



HARNESSING NATURE'S TECHNOLOGY

STANDARD TERMS AND CONDITIONS OF SALE – BIOZONE MANUFACTURING (PTY) LTD

1. DEFINITIONS

- 1.1 “The Company” and/or “the Seller” means Biozone Manufacturing (Pty) Ltd;
- 1.2 “The Purchaser” and or “Buyer” means the party who has placed an order with the Company, or any person with whom the Company contracts as a result of any offer to purchase Product(s) or Service(s) from the Company, and includes the Purchaser’s representatives, successors and permitted assigns.
- 1.3 “Contract” or “Order” means any contract or agreement arising out of the acceptance of any offer to purchase Product(s) or Service(s) from the Company, whether such Contract arises as a result of:
- 1.3.1 an offer made by the Company and accepted by the Purchaser; or
 - 1.3.2 an offer made or order placed by the Purchaser and accepted by the Company; or
 - 1.3.3 an offer made or order placed by the Purchaser in response to a quotation from the Company.
- 1.4 “Goods”, “Product(s)” and/or “Service(s)” means the subject matter of the Contract, as supplied or to be supplied by the Company.
- 1.5 “List Price” – is the latest official price of the Product(s) as quoted in the companies price list or quote.

2. ORDERS AND ACCEPTANCE

- 2.1 These terms and conditions shall apply to any Contract in terms of which the Company agrees to sell Product(s) and/or Service(s) and/or Installation(s) to the Purchaser, to the exclusion of any terms and conditions which the Purchaser may seek to make applicable.

- 2.2 The acceptance of any order is subject to the availability of the Product(s) at the date of acceptance.
- 2.3 A Contract shall come into existence when the Company accepts an order placed by the Purchaser for delivery of Product(s) and/or Service(s) or when the Purchaser accepts any offer to sell, or requests a quotation for delivery Product(s) and/or Service(s) marketed by the Company by conveying such acceptance, whether verbal or written, to the Company.
- 2.4 In the event of any offer, order, acceptance of an offer or order by the Purchaser being made or given on the Purchaser’s official order form, the Purchaser shall be estopped from denying the validity thereof, notwithstanding the fact that such official order form may have been given or signed by a person not authorized thereto by the Purchaser.

3. PURCHASE PRICE

- 3.1 The purchase price payable by the Purchaser for the Product(s) and/or Service(s) shall be the Company’s List Price for such Product(s) and/or Service(s) at the date of dispatch of the Product(s) and/or Service(s), unless otherwise agreed to in writing by the Company.
- 3.2 The Company reserves the right to vary its list prices from time to time without notice to the Purchaser.
- 3.3 In an instance where the Company’s list prices are varied in accordance with 3.2 above between the date of the Contract and the date of the delivery of the Product(s) and/or Service(s), then the Purchase price for such Product(s) and/or Service(s) will be determined according to the Company’s list price, as varied and applicable on the date of such delivery.
- 3.4 Any typographical, clerical, or other error or omission in any sales literature, quotation and price list, acceptance of offer, invoice, other document or any other information issued by the Seller shall be subject to correction without any liability.



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4. VAT

4.1 All List and or Purchase Prices do not include any Value Added Tax (VAT) which may be chargeable and any such tax must be added to the price where applicable. All VAT shall be paid by the Purchaser in addition to the purchase price.

5. DISCOUNTS

- 5.1 Prices are strictly nett, and are not subject to any discounts unless otherwise agreed to in writing by the Company.
- 5.2 The Company may in its discretion offer a settlement discount for accounts settled strictly within 30 (thirty) days of the date of statement.
- 5.3 If any discount is agreed to, it shall only be allowed if payment is received into the Company's bank account before or on the due date and shall only apply to the Company's list price for the Product(s) and/or Service(s).

