

COLAS SOUTH AFRICA PTY LTD

General Terms & Conditions for the Sale of Products and/or Application of Products (Works)

1. SCOPE AND VALIDITY OF QUOTATION

1.1 Our Quotation comprises of the Quotation letter and Specific Terms and Conditions mentioned therein, these General Terms and Conditions and any annexes or references hereto.

1.2 Our Quotation shall be the basis of any Contract made between Colas [subsidiary] and the Client and shall supersede any express or implied provisions of the Client's request for quotation or any other prior exchanges verbal or written between Colas [subsidiary] and the Client.

1.3 This Quotation shall be valid for a period of 30 days only.

2. DEFINITIONS

Under these General Terms and Conditions, the following terms shall have the meanings assigned to them hereunder:

"Anti-Bribery and Corruption Laws" shall mean any applicable anti-corruption conventions and legislation having global reach and introducing compliance obligations on companies to prevent bribery.

"Bribery" is to offer, receive, promise, give accept or solicit an undue advantage of any value as an inducement or reward for a person acting or refraining from acting in relation to the performance of that person's duties.

"Colas policies" shall mean all relevant Colas policies including but not limited to: "Colas Safety Golden Rules" and "Colas Rules of Conduct".

"Client" shall mean the person or firm who procures the Products or Works from Colas [subsidiary] as defined in the Quotation letter.

"Contract" shall mean the contract between Colas [subsidiary] and the Customer consisting of the quotation letter, these General Terms and Conditions and any Annexes hereto and the Customer's acceptance thereof.

"Product(s)" includes all goods and materials to be supplied under the Contract.

"Works" shall mean the application of products on site by Colas [subsidiary] as set out in the Contract.

3. HEALTH, SAFETY AND ENVIRONMENTAL PROTECTION

Colas [subsidiary] shall only supply or deliver Sale of Products/ Works providing the Client adheres to local and national Health, Safety & Environmental Laws & Regulations and Colas [subsidiary] Policies. Colas [subsidiary] reserves the right to suspend the Contract at any time in the event the

Customer does not comply with this condition. All associated costs of such suspension shall be charged to the Client.

4. PRICES, TAXES AND PAYMENT

4.1 Prices

The prices are stated for Sale of Products or Works to be provided in accordance with the provisions of the Quotation and prices are subject to adjustment as defined below.

4.2 Taxes

All prices quoted are exclusive of Value Added Tax, foreign taxes or border fees in the case of export, unless Incoterms are stated otherwise in the Specific Terms and Conditions.

4.3 Payment

4.3.1 Payment terms are cash on delivery unless stipulated otherwise in the Specific Terms and Conditions. In the event of the Client's credit limit or payment terms being reached/ exceeded, Colas [subsidiary] has the right to suspend all further Sale of Products/Works related this Quotation or any other Contract with the Client, until payment is received, without prejudice to Colas [subsidiary]'s right to terminate the remainder of the Contract and to recover all monies outstanding plus costs and damages.

4.3.2 Colas [subsidiary] shall be entitled to interest at ruling prime bank overdraft rate plus 5 (five)% and costs of recovery on any account not paid on or before due date. The Client shall not be entitled to withhold, deduct or set-off any amount from payments due to Colas [subsidiary] by the Client for any reason whatsoever, including any dispute that may be pending.

4.4 Adjustment of rates

All rates shall be subject to review as follows:

- Complete review if items are omitted or if the final individual quantities or overall value of order varies by more than 10%;
- Complete review if the original duration of Contract is exceeded;
- Change to envisaged no. of mobilizations/ minimum daily quantities/ sequence of Works stated in Specific Terms and Conditions;
- Effect of any changes in Law not reflected above;
- Monthly adjustment for any changes to the Base Price of bitumen SBS and Special Materials used at Base Month stated in the Specific Terms and Conditions including rise and fall resulting from any change of source of materials regardless of reason thereto and including importation when necessary. Bitumen, SBS and Special Materials content per product will be provided upon acceptance of Quotation;
- Monthly adjustment for Sales of Products or Works excluding bitumen, SBS and Special Materials contents shall be adjusted on a monthly basis in line with CPAF formula.

5. CONFIRMATION OF ORDERS

For Sales of Products, dates and time of supply and/or delivery shall be subject to receipt of confirmation of order at least 3 working days in advance and subject to availability of product.

Where products are collected, loading of products shall be at Client's risk and Colas [subsidiary] will not be liable for any damage whatsoever to Client's equipment or personnel that may occur within Colas [subsidiary] grounds. Furthermore, Colas [subsidiary] reserves the right not to load Client's equipment if loading thereof is deemed unsafe.

