

STANDARD CONDITIONS OF AGREEMENT TECHNECO / ECOBOND SOIL BINDERS

1. It is recorded that this agreement:
 - 1.1. is the entire Agreement between the Customer and Techneco (Pty) Ltd. (hereinafter called Techneco) and that no alterations or additions to this Agreement; is of any effect unless reduced to writing and signed by the customer and on behalf of Techneco;
 - 1.2. governs all future contractual relationships between the parties;
 - 1.3. is applicable to all existing debts and future debts between the parties;
 - 1.4. is final and binding and is not subject to any suspensive or resolutive conditions;
 - 1.5. expressly excludes any conflicting conditions stipulated by the customer;
 - 1.6. supersede all previous conditions of Agreement without prejudice to any securities or guarantees held by Techneco; and
 - 1.7. applies to all servants and subcontractors of Techneco.
- 2.1 This Agreement only becomes final and binding on receipt and acceptance of any order by Techneco at its business address in Pretoria.
- 2.2 Any order only becomes final and binding on receipt and acceptance of any order by Techneco at its business address per 2.1
3. The customer acknowledges that it does not rely on any representations made by Techneco in regard to the goods and services or any of its qualities other than those contained in this Agreement. All specifications, price lists, performance figures, advertisements, brochures and other technical data furnished by Techneco in respect of the goods or services orally or in writing will not form part of the Agreement in any way.
4. It is recorded that:
 - 4.1. neither Techneco nor any of its employees will be liable for any negligent or innocent misrepresentations made to the customer;
 - 4.2. it is the sole responsibility of the Customer to determine that the goods or services ordered are suitable for the purposes of intended use;
 - 4.3. the customer shall pay all additional costs resulting from any acts or omissions by the Customer including suspension of work, modification of requirements, failure or delay in giving particular requisites to enable work to proceed on schedule or requirements that work be completed earlier than agreed; and
 - 4.4. Techneco retains the right, at its sole discretion, to provide alternative goods of the same quality and quantity at the prevailing prices to those ordered by the Customer should such good be superseded, replaced or their manufacture terminated.
5. All final quotations:
 - 5.1. remains valid for a period of 30 days from the date of the quotation or until the date of issue of a new Price List, whichever occurs first;
- 5.2. are subject to correction of good faith errors by Techneco and the prices quoted are subject to any increases in the cost price, including currency fluctuations, of Techneco before acceptance of the order. If the Customer disputes the amount of increase, the amount of the increase may be certified by any independent auditor and such certificate shall be final and binding on the Customer.
6. The Customer hereby confirms that the goods or services on any Tax Invoice issued duly represent the goods or services ordered by the Customer at the prices agreed to by the Customer and, where delivery/performance has already taken place, that the goods or services were inspected and that the customer is satisfied that these conform in all respects to the quality and quantity ordered and are free from any defects.
7. All orders or agreed variations to orders, whether oral or in writing, shall be binding and subject to these standard conditions of Agreement and may not be cancelled.
8. Techneco shall be entitled in its sole discretion to split the delivery / performance of the goods or services ordered in the quantities and on the dates it decides.
9. Techneco shall be entitled to invoice each delivery / performance actually made separately.
10. Any delivery note or waybill (copy or original) signed or received by the Customer or third party engaged to transport the goods and held by Techneco shall be prima facie proof that delivery was made to the Customer.
11. The risk of damage to, destruction or theft of goods shall pass to the Customer on acceptance of any order placed in terms of this Agreement and the Customer undertakes to comprehensively insure the goods until paid for in full.
12. Delivery and performance times quoted are merely estimates and are not binding on Techneco.
13. If Techneco agrees to engage a third party to transport the goods, Techneco is hereby authorised to do so on the Customer's behalf and on the terms deemed fit by Techneco.
14. The Customer indemnifies Techneco against any claims that may arise from actions as provided for in clause 14 above.
15. All goods taken on consignment basis by the Customer are deemed sold if not returned on demand in the original condition, in the original packaging and with all accessories and manuals intact.
16. The Customer acknowledges all copyrights and shall not duplicate copyrighted material and each infringement attempt shall immediately render the full prevailing price payable to Techneco.
17. The Customer indemnifies Techneco against any claims, costs and expenses arising out of the infringement of copyright, patent, trademark or design by the Customer.
18. Goods are sold voetstoots with no warranty against latent defects and all other guarantees including common law guarantees are hereby specifically excluded. Services carry no guarantee.
19. The Customer shall accept the validity of any test results it requisitioned and will be deemed to have been present at such test upon 7 days notice of such testing taking place.
20. Under no circumstances shall Techneco be liable for any consequential damages including loss of profits or for any delictual liability of any nature whatsoever.
21. Under no circumstances shall Techneco be liable for any damage arising from any misuse, abuse or neglect of the goods or services by the Customer.
22. Under no circumstances shall Techneco be liable if the goods is used under the incorrect weather conditions, e.g. if rain washes it away before it can set.
23. Delivery of the goods or services to the Customer shall take place ex factory or as specified in writing.
24. The Customer agrees to the amount contained in a Tax Invoice issued by Techneco shall be due and payable unconditionally cash on order.
25. The Customer agrees that the amount on the Tax Invoice is payable at the offices of Techneco or at such other place Techneco may designate in writing.
26. The risk of payment by cheque through the post rests with the Customer.
27. The Customer has no right to withhold payment for any reason whatsoever and agrees that no extension of payment of any nature shall be extended to the Customer.
28. The Customer is not entitled to set off any amount due to the Customer by Techneco against this debt.
29. The Customer agrees that the amount due and payable to Techneco may be determined and proven by a certificate issued and signed by any director or manager or member or partner of Techneco (whose authority need not be proven) or by any independent auditor. Such certificate shall be binding and shall be prima facie proof of the indebtedness of the Customer.
30. Any printout of computer evidence tendered by any party shall be admissible evidence and no party shall object to the admissibility of such evidence purely on grounds that such evidence is computer evidence or that the requirements of the Computer Evidence Act have not been met.
31. The customer expressly agrees that:
 - 31.1. no debt owed to Techneco by the customer shall become prescribed before the passing of a period of six years from the date the debt falls due; and
 - 31.2. if an account is not settled in full against order Techneco is entitled to immediately institute action against the Customer at the sole expense of the customer, or to cancel the Agreement and take possession of any goods delivered to the customer and claim damages. These remedies are without prejudice to any other right Techneco may be entitled to in terms of this Agreement or in law. Techneco reserves its right to stop supply immediately on cancellation or non-payment.
32. In the event of cancellation:
 - 32.1. the Customer shall be liable to pay:
 - 32.1.1. the difference between the selling price and the value of the goods at the time of repossession; and
 - 32.1.2. all other costs incurred in the repossession of the goods.

