



South Africa

Application to open an account with any of the Lafarge Subsidiaries in South Africa

**Full registered name of applicant / customer**  
**(Name registered with the Companies and Intellectual Property Commission)**

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**Trading name:**

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**Cement, Aggregates and Concrete**  
35 Westfield Road  
Longmeadow Business Estate  
Longmeadow, Extension 11, Edenvale  
Private Bag X26, Gallo Manor, 2052  
Telephone (011) 657-0000  
Facsimile (011) 657-1087/2222

**Gypsum**  
18 Barium Street  
Alrode, Extension 7  
Alberton, 1450  
P.O. Box, 167025  
Telephone (011) 865-2390  
Facsimile (011) 865-2398

**LAFARGE INDUSTRIES SOUTH AFRICA (PTY) LIMITED**  
(Reg. No. 2005/033309/07)

**CREDIT ASSESSMENT FORM**

Full registered name: .....

Trading name if different from above: .....

Street address: ..... Code: .....

.....

Postal address: .....

..... Code: .....

Telephone No: ..... Fax No: ..... Cell No: .....

Email address: .....

Name of ultimate Holding Company, if applicable: .....

.....

Is Annual Turnover of the Customer in excess of R 2 million?  YES  NO

Business Type:

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sole Proprietor	Partnership	Trust	Ltd	(Pty) Ltd	Close Corp	State Owned Entity

Registration No: ..... VAT Registration No: .....

Address of registered office: .....

..... Code: .....

Name and address of Auditors: .....

..... Code: .....

DETAILS OF SOLE PROPRIETOR / PARTNERS / DIRECTORS / MEMBERS / TRUSTEES				
	Full Name	Address	ID Number / Name of Company	Telephone Number
1.				
2.				
3.				
4.				

Accounts department contact name: .....

**CREDIT REFERENCES**

	Full Name	Address	ID Number / Name of Company	Telephone Number
1.				
2.				
3.				
4.				

Name of Banker: .....Branch:.....

Account Name: .....Account Number: .....

Details of security held by bank (surety, bond, cession, etc.): .....

Maximum credit limited required (est. value of two months purchases) R.....

I/We warrant that the information contained herein is true and correct in every respect. I/We undertake to notify *LAFARGE INDUSTRIES SOUTH AFRICA (PTY) LIMITED* in writing immediately of any change in this information. I/We am duly authorized to sign this application. I/We acknowledge that I/We have read and understood the terms and conditions attached hereto and agree that such terms and conditions shall be binding upon me/us/the company/close corporation in respect of all transactions entered into between myself/ourselves and *LAFARGE INDUSTRIES SOUTH AFRICA (PTY) LIMITED*.

I/We agreed that *LAFARGE INDUSTRIES SOUTH AFRICA (PTY) LIMITED* use the services and records of a registered credit bureau and other suppliers for information required in the original and future assessment of credit facilities. I/We agree that *LAFARGE INDUSTRIES SOUTH AFRICA (PTY) LIMITED* may disclose information regarding the applicant's credit worthiness and conduct of the account to any registered credit bureau and other suppliers to the industry.

Signed at: .....on.....

Name: .....Signature: .....Capacity: .....

**BUSINESS INFORMATION**

Nature of business? .....

Date business Commenced? ..... Years under present ownership? .....

In the case of a Trust/Sole Proprietor/Close Corporation:

Are Business premises  **OWNED**  **LEASED**  **RENTED**

**DETAILS OF FIXED PROPERTY IN THE CASE OF A TRUST / SOLE PROPRIETOR /  
CLOSE CORPORATION**

	In what name is the property registered?	Year Purchased	Current Market Value	Bond Holder	Bond Value
1.					
2.					
3.					

**Details of leased/rented property in the case of a Trust/Sole Proprietor/Close Corporation**

- Name and Address of landlord: .....
- Monthly rental R ..... Period of Lease: .....

**PLEASE TICK CORRECT ANSWER**

Has company/cc issued/signed any guarantees in favour of other creditors?  
.....  **YES**  **NO**

Have directors/members issued/signed any guarantees in favour of other creditors?  **YES**  **NO**

Have the principals ever been directors/members of a business that was liquidated?  
.....  **YES**  **NO**

Have your book debts been ceded?  **YES**  **NO** To Whom ..... Date Ceded .....

Are your latest financial statements available for inspection? .....  **YES**  **NO**

**PLEASE INDICATE BELOW WHICH FORM OF SURETY YOU ARE PREPARED TO PROVIDE LAFARGE WITH SHOULD IT BE NECESSARY TO SECURE THE CREDIT LIMIT YOU WANT TO APPLY FOR**

Please tick the box with your appropriate choice:

- Deed of suretyship where fixed property is recorded in either individual or trading capacity (cross guarantee)
- Bank guarantee
- Payment guarantee issued by a third party, eg a holding company , fellow subsidiary , family member , etc
- Collateral bond registered in our name
- Notarial bond registered in our name against moveable property
- Insurance policy cession
- Cession/letter of undertaking from developer/financial institution
- None of the above

**LAFARGE INDUSTRIES SOUTH AFRICA (PROPRIETARY) LIMITED**  
**(Registration No. 2005/033309/07)**

**(Cash and Credit Transactions)**

**STANDARD TERMS AND CONDITIONS APPLICABLE TO THE SALE OF GOODS AND THE PROVISION OF SERVICES**

The Company's quotation or tender for the sale of Goods and the provision of Services and any contract resulting therefrom shall be subject to the following terms and conditions which shall apply to the exclusion of all other terms and conditions, whether express or implied, unless the Company specifically agrees in writing to accept any variation hereto. The Customer, by accepting delivery of any Goods or the rendition of any Service pursuant hereto, acknowledges that no terms and conditions which the Customer purports to attach to its acceptance, nor any terms and conditions which might have been attached to the Customer's order, shall be binding on the Company the Customer agrees that all such conditions shall be deemed to have been substituted by these terms and conditions.