6. SUPPLY AND/OR DELIVERY OF PRODUCTS

6.1 Colas [subsidiary] will use its best endeavours to meet the dates requested for Sales of Products, but it is clearly understood and agreed that all times or dates of supply or delivery of Products quoted or subsequently agreed are business estimates only and do not constitute contractual undertakings by Colas [subsidiary] as to when supply or delivery will take place and Colas [subsidiary] shall not be liable in any way whatsoever for inability to meet supply or delivery dates.

6.2 When Sale of Products includes delivery by Colas [subsidiary], delivery of Product shall be made at pumpable temperature to the location set out in the Specific Terms and Conditions unless agreed otherwise between Colas [subsidiary] and the Client and subject to Client providing safe operational and environmental conditions for unloading and suitable storage facilities. The Client shall be given 2 hours to off-load, after which standing time will be charged accordingly if such delay results from the fault or negligence of Client or any third parties.

6.3 The date of delivery of the Products shall be the date specified in the Specific Terms and Conditions unless agreed otherwise between Colas [subsidiary] and the Client. In the absence of any date being specified, the Products shall be delivered as soon as practicable.

6.4 Colas [subsidiary] will only offload Products or execute Works subject to the presence of the Client's duly authorized representative, failing which delivery or Works may be aborted, and Colas [subsidiary] shall recover all costs incurred whether directly or indirectly in consequence thereof.

7. QUALITY OF PRODUCTS OR WORKS

7.1 Colas [subsidiary] warrants that on delivery, Product or Works shall conform with their description and any applicable Goods Specification stipulated in Quotation.

7.2 Colas [subsidiary] shall, at its sole discretion, repair or replace or refund the price of any defective Products/ Works providing:

- (a) the Client gives notice in writing within 72 hours of delivery of the Product or Works.

(b) Colas is given a reasonable opportunity of examining such Product/ Works.

7.3 Colas shall not be liable for the Products/ Works failure to comply with the warranty in Clause 7.1 if:

- (a) the Client makes any further use of such Products/ Works after giving a notice;
- (b) the defect arises because the Client failed to follow Colas [subsidiary]'s oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or good trade practice;
- (c) the defect arises as a result of Colas [subsidiary] following any drawing, design or Goods Specification supplied by the Client;
- (d) the Client alters or repairs such Products or Works without the written consent of Colas;
- (e) the defect arises as a result of fair wear and tear, willful damage, negligence, or abnormal working conditions; or
- (f) the Product or Works differ from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

7.4 Except as provided in this Clause, Colas [subsidiary] shall have no liability whatsoever to the Client in respect of the Products/ Works' failure to comply with the warranty.

8. TITLE AND RISK

Notwithstanding the delivery of any Products or Works to the Client, whilst responsibility thereof shall pass on to Client immediately upon delivery, ownership shall not pass to the Client until Colas [subsidiary] has received payment in full in respect of the said Product/ Works.

9. CANCELLATION OR SUSPENSION OF ORDERS

Should the Client cancel any order or part thereof, any costs incurred whether directly or indirectly in consequence of such cancellation shall be charged to the Client.

10. SOURCE OF MATERIALS

Colas [subsidiary] reserves the right to decide the source of all materials used as part of this quotation be it from any Colas branches, associated companies or third-party companies including import when necessary. Any rise and fall as a resulting of change of source for any reasons whatsoever shall apply as per Clause 3 above.

11. SPECIFICATIONS

All Products/ Works by Colas [subsidiary] shall be in compliance with COLTO, SABS, TG1 or Colas Proprietary Products Specification as relevant. However, for SBS modified binders, Colas does not guarantee compliance for the change in ring and ball softening point after ageing (RTFOT). A technical note is available on request for reference.

If the Product/ Works is supplied in accordance with a specification stipulated by the Client, Colas [subsidiary] does not warrant the suitability of such specification.

12. RENTAL OF STORAGE TANKS

When applicable, storage tanks solely for the storage of Products supplied by Colas [subsidiary] can be established on site and returned to Colas [subsidiary] at the Client's cost subject to availability thereof. The Client shall be responsible for maintaining these tanks in the condition in which they were delivered and for the safekeeping thereof including ensuring stable ground conditions in support of tanks, for informing Colas [subsidiary] of any movement of these tanks, for insuring these tanks against loss of any kind and for notifying Colas [subsidiary], should any third party lay claim to any of these tanks. A tank rental form will be signed for the mobilization and de-mobilization of each tank. Any damage to tanks whilst in the care of the Client for any reasons whatsoever shall be to Client's account.