The value of repossessed or retained pledged goods shall be deemed to be the value placed on them by any sworn valuator after such repossession, and such valuation shall be conclusive proof of the value. If Techneco does not recover for any reason whatsoever, the value shall be deemed to be nil.
 - 32.2. The Customer irrevocably authorises Techneco to enter its premises to repossess any goods delivered and indemnifies Techneco completely against any damage whatsoever relating to the removal of repossessed goods
 - 32.3. Techneco is entitled not to produce any unpaid balance of a contract and to recover any loss sustained thereby from the Customer.
33. All goods supplied by Techneco:
 - 33.1. remain the property of Techneco until such goods have been fully paid for whether such goods are attached to other property or not;
 - 33.2. are not entitled to be sold or disposed of until fully paid and then only with the prior written consent of Techneco.
 - 33.3. are not to be allowed by the Customer to become encumbered in any manner prior to the full payment thereof and the Customer shall advise third parties of the rights of Techneco in the goods
 - 33.4. in the event of being of a generic nature and having become the property of the Customer by operation of law, the customer shall be obliged on notice of cancellation of the Agreement to retransfer the same quantity of goods in ownership to Techneco.
34. The Customer agrees to accept any quantity that does not exceed or fall short of the quantity ordered by no more than 10% as good and complete performance and may request to pay Techneco only the proportionate contract price for the actual quantity dispatched which request will not be unreasonably withheld.
35. The Customer shall be liable to Techneco for all legal expenses on the attorney-and-client scale of an attorney and counsel incurred by Techneco in the event of any default by the customer and/or any litigation in regard to the validity and enforceability of this Agreement. The Customer shall also be liable for any tracing, collection or valuation fees incurred as well as for any costs, including stamp duties, for any form of security that Techneco may demand.
36. The Customer agrees that Techneco will not be required to furnish security in terms of the Rules of the Magistrate's Court or in terms of the Rules of the Supreme Court.
37. No indulgence whatsoever by Techneco will affect the terms of this Agreement or any of the rights of Techneco and such indulgence shall not constitute a waiver by Techneco in respect of any of its rights herein.
38. The Customer hereby consents that Techneco shall have the right to institute any legal action in either the Magistrate's Court or the High Court at its sole discretion.
39. Any document duly presented to and accepted by or on behalf of the Customer is deemed to come to the notice of the Customer on the relevant date; if sent by fax, within 24 hours of being faxed to any of the customer's fax numbers or any director, member's or owner's fax number; if sent by overnight courier within 48 hours of being sent; or if sent by mail within 7 days of being sent.
40. The Customer chooses its address for any notification or service of legal documents or processes as the business address furnished to Techneco or the physical addresses (domicilium citandi et executandi) or any Director (in the case of a company), Member (in case of a close corporation) or of the Owner(s) or Partner(s).
41. The Customer undertakes to inform Techneco in writing within 7 days of any change of Director, Member, Shareholder, Owner or Partner or address or 14 days prior to selling or alienating the Customer's business and failure to do so will constitute a material breach of this Agreement.
42. The Customer hereby consents to the storage and use by Techneco of the personal information that it has provided to Techneco for establishing its credit rating and to Techneco disclosing such information to credit control companies, banks and other institutions involved in rating credit. The Customer agrees that Techneco will not be held liable for the good faith disclosure of any of this information to such third parties and that no further specific consent needs to be obtained for the transfer of such information to a specific third party.
43. The Customer agrees to the Standard Rates of Techneco for any goods or services rendered, which rates may be obtained on request.
44. The invalidity of any part of this Agreement shall not affect the validity of any other part.
45. Any order is subject to cancellation by Techneco due to Acts of God or from any cause beyond the control of Techneco, including (without restricting this clause to these instances): inability to secure labour, power, materials, or supplies, war, civil disturbance, riot, state of emergency, strike, lockout, or other labour disputes, fire, flood, drought or legislation.
46. Any order is subject to cancellation by Techneco if the Customer breaches any term of this Agreement or makes any attempt at compromise or if any liquidation order, sequestration order, or judgment is recorded against the Customer or any of its principals.
47. The Customer agrees that Techneco will be immediately and irrevocably released from any contractual damages and penalty obligations should any event in clause 45 or 46 occur.
48. This Agreement and its interpretation is subject to South African law and the customer consents to the exclusive jurisdiction of the South African Courts.
49. The above standard terms and conditions of Techneco are not exhaustive and several others e.g. safety, health, environment, quality control, methods of application, technical publications and other instructions, etc. conditions also apply and the client, associate and sub contractors agree to abide by these conditions, which conditions are available on request. Techneco reserves the right to amend such conditions as it may deem fit in its absolute discretion.