



# Terms and Conditions

Ident-Number

PU-037

## **BOKOMO NAMIBIA (PROPRIETARY) LIMITED GENERAL TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS AND/OR THE PROVISION OF SERVICES.**

### **1. DEFINITIONS**

In these Terms and Conditions, the following definitions apply:

“**Bokomo**” means Bokomo Namibia (Pty) Ltd.

“**Buyer**” means the firm or company placing a Purchase Order with a supplier.

“**Goods**” means the materials, articles, products, ingredients, equipment, packaging, machinery or mechanical spares, tools, (or any of them or anything of this nature) which are the subject of a Purchase Order to be supplied by the Supplier in terms of these Terms and Conditions.

“**Purchase Order**” means a duly issued, written and pre-numbered SAP purchase Order form dispatched by the Buyer to the Supplier setting out the details of the Goods and/or Services to be supplied and any other relevant information.

“**Services**” means the services which are the subject of a Purchase Order.

“**Supplier**” means the person, firm or company to whom a Purchase Order is addressed.

“**Terms and Conditions**” means, collectively, these terms and conditions of purchase and the Purchase Order.

### **2. ACCEPTANCE OF TERMS**

These Terms and Conditions shall be incorporated into a Purchase Order and shall govern and control the commercial relationship between Buyer and Supplier, unless Buyer and Supplier purposely negotiated and finalised a valid and effective written agreement to govern the procurement of the Goods and/or Services detailed under a Purchase Order in which instance the purposely drafted written agreement shall govern and control the Purchase Order and these Terms and Conditions shall have no effect. The Supplier's commencement of work on the Goods and/or Services under the terms of a Purchase Order, or shipment of the Goods or rendering of the Services whichever occurs first, shall be deemed to be the Supplier's acceptance of the Purchase Order. THE SUPPLIER'S ACCEPTANCE IS LIMITED TO ACCEPTANCE OF THESE GENERAL TERMS AND CONDITIONS OF PURCHASE AND DOES NOT INCLUDE ANY ADDITIONAL OR DIFFERENT TERMS PROPOSED BY THE SUPPLIER TO VARY THESE GENERAL TERMS AND CONDITIONS OF PURCHASE. The Supplier's terms and conditions are expressly excluded and will have no effect or application in relation to the supply of Goods, the provision of Services, or the Purchase Order.

### **3. COMPLETION**

Time is of the essence for a Purchase Order and/or in relation to any performance dates communicated by Buyer to Supplier and Supplier shall meet such performance dates. If the Goods and/or Services are not delivered on the date(s) specified in the Purchase Order, the Buyer may, without liability and without prejudice to any other rights or remedies it may have:

- a) terminate the Purchase Order by notice to the Supplier effective upon receipt in respect of Goods not yet shipped and/or Services not yet rendered;
- b) buy substitute Goods elsewhere and recover from the Supplier any additional expenditure reasonably incurred;



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- c) refuse to accept any subsequent delivery of the Goods and/or performance of the Services which Supplier attempts to make; and
- d) procure substitute Goods and/or Services elsewhere and recover from the Supplier any additional expenditure reasonably incurred.

#### 4. QUALITY/PERFORMANCE

The Supplier warrants that the Goods and/or Services shall:

- a) be of the best quality, material and workmanship;
- b) conform in all respects to the terms of the Purchase Order and any performance criteria, specifications, samples, patterns or artwork requested by the Buyer;
- c) be merchantable and safe and appropriate for the purpose for which Goods and/or Services of this kind are normally used;
- d) if applicable with respect to ingredients, when processed in accordance with Buyer's standard manufacturing processes, produce high quality finished product(s) that conform to Buyer's standards, specifications and sensory attributes;
- e) be properly contained, manufactured, supplied, packaged, marked and labelled;
- f) be fit for the particular purpose for which the Buyer intends to use the Goods and/or Services, which purpose Supplier acknowledges has been disclosed to Supplier;
- g) be free from any third-party lien, claim, title or interest;
- h) not infringe the intellectual property rights of any third parties; and

comply with all relevant requirements of Namibian legislation as well as industry standards, special dietary certification (where applicable), including, without limitation, all laws relating to foodstuffs, food safety, consumer protection, occupation health and safety, and environmental laws and legislation of any country in connection with the Purchase Order.

Ownership of, and all right and title in and to, any materials, equipment, components, ingredients, documentation, recipes, specifications, samples or any other items or assets provided to the Supplier by the Buyer in Purchase Order to facilitate the manufacture and/or supply of the Goods and/or Services and/or for any other purposes at all, shall remain vested in the Buyer and the Supplier hereby waives irrevocably any and all liens and/or rights of retention it may have, or acquire, in respect thereof.