13. TRANSPORT ACT

Delivery and application of all Products/ Works is subject to the availability of the necessary permits, certificates or exemption in terms of the national transport Laws or any similar, subsequent or other legislation in connection with the transportation of the product or services referred to in the Quotation, and Colas shall not be bound to any contract if such permits, certificates are refused, withdrawn or cancelled in respect of that Contract.

14. SPRAYING STANDARDS

A valid Calibration Certificate will be available for all spraying units operated by Colas [subsidiary]. All application of binders will be carried out within accepted tolerances as provided by COLTO (as amended from time to time). These tolerances do not apply to test runs Colas [subsidiary]'s operators might undertake whilst calibrating the machines or any hand spraying where machine application is not suitable.

Spray rates are strictly quoted at hot application rates as specified in the Quotation.

Binder variation rates will be based on hot application rates as instructed by the Client of project engineer.

15. ON SITE HEATING COSTS

In the event of it being necessary to maintain temperature after delivery for reasons beyond Colas [subsidiary] control, such temperature maintenance shall be done at the Client's cost. All spraying of binders will be undertaken at temperatures strictly in accordance with Colas [subsidiary] data sheet specification.

16. REMEASUREMENT AND VALUATION OF WORKS

The Sale of Products and Works are subject to remeasurement for valuation purposes. The scope of Sale of Products/ Works is strictly limited to the items as detailed and described in the Quotation.

17. WORKING HOURS

The Sale or delivery of Products/ Works will be carried out during normal weekday daytime working hours (Monday to Friday 0700-1700 with 1 ½ lunch/tea breaks). Should the Client require any Sale or delivery of Product/Works to be done outside these hours, this shall be subject to availability of resources and agreement of additional cost in advance.

18. ACCESS, PERMITS & TRAFFIC MANAGEMENT

The Client shall be responsible for providing suitable access to the Works site at all times and for obtaining all permits, wayleaves and the like including any fees thereof. The Client shall unless stated otherwise also be responsible for all traffic management, lighting and guarding of the Works.

19. SEQUENCE OF WORKS/ NUMBER OF MOBILIZATIONS/ MINIMUM DAILY QUANTITIES/ STANDING TIME

This Quotation assumes that all Works shall be executed in a continuous and uninterrupted manner with number of mobilizations and minimum daily areas being made available and duration as stated in the Specific Terms and Conditions. The Client shall compensate Colas [subsidiary] all additional costs that may be incurred as a result of changes to the foregoing working conditions/ outputs and duration of works including standing and additional time at rates stated in the Quotation.

Colas [subsidiary] shall therefore be entitled to an extension of time for completion of the works and to additional costs if the completion of the Works is delayed by any breach of the Contract by the Client, due to any delay on the part of the Client or due to any other event not attributable to the responsibility of Colas [subsidiary] including but not limited to force majeure and any change in the legislative requirements or regulations of any regulatory body or authority having jurisdiction over the project from the date of this offer.

20. RESPONSIBILITY FOR DAMAGE TO WORKS OR 3RD PARTY PROPERTY

Colas [subsidiary] shall accept no responsibility for any damage of whatsoever nature that may be caused to the Works or 3rd Party property during the curing period as may be applicable or following opening up to traffic. In the event of any such damage occurring, the necessary repairs will be to Client's account.

21. SUITABILITY OF QUALITY AND LEVELS OF EXISTING BASE LAYERS

Colas [subsidiary] shall not be responsible for design of layer works or suitability of the quality or levels of existing base layers. Where appropriate a joint level survey will be undertaken prior to Colas intervention and should additional thicknesses be required, cost implications thereof shall be agreed prior to Colas [subsidiary] intervention. Colas [subsidiary] shall not be responsible for any settlement or any other defects arising out of unsuitability of existing grounds conditions or prior layerworks done by others prior to Colas [subsidiary] intervention.

22. WEATHER CONDITIONS

Colas [subsidiary] shall be entitled to suspend any supply of Products or execution of any Works as a result of inclement weather conditions and to resume work when weather conditions are deemed suitable together with the necessary extension of time resulting therefrom. Colas [subsidiary] shall not be responsible for quality of work executed during inclement weather under the Client's insistence. The degree of inclemency entitling Colas to the provisions of this clause shall be at Colas [subsidiary] sole discretion taking into account the nature of supply/ Works.

23. CANCELLATION

Should the Client cancel any order after confirmation or dispatch, all associated costs shall be charged to the Client.

