



SUPPLIER AGREEMENT

Between:

K2018110443 South Africa Pty Ltd

Registration number: 2018/110443/07

Vat Number: 4620 2821 13

("The Supplier")

And

Registration number: _____

Represented by: _____

Identity Number: _____

("the Customer")

1. INTERPRETATION

In this Agreement, clause headings are for convenience and shall not be used in its interpretation and, unless the context clearly indicates a contrary intention –

1.1 an expression which denotes –

1.1.1 any gender includes the other genders;

1.1.2 a natural person includes an artificial or juristic person and vice versa;

1.1.3 the singular denotes the plural and vice versa;

1.2 the following expressions shall bear the meanings assigned to them below and cognate expressions bear the corresponding meanings –

- 1.2.1 **"this Agreement"** – this agreement together with all its annexures and schedules including invoices, as amended from time to time;
- 1.2.2 **"Business Day"** – any day other than a Saturday, Sunday, or official public holiday in the Republic of South Africa;
- 1.2.3 **"Fee"** – the fee or quote amount set out in the Schedule, to be paid by The Customer to The Supplier for the Services on the terms and conditions as set out in this Agreement;
- 1.2.4 **"Goods"** - means any materials, products and/or services supplied to the Customer by the supplier;
- 1.2.5 **"Parties"** – the parties to this Agreement, The Supplier and The Customer;
- 1.2.6 **"THE SUPPLIER"** – Aluminium Solution (Proprietary) Limited (registration number 2013/159665/07), a private company incorporated in accordance with the laws of the Republic of South Africa with registered address at 287 Stephenson Road, Pretoria Industria, Pretoria West, Gauteng;
- 1.2.7 **"Schedule"** – each schedule in the form substantially like Annexure A concluded by the parties and marked "Schedule to the Agreement" setting out inter alia the details of the Services to be performed by The Customer;
- 1.2.8 **"Services"** – the supply and installation services of aluminium doors ,window frames and any other products supplied by the Supplier, identified in the Schedule to be performed to The Customer;
- 1.2.9 **"Signature Date"** – the date of signature of this Agreement by the signatory which signs it last;
- 1.2.10 **"The Customer"** – _____ (Proprietary) Limited (registration number: _____) a private company duly incorporated in accordance with the laws of the Republic of South Africa with registered address at _____.
- 1.3 the annexures and schedules to this Agreement form an integral part hereof and words and expressions defined in this Agreement shall bear, unless the context otherwise requires, the same meaning in such annexures and schedules;
- 1.4 where any term is defined within a clause other than this clause 1, that term shall bear the meaning ascribed to it in that clause wherever it is used in this Agreement;
- 1.5 any reference to days (other than a reference to Business Days), months or years shall be a reference to calendar days, months or years, as the case may be;

- 1.6 if the day for payment of any amount due in terms of this Agreement should fall on a day which is not a Business Day, then the relevant date for payment shall be the following Business Day;
- 1.7 the use of the word "including" followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it and the *eiusdem generis* rule shall not be applied in the interpretation of such general wording or specific example; and
- 1.8 the rule of construction that the contract shall be interpreted against the Party responsible for the drafting or preparation of the Agreement, shall not apply.

2 SEPARATE AGREEMENTS

- 2.1 Each Schedule/Quote entered into and signed by the parties hereto shall constitute a separate agreement, incorporating the terms and conditions of this Agreement.
- 2.2 In the event of any conflict between the terms of this Agreement and the terms of the Schedule, the terms of the Schedule shall take precedence.
- 2.3 THE SUPPLIER shall not be under any obligation to contract The Customer, and the terms of each Schedule shall be open to negotiation between the Parties on a project-by-project basis.

3 INTRODUCTION

- 3.1 The Customer wishes to contract with The Supplier for the supply and installation of materials as set out in the Schedule.
- 3.2 This Agreement sets out the terms of the agreement between the Parties relating to the provision of Services.

4 APPOINTMENT

- 4.1 The Customer appoints The Supplier to provide the material and services, and The Supplier accepts such appointment.
- 4.2 This Agreement shall commence on the Signature Date and shall terminate on the date or in the manner as set out in the Schedule.
- 4.3 It is specifically recorded that:
- 4.3.1 there is no expectation that the Agreement will be extended or renewed beyond the termination date of the Schedule; and

- 4.3.2 termination of the Agreement shall not be construed as being a retrenchment or termination in any other manner as governed by the Labour Relations Act, 1995.