#### 5. VENDOR ASSURANCE, FOOD SAFETY, ENVIRONMENTAL AND OTHER POLICIES

The Supplier will (where deemed appropriate by the Buyer):

- a) Maintain a commitment to best practice food safety at Supplier's cost;
- b) Comply with the requirements of the Bokomo Supplier Approval and Compliance Programs;
- c) Ensure all materials comply with all Namibian legal requirements including, without limitation, requirements relating to traceability, packaging and labelling;
- d) Ensure compliance with any agreed specifications;
- e) Ensure that all Goods will comply with the Bokomo Raw Material Quality Food Safety Policy (available on request) including, without limitation Bokomo's requirements relating to traceability;
- f) Commit to engage with Buyer to develop sustainability programs and participate with such sustainability initiatives as may be communicated to it from time to time by the Buyer;



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- g) fully disclose to Buyer the presence of any recognized allergenic ingredients in connection with the Goods and, if applicable, adequately label such on the Goods and/or packaging. If Supplier becomes aware that any of the Goods are or may become infested, adulterated, contaminated or in violation of applicable laws or regulation or are or may become harmful to persons or property whether the Goods are used in the manufacture of, or become part of Buyer's products, or that the design or construction of the Goods is or may be defective in any manner, Supplier shall immediately give notice to Buyer thereof and provide all relevant information in a timeous manner.

The Buyer shall at any time be entitled on written notice to the Supplier to require the Supplier to halt the supply of the Goods in the event that the Buyer is obliged to or elects to recall any of its goods or materials which are used or incorporated in the Goods.

The Buyer may inspect and audit the facilities and premises used by the Supplier for any purposes associated with the manufacture, distribution and/or supply of the Goods and/or Services at any time during normal business hours on reasonable notice to the Supplier.

## 6. SUPPLIER CODE OF CONDUCT AND ANTI-BRIBERY

These Terms and Conditions and all Purchase Orders shall be subject to PU-004 *Supplier Code of Conduct* whereby each Supplier shall adhere to:

- a) All applicable laws, rules and regulations relating to or affecting a Purchase Order.
- b) Supplier further agrees not to corruptly make any offer, payment, promise of gifts or money or any other thing of value to any government official or employee, political party or political candidate (**'Government Official'**) for the purpose of influencing any act or decision of such Government Official, inducing such Government Official to act in violation of his lawful duty or securing any improper advantage.

## 7. BUYER'S RIGHTS, EXPORT CONTROL

The Buyer's signature of receipt, inspection, testing, payment for or use of the Goods furnished under a Purchase Order shall not constitute acceptance thereof or affect the Supplier's obligations and warranties contained in these Terms and Conditions which shall survive the Buyer's inspection, testing, acceptance and/or use.

The Buyer may inspect the Goods and may accept or reject within a reasonable time from discovery and in all circumstances before the natural expiration of the shelf life, if applicable, any and all of the Goods which are, in the Buyer's judgment, defective or which do not conform in whole or part to these Terms and Conditions (**"Rejected Goods"**) and upon such direction Supplier shall, at Supplier's sole cost and expense:

- a) Refund to the Buyer or credit Buyer's account an amount equal to the price of the Goods as well as any costs incurred by the Buyer in relation thereto; or
- b) Replace or correct any Rejected Goods at no additional cost to the Buyer within seven (7) business days of the Buyer's demand; or
- c) The Buyer may also choose to replace any Rejected Goods from any other source and recover from Supplier any costs incurred by Buyer in connection therewith including but not limited to costs relating to packaging, inspection, insurance, additional costs in sourcing of replacement Goods, delivery (both in terms of cost originally incurred by the Buyer or to be incurred to return the Rejected Goods) and decommissioning of equipment.

Supplier warrants and certifies that, unless identified otherwise, all parts, components or software of the Goods shall be supplied pursuant to a Purchase Order. Supplier shall identify, through written certification to the Buyer, all Goods provided to the Buyer pursuant to a Purchase Order. If Supplier is not the original manufacturer of the Goods, including all parts, components or software, it herewith confirms that it obtained independent verification in extending this warrantee and/or certification to the Buyer.



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The Buyer's payment for the Services furnished under an Order shall not affect the Supplier's obligations under the warranties contained in these Terms and Conditions which shall survive the Buyer's payment.

The Buyer may monitor record and assess the performance of the Services and may accept or reject at any time any and all the Services, which are, in the Buyer's judgment, unsatisfactory or which do not conform to any warranty.

Without prejudice to any of its other rights or remedies (including but not limited to the right of termination of the Purchase Order and/or the withholding from payment to the Supplier any sums that are allocable to the non-conforming and/or non-continuing Services) the Buyer may require the Supplier to promptly re-perform or remedy any unsatisfactory or non-conforming Services or remove the cause of non-performance of any Services, at the Supplier's sole cost and expense, provided the Buyer notifies the Supplier within a reasonable time of discovering that the Services are unsatisfactory or non-conforming. The Buyer shall also be entitled to terminate the Purchase Order and obtain such other remedies as may be available to it either under these Terms and Conditions or otherwise at equity or law, including but not limited to the withholding of payment to Supplier and/or recovering as a sum of money due from Supplier all or any portion of the charges paid in relation to the non-conforming or non-continuing Services.