**SECTION A: STANDARD TERMS AND CONDITIONS APPLICABLE TO ALL TRANSACTIONS (GOODS AND SERVICES)**

**1. DEFINITIONS**

- 1.1. **"Agreement"** means the **Application** including the terms and conditions and any additions or amendments to this **Agreement**;
- 1.2. **"Application"** means the **Application** by the **Customer** to purchase **Goods** on credit or on non credit terms from the **Company** and that is attached to these terms and conditions;
- 1.3. **"COLTO"** means the Committee of Land and Transport Officers, a copy committee established by the Department of Roads and Transport of the Government of the Republic of South Africa;
- 1.4. **"Company"** means Lafarge Industries South Africa (Proprietary) Limited (Registration No. 2005/033309/07);
- 1.5. **"Consumer"** means a consumer as defined in the **CPA**;
- 1.6. **"CPA"** means the Consumer Protection Act 68 of 2008 and any promulgated regulations thereto and as amended from time to time;
- 1.7. **"Customer"** means any person, including a Consumer with whom the **Company** concludes an **Agreement** for the sale of any **Goods** or the provision of any **Services**.
- 1.8. **"Goods"** means any tangible object supplied by the **Company** to the **Customer** in terms of this **Agreement**;
- 1.9. **"Price"** means the **Price** agreed between the **Company** and the **Customer** for the **Goods** and/or the **Services**, together with value added tax thereon;
- 1.10. **"SABS"** means the South African Bureau of Standards;
- 1.11. **"SANS"** means the South African National Authority of Standards;

- 1.12. "SARMA" means the South African Readymix Association;
- 1.13. "Services" means the **Services** provided by the **Company** to the **Customer in terms of this Agreement**.

## 2. COMMENCEMENT AND DURATION OF THIS AGREEMENT

- 2.1 By placing an order with the **Company** or making an **Application**, the **Customer** agrees to enter into an **Agreement** with the **Company** for the supply of **Goods** and **Services**. If so, this **Agreement** will begin and be binding on the **Customer** when the **Company**:
- 2.1.1 accepts the order or the **Application** as the case may be; and
- 2.1.2 supplies the **Goods** or **Services** to the **Customer**.
- 2.2 This **Agreement** shall, subject to the provisions of clauses 8 and 25, continue for an indefinite period.

## 3. PAYMENT TERMS

- 3.1. In return for the supply of the **Goods** and **Services** the **Customer** agrees to pay the **Company** the **Price** as set out in more detail in the quotation.
- 3.2. In the event that the **Company** has granted the **Customer** credit facilities in writing, the **Price** shall be paid by the **Customer**, without deduction or set-off of any claims of the **Customer** against the **Company**, within 30 (thirty) days from the date of the **Company's** statement of account. However, if day 30 falls on Saturday, Sunday or public holiday, payment must be made on or before the preceding business day.
- 3.3. In the event of non-credit sales or cash sales the **Price** shall be paid by the **Customer** by way of electronic bank transfer or cash deposit into the bank account of the **Company** or, at the sole discretion of the **Company** without deduction or set-off, prior to dispatch or collection of the **Goods** or provision of the **Service**. The **Customer** must provide the **Company** with proof of payment within forty eight hours before deliveries or collections of the **Goods** will be allowed. Where payment is made by means of electronic funds transfer, a cheque or any other negotiable instrument, the delivery of the **Goods** shall only be made or collections of the **Goods** will only be allowed once the funds have been cleared by the **Company's** bank.
- 3.4. **The Company reserves the right to withdraw or amend any credit facilities at any time which may have been granted to the Customer and to require the Customer to furnish guarantees and/or suretyships that are acceptable to the Company for its current or future obligations.**
- 3.5. **The Company may charge the Customer interest on any overdue amount at the prime overdraft rate plus 3% of First National Bank, Division of FirstRand Bank Limited, calculated from the due date. A certificate signed by any manager of the aforesaid bank (whose authority and appointment it shall not be necessary to prove) as to the prime overdraft rate prevailing from time to time shall constitute *prima facie* proof (sufficient evidence) of that rate.**
- 3.6. Should the **Customer** fail to clearly indicate to the **Company** which items appearing on the **Company's** statement it is paying, the **Company** reserves the right to apply such payment by the **Customer** to those items in respect of which payment has been overdue for the longest time.

- 3.7. Payment must be made for the total amount that the **Customer** owes the **Company** as set out on the invoice(s) issued to the **Customer**.
- 3.8. **Should any amount not be received by the Company on or before due date, all other amounts payable and due by the Customer to the Company, shall immediately (and without notice to the Customer) become both due and payable.**
- 3.9. **The Customer shall not be entitled to withhold payment for any reason whatsoever notwithstanding that any dispute may be pending between the parties nor shall the Customer be entitled to make any deduction from the Price or to set off any alleged claim against the amounts due by the Customer to the Company.**
- 3.10. The **Customer** shall be liable to pay the **Company** the full amount of the order in advance if the **Company** has not completed its credit risk assessment of the **Customer** and the **Customer** requires urgent or immediate delivery of the **Goods** or provision of the **Services**.
- 3.11. **In addition to the rights of the Company above, if the Customer:**
- 3.11.1. **does not pay the Company on time;**
  - 3.11.2. **commits a material breach of this Agreement;**
  - 3.11.3. **does not pay the required full amount in advance;**
- then the Company may suspend any supply of Goods or provision of Services until the Customer has paid or remedied the breach to the satisfaction of the Company.**

#### **4. QUOTATIONS**

- 4.1. Any quotation by the **Company** is open for acceptance for a period of 30 days from the date appearing on the quotation, unless revoked earlier in terms of written notice to the **Customer** or otherwise agreed to in writing between the **Company** and the **Customer**.
- 4.2. The **Price** quoted for the **Company's Goods** or **Services** will, upon acceptance by the **Customer**, whether such acceptance is tacit or written, constitute the **Price**.
- 4.3. The **Price** quoted by the **Company** is based on the site location as provided by the **Customer**. The **Company** reserves the right to amend the **Price** quoted should the site location be different from the initial site location provided by the **Customer**.