6. DELIVERY

- 6.1 CARRIAGE: Carriage will be for the Purchaser's account.
- 6.2 Should the Company be requested by the Purchaser to deliver the Product(s) and/or Service(s) by an alternative method, any increase in the cost of such an alternative method of delivery shall be for the Purchaser's account.
- 6.3 Notwithstanding any provision in the Contract to the contrary, the Company's obligation to deliver the Product(s) and/or Service(s) shall in all cases be subject to:
 - 6.3.1 the availability of the Product(s);
 - 6.3.2 the timely receipt by the Company of any and all instructions required by the Company for the execution of the Contract.
- 6.4 WEIGHT: The Goods to be dispatched to the Purchaser / Customer shall be packed and weighed

by the Company before dispatch. The packed weight shall be marked on the Seller's packaging. Should the Purchaser elect not to weigh the Goods on receipt, then it is deemed that the Customer accepts the contents therein as declared by the Company. No claims for short delivery will be entertained unless the Purchaser proves that the Goods delivered were not of the weight declared on the packaging.

- 6.5 The Seller accepts no liability for any loss or damage resulting from delay in supplying Goods or Service(s) or for their non-supply, and any dates agreed for delivery or performance shall be regarded as estimated only.
- 6.6 Non-delivery of materials must be reported within 7 (seven) days of consignment/invoice date to allow for recovery. Failure to comply with this clause will imply that the Goods were delivered to the Purchaser and that the Risk has passed to the Purchaser.

7. ACCESS

- 7.1 Where the Seller is required to perform work at or on (pursuant to its obligations to provide the Service(s) or otherwise) or deliver goods to the Purchaser's premises or premises specified by the Purchaser, the Seller shall be given uninterrupted access and reasonable facilities during normal working hours for performance of the contract and the Buyer shall accept delivery of, unload, provide suitable protection for and keep secure all materials and goods delivered from time to time.

8. RISK

- 8.1 The risk in the Goods shall pass from the Seller to the Buyer upon delivery of the Goods to the Buyer.
- 8.2 Notwithstanding delivery and the passing of risk in the Goods to the Buyer, the title and property in the Goods, including full legal and beneficial ownership, shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full for

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- all Goods delivered to the Buyer under this and all other contracts between the Seller and the Buyer for which payment of the full price of the Goods there under has not been paid.
- 8.3 Payment of the full price of the Goods shall include the amount of any interest or other sum payable under the terms of this and all other contracts between the Seller and the Buyer under which the Goods were delivered.
- 8.4 Until such full payment, the Buyer acknowledges that they are in possession of the goods as the Seller's Bailee. The Buyer shall store the Goods separately from their own goods or those of any other person and in a manner which makes them readily identifiable as the Seller's Goods and shall endorse a memorandum on the Buyer's accounts referring to the Sellers title in the goods.
- 8.5 If payment is overdue the Seller may (without prejudice to any of their other rights) recover and/or resell the Goods and the Buyer hereby irrevocably licenses the Seller or their agents to enter upon any premises where they are stored or where they are reasonably thought to be stored for the purpose of such recovery and/or resale.
- 8.6 Payment shall become due immediately upon the commencement of any act or proceedings in which the Buyer's solvency is involved.
- 8.7 In the event of the Buyer purporting to sell the goods to a third party before payment has been made to the Seller any such proceeds of sale shall be received and held by the Buyer as the Seller's agent. The Buyer therefore acknowledges and agrees to stand in a fiduciary relationship to the Seller and must strictly account to the Seller the proceeds thereof.
- 8.8 In the event of deliveries being affected by a recognized carrier, then the risk in and to the Product(s) shall pass to the Purchaser upon delivery thereof by the Company to such recognized carrier/depot.
- 8.9 If more than one delivery is to be made in terms of a Contract, then the provisions of this clause 6 apply to each delivery.
- 8.10 Should the Purchaser elect to have delivery by an alternative method in terms of clause 6.1 then the risk in and to the Product(s) so delivered shall pass to the Purchaser upon dispatch of such Goods from the Company's premises.
- 9. PAYMENT**
- 9.1 Payment of accounts is to be net 30 (thirty) days after the date of the Seller's invoice.
- 9.2 The full purchase price is payable, without deduction or set off of whatever nature, within 30 (thirty) days of the date of statement, unless otherwise agreed to in writing by the Company.
- 9.3 Should the Purchaser fail to make any payment on due date, then all amounts outstanding, from whatever cause, whether or not the date for payment thereof has arrived, will immediately become due and payable by the Purchaser to the Company.
- 9.4 Any amount not paid by the Purchaser to the Company on due date shall bear interest from due date to the date of final payment at the maximum rate permissible from time to time, in terms of the Usury Act Number 73 of 1968 (as amended), or any other applicable South African legislation.
- 9.5 In the event of action being instituted by the Company against the Purchaser for the enforcement of the Company's rights in terms of any Contract, then the Purchaser shall be obliged to pay the Company's cost of such action on an attorney and own client's scale including any collection commission payable in terms of South African Law.
- 9.6 If the Buyer fails to make due payment of any money owed by it to the Seller on whatever account, the Seller may withhold delivery of all or any part of any Goods, Product(s) sold to the Buyer and/or performance of any Service(s) to be rendered to the Buyer until payment in full of all money then due, and during such time any goods so withheld shall be at the sole risk of the Buyer.



