

**STANDARD TERMS AND CONDITIONS OF THE FOSCHINI GROUP LIMITED, ALL ITS SUBSIDIARIES AND ASSOCIATED COMPANIES IN AFRICA (HEREINAFTER "TFG") FOR LOCAL SUPPLIERS OF NON-MERCHANDISE GOODS AND SERVICES**

**Orders**

1. Purchase orders ("POs", "purchase order/s" or "orders") for the procurement of goods must be generated by TFG's procurement system (i.e Coupa). TFG shall not be bound by any orders that fail to comply with these requirements in any respect, and all TFG orders shall, subject to clauses 11 and 27 below, be subject only to the terms and conditions in this document.

**Supplier's Obligations and Warranties**

2. Upon confirmation of acceptance of any order, you acknowledge that you have accepted the TFG order subject to its, and these terms and conditions.
3. You undertake that you shall not accept and/or perform in terms of a TFG order, unless the goods which you intend to supply to TFG have been imported, purchased, obtained and/or manufactured by you, as the case may be, lawfully and in strict compliance with all applicable legislation, regulations, directives, guidelines and the like issued by any governmental or regulatory authority in the country of origin and destination, and you hereby warrant to and in favour of TFG that the goods have been so imported, purchased, obtained and/or manufactured, as appropriate. Without in any way limiting the foregoing, you warrant that the goods you supply to TFG do not infringe any of the relevant countries' import restrictions and regulations and that the correct tariff codes have been and will be used in relation to all such goods. You must inform TFG forthwith in the event of your non-compliance with this clause.
4. All goods must be delivered strictly in accordance with the TFG order (as updated and/or amended from time to time), these terms and conditions and TFG's delivery guideline manual/s. All goods shall be delivered together with a detailed delivery note in the manner and form as TFG may reasonably require. You warrant that the goods delivered are free from any defects whatsoever (including latent defects).
5. TFG and its representatives are entitled to access your books, records and documentation, premises, equipment and/or operations and/or information that relates and is relevant to your business conducted with TFG from time to time for the purposes of assessing your ability to supply goods, to monitor the performance of your duties, functions and obligations in terms hereof and your compliance with these terms and TFG standards. TFG shall determine the criteria to be used by TFG for the purposes of this process.

**Compliance**

6.
  - (a) You warrant that you comply with all applicable legislation and laws concerning the manufacture and distribution of the goods wherever TFG trades or conducts business, including all applicable environmental legislation, labour and workplace legislation, the National Road Traffic Act and Road Traffic Ordinances, and all other applicable national, regional or local statutory provisions, common law, rules and by-laws applicable to the carriage and distribution of goods in South Africa and anywhere TFG conducts business, road usage and road transport in general, and international laws/principles/recommendations governing human rights, the environment, labour and corruption such as the United Nations Global Compact principles.
  - (b) You undertake and agree that you will not engage in any anti-competitive conduct whereby competition is substantially prevented or lessened, including engaging in any cartel activities or conduct, and further as provided in the South African Competition Act.
  - (c) You warrant that you comply with all legislation concerning taxation, customs and excise, and revenue.
  - (d) You confirm that you have not been, and undertake and agree that you shall not be engaged in any act or omission proscribed in the South African Prevention and Combating of Corrupt Activities Act, the Prevention of Organised Crimes Act and any applicable international laws/principles/recommendations on corruption, such as the Organisation for Economic Co-operation and Development (OECD) recommendations, and further undertake that you shall comply with TFG's Code of Ethical Conduct insofar as it applies to suppliers, such as the giving of gifts to employees of TFG - a copy of the TFG Code is available on request.
  - (e) You warrant that you will at all times comply with the Protection of Personal Information Act (POPI) as it relates to the protection of personal information as defined in POPI, that comes into your possession arising from your supply of goods to TFG.
  - (f) If you, any of your owners, directors, shareholders or members have any relatives or family members employed by TFG, you warrant that you have disclosed this to TFG, including the full names of all relatives or family members employed by TFG. You warrant further that you have disclosed any vested interest that may be prejudicial to TFG which you, your owners, directors, shareholders or members have, whether direct or indirect. TFG shall determine whether such vested interest is prejudicial or not.
  - (g) Any and all electrical goods supplied by you to TFG comply with all relevant legislation and conform, at least, to the most up-to-date SANS/SABS requirements and standards. You agree that TFG is entitled to inspect certificates, letters of authority or other documents which you may be required to keep/obtain in terms of such standards/requirements.
  - (h) Any and all foodstuffs or cosmetics supplied by you to TFG comply with the relevant provisions of the Foodstuffs, Cosmetics and Disinfectants Act and regulations, and any other applicable legislative requirements, SANS/SABS (or higher) standards of quality and/or safety and, in addition that none of your goods are "prohibited articles" as defined in the aforementioned act.