#### **5. CERTIFICATE**

**The Customer acknowledges that a certificate signed by any senior manager of the Company (whose authority and appointment shall not be necessary to prove) shall be *prima facie* proof (sufficient evidence) of the amount of such indebtedness to the Company. Such certificate shall be sufficient proof of the Customer's indebtedness for the purposes of provisional sentence and/or summary judgment proceedings against the Customer, or for any other purpose whatsoever.**

## 6. FINANCIAL CENTRE INTELLIGENCE ACT

- 6.1 The **Customer** acknowledges that in terms of Section 29 (1) of the Financial Centre Intelligence Act, No 38 of 2001 ("FICA") businesses are required to report any suspicious or unusual transaction or series of transactions to the Financial Intelligence Centre and in particular where the **Company** has received, or is about to receive, the proceeds of suspected unlawful activities in payment of the **Customer's** indebtedness to the **Company**.
- 6.2 **The Customer indemnifies or holds the Company harmless against any claim of whatsoever nature instituted against the Company for any damage or harm suffered by the Customer or a third party arising from any action taken by the Company in discharging its obligations in terms of FICA.**

## 7. SAFEKEEPING OF CUSTOMER'S ORDERS

The **Customer** accepts responsibility for the safekeeping and issue of its orders and agrees to pay for orders issued on its behalf and given effect to in good faith by the **Company**.

## 8. BREACH AND CANCELLATION OF THE AGREEMENT

- 8.1 **If the Customer does not pay any and/or all amounts due to the Company on or before the due date for payment, then, subject to the provisions of clause 8.2, the Company reserves the right to, on notice to the Customer:**
- 8.1.1 **charge interest on the overdue amount at the interest rate referred to in clause 3.5 calculated from the due date of payment to the date that the actual payment is credited;**
  - 8.1.2 **take action in terms of clause 8.2 of this Agreement;**
  - 8.1.3 **inform any reputable credit bureau (s) of payment default; and**
  - 8.1.4 **suspend the supply of the Goods or provision of Services.**
- 8.2 **If the Customer commits a breach or if there is a failure by the Customer to comply with any of the terms and conditions of this Agreement and the Customer remains in breach for a period of 7 (seven) working days in the case of a Customer who is not a Consumer and 20 (twenty) working days in the case of a Customer who is a Consumer, after delivery of a written notice to the Customer by the Company requesting the Customer to remedy the breach:**
- 8.2.1 **the Company will be entitled to immediately cancel this Agreement;**
  - 8.2.2 **the Company will be entitled to immediately charge the Customer for the use of the Goods or Services up to the date of cancellation; and**
  - 8.2.3 **the full outstanding amount shall immediately become due and payable.**
- 8.3 In addition to the above remedies and any other rights that the **Company** has in terms of law, in the event that the **Customer** does not remedy such breach, the **Company** shall be entitled to claim damages from the **Customer** that it may have suffered due to the **Customer's** breach of the terms and conditions of this **Agreement**.
- 8.4 Despite the provisions above, either party may cancel this **Agreement** immediately by giving each written notice to that effect.

## 9. USE OF CUSTOMER'S INFORMATION

- 9.1. The **Customer** warrants and guarantees that all information supplied to the **Company** by the **Customer** in the **Application** and in terms of this **Agreement** is true and correct.
- 9.2. The **Customer** agrees to inform the **Company** immediately should there be any change of whatsoever nature in any of its information, including its physical address, previously supplied to the **Company**.
- 9.3. As and when necessary, the **Customer** consents to the **Company** obtaining and/or disclosing the **Customer's** information supplied to the **Company** as follows:
- 9.3.1. to either credit grantors and/or credit bureaux and/or banks and/or other financial institutions in order to ascertain information relating to the **Customer's** creditworthiness (before acceptance of this **Agreement**) and for fraud prevention purposes in order to process any payment transactions necessary for and relative to this **Agreement**;
  - 9.3.2. **to attorneys and/or debt collection agencies in the event that the Customer is in breach of this Agreement;**
  - 9.3.3. to the **Company's** agents or trade partners and/or consultants and or service providers but only to the extent necessary and in order to allow the supply of the **Goods** and/or provision of the **Services**;
  - 9.3.4. to consumer research institutions for the purposes of conducting research on improving our **Goods** and **Services** offered to the **Customer** in terms of this **Agreement**;
  - 9.3.5. for purposes of the **Company** publishing a directory containing the name, address, details and contact numbers of its **Customers**;
- 9.4. The **Company** will not disclose the **Customer's** information to any other person or institution other than as stated under clause 9.3 or if the **Company** is compelled to do so in terms of law and/or a court of law. The **Company** hereby undertakes that it will only disclose such information as is required in terms of any law and or a court of law.