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10. RETENTION OF OWNERSHIP AND TITLE

10.1 Ownership of Product(s) sold in terms of the Contract shall remain vested in the Company and shall not pass to the Purchaser until the purchase price is paid in full, and until such payment has been made, the aforementioned Product(s) and/or Service(s) shall not in any way be hypothecated or pledged.

10.2 Where the Product(s) are to be stored at leased premises the Purchaser hereby undertakes promptly to inform the Lessor that the Company has retained the right of ownership over all Product(s), which are the subject matter of the Contract.

11. DISCLAIMER

11.1 The Company shall under no circumstances be liable for any loss of profit or any damages whether direct or indirect, consequential or otherwise, sustained by the Purchaser arising from any cause whatsoever, including any damages arising as a result of the negligence of the Company, its servants, agents and sub-contractors save that the Company shall be liable for a period of 1 (one) year to replace defective Product(s).

11.2 Insofar as any of the Company's obligations in terms of the Contract are carried out by its servants, agents for subcontractors, the provisions of paragraph 11.1 are stipulated also for their benefit.

12. WARRANTIES AND CLAIMS

12.1 All Contracts are executed by the Company without any warranty, express or implied, that the Product(s) and/or Service(s) will be suitable for use for any specific purpose, or under any specific conditions or under abnormal or unusual conditions or circumstances, notwithstanding the fact that such purpose, conditions or circumstances may be known to the Company. No representation is made nor warranty given to the Purchaser as to the performance of other qualities of the Product(s) sold.

12.2 The Company retains the right to vary or alter the specifications of the Product(s) without notice, save that

such varied or altered specifications will not, without the Purchaser's consent (which may not be unreasonably withheld) be applicable to Contracts already in existence.

12.3 The Purchaser shall have no claim of any nature whatsoever against the Company by reason of any delay by the Company in effecting delivery of Product(s) and/or Service(s) on any date or dates that may be specified in the Purchaser's order, or within a reasonable time in those cases in which no such date is specified.

12.4 No objection or claim in respect of Product(s) and/or Service(s) delivered will be entertained unless:

12.4.1 it is endorsed on the delivery note or waybill at the time of delivery at the Purchaser's place of business; and

12.4.2 it is made in writing to both the Company and the carrier affecting delivery within 7 (seven) days from the date of dispatch of the Product(s).

12.5 Should the Purchaser not have endorsed the delivery note of waybill in terms of 9.4.1 and objected in writing in terms of 9.4.2, then the Purchaser will be deemed to have received delivery of each and every item reflected on such delivery note or waybill.

13. SUSPENSION OF THE COMPANY'S OBLIGATIONS

If any amount payable by the Purchaser is not paid on due date, then without prejudice to any other right which it may have in terms hereof, the Company may immediately suspend the carrying out of its then uncompleted obligations in terms of any Contract until payment is made in full by the Purchaser.

14. RETURN OF GOODS

14.1 The Company does not accept the return of Product(s), other than Product(s) delivered in error or not corresponding with the specifications in the Contract. Such

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Product(s) may be returned to the Company after agreement by the Company in writing, at the Company's expense within 15 (fifteen) days of receipt thereof by the Purchaser. Invoice/document numbers must always be quoted when a request for a credit for such Product(s) contemplated herein is made.

14.2 All goods returned will be in the same condition as when originally delivered by the Company. Failure to comply with this requirement will nullify any further claims for credit against the Company

14.3 The Company may in its sole discretion and subject to such conditions or charges as it may impose, agree in writing to accept other returns. If it is determined that the returned Goods were returned without prior authorization or fault due to the Company, then a 15% (fifteen percent) handling fee will be charged.

