven (7) days from the receipt of such notice shall constitute a material breach of the Order and these Conditions.

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## 8. DELIVERY

- 8.1. Unless otherwise specified in the Order, delivery terms shall have the meanings assigned to them in the International Rules for the Interpretation of Trade Terms 2020 Edition (Inco terms) published by the International Chamber of Commerce.
- 8.2. Delivery shall be verified and recorded by such appropriate substantiating documentation as Columbus may require.
- 8.3. Should Columbus issue instructions to delay the delivery of such Goods beyond the delivery date stipulated in the Order, the Vendor shall make all necessary arrangements for storage, protection and insurance and shall be responsible until Columbus has taken delivery of the Goods, provided that Columbus shall bear the reasonable cost of such storage, protection and insurance. Should the Vendor dispatch the Goods without Columbus' approval, the Vendor shall be liable for all expenses incurred up to the date on which Columbus would otherwise have accepted the Goods.
- 8.4. All Goods must be delivered at the delivery point stipulated in the Order, or as alternatively indicated by Columbus to the Vendor in writing. If Goods are incorrectly delivered, the Vendor will be held responsible for any additional expense incurred in delivering them to their correct destination.
- 8.5. Columbus shall have the right, from time to time during the execution of the Order, by notice in writing, to direct the Vendor to add to or to omit, or otherwise vary, the delivery schedules. Any variations that this may cause in price or fulfillment of obligations by the Vendor in terms of this Order must be immediately communicated to Columbus. Columbus shall then confirm its instructions in writing and modify the said obligations to such an extent as may be justified.
- 8.6. Until Columbus so confirms its instructions, they shall be deemed not to have been given and any work already carried out or Goods delivered in connection therewith, shall be at the Vendor's own cost and expense.

## 9. SUBCONTRACTING


- 9.1. The Vendor shall be permitted to subcontract the Order, however this shall not relieve the Vendor from any liability or obligation under the Order and he shall be responsible for the acts and defaults of any sub-contractor, his agents, servants or workmen as fully as if they were the acts and defaults of the Vendor.
- 9.2. On request from Columbus, the Vendor shall provide a list of all sub-contractors being utilized by the Vendor on the Order.

## 10. EXPEDITING & TESTING

- 10.1. Columbus shall be given access at all reasonable time to the Vendor's works or offices or those of any sub-contractors to view or discuss work in progress on reasonable notice to the Vendor.
- 10.2. Columbus, its authorized representatives and any Columbus appointed independent inspection authority, shall have the right:
  - 10.2.1. to inspect and test the Goods at all reasonable times during manufacture and prior to delivery, at the Vendor's works and the works of sub-contractors as Columbus may deem necessary or desirable;
  - 10.2.2. to audit the Vendor's and its sub-contractors' quality assurance systems; and
  - 10.2.3. to reject Goods or any portion thereof which are defective or inferior in quality of material, design or workmanship or otherwise not in conformity with the terms and conditions of the Order to the satisfaction of Columbus.
- 10.3. Any portion of the Goods rejected as per 10.2.3 shall be replaced, repaired or modified by the Vendor and resubmitted for inspection and/or testing. The Vendor shall not be entitled to an increase in its price(s) or to an extension of the delivery date for the Goods due to the Goods being rejected.

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- 10.4. Columbus shall have the right to waive inspection during manufacture, prior to delivery, without prejudice to Columbus' right to reject the Goods or any portion thereof after delivery. Goods rejected as not conforming to the requirements of the Agreement, shall be immediately replaced at the Vendor's risk and expense. Columbus' failure to detect non-conformities in the Goods or any portion thereof, shall not deprive Columbus of any of its rights or remedies against the Vendor hereunder or otherwise.
- 10.5. Columbus shall have the right to call upon the Vendor at any time for evidence of origin of raw materials and parts.

## 11. QUALITY ASSURANCE


- 11.1. To ensure that the Goods and/or Services quality characteristics meet Columbus' requirements, the Vendor shall supply to Columbus supporting documentation such as certificates of conformance, quality plans or statistical process control charts, as appropriate, and/or as stipulated in the Order.
- 11.2. Columbus reserves the right to inspect the Vendor's business premises on reasonable notice to the Vendor on a regular basis to conduct Quality Assurance Audits.