## 10. JURISDICTION

Save for any disputes to which clause 25 applies, the **Customer** hereby consents, in terms of Section 45 of the Magistrate's Court Act No. 32 of 1944 as amended, to the jurisdiction of the Magistrate's Court having territorial jurisdiction in respect of any action instituted against the **Customer** by the **Company** for the recovery of monies or for legal action in terms hereof. It shall nevertheless be entirely within the discretion of the **Company** as to whether to proceed against the **Customer** in such Magistrate's Court or any other court having jurisdiction.

## 11. WHOLE AGREEMENT

This **Agreement** constitutes the whole **Agreement** between the parties and no variation, alteration, deletion of or addition to these terms will bind the parties unless it is stipulated in writing and agreed to by both parties.

**12. EXTENSION OF TIME (ALSO REFERRED TO AS AN INDULGENCE)**

No leeway, extension of time or other lenience which the **Company** may offer to the **Customer** will in any way prevent the **Company** from enforcing any of its rights in the future, without notice, by requiring the customer's strict and timely compliance with each term and condition of this **Agreement**.

**13. LEGAL COSTS NOTICES**

To the extent permitted by law, should the **Company** elect to take any legal action against the **Customer** arising from breach of any terms and conditions of this **Agreement** where the **Company** hired the **Services** of an attorney and/or advocate and/or debt collector and/or tracing agent then the **Customer** will be liable for all the relevant legal cost and/ or expenses incurred on the appropriate scale.

**14. NOTICES**

The parties choose their physical addresses as reflected on the **Application** forms as their respective *domicilium citandi et executandi* (physical address) for service upon it of all notices and process. The parties undertake to notify the **other** expeditiously of any change to its address.

**15. CESSION (TRANSFER) AND DELEGATION (HANDING OVER)**

15.1 The **Customer** shall not be entitled to transfer any of its rights to any other entity or person (this is known as ceding any of your rights) or transfer any of the **Customers** obligations or responsibilities to any other entity or person (this is known as delegating or handing over any of your obligations or responsibilities, in terms of this **Agreement** without the prior written consent of the **Company**.

15.2 The **Company** undertakes not to withhold its consent unreasonably.

**16. APPLICABLE LAW**

The terms and conditions of this **Agreement** shall be governed by and interpreted in accordance with the laws of the Republic of South Africa.

**17. AMENDMENTS**

The **Company** is entitled on written notice to the **Customer**, to amend and/or vary the terms and conditions of this **Agreement** as a result of any new and/or amended law(s), tax (es) and regulation(s). If **Company** amends and/or vary the terms and conditions, the **Company** will notify the **Customer** at its chosen address of such amended terms and conditions.

**18. UNENFORCEABLE PROVISIONS**

If any of the terms and conditions of this **Agreement** are unenforceable, illegal, void, or contrary to public policy then they will be considered to be legally separated from the rest of this **Agreement**. The rest of the provisions of this **Agreement** will, however, remain binding and enforceable and in full force and effect.

**19. AUTHORITY AND INDEMNITY**

The person signing this **Agreement** warrants that he or she has the necessary authority to enter into this **Agreement** and hereby indemnifies the **Company** against any liability, claim, damage or loss that a third party might have arising out of this **Agreement**.

## SECTION B: CONDITIONS APPLICABLE TO THE SALE OF GOODS

**NB: The terms and conditions set out hereunder are in addition to the “Standard Terms and Conditions Applicable to both Sales and Services transactions” set out in Section A.**

### 20. PRICE

- 20.1. Unless otherwise agreed in writing, the **Goods** will be supplied at the ruling price on the date of dispatch from the factory, depot, quarry, plant or branch.
- 20.2. **Prices** are subject to adjustment for any increases in the cost of **Goods** on and/or delivery that may arise between the date of quotation and the delivery of the **Goods**, arising directly or indirectly from any cause whatsoever, whether statutory or otherwise.

### 21. DELIVERY OF GOODS

- 21.1. Deliveries of **Goods** will take place between the hours of 07h00 to 17h00 Monday to Friday, excluding public holidays. Deliveries outside normal working hours could be subject to an extra charge.
- 21.2. The **Company** shall endeavour to effect delivery of the **Goods** on the agreed date and time to the **Customer** at the **Customer’s** premises or the **Customer’s** nominated delivery site address, provided that the **Company** receives a minimum of 48 hours notice of the intended delivery date if the agreed date has changed or if no date has been previously agreed.
- 21.3. The **Company** shall not be responsible for delays in delivery or non-delivery of **Goods** whatsoever due to causes beyond the **Company’s** control (eg. adverse weather conditions, road congestion, labour-related actions, shortage of stock, delays on the part of subcontracted transport **Services**), nor will the **Company** accept liability for damages or for any loss the **Customer** may suffer pursuant thereto, of whatsoever nature arising from the late delivery or non-delivery of **Goods**.
- 21.4. **Subject to the provisions of clause 21.3 the Customer shall not be entitled to cancel or repudiate any order/s and/or purchase/s and/or refuse delivery and/or claim damages and/or set-off payment from the Company due to late and/or defective delivery. The Company’s responsibility shall be to notify the Customer expeditiously of the events giving rise to the delay in delivery or non-delivery in circumstances where such delay of delivery or non-delivery is expected to extend beyond one day after the time/date of the agreed delivery schedule.**
- 21.5. **The provisions of clause 21.4 shall not apply to a Consumer.**
- 21.6. Should adverse weather conditions or site problems necessitate a change in the agreed delivery date of the **Goods**, the **Customer** shall advise the **Company** as soon as possible thereof. The **Customer** shall, in any event, be liable for the **Price** of any **Goods** already batched prior to notification of the delay.
- 21.7. **The Customer accepts responsibility and liability for whatever means or method it chooses to adopt for the handling, placing, storage and consolidation of the Goods after discharge from the delivery vehicle. Furthermore, the Customer accepts responsibility and liability for any lack of quality, fault or failure of the Goods resulting from such handling, placing, storage or consolidation of the Goods.**