5 QUOTATIONS

- 5.1 Any quotation given shall not be an offer by the supplier to sell the goods, but constitutes an invitation by the supplier to the customer to do business with the supplier.
- 5.2 The quotation is based on rates of exchange, freight charges, insurance, costs of labour, material, import duty, taxes and other charges ruling at the date of the quotation. Any variations occurring subsequent to the date of the quotation in any of the aforesaid rates or charges, shall entitle the supplier to vary the amount of the quotation accordingly.
- 5.3 A quotation may be revoked at any time by the supplier. In the event of the supplier not accepting the customer's order within one month from the date thereof, the order shall be deemed to have been withdrawn.
- 5.4 A contract will only come into force once the supplier accepts the customer's order or if the supplier supplies, or tenders to supply, the goods in question to the customer.

6 REMUNERATION AND PAYMENT

- 6.1 Unless otherwise stated in any order given to the supplier (or elsewhere in writing to the supplier), payment of the purchase price in respect of any goods despatched by the supplier up to and including the last day of each month, must be made into and reflect in the supplier's banking account by the last banking day of the month following the month in which such order is despatched and invoiced to the account of the customer.
- 6.2 If the price stated in the quotation of the supplier is subject to a discount, then that discount will only be allowed if payment is made timeously on or before the due date for payment.
- 6.3 Should any payment due by the customer to the supplier not be made on due date, or should the customer commit any other breach of this agreement, or be placed in liquidation, or commit any act of insolvency, then the full balance owing to the supplier by the customer, as at the date thereof, from whatsoever cause arising, shall immediately become due and payable without notice.
- 6.4 The supplier in its sole discretion shall furthermore have the right to cancel the agreement between the supplier and the customer and refuse to deliver any further goods to the customer. In such event the customer shall have no claim or claims of whatsoever nature or kind against the supplier arising out of such cancellation or the refusal of the supplier to deliver any further goods to the customer.

7 WARRANTIES

- 7.1 No warranties, guarantees or representations, express or implied whether by law, contract or otherwise, which are not set forth in this agreement, shall be binding on the supplier. The goods are purchased "voetstoots". The supplier shall not be liable for any inaccuracies in any drawing, specifications or other information supplied by the customer.
- 7.2 The supplier shall under no circumstances be liable for any special, consequential or indirect damages or losses.
- 7.3 The supplier shall under no circumstances (except if gross negligence is proven) become liable to the customer for any direct damages or losses sustained by the customer, which are alleged to have been sustained by the customer as a result of but not limited to:
- 7.4 Any delay or failure in the manufacture or delivery of the goods;
- 7.5 Defective or incorrect materials, workmanship, design or specification.
- 7.6 Without prejudice to the provisions of 9.3, the supplier's liability on account of defective materials and workmanship shall be limited exclusively to the repair or replacement thereof at the supplier's sole discretion, but the supplier shall nevertheless be excused from all liability unless it has been notified of such defect in writing within twelve months after the date of the delivery of the goods, whether the defects be patent or latent.
- 7.7 In the event that the customer provides any specifications or designs to the supplier and requests the goods to be manufactured according to such designs or specifications, then the customer hereby indemnifies and holds harmless the supplier against all claims and expenses of whatsoever nature and description arising from the alleged or actual infringement of any Letters Patent, Trade Marks, Designs or Copyrights occasioned by the supplier's performance.

8 BREACH

- 8.1 In the event of either Party ("the Defaulting Party") committing any breach of this Agreement and failing to remedy the breach within 10 (TEN) Business Days of receipt of a written notice to that effect then, and in such an event, the other Party ("the Innocent Party") shall be entitled, at its sole and absolute discretion, to either claim specific performance in terms of this Agreement, or cancel this Agreement, and may claim any such damages as the Innocent Party may suffer arising from such breach.
- 8.2 The Parties agree that, in the event of a breach of any of the provisions of this Agreement, the Defaulting Party shall be liable to the other Party for all losses which constitute direct and/or general damages.

8.3 The customer agrees that the amount due and payable to the supplier shall be determined and proven by a certificate issued by the supplier and signed on its behalf by any person duly authorised, such certificate being binding and prima facie proof of the indebtedness of the customer. Such certificate shall be sufficient for purposes of judgment, provisional sentence or any other legal proceedings.

8.4 Without prejudice to any other rights or remedies of the Parties in terms of this Agreement or in law, each Party shall be liable for and hereby indemnifies the other Party against any and all legal costs on the attorney and own Customer scale incurred by the Innocent Party arising out of any breach by the Defaulting Party.