## 12. PACKING

- 12.1. The Vendor shall properly and carefully pack and prepare the Goods for carriage and forwarding. The Vendor shall indemnify Columbus against all issues or claims arising out of or in connection with any damage caused by or resulting from defective packing of Goods. Unless stated otherwise in the Order, the Goods shall be carried and transported to the place of delivery at the risk and expense of the Vendor.
- 12.2. The Vendor shall identify each and every package, bundle, bag, carton, container or article by means of either suitable labels securely attached thereto or indelibly printed thereon, with the following information:
- 12.2.1. detailed description of Goods,
  - 12.2.2. name of Vendor / Supplier,
  - 12.2.3. Order number,
  - 12.2.4. if purchased by mass, nett mass of the contents.
- 12.3. In the absence of any agreement to the contrary, packages, packing materials and packing charges, shall be deemed to be included in the Order price and packages and materials shall remain the property of Columbus. Where the price quoted is "ex works", the Vendor shall include in its price and be responsible for packing the Goods in such a manner as to ensure freedom from loss or injury whilst being transported. Columbus shall be entitled to recover from the Vendor loss or damage, which Columbus has suffered arising from the failure to comply with this clause.
- 12.4. In the event that Columbus exercises the option to return packages, Columbus will return such packages at the Vendor's costs.

## 13. FREE ISSUE MATERIALS

Where Columbus for the purposes of the Order, issues materials "free of charge" to the Vendor, such materials shall be and remain the property of Columbus and shall be clearly marked as such. The Vendor shall maintain all such materials in good order and condition subject, in the case of tooling, patterns and the like, to fair wear and tear and shall use such materials solely in connection with the Order. Any surplus materials shall be disposed of at Columbus' discretion. Waste of such materials arising from bad workmanship or negligence of the Vendor, shall be made good at the Vendor's expense.

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#### 14. DRAWINGS

Columbus shall be provided with copies of all detailed manufacturing drawings relating to the Goods if applicable.

#### 15. DOCUMENTATION

All communications shall be in the English language and except where specified otherwise in the Order, the S.I. system of units of measurement shall be used.

#### 16. DISPOSAL OF WASTE

The Vendor is responsible to ensure that all waste generated by its activities while on site at Columbus is disposed of from the Columbus site, at its cost, in accordance with the applicable Environmental laws.

#### 17. WARRANTY

17.1. The Vendor warrants that:

17.1.1. The Vendor has the necessary expertise, qualifications, good title to and the absolute right to render the Services and/or sell the Goods free and clear of all liens and/or encumbrances whatsoever;

17.1.2. The Services and/or Goods shall comply strictly and completely with the provision of the Order, shall be of the highest standards, new, best quality and description, fit for Columbus' purpose as expressed in the Order and free from defects in design, workmanship or materials.

17.2. The Vendor shall guarantee the Services and/or Goods for a period of twelve (12) months from the date of Acceptance against any defect in the Goods caused by or due to faulty or defective design, workmanship or materials or any act or omission of the Vendor. The Vendor's warranties shall survive any inspection, delivery acceptance, payment or termination of the Order by Columbus.

17.3. In the case of spare parts supplied as part of the Goods, the liability period for defects shall be twelve (12) months from the date of each such spare part being placed into service.


17.4. In the case of Service Exchanges supplied, the liability period for defects shall be six (6) months from the date of such Service Exchange being placed into service.

17.5. Columbus shall notify the Vendor of any defect in the Service and/or the Goods or any portion thereof. The Vendor shall, with all speed, rectify the Services, repair or replace the deficient Goods or portion thereof at the Vendor's own cost and expense (including packing, removal, transportation, installation and insurance). The Vendor shall also reimburse to Columbus all costs and expenses incurred by Columbus in respect of or in connection with any such replacement or repair.

17.6. In the event of any rectification of the Services and/or replacement or repair of the Goods or any portion thereof, the liability period for defects in terms of this Clause 17 in respect of such portion of the Services rectified and the Goods so replaced or repaired, shall extend for twelve (12) months from the date of such replacement or repair or the passing of tests (if any), whichever is appropriate.