- 21.8. The **Customer** shall ensure that routes to and from the points of delivery of **Goods** on site are safe and suitable for the delivery vehicles, and that full and free access is available for the delivery vehicles of the **Company** or its transport service providers.
- 21.9. **The Customer shall ensure that the delivery vehicles of the Company or its transport service providers offload the Goods at the Customer's desired point on the site. In the event of the Goods being offloaded at an incorrect point due to a fault on the part of the Customer, the Company shall not be liable for any loss arising there from, whether direct, consequential, special or general.**
- 21.10. **The Parties hereby indemnify each other, their agents and employees and holds them harmless against any loss, damage or liability sustained or incurred by either party, agents or employees arising from any cause whatsoever while on the Customer's site, provided the loss, damage liability was not occasioned by negligence of the other party.**
- 21.11. The **Customer**, its employees or agents shall sign the **Company's** delivery note and this shall constitute *prima facie* proof (sufficient evidence) that the type and quantity of **Goods** recorded thereon was delivered and accepted by the **Customer**. In the event of a dispute regarding the delivery of the **Goods** and/or the quantity or quality, the onus of proving that the **Goods** was not delivered and/or that the quantity or quality thereof was not in accordance with the **Customer's** order, shall rest with the **Customer**.
- 21.12. Should the **Customer** decide to utilise its own transport vehicles and or any third party, it shall not hold the **Company** liable for any damages that result as a result of the use of such transport.
- 21.13. If the **Company** has any reason in its absolute discretion to be concerned about the creditworthiness of the **Customer**, the **Company** shall have the right to suspend and/or withhold deliveries of **Goods** to the **Customer**.
- 21.14. **Subject to any provision to the contrary herein contained, the Customer shall be entitled to cancel the order or return the Goods but the Company shall be entitled to charge a cancellation fee or a reasonable fee for the return of the Goods.**

## **22. OWNERSHIP AND RISK**

- 22.1. Notwithstanding the delivery of any **Goods** to the **Customer**, ownership of the **Goods** shall not pass until the **Company** has received payment in full in respect of the **Price** of such **Goods**. In the event of payment not being timeously effected, the **Company** reserves the right to recover possession of such **Goods** immediately, without notice and without the necessity to first cancel the **Agreement** of sale in respect of such **Goods**.
- 22.2. Risk in the **Goods** shall pass to the **Customer** at the point of delivery of the **Goods** (i.e. where signed acceptance of the **Goods** takes place, or in the case of collection of the **Goods**, on despatch from the **Company's** premises).
- 22.3. **Where the Customer has appointed its own transport service provider to effect delivery of the Goods, the Company's responsibility for providing proof of delivery of Goods will be limited to proving that the Goods were accepted by a person purporting to be the transport service provider. In this case, risk shall pass to the Customer on delivery of the Goods to the transport service provider.**
- 22.4. The **Company** reserves the right to refuse to enter the **Customer's** site if in the **Company's** view the **Customer's** site is unsafe.

- 22.5. In the case of delivery of **Goods** to any unattended rail siding, risk in the **Goods** shall pass to the **Customer** on arrival of the consignment at the siding and Transnet's records will constitute prima facie proof of such delivery.
- 22.6. Until the **Price** of the **Goods** sold and delivered has been paid in full, the **Customer** shall ensure that the **Goods** are adequately insured against all appropriate risks.

## 23. WARRANTIES

**This clause shall not apply to a Consumer:**

- 23.1. The **Company** warrants that the **Goods** delivered complies with the details shown on the delivery note or **Service** invoice and complies with the **Company's** standard specification or strength mix for such **Goods**.
- 23.2. The onus shall be on the **Customer** to ensure by examination before use that the **Goods** delivered is within specification.
- 23.3. Liability for breach of the warranty set out in clauses 23.1 and 23.2 shall only arise where the **Customer** has established, in addition to any other proof required by law, that:
- 23.3.1. the **Customer** has inspected the **Goods** before use;
  - 23.3.2. the **Goods** has not been worked or processed since delivery;
  - 23.3.3. inspection, sampling methods and interpretation of test results were done in strict compliance with the specifications therefore, these being no less stringent than those prescribed by the **SABS**;
  - 23.3.4. the **Customer** notified the **Company** verbally within 48 hours of its tests having revealed an alleged non-conformity with specification, provided that written notification shall be given by the **Customer** within a maximum of 10 days from date of delivery;
  - 23.3.5. the **Company** was afforded every reasonable opportunity to inspect the **Goods** or any sample taken there from, and to submit the **Goods** or sample to its own examination and testing;
  - 23.3.6. all records of handling, sampling, curing and testing and the interpretation of any tests were made available to the **Company** for inspection;
  - 23.3.7. the **Goods** was not misused, neglected, contaminated, improperly handled or altered in any way and that no foreign material was added to the **Goods**.
- 23.4. Save as set out in 23.5 below, the **Company** shall not under any circumstances be liable for any loss or damage, whether special or general, direct or consequential, arising out of the sale of the **Goods** by the **Company** to the **Customer**, or from any other cause whatsoever. The **Customer** hereby indemnifies the **Company** against all claims of whatsoever nature that may be made against the **Company** arising from the use by any person of the **Goods** supplied by the **Company**.
- 23.5. The **Company's** sole liability in respect of defective **Goods** shall, in the **Company's** sole discretion, be to replace such **Goods** or to refund to the **Customer** the **Price** of such defective **Goods**.