9 DOMICILIUM AND NOTICES

9.1 The Parties choose as their *domicilia citandi et executandi* for all purposes under this Agreement, whether in respect of court process, notice or other documents or communications of whatsoever nature, the following addresses:

9.1.1 THE SUPPLIER: Physical Address: 287 Stephenson Road,
Pretoria Industria, Pretoria West, Gauteng
Email Address: michael@aluminiumsolution.co.za

9.1.2 The Customer: Physical Address: _____,

Email Address: _____

9.2 Any notice or communication required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing, but it shall be competent to give notice by email.

9.3 Either Party may by notice to the other Party change the physical address chosen as its *domicilium citandi et executandi* to another physical address, provided that the change shall become effective on the 4th (fourth) Business Day from the deemed receipt of the notice by the other Party.

9.4 Any notice to a Party:

9.4.1 sent by prepaid registered post in a correctly addressed envelope to it at its *domicilium citandi et executandi* shall be deemed to have been received on the 4th (fourth) Business Day after posting (unless the contrary is proved);

9.4.2 delivered by hand to a responsible person during ordinary business hours at its *domicilium citandi et executandi* shall be deemed to have been received on the day of delivery; or

9.4.3 sent by email to its chosen email address, shall be deemed to have been received on the date of dispatch (unless the contrary is proved).

10 OWNERSHIP

10.1 Notwithstanding delivery of the goods by the supplier to the customer, or the use of the goods after delivery, the goods shall remain the property of the supplier until it has received payment in full of the contract price.

11 GENERAL

11.1 The Customer shall not be entitled to cede or assign any of its rights or delegate any of its obligations under this Agreement without the written consent of THE SUPPLIER.

11.2 THE SUPPLIER shall be entitled to cede or assign any of its rights or delegate any of its obligations under this Agreement, without notice to The Customer.

11.3 Save as expressly provided for herein, each paragraph, clause, term and provision of this Agreement and any portion thereof shall be considered severable, and if for any reason any part of this Agreement is held to be invalid or unenforceable, same shall not impair the validity and operation of the remainder of this Agreement, which shall continue to be given full force and effect and be binding upon the Parties.

11.4 This Agreement shall not prevent THE SUPPLIER from entering into similar agreements with third parties.

11.5 No addition to, variation of, or agreed cancellation of, this Agreement shall be of any force or effect unless in writing and signed by or on behalf of the Parties.

11.6 No relaxation, indulgence or extension of time, which any Party may grant to any other, shall constitute a waiver of the rights of that Party and shall not preclude that Party from exercising any existing or future rights.

11.7 Without prejudice to any other provision of this Agreement, any successor-in-title of either Party shall be bound by this Agreement.

11.8 This Agreement shall be interpreted and governed by the laws of the Republic of South Africa, and the parties hereby consent to the non-exclusive jurisdiction of the Gauteng Division of the High Court, Pretoria.

11.9 This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be taken together and deemed to be one instrument.

Signed at _____ on _____ 2018

For ALUMINIUM SOLUTION (PROPRIETARY)
LIMITED

Witnesses:

1. _____

2. _____

Michael Kieser who warrants that he is duly
authorised hereto

Signed at _____ on _____ 2018

For THE CUSTOMER

Witnesses:

1. _____

2. _____

_____, who warrants that he is
duly authorised hereto

ANNEXURE A: FORM OF SCHEDULE TO THE SUPPLIER AGREEMENT

SCHEDULE TO THE AGREEMENT

Schedule No: []

Date: []

Between

ALUMINIUM SOLUTION (PROPRIETARY) LIMITED

and

THE CUSTOMER

1. SEPARATE AGREEMENTS

- 1.1 This Schedule constitutes a separate and distinct agreement incorporating the terms of the Supplier Agreement and annexures thereto.
- 1.2 This Schedule is to be read with the Supplier Agreement. In the event of any conflict between the terms of the Supplier Agreement and the terms of this Schedule, the terms of this Schedule shall take precedence.

2. TERMS OF APPOINTMENT

2.1.	Commencement Date	
2.2.	Address where service is to be rendered	
2.3.	Termination Date	
2.4.	Services to be performed and tasks to be completed	
2.5.	Resource to be allocated	
2.6.	THE SUPPLIER	

	representative	
2.7.	Fees/Invoiced Amount (Invoice attached)	
2.8.	Payment Terms	
2.9.	Special Conditions	
2.10.	Special Exclusions	

Signed at _____ on _____ 2018

For Aluminium Solution (PROPRIETARY)
LIMITED

Witnesses:

1. _____

2. _____

Michael Kieser, who warrants that he is duly
authorised hereto

Signed at _____ on _____ 2018

For THE CUSTOMER

Witnesses:

1. _____

2. _____

_____, who warrants that
he is duly authorised hereto