14.4 Product(s) delivered in error or not corresponding with the specifications in the Contract will only be considered for credit to the Purchaser where such Product(s):

- 14.4.1 are returned undamaged to the Company within 15 (fifteen) days of receipt thereof by the Purchaser; and
- 14.4.2 are in their original packaging and have not been unpacked or used in part; and
- 14.4.3 are not defaced by price labels or other markings.

15. INSOLVENCY OF THE BUYER

15.1 This clause applies if:-

15.1.1 the Buyer makes a composition or voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) enters administration or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction), or a moratorium comes into force in respect of the Buyer; or

15.1.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or

15.1.3 the Buyer ceases, or threatens to cease to carry on business; or

15.1.4 the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

15.2 If this clause applies then, without limiting any other right or remedy available to the Seller, the Seller may cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods and/or Service(s) have been delivered or provided but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

16. SET-OFF

Set-off shall operate automatically as a matter of Law at the moment when reciprocal debts between the Company and the Purchaser come into existence, and independently of the will of the parties, and it shall not be necessary for the Company to specifically raise set-off advice.

17. FORCE MAJEURE

17.1 The Purchaser shall not have any claim of any nature whatever against the Company for any failure by the Company to carry out any of its obligations under the Contract as a result of vis major, including but without being limited to any strike, lock-out, shortage of labour or materials, delays in transport, accidents of any kind, any default or delay by any subcontractor or supplier of the company, riot, political or civil disturbances, the elements, any act of any State of Government, any delay in securing any permit, consent or approval required by the Company for the supply of Product(s) under the Contract or under any other authority, or any other cause whatever beyond the Company's control.

17.2 If the supply of Goods or materials or the provision of Service(s) is delayed or prevented by reason of (but not limited

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to) industrial action, breakage of machinery, Act of God or by any other reason whatsoever outside the reasonable control of the Seller, the period for completion of the contract shall be extended to such extent as is reasonable having regard to the circumstances.

18. APPLICABILITY

These terms and conditions shall apply to any Contract in terms of which the Company agrees to sell Product(s) and/or Service(s), to the exclusion of any terms and conditions which the Purchaser may seek to make it applicable.

19. WAIVER

19.1 No alteration or variation of these terms and conditions shall be of any force and effect, unless expressly agreed to in writing by the Company and signed by an authorized representative of the Company and the Purchaser.

19.2 Any latitude allowed by the Company shall not be construed as a relaxation or waiver of the Company's rights to enforce its rights at any stage.

19.3 No waiver by the Seller of any breach shall be treated as a waiver of any subsequent breach of the same or any other provision.

19.4 If any provision of the Conditions is held by a court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of the Conditions and the remainder of the provision in question shall not be affected.

20. GOVERNING LAW

20.1 This Contract is governed by the laws of the Republic of South Africa.

20.2 In terms of Section 45 of the Magistrates Court Act, No. 32 of 1944, (as amended), the Purchaser hereby consents to the jurisdiction of the Magistrates Court having jurisdiction in terms of Section 28 of the said Act in respect of

any action to be instituted against the Purchaser by the Company in terms of the Contract. It shall nevertheless be entirely within the discretion of the Company as to whether to proceed against the Purchaser in such Magistrates Court or any other court having jurisdiction.

21. CHANGE OF ADDRESS AND OWNERSHIP

The Purchaser shall give written notice to the Company forthwith upon any change of address of the Purchaser:

21.1 within 7 (seven) days of any change of ownership of the business of the Purchaser or any transaction affecting the majority shareholding of the Purchaser where the Purchaser is a Company and affecting the majority member's interest where the Purchaser is a Close Corporation.

22. GENERAL

22.1 The Seller shall not be liable to the Buyer for any loss arising from or in connection with any representations, agreements, statements or undertakings made prior to the date of the Contract with the Buyer, other than those representations, agreements, statements and undertakings confirmed by a director of the Seller in writing.

22.2 The Buyer shall not be entitled to assign the Contract and any obligations arising therein, without the specific written consent of the Seller.