17.7. Should the Vendor fail to promptly rectify the Services and/or replace or repair defective Goods or any portion thereof, after its receipt of notice from Columbus to do so, Columbus shall have the right to remedy or proceed to have the said defect remedied at the Vendor's risk, cost and expense, which may be set off against any amount becoming due to the Vendor by Columbus, or if no such amounts are due, the Vendor shall pay to Columbus the cost of such work on demand.

17.8. If any replacement or repair is of such a character as may affect the efficiency of the Services and/or the Goods or any portion thereof, Columbus shall, within one (1) month of such replacement and/or repair, give the Vendor notice in writing, requiring that tests be immediately performed in accordance with the requirements of the Order and at the Vendor's cost and expense.

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17.9. Columbus is at all times relying upon the skill and knowledge of the Vendor. If Columbus specifies required performance values in the Order and the Services and/or Goods under normal use and operation fail to achieve such performance values at any time within the liability period referred to in this Clause 17, such failure shall be deemed to be a defect within the meaning of this clause.

## 18. INDEPENDENT CONTRACTOR

The relationship, which the Vendor and its sub-contractors hold to Columbus, is that of an independent contractor.

## 19. USE OF COLUMBUS' NAME, TAKING OF PHOTOGRAPHS AND PUBLICITY

The Vendor shall not use or disclose Columbus' name or take any photographs for any advertising, media-related or publicity material, nor make any form of representation or statement in relation to the Order which would constitute an expressed or implied endorsement by Columbus of any commercial product or service, or authorize others to do so without having obtained prior written authorization from Columbus.

## 20. RISK

All responsibility for any loss or damage whether total or partial, direct or indirect, from whatsoever cause including all environmental liability shall lie with the Vendor, until the Goods have been delivered and Services have been completely rendered by the Vendor to the satisfaction of Columbus and have been accepted by Columbus.

## 21. OWNERSHIP

The ownership of the Goods shall transfer to Columbus on receipt of the Goods by Columbus.

## 22. LIENS

- 22.1. The Vendor hereby waives all and any rights of retention and possession for payment of monies, for compensation for improvements, liens or for any other cause whatsoever which, but for this Clause, the Vendor would have had. The Vendor will ensure that each sub-contractor engaged by him does so as well.
- 22.2. The Vendor will ensure that all materials, articles, equipment, Services and labour used by the Vendor and his sub-contractor in executing the Services and/or delivering the Goods are timeously and promptly paid for. The Vendor will at its own expense keep the Goods and Columbus' property free of any lien and right of retention or possession.


## 23. INDEMNITY

The Vendor hereby holds harmless and indemnifies Columbus from all liabilities, claims, costs, (including reasonable attorney's fees) expenses, damages, injuries, death, demands and proceedings caused by or arising out of or incidental to failure of the Vendor to perform its obligations in terms of the Order.

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## 24. INSURANCE

- 24.1. The Vendor shall procure and maintain until the fulfillment of all its obligations under the Order, the following minimum insurances acceptable to Columbus:
- 24.1.1. adequate insurance to cover the full replacement value of the Goods until the Goods have been delivered and Services have been completely rendered by the Vendor;.
  - 24.1.2. Any insurance which may be required by law or with respect to the Vendor's employees.
  - 24.1.3. Insurance in respect of legal liability for accidental death or injury to third parties (which includes subcontractors or workmen of the Vendor) or damage to the property of third parties arising out of and occurring during the execution of the Services in terms of this Order;
- 24.2. At the request of Columbus, the Vendor shall produce the certificates of insurance that the Vendor is required to procure, in accordance with 24.1

## 25. LOSS / DAMAGE

- 25.1. Provided that the Vendor is responsible for transport, Columbus shall advise the Vendor of any visible loss or damage in transit to the Goods within the following time limits:
- 25.1.1. Partial loss, damage, defects or non-delivery of any separate part of a consignment shall be advised within a reasonable period of the date of delivery of the Goods or partial delivery of the Goods. Where Goods have been packed by the Vendor for transport and storage, this period shall be extended until such packing has been opened and the Goods inspected by Columbus at Columbus' site.
  - 25.1.2. Non-delivery of whole consignment shall be advised within a reasonable period of dispatch.
- 25.2. Any loss of or damage to, or defect in, or non-delivery of the Goods, shall be made good by the Vendor without delay and free of additional charges to Columbus.
- 25.3. Any damaged, defective or short supplied items shall be deemed not to have been delivered in terms of the Order.