24. CUSTOMER COMPLAINTS

No complaints will be considered by Colas [subsidiary] regarding delivery, application rates, quantities of product delivered or quality of the product, unless written notification is received by Colas from the Customer within 72 (seventy-two) hours from delivery of the Goods/ Services/Works.

25. CONSEQUENTIAL LOSS

Under no circumstances whatsoever shall Colas [subsidiary] be liable for any direct or consequential damages arising out of defective Products/ Works or from any other cause whatsoever and the Customer indemnifies Colas [subsidiary] against all claims of whatsoever nature which may be made against Colas [subsidiary] arising from the use by any person of the product supplied or Works in terms hereof.

Colas [subsidiary]'s sole liability in respect of defective product or Works shall in Colas' sole discretion be either to replace such product or to refund the cost of such defective product or Works paid by the Client.

26. INDEMNITY

The Client shall indemnify and hold harmless Colas [subsidiary] from all claims or actions for damage to property, bodily injury or death suffered by any Colas [subsidiary] employees or third party caused in the course of this Contract by the acts of the Client, his employees or any subcontractor used by the Client.

27. FORCE MAJEURE

If Colas [subsidiary] is prevented from carrying out any of its obligations under the Contract by reason of force majeure (which, without detracting from the generality of the foregoing shall include acts of God, storm, flood, major breakdown of machinery, epidemic or pandemic, war whether declared or not, or warlike conditions, industrial action, labour unrest, civil commotion, economic upheavals, boycotts or embargoes, regulations or orders of any Government, any partial or total cessation in the freight facilities or any other state of affairs arising or being brought about which is outside the reasonable control of Colas[subsidiary]), the performance by Colas [subsidiary] of its obligations shall be suspended during the continuance of the aforesaid

circumstances to the extent of which it is so prevented from performing, provided always that a written notice shall be given by Colas [subsidiary] of any such inability and of the cessation thereof.

Colas [subsidiary] shall not be liable in any way for any delay or failure in the performance of its obligations under the Contract due to or resulting from force majeure.

28. RAW MATERIAL SHORTAGES

Colas [subsidiary] reserves the right to change the source of supply of petroleum based products and aggregates when supplies of such raw materials are curtailed or disrupted. The costs incurred by Colas [subsidiary] in this regard will be for the Client's account. Where applicable, this Quotation is based upon required supplies of petroleum-based products being freely locally available for the manufacture, supply, application and completion of the Contract.

If during the currency of the Contract there shall be a curtailment or disruption in the local supply of petroleum-based products outside the reasonable control of Colas [subsidiary] which materially affects the execution of the Contract, Colas [subsidiary] shall use its best endeavours to complete the execution of the Contract but shall be entitled to an extension of time for completion, and shall further be entitled to such reasonable adjustment of the amount of the contract price, regard being had to all material and relevant factors directly affected by such curtailment or disruption including Colas [subsidiary]'s site and general overhead costs of the Contract.

29. COMPLIANCE AND ANTI-CORRUPTION

29.1 The Client, its executives, employees, agents and any individuals or companies that may be involved in the execution and/or the performance of the Contract shall comply with Colas [subsidiary] Rules of Conduct, all applicable laws, rules and regulations, including but not limited to all local and international anti-corruption laws applicable to the performance of its obligations and activities under the performance of the Contract.

The Client shall not (and shall ensure that its employees, agents, representatives, sub-contractors and any other party related to this Agreement on behalf of the Client):

- a. Offer or give or agree to give to any director, officer, employee or agent of Colas any gift or consideration of any kind as an inducement or reward for doing or for forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the Agreement or any other contract with Colas or for showing or forbearing to show any favour or disfavour to any person in relation to this quotation or any other business with Colas.
- b. Induce or attempt to induce any officer, servant or agent of any private or public body to neither depart from his duties to his employer nor be involved with any such arrangement.

29.2 Any act of bribery or corruption by the Client or any of his employees, Subcontractors, agents, or any other party related to this quotation on behalf of the Customer may lead to immediate Termination of any agreements between Colas and the Client.

30. APPLICABLE LAW AND DISPUTE RESOLUTION

The construction and validity of this Quotation and performance of Contract arising therefrom shall be governed by the law of [Republic of South Africa] and the Client hereby consents to the jurisdictions of the Magistrate's Court having jurisdiction in terms of the Magistrate's Act in respect of any action or application arising out of or in connection with these conditions notwithstanding that the amount in issue may exceed the jurisdiction of such Court.