7. You undertake and agree that you will not do anything or allow anything to be done which does, or is likely to prejudice the good name, reputation and business of TFG and that you will exercise the utmost good faith in your dealings with us. You further undertake and agree that you will not without TFG's prior written consent, at any stage during and for a period of 2 years after the termination of your relationship with TFG, make any offers of employment to, or appoint as a consultant or service provider, any permanent or part time employee of TFG.
8. By accepting an order or performing in terms of these terms and conditions, you cede and assign to TFG all your right, title and interest including but not limited to intellectual property rights in any artwork, design, work and/or concepts developed by you for and on behalf of TFG. You further undertake and agree that you will not during or after the expiry or termination of our relationship, without our prior consent, use or adopt any trade mark, trade name, trading style or commercial designation used by TFG, nor reformat, adapt, vary or modify TFG's intellectual property. You may not do anything that may affect our intellectual property rights. In particular, and without limiting the generality of the foregoing, you may not sell goods bearing TFG trademarks to third parties without TFG's prior written consent and without first removing all TFG trademarks and branding.
9. You undertake and agree that all and any information, documents, materials, knowledge, know how, trade secrets and proprietary interests vesting in and belonging to TFG disclosed to you which is not in the public domain, is confidential and may not be used or disclosed to any third party during the course of or after the termination of this agreement without TFG's prior written consent first being obtained.
10. You agree that if you fail to inform TFG of any non-compliance or defective compliance with any legislation, regulations, legal/legislative requirements or mandatory requirements as stipulated above, TFG is entitled to assume that you are fully compliant. You agree to inform TFG, without delay, of your failure to comply, in any respect, with any legislation, regulations, legal/legislative requirements or other mandatory requirements as and when such event arises.
11. These terms and conditions shall operate in addition to and shall, in no way derogate from any warranties that may be contained in your standard terms and/or which may be implied in law.

#### **Payment**

12. Your delivery notes and invoices must quote the applicable Coupa PO number as well as the relevant TFG entity and any other information, which TFG requires.
13. If your business is registered as a vendor for VAT purposes, your invoice must be a valid "Tax Invoice" and must comply with the requirements in section 20 of the VAT Act, as amended from time to time. Debit and credit notes must, similarly, comply with section 21 of the said Act.
14.
  - (a) All invoices must be submitted via TFG's Supplier Portal.
  - (b) Before accepting or approving of any supplier as a TFG "vendor" with whom it may conduct business, TFG undertakes various necessary reference and information validation checks. This includes contacting your bank to verify your banking details and obtaining confirmation that your bank accounts are in good standing. In addition, and to comply with its obligations under the Value Added Tax Act, TFG will contact SARS to confirm and verify your value-added tax reference number. It is a condition of doing business with TFG that you are in good standing with your bank and with SARS, and that the information you have provided to TFG is correct. Providing incorrect or false information to TFG will mean that TFG will not conduct business with you.
  - (c) In terms of the Protection of Personal Information Act, you hereby consent to TFG undertaking the checks in the aforementioned clause 14(b) and acknowledge that they are necessary to protect the legitimate interests of TFG and to comply with legislative requirements.
15. Subject to your due and proper fulfilment of all terms of the TFG purchase order and your compliance with these terms and conditions, payment will be made in accordance with the payment terms agreed with you in writing, where applicable at vendor onboarding, and as these may be updated from time to time. If the payment day falls on a Saturday, Sunday or South African public holiday, payment will be made on the first business day thereafter.

#### **Liability and Indemnities**

16. The risk in any goods ordered by TFG shall pass to TFG upon acceptance of delivery thereof. TFG shall signify its acceptance of delivery of the relevant goods by signing (by an authorised representative of TFG) the delivery note. Delivery notes must include the Coupa PO number. For the avoidance of doubt, such signature shall not be construed as confirmation by TFG that the goods have been received in good condition or otherwise in accordance with the TFG purchase order, but merely as acknowledgement of receipt and delivery thereof. The date on which the goods are delivered to TFG shall be the delivery date of the goods.
17. TFG will not be liable for any loss or damage resulting from non-compliance with any of these terms and conditions and you indemnify TFG from any and all such claims without limitation. Without limiting the generality of the foregoing, you indemnify TFG against any damages it may suffer in the event of it being held liable for the infringement of any copyright and/or trademark infringement in respect of goods supplied by you.

18. If either party is prevented, whether in whole or in part, or delayed from performing any of its duties, functions or obligations in terms hereof, whether timeously or at all, as a result of or arising from any contingency beyond its control, the obligation to perform shall be suspended to the extent and during the continuance of such prevention provided that the relevant party shall use its best endeavours to minimise any delay occasioned thereby.

#### **Claims**

19. (a) TFG shall be entitled to institute a claim against you arising from quality control problems, breach of your obligations in terms of this agreement, late deliveries, shortages, breakages and packaging issues as advised by TFG's Distribution Centres from time to time. All such claims are to be settled within 30 (thirty) days of the claim being instituted.  
(b) Claims shall be instituted in writing, detailing the problem and advising of the action required by TFG to remedy the problem. In the event of you requiring a sample of the goods subject to the claim, it will be sent to you.  
(c) Settlement of TFG claims may be made by you either by means of a direct deposit into TFG's nominated bank account, or alternatively by means of a credit note, the amount of which will be deducted from the next payment due to you by TFG, with the method of payment being decided by TFG in its sole discretion.