## 26. ASSIGNMENT


- 26.1. The Order shall not be ceded, transferred or assigned by the Vendor or sub-let as a whole, unless Columbus has consented thereto in writing. Columbus' consent, may be given, unconditionally or subject to such Conditions as Columbus thinks fit.
- 26.2. The Vendor shall not be entitled to cede the right to claim payments in respect of any amounts payable to the Vendor by Columbus, to any other Party, without Columbus' express consent in writing, which consent shall not be unreasonably withheld.
- 26.3. In considering whether it should consent to a cession as provided for in clause 26.2, Columbus is entitled to require that both the Vendor and the third party cessionary provide it with original letters, and such other documents as Columbus may require to satisfy itself that the Vendor genuinely intends to cede its rights in respect of any amounts payable by Columbus to such third party cessionary.

## 27. TERMINATION

- 27.1. Either Party may terminate an Order with immediate effect by notice in writing to the other Party if the other Party commits or is the subject of an Act of Insolvency.
- 27.2. In addition to the provisions of 27.1 above, should the Vendor commit a breach of any of the Conditions in the Order or in this Agreement and fail to remedy such breach within 7 (seven) days of receipt of a written notice from Columbus requiring the breach to be remedied, Columbus shall be entitled to cancel and

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terminate the Order, without payment of any compensation to the Vendor for any damages whatsoever including loss of business and/or damages resulting from such cancellation.

27.3. Any cancellation in terms of this clause 27 shall take effect from the date of the written notice of cancellation.

## 28. TERMINATION BY COLUMBUS

28.1. Without prejudice to any of Columbus' rights or remedies provided hereunder or otherwise, and notwithstanding anything contrary contained herein, Columbus reserves the right to terminate any Order on (30) thirty days written notice to the Vendor to that effect without payment of any compensation to the Vendor for any damages whatsoever including loss of business and/or damages resulting from such cancellation.

## 29. CONFIDENTIALITY

29.1. All information relating to trade secrets, systems, specifications, plans, drawings, process information, patterns, designs, manufacturing techniques, methods of production, samples, devices, formulae, know how, information concerning materials, marketing, information in respect of customers and suppliers, information which comes to the knowledge of Vendor in the performance of the Vendor's duties in terms of this Agreement, all information generally concerning business affairs and other related materials in which Columbus has an interest in being kept confidential, hereinafter referred to as confidential information shall be kept secret and confidential by the Vendor.

29.2. The Vendor agrees to protect the confidentiality of the confidential information with the same degree of care with which the Vendor will protect their own confidential information.

29.3. All confidential information shall remain the property of Columbus; and shall not without the written consent of Columbus be published or disclosed to any third party, or used by the Vendor for any other purpose other than exclusively for the implementation of the Order.

29.4. The Vendor agrees to surrender the Confidential Information to Columbus, upon demand and upon termination of this Agreement

29.5. This clause shall survive the termination of the Order and this Agreement, and shall remain in force indefinitely.

29.6. The foregoing provisions of clauses 29.1 to 29.5, both inclusive, shall apply mutatis mutandis to the protection of the Vendor's Confidential Information and Columbus' responsibilities and obligations in that regard.

## 30. DATA PROTECTION

### 30.1. Definitions

30.1.1. Data Privacy Legislation: means any and all laws relating to the Protection of Data or Personal Information, including POPIA;

30.1.2. Personal Information shall have the meaning ascribed to it in chapter 1 of POPIA;

30.1.3. POPIA means the Protection of Personal Information Act No.4 of 2013, as amended from time to time, including any regulations and or code of conduct made under the Act;


30.1.4. Process or Processing shall have the meaning ascribed to it in Chapter 1 of POPIA.

30.2. Columbus adheres to the provisions of SA Data Privacy Legislation. Kindly refer to Columbus' data privacy statement at <https://www.columbus.co.za/about/informationsecurity.html>

30.3. By signature to this Agreement, the Vendor consents to the processing of their Personal Information in line with Columbus' data privacy statement.