## 24. WARRANTIES FOR A CONSUMER

### This clause only applies to a Consumer

- 24.1. The **Company** warrants that the **Goods** delivered complies with the details shown on the delivery note or **Service** invoice and complies with the **Company's** standard specification or strength mix for such **Goods**.
- 24.2. **Liability for breach of the warranty set out in clause 24.1 shall only arise where the Consumer has established, in addition to any other proof required by law, that:**
- 24.2.1. **the Consumer has inspected the Goods before use;**
  - 24.2.2. **the Goods have not been worked or processed since delivery;**
  - 24.2.3. **the Goods were not misused, neglected, contaminated, improperly handled, stored or altered in any way contrary to instructions and that no foreign material was added to the Goods after leaving the control of the Company, retailer, distributor.**
- 24.3. The **Consumer** warrants that it is a consumer as defined in the **CPA**.
- 24.4. The **Consumer** shall inform the **Company** immediately when its status as a **Consumer** has changed. When the status of a **Consumer** has changed then the provisions applicable to a **Consumer** in terms of these terms and conditions shall no longer apply to the **Consumer**.
- 24.5. The **Company** shall be entitled to conduct its own investigations to verify whether or not a **Consumer** is still a **Consumer**. In this regard the **Consumer** shall on request provide the **Company** with all the relevant information, including audited financial statements, to enable the **Company** to verify the status of the **Consumer**.

## 25. RESOLUTION OF TECHNICAL DISPUTES

- 25.1. In the event of a dispute arising between the **Company** and the **Customer regarding** the quality, quantity or performance of the **Goods** supplied by the **Company**, such dispute shall initially be referred to the **Company's** local plant manager and the **Customer's** site manager, who shall, within 7 days after such referral, meet and use commercially reasonable endeavours to resolve such dispute.
- 25.2. If they are unable to resolve the dispute then the matter shall be referred to the **Company's** and the **Customer's** Area Managers, who shall likewise meet within 7 days after such referral and use commercially reasonable endeavours to resolve the dispute.
- 25.3. If the dispute still remains unresolved, then the parties may refer the matter to:
- 25.3.1. an independent expert appointed by the Cement and Concrete Institute of South Africa ; or
  - 25.3.2. arbitration in accordance with the Rules of the Arbitration Foundation of Southern Africa; or
  - 25.3.3. proceed directly to the jurisdiction of the courts in terms of Clause 5.

- 25.4. Neither the **Company** nor the **Customer** may resort to the jurisdiction of the courts in terms of Clause 5 without first following the procedure in Clauses 25.1 and 25.2, except to obtain urgent relief from the courts.
- 25.5. In the event of a dispute or complaint by a **Consumer** who purchased the **Goods** from a **Customer** who is a retailer or distributor regarding the quality, quantity or performance of the **Goods** supplied, the **Customer** must take all reasonable steps to assist the Consumer as required in terms of the **CPA**. The **Customer** shall advise the **Company** of the complaint and all steps taken to resolve the dispute or complaint.
- 25.6. Should the **Customer** not succeed in resolving the dispute or complaint then the **Customer** shall advise the **Company** accordingly and the **Company** shall use reasonable endeavours to resolve the complaint as soon as possible in accordance with the provisions of clauses 25.1 and 25.2.
- 25.7. In the event of a dispute or complaint by a **Consumer**, who purchased the **Goods** directly from the **Company**, regarding the quality, quantity or performance of the **Goods** supplied, the **Company** shall use reasonable endeavours to resolve the dispute or complaint as soon as possible in accordance with the provisions of clauses 25.1 and 25.2.
- 25.8. Despite the above, the Consumer is not prevented from referring any unresolved dispute between the **Company** and the Consumer to the National Consumer Commission established under the **CPA**.
- 25.9. Nothing in this clause prevents the **Customer** to take legal action against the **Company**.

#### **SECTION C: SPECIAL CONDITIONS APPLICABLE TO THE SALE OF CEMENT**

**NB: The terms and conditions set out hereunder are in addition to the “Standard Terms and Conditions Applicable to both Sales and Services transactions” set out in Section A and the “Conditions Applicable to the Sale of Goods” in Section B.**

#### **26. CEMENT PRICE**

The **Price** for cementitious **Goods** is based on the **Goods**, as specified, measured by mass (metric tonnes) or by bags, as the case may be.

#### **27. CEMENT DELIVERIES**

- 27.1. If cement is purchased in bulk:
- 27.1.1. the mass of the cement will be as determined by the assized massmeter at the factory or depot supplying the cement. Queries or disputes in connection with gross mass variances should be made prior to the breaking of factory seals on bulk tankers; and
  - 27.1.2. the **Customer** shall ensure that adequate silo storage capacity is available, so as to not unnecessarily delay the off-loading of the delivery vehicle; and
  - 27.1.3. **the onus is on the Customer to correctly instruct the driver of the delivery vehicle to the correct silo discharge point. The Company does not accept responsibility for Goods being discharged into the incorrect silo.**
- 27.2. Orders for cement to be delivered by rail are only accepted in full truckloads in accordance with the tariffs and conditions laid down by Transnet.

27.3. Claims for shortages, damage, breakages or water damage to cementitious bag **Goods** must comply with the **Company's Goods** Return Policy for broken bags and wet bags, a copy of which is available on request.

## **28. CEMENT WARRANTIES**

28.1. The **Company** warrants that, at the time of sale of any **Goods**, the **Goods** will comply with the relevant specifications of the **SABS** for such **Goods**.