#### **Breach and Cancellation**

20. If you fail to comply in any respect with any of the TFG purchase order terms and conditions and/or these terms and conditions, TFG shall be entitled but not obliged, in its sole discretion and without prejudice to any rights, which it may have in law, to:  
(a) Refuse to take delivery of any/all goods until such time as you have duly complied with these terms and conditions and/or the TFG purchase order (the risk in and responsibility for such goods, including any storage, transport or other expenses incurred in respect thereof, shall remain yours until such full compliance); or  
(b) Accept delivery of any/all goods provided that, in either event, TFG shall be entitled to withhold payment of the whole or any part of the purchase price until such time as you have complied with the TFG purchase order and these terms and conditions.
21. If these terms and conditions are not acceptable to you in whole or in part, TFG reserves the right to cancel/withdraw any and/or all order/s.
22. Your failure to comply with all or any of these terms and conditions or any aspect of the TFG order will entitle TFG to cancel any and all orders current at the relevant time, in its sole discretion.
23. TFG may cancel any order by written notice to you to such effect should you commit an act of insolvency, be liquidated, whether compulsory or voluntary, or be placed under judicial management or business rescue.
24. TFG may in its sole discretion, having due regard to any prejudice that may be suffered by you, cancel any order placed.

#### **Alert Line**

25. If you become aware of any fraudulent (or potentially fraudulent) activity or any actual or potential abuse of human rights committed by TFG employees, your company or any other supplier to TFG, you agree to report it. You can do so, anonymously by contacting one of our Alert Line toll free numbers – depending on what country you are in:  
(a) 0800 118 444 (South Africa & Namibia)  
(b) 0800 600 828 (Botswana)  
(c) 002711 678 0822 (Ghana, Lesotho, Mozambique, Nigeria and Swaziland) (leave your contact number for TFG's Alert Line to call you back)  
(d) 00260 211 350360 (Zambia)  
You may call TFG's Alert Line at any time – 24 hours a day / 7 days a week and all calls will be treated in the strictest confidence.

#### **Broad-Based Black Economic Empowerment (BBBEE)**

26. TFG will regularly request information from you regarding your BBBEE status, including asking for your annual accredited BBBEE verification certificate and will include the completion of a BBBEE questionnaire. You undertake to promptly comply with all such requests and to provide information that is accurate, true and correct.

#### **General**

27. This document together with the relevant TFG purchase order and supplier manuals contains the entire agreement between you and TFG, and neither party shall be bound by any undertakings, representations, warranties, promises or the like not recorded herein, save for as provided in clauses 1 and 11 above.
28. The head notes to the paragraphs are inserted for reference purposes only and shall not affect the interpretation of any provisions to which they relate.
29. Any reference to the term "goods" or "products" shall mean non-merchandise goods and/or services as the case may be.

30. Any reference to you, the supplier, shall include your directors, members, officers, shareholders, employees, representatives and agents as the case may be.
31. No variation or purported variation hereof by any means whatsoever shall be of any force and effect unless TFG, in its sole discretion, has consented thereto in writing.
32. Despite anything to the contrary contained or implied in this document, TFG shall be entitled to amend these Terms and conditions in its sole discretion from time to time.
33. These terms and conditions or any agreement which arises from your acceptance of the TFG purchase order ("the agreement") shall be governed by and construed in accordance with the laws of the Republic of South Africa and you and TFG, hereby consent to the jurisdiction of the High Court of South Africa (Western Cape Division, Cape Town) in respect of all or any disputes which may arise between you both in relation to or arising out of the implementation of the agreement and/or these terms and conditions.
34. Any agreement which arises from your acceptance of TFG purchase orders and these terms and conditions shall endure for an indefinite period with a minimum of 3 years starting from the date of the first TFG order placed with you, provided that TFG may always, in its sole and absolute discretion, determine if and when orders are placed with you.
35. TFG shall be entitled to sell, cede, assign, delegate or in any other way alienate or dispose of any or all of its rights and obligations under and in terms of these terms and conditions or any agreement arising from your acceptance of the TFG order ("the agreement") to any other company/ies in the group, without prior notice to or approval from you. You shall not be entitled to sell, cede, assign, delegate or in any other way alienate or dispose of any or all of your rights and obligations under and in terms of these terms and conditions or this agreement without the prior written approval of TFG. Regardless of any subcontracting or outsourcing arrangement you may enter into, you:
  - (a) Will ensure that the relevant third party/ies binds itself to your obligations and warranties as set out herein; and
  - (b) Acknowledge and confirm that regardless of such arrangement, you will remain liable to TFG for the due performance of all obligations to TFG.
36. Any reference to an enactment, statute, regulation or other legislation is to that enactment, statute, regulation or other legislation as amended or re-enacted from time to time.
37. References to "days" shall mean days of the week, in other words, Monday to and including Friday unless a South African public holiday falls on a weekday in which case, that day shall not be counted as a weekday. In calculating "days", the first day shall be excluded and the last day included in the calculation.