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### 31. INTELLECTUAL PROPERTY RIGHTS


- 31.1. The Vendor warrants that the Goods/Services or any portion or combination thereof required under the terms of the Order, will not infringe upon any patent, registered design, trademark or copyright or other protected rights and hereby indemnifies Columbus against any action, claim or demand, costs or expenses, arising from or incurred by reason of any infringement or alleged infringement or other protected rights in respect of the Goods and/or Service or any portion or combination thereof, or any other arrangement, system or method of using, fixing or working the same authorized or recommended by the Vendor.
- 31.2. Columbus shall be entitled to ownership of any discoveries, inventions and improvements, whether patentable or not, and to any designs, whether registrable or not, concerning the subject matter of the Order or matters incidental thereto made by any officer, sub-contractor or employee of the Vendor in the performance of the Service and/or Goods as a result of these Conditions.

### 32. FORCE MAJEURE

- 32.1. Save to the extent that such liability is covered in terms of appropriate insurance cover, neither Party shall be liable for inability to perform, or delayed performance in terms of the Order should such inability or delay arise from any cause beyond the reasonable control of that Party hereinafter referred to as a "Force Majeure" event.
- 32.2. For the purposes of this clause, a Force Majeure event shall without limitation to the generality of the foregoing, be deemed to include, strikes, lock-outs, accidents, fire, explosions, theft, war (whether declared or not), invasion, acts of foreign enemies, acts of God, hostilities, riot, civil insurrection, flood, earthquake, lightening, act of local or national government, martial law, or any other cause beyond the reasonable control of the Party.
- 32.3. In the event that any such delay occurs or is anticipated, the Party delayed or anticipating delays, shall promptly notify the other Party in writing of the delay and shall provide proof thereof by means of official certificates and/or attestations, legally authenticated, by not later than 10 (ten) days from the Party's first becoming aware of the Force Majeure event.
- 32.4. In the event of a delay, the Party delayed shall, at no cost to the other Party, exercise due diligence to shorten and avoid further delay and shall keep the other Party advised as to the continuance of the delay and steps taken to shorten or terminate the delay. The Vendor shall not in any event be entitled to additional or extra compensation for any losses whatsoever due to the causes or events described above.
- 32.5. During Force Majeure occasioned by the Vendor in which it is unable to supply the full quantity of the Goods/Services required by Columbus, the Vendor shall endeavor to acquire the Goods/Services from third parties while Columbus shall be entitled to obtain the shortfall from third parties until such time as the Vendor is again in a position to provide Columbus' requirements.
- 32.6. Should the Force Majeure continue for a period longer than 30 consecutive days, either Party may terminate an Order by means of a written notice to the other Party.
- 32.7. The Vendor warrants that it is not aware of any circumstances at this time, which would inhibit its ability to perform its obligations in terms of the Order.

### 33. MEDICAL EXAMINATION

- 33.1. The Vendor shall ensure that all its employees, sub-contractors and workmen who will be on Columbus' site for three months or longer and perform non plant specific duties will have a valid medical certificate which will include as a minimum:
- 33.1.1. • An evaluation of the employee's history and general and occupational health.
- Audiometric screening.
- Blood pressure measurement.

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- Urine analysis.
- Visual screening.
- A physical examination.

33.1.2. The medical certificate must be updated bi - annually.

33.2. The Vendor shall ensure that all its employees, sub-contractors and workmen who will be on Columbus' site for less than three months and perform plant specific duties will have a valid medical certificate which will include as a minimum:

- 33.2.1.
- An evaluation of the employee's history and general and occupational health.
  - Audiometric screening.
  - Lung function screening (peak flow).
  - Blood pressure measurement.
  - Urine analysis.
  - Visual screening.
  - A physical examination.

33.3. The Vendor shall ensure that all its employees, sub-contractors and workmen who will be on Columbus' site and perform plant specific duties for 3 months or longer will;

33.3.1. obtain a fit for work medical certificate from the Columbus on-site Occupational Health service provider at the cost of the Vendor,

33.3.2. undergo medical examination at the Columbus on-site Occupational Health service provider at the cost of the Vendor, annually.