28.2. The **Company** gives no warranty as to the colour consistency of any **Goods**.

28.3. **Save for the warranties referred to in clauses 28.1 and 28.2, the Company gives no other warranties, express or implied, and makes no other representations in respect of the Goods.**

28.4. The onus shall be on the **Customer** to establish that the **Goods** ordered is suitable for the purpose for which the **Goods** are required by the **Customer**. **Goods The Company gives no warranty that the Goods will be suitable for that purpose, even if such purpose has been communicated to the Company by the Customer.**

28.5. **The provisions of clauses 28.3 and 28.4 do not apply to a Consumer.**

## **29. SHORT OR INCORRECT DELIVERY OF CEMENT**

**The Customer must inform the Company within a period of 24 hours if it alleges short delivery or incorrect delivery of Goods. This will enable the Company to conduct a proper investigation of the claim and to ensure a speedy resolution to the matter.**

## **SECTION D: SPECIAL CONDITIONS APPLICABLE TO THE SALE OF READY MIXED CONCRETE**

**NB: The terms and conditions set out hereunder are in addition to the "Standard Terms and Conditions Applicable to both Sales and Service transactions" set out in Section A and the "Conditions Applicable to the Sale of Goods" in Section B.**

## **30. CONCRETE PRICE**

The **Price** for concrete, mortar or plaster is based on the **Goods**, as specified, measured in cubic metres in the wet form.

## **31. CONCRETE DELIVERIES**

31.1. Part loads and deliveries outside normal working hours will be subject to an extra charge at the **Company's** ruling rates from time to time.

31.2. Where the delivery vehicles of **Company** are delayed on site for any reason whatsoever by the **Customer**, an extra charge may be raised at the **Company's** ruling rates from time to time.

31.3. Due to the nature of concrete (i.e it changes from a liquid or wet state to a solid or hard state within a relatively short period of time), the product is not returnable.

31.4. The **Customer** must inform the **Company** within a period of 24 hours if it alleges short delivery or incorrect delivery of **Goods** or for any queries and or claims relating to specification and performance. **This will enable the Company to conduct a proper investigation of the claim and to ensure a speedy resolution to the matter.**

## 32. CONCRETE WARRANTIES

- 32.1 Notwithstanding the provisions of clause 24.1, the Company warrants that the concrete supplied complies with the details shown on the delivery note and with the Company's standard specification or the acceptance criteria for strength test results as per Section 14.3.3 of SANS 10100 – 2 SOUTH AFRICAN STANDARD, Code of practice, The structural use of concrete, Part 2: Materials and execution of works, for such concrete.
- 32.2 The onus shall be on the Customer to ensure, by examination before use that the Goods delivered is within the agreed specification. In the case of concrete this is limited to the general consistency and workability as determined by the slump test.
- 32.3 The Company shall incur no liability whatsoever for the handling, placing, curing and consolidation of any concrete supplied by the Company to the Customer, subject to discharge from the delivery vehicle, which action shall be the sole responsibility of the Customer. The Customer acknowledges that it is aware that:
- 32.3.1 the manner in which concrete is handled, placed and consolidated; and
- 32.3.2 the addition of water, aggregate and additives, can and will affect the quality and strength of the concrete, mortars and plasters and that specialised concrete mixes require special skills and experience in handling, placing, compacting and consolidating if a satisfactory final product is to be achieved.
- 32.4 Concrete supplied to Customers where the COLTO specification applies are subject to the exclusion clauses as specified by SARMA. A copy of the exclusion clauses is available from the Company upon request.

## SECTION E: SPECIAL CONDITIONS APPLICABLE TO THE SALE OF AGGREGATE

**NB:** The terms and conditions set out hereunder are in addition to the “Standard Terms and Conditions Applicable to both Sales and Service transactions set out in Section A and the “Conditions Applicable to the Sale of Goods” in Section B.

## 33. AGGREGATE PRICE

The **Contract Price** for aggregate is based on the **Goods**, as specified, measured in its distributed state immediately after and at the point of loading, at the **Company's** election, either by:-

- 33.1 loose volume in full vehicle loads; or
- 33.2 mass (metric tonnes) on the **Company's** weighbridge.

## 34. AGGREGATE DELIVERIES

- 34.1 The **Customer** acknowledges that it is aware that, in the course of transporting aggregates to the point of discharge, a certain amount of settling is inevitable.
- 34.2 The **Customer** requiring aggregate goods for specialised applications are advised to confirm with the Company's technical department to ensure that the geological make-up of the goods meet with the specification.

- 34.3 Should the **Customer** allege a short delivery of **Goods**, the **Customer** must ensure the **Goods** is not offloaded or tipped until such time as the **Company's** representative has had the opportunity of verifying the alleged shortage and discrepancy.

### 35. AGGREGATE WARRANTIES

- 35.1 Samples of **Goods** for the purpose of inspection and testing must, in the case of road base materials, have been taken prior to compaction.
- 35.2 **Aggregates supplied to contracts where the COLTO specification applies are subject to the exclusion clauses as specified by ASPASA (Aggregate & Sand Producers' Association of South Africa) from time to time. A copy of the exclusion clauses is available from the Company upon request.**
- 35.3 Where volumes are calculated based on dimensions supplied by the **Customer** the **Company** hereby advice that such volumes are only estimation.

### SECTION F:SPECIAL CONDITIONS APPLICABLE TO THE SALE OF GYPSUM

**NB: The terms and conditions set out hereunder are in addition to the "Standard Terms and Conditions Applicable to both Sales and Services transactions" set out in Section A and the "Conditions Applicable to the Sale of Goods" in Section B.**

### 36. GYSPUM PRICE

The **Price** for Gypsum **Goods** is based on the **Goods**, as specified on the invoice at the time of acceptance of the order, as the case may be.

### 37. GYPSUM DISCOUNTS

- 37.1 The **Company** shall at its sole and exclusive discretion grant a discount to the **Customers** from time to time;
- 37.2 Any discount allowed shall:
- 37.2.1 Be recorded in writing and signed by an authorised representative of the **Company**;
  - 37.2.2 Be allowed only in the event that timeous payment is made of all amounts by the due date;
  - 37.2.3 Where payment is made by means of electronic funds transfer, cheques or any other negotiable instrument, be applied once the funds have cleared by the **Company's** bank;
  - 37.2.4 Be calculated on the net price of the **Goods** supplied.

### 38. GYPSUM DELIVERIES

- 38.1 Delivery of the **Goods** shall be complete when the **Goods** are offloaded at the address specified by the **Customer**.
- 38.2 The onus is on the **Customer** to correctly instruct the driver of the delivery vehicle to the correct discharge point. The **Company** does not accept responsibility for Goods being discharged at the incorrect site.

- 38.3 The **Customer** shall in cases of defective or short delivery advise the **Company** in writing, within 3 (three) working days from the date when the **Customer** received the **Goods**.
- 38.4 If the **Customer** fails to give timeous written notice of defective delivery, the **Customer** shall waive all rights and benefits contained in this clause 38.
- 38.5 **The provisions of clause 38.4 shall not apply to a Consumer.**
- 38.6 Claims for shortages, damage, breakages or damage to the **Goods** must comply with the **Company's** Goods Return Policy, a copy of which is available on request.

### **39. GYPSUM WARRANTIES**

- 39.1 The **Company** warrants that, at the time of sale of any **Goods**, the **Goods** will comply with the relevant specifications of such **Goods**.
- 39.2 The liability mentioned under 39.1 shall be limited to the cost of replacing the defective **Goods**, or the passing of a credit in the invoiced-value of the defective **Goods**;
- 39.3 No claim shall arise unless the **Customer** has given written notification of the alleged breach, within 3 (three) days of the occurrence of the alleged breach;
- 39.4 The **Company** gives no warranty as to the colour consistency of any **Goods**;
- 39.5 **Save for the warranties referred to in clauses 39.1 the Company gives no other warranties, express or implied, and make no other representations in respect of the Goods.**
- 39.6 The onus shall be on the **Customer** to establish that the **Goods** ordered is suitable for the purpose for which the **Goods** are required by the **Customer**. **The Company gives no warranty that the Goods will be suitable for that purpose, even if such purpose has been communicated to the Company by the Customer.**
- 39.7 **The provisions of clauses 39.2 to 39.6 do not apply to a Consumer.**

### **SECTION G: SPECIAL CONDITIONS APPLICABLE TO THE PROVISION OF SERVICES**

**NB: The terms and conditions set out hereunder are in addition to the "Standard Terms and Conditions Applicable to both Sales and Service transactions" set out in Section A.**

### **40. PRICE FOR SERVICES**

- 40.1 **Services** will be rendered to the **Customer** at the **Contract Price** ruling on the date such **Services** are rendered to the **Customer**.
- 40.2 **Prices** are subject to adjustment for any increases in the cost of rendering such **Services**.

### **41. RENDERING OF SERVICES**

- 41.1 **Services** that the **Company** offers to the **Customer** shall include, but are not limited to:
- 41.1.1 cement spreading;
  - 41.1.2 concrete pumping;
  - 41.1.3 concrete conveyor;
  - 41.1.4 laboratory testing of materials;

- 41.1.5 concrete mix designs;
- 41.1.6 weighbridge facilities (cement depots only);
- 41.1.7 application of Artevia;
- 41.1.8 transportation of the **Goods**; and
- 41.1.9 such other **Services** that the **Company** may provide from time to time.

41.2 It is the responsibility of the **Customer** to identify and point out to the representative of the **Company** the desired place on the site at which, and the manner in which, the **Customer** requires the **Services** to be rendered. In the event of the **Services** being rendered, at an incorrect point, the **Company** shall not be liable for any loss arising therefrom, whether direct, consequential, special or general.

41.3 In the case of the **Application**/spreading of cementitious **Goods** to roads or at a construction site, as part of the delivery process, this shall in no way whatsoever imply that the **Company** is acting as a sub-contractor. The **Goods** will only be applied in accordance with the **Customer's** instructions and the **Company** will not accept responsibility or liability for problems arising out of such **Application**.

## 42. SERVICES WARRANTIES

42.1 Subject to the provisions of clause 42.2, the **Company** shall not, under any circumstances, be liable for any loss or damage, whether special or general, direct or consequential, arising out of the rendering of the **Services** by the **Company** to the **Customer**. The **Customer** hereby indemnifies the **Company** against all claims of whatsoever nature that may be made against the **Company** arising from the **Services** rendered by the **Company**.

42.2 **The provisions of clause 42.1 shall not apply to a Consumer.**

## 43. GOODS ADVICE

43.1 Subject to the provisions of clause 43.2, should a **Customer** request assistance or advice from a representative of the **Company** on the application and use of the **Company's Goods**, any such advice given to the **Customer** by the **Company** or its representatives is given in good faith and to the best of the **Company's** ability. However, under no circumstances will the **Company** be liable to the **Customer** for damages of whatsoever nature sustained by the **Customer** and/or any third party arising from any advice that may transpire to have been incorrect.

43.2 **The provisions of clause 43.1 shall not apply to a Consumer.**

Full Registered Name of Business: .....

Date Assessment Form Received: .....

Type of Security: .....

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Court Information: .....

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Credit Controller's Comments: .....

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Regional Credit Manager's Comments: .....

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National Credit Manager's Comments: .....

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<b>Terms</b>	Days		<b>Credit Limit</b>	R
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CC	.....	Date: .....	CFO	.....	Date: .....
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RCM	.....	Date: .....	NCM	.....	Date: .....
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BUGM	.....	Date: .....	SM	.....	Date: .....
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