33.4. It is the responsibility of the Vendor to ensure that the medical certificates are available for inspection by the Columbus SHE Manager as and when required.

33.5. All injuries to the Vendor's employees, sub-contractors and workmen that occur whilst on duty shall be dealt with and treated by the Columbus on-site Occupational Health service provider at the cost of the Vendor.


#### 34. STATUTES AND REGULATIONS

34.1. The Vendor will ascertain, comply with and observe strictly all applicable laws, statutes, ordinances, statutory provisions and regulations in connection with the execution of the Order, and will ensure that their employees and sub-contractors do so as well.

34.2. It is a condition precedent that the Vendor will not enter Columbus' site or commence work unless and until the Vendor, its sub-contractors and their respective employees, servants, agents, licensees and invitees has signed the written agreement in terms of the Occupational Health and Safety Act, 85 of 1993 and the National Environmental Management Act, No. 107 of 1998 and until the Vendor has received permission to do so from the applicable Columbus Manager, Engineer or Risk Control Incumbent.

#### 35. GOOD GOVERNANCE

Both parties and their representatives will have to comply with the obligations contained in this Agreement, as well as with all the applicable regulations, especially the regulations concerning money laundering and anti-corruption. The parties shall observe and respect the principles of the Global Compact Initiative. The said principles essentially concern the protection of human rights, minimum employment conditions, environmental responsibility and the prevention of corruption. Further information can be obtained at [www.unglobalcompact.org](http://www.unglobalcompact.org) with regard to the Global Compact Initiative.


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### 36. ANTI- BRIBERY AND CORRUPTION

- 36.1. Each Party represents that it is familiar with the Anti-Bribery Laws.
- 36.2. Each Party represents that the performance under this Agreement will be made in compliance with the Anti-Bribery Laws.
- 36.3. Each Party warrants that it and its Affiliates have not made, offered, or authorised and will not make, offer, or authorise with respect to the matters which are the subject of this Agreement, any payment, gift, promise or other advantage, whether directly or through any other person or entity, to any person (including a Public Official) where such payment, gift, promise or advantage would violate the Anti-Bribery Laws.
- 36.4. Neither Party shall make any unofficial payment to a Public Official to speed up an administrative process where the outcome is already pre-determined (facilitation payment) in the performance of its obligations in terms of this Agreement.
- 36.5. Each Party agrees to maintain adequate internal controls and to keep accurate and complete records that support the payments due and all transactions under this Agreement.
- 36.6. Each Party represents that, to the best of its knowledge and belief, and save as disclosed to the other Party, neither it nor any of its personnel has been investigated (or is being investigated in relation to any breach of the Anti-Bribery Laws by any law enforcement, regulatory or other governmental agency or has admitted to; or been found by a court in any jurisdiction to have engaged in, any breach of the Anti-Bribery Laws, or been debarred from bidding for any contract or business;. Each Party agrees that if, at any time, it becomes aware that any of the representations set out at in this clause is no longer correct, it will notify the other Party of this immediately in writing.
- 36.7. Each Party agrees to notify the other Party immediately upon receipt of any solicitation, demand or other request for anything of value relating to the subject matter of this Agreement where such payment, gift, promise or advantage would violate the applicable Anti-Bribery Laws.
- 36.8. Each Party further undertakes, that should it be notified by another Party of its concerns that there has been a violation of an anti-bribery clause, it shall cooperate in good faith with that Party and its representatives in determining whether such violation has occurred, and shall respond promptly and in reasonable detail to any notice from that Party, and shall furnish documentary support for such response upon that Party's request.
- 36.9. Each Party may request that the other Party provide a certification to the effect that neither it nor any of its Affiliates, directors, officers, agents or other representatives acting on its behalf in connection with the performance under this Agreement have engaged in any transaction or activity in violation of these anti-bribery clauses. Upon request a Party shall deliver such certification within 10 (ten) business days.
- 36.10. Each Party (the "Indemnifying Party") shall be liable for and shall indemnify, defend and hold the other (the "Indemnified Party") harmless to the maximum extent provided in law from and against any reasonable claims, losses, costs, fees, payment of interest, fines or other liabilities incurred in connection with or arising from the investigation of, or defence against, any litigation or other judicial, administrative, or other legal proceedings brought against the Indemnified Party by a regulator or governmental enforcement agency as a result of acts or omissions by the Indemnifying Party, its Affiliates, employees or entities acting on its behalf in violation of, or alleged violation of, the Anti-Bribery Laws.
- 36.11. Any breach of, or failure to comply with, the provisions in this clause shall be deemed material and shall entitle the non-breaching Party to terminate this Agreement forthwith.
- 36.12. The indemnity contained in this clause shall survive the termination of this Agreement.

### 37. SANCTIONS

- 37.1. Each Party represents that it is familiar with the relevant Sanctions imposed by the Sanctioned Authority and, to the extent which such Sanctions apply to a Party, its performance under this Agreement will be made in compliance with the applicable Sanctions.

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37.2. The Parties confirm that, to the extent that such Sanctions apply to the said Party, they have implemented and maintain in effect policies and/or procedures designed to facilitate compliance by the Parties, their respective directors, officers, employees and agents as well as their controlled subsidiaries, subcontractors, suppliers and customers with all applicable Sanctions.

37.3. Each Party confirms that it is not a Sanctioned Entity, not owned or controlled by a Sanctioned Entity and that, to the best knowledge of such Party, neither of its directors, officers, employees, or agents, or the directors, officers, employees, or agents of its subsidiaries, is a Sanctioned Entity.

37.4. To the extent permitted by law, the Vendor shall ensure that the Goods have no origin in, and are not transported through and has no destination in, a Sanctioned Country.

37.5. Neither Party shall be obliged to perform any obligations required by this Agreement if it would be in violation of, inconsistent with, or expose such Party to punitive measures under laws and regulations applicable to it relating to Sanctions.

37.6. Any Party shall be entitled, without incurring any liability, to terminate or suspend this Agreement with immediate effect if the performance of this Agreement is in any way restricted or prohibited by Sanctions.

### **38. APPLICABLE LAW AND JURISDICTION**

38.1. This Agreement is to be interpreted and implemented in accordance with the law of the Republic of South Africa.

38.2. The Vendor hereby consents to the jurisdiction of the Magistrate's Court in respect of all legal proceedings connected with the Order and these Conditions, notwithstanding that the amount of the matter in dispute exceeds the Magistrates' Court's jurisdiction.

38.3. Notwithstanding the foregoing, Columbus is entitled to institute proceedings against the Vendor in the High Court having jurisdiction in the matter.

### **39. INVALIDITY AND UNENFORCEABILITY**


All the provisions of the Order and this Agreement shall be severable and no provision shall be affected by the invalidity of any other provision of this Agreement.

### **40. NON-WAIVER**

No relaxation or indulgence granted by a Party to the other in regard to any of the conditions herein is deemed to be a waiver of any of the other Party's' rights nor is any such relaxation or indulgence deemed to be a novation of any of the conditions of the Order or this Agreement.

\_\_\_\_\_  
COLUMBUS

\_\_\_\_\_  
VENDOR

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#### 41. WHOLE AGREEMENT

The Order together with this Agreement constitutes the whole and entire agreement between the parties and supersedes any previous written or oral agreements, representations or warranties between the parties on the subject matter covered in this Agreement. Any amendment to this Agreement will be effective only if the amendment is in writing and signed by both parties.

SIGNED AT \_\_\_\_\_ ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_ FOR AND ON  
BEHALF OF \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
NAME OF SIGNATORY

\_\_\_\_\_  
NAME OF SIGNATORY

\_\_\_\_\_  
CAPACITY OF SIGNATORY  
DULY AUTHORISED

\_\_\_\_\_  
CAPACITY OF SIGNATORY  
DULY AUTHORISED

SIGNED AT MIDDELBURG ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_ FOR AND ON  
BEHALF OF COLUMBUS STAINLESS (PTY) LTD

\_\_\_\_\_  
C. KRITZINGER  
MANAGER: SUPPLIER MANAGEMENT

\_\_\_\_\_  
J.P. VAN DER WALT  
GENERAL MANAGER: PROCUREMENT