## 8. PRICE WARRANTY/ FREIGHT CHARGES/ SET OFF

The Supplier warrants that the prices for the Goods and/or Services are complete and no less favorable than those currently extended to the Supplier's other customers of similar account size for similar quantities of the same or similar Goods and/or Services (on a like, for like basis). Without the Buyer's prior written consent the Supplier shall not add any charges, including without limitation, charges for shipping, packaging, labelling, storage, insurance, boxing or crating, customs duties or taxes, labor costs, material, transport and Rate Of Exchange ("ROE"). If the Supplier offers better prices for the Goods and/or Services to other customers of similar account size for similar quantities of the same or similar Goods and/or Services (on a like-for-like basis) during the term of this Purchase Order the Supplier will reduce the Buyer's prices correspondingly. If the Supplier uses published freight charges, the Supplier shall credit to the Buyer any decrease in the charges. If the Buyer has a claim against the Supplier resulting from the Purchase Order or any transaction the Buyer may deduct or set off disputed amounts from the Supplier's claims for amounts due under this Purchase Order.

The purchase price payable for the Goods and/or Services is the price quoted by the Supplier and accepted in writing by the Buyer on a Purchase Order. The price(s) specified is (are) firm, all-inclusive and not subject to change for any reason whatsoever. Where applicable, the Supplier shall clearly state on its quotation for the Purchase Order, the current ROE on which its quotation is based.

## 9. CHANGES

The Buyer may, at any time prior to delivery of the Goods, change the drawings, designs, specifications, materials, packaging, time and place of delivery, and method of transportation under a Purchase Order. Supplier agrees to accept any changes, provided that if a change increases or decreases the cost or time required for performance, the parties will equitably adjust and modify the terms of the Purchase Order in writing. In addition, Supplier shall inform Buyer in advance of any material change, intentional or otherwise, to the Goods as a direct result of Buyer's request for change, including, without limitation, changes in composition, quality specifications, manufacturing processes, labelling, functionality, safety, manufacturing locations, and any suppliers or subcontractors utilized and if not reasonably acceptable to Buyer and upon notice to Supplier, Buyer may elect to cancel the Purchase Order.

The Buyer may, at any time, request a change to the scope or execution of the Services under a Purchaser Order. If the Buyer requests a change to the scope or execution of the Services:



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- a) The Supplier shall, within a reasonable time, provide a written estimate to the Buyer of:
  - i. The likely time required to implement the change;
  - ii. Any necessary variations to the Supplier's charges arising from the change; and
  - iii. Any other impact of the change on the terms of the Order.
- b) If the Buyer does not wish to proceed, there shall be no change to the Purchaser Order;
- c) If the Buyer wishes the Supplier to proceed with the change, the Supplier shall do so after agreement on the necessary variations to its charges, the Services and any other relevant terms of the Purchase Order to take account of the change and the Purchase Order shall be amended accordingly.

### 10. PAYMENT AND TAX

No payment shall be made by the Buyer to the Supplier unless all invoices and credit notes relating to a specific Purchase Order have been received by the Buyer.

The Supplier shall deliver to the Buyer a monthly statement which reflects and sets out a summary of the invoices delivered by the Supplier to the Buyer during the month to which the statement relates. The Supplier shall be entitled to reflect in such statement any invoices in respect of which the Buyer has not made payment, whether such invoice relates to the month of the statement or not. The Purchase Order number must be clearly stated on all correspondence, invoices, monthly statements and delivery notes. An invoice will only be paid if it meets all the requirements of a valid Namibian Tax invoice. Under no circumstances shall the Supplier invoice the Buyer for Goods yet to be delivered and/or Services yet to be rendered.

Payment shall only be made to the Supplier subject to the provisions above, the **Buyer shall make payment to the Supplier thirty (30) days from date of statement.**

If the payment due date (i.e., the 30th day) falls on a Saturday, Sunday or officially proclaimed Namibian public holiday, the payment due date shall be the next business day following such Saturday, Sunday or officially proclaimed Namibia public holiday. Should the date of payment fall during the period 15th December to 31st December (both days inclusive), the first payment due date of the following calendar year, being the 2nd of January, shall be considered as the due date of payment (unless the 2<sup>nd</sup> of January falls on a Saturday, Sunday or officially proclaimed Namibian public holiday, in which case the due date for payment shall be the first business day thereafter). Payment shall be deemed made by electronic funds transfer ("EFT"), upon confirmation by Buyer's accounts payable team that such EFT has been sent to Supplier.

In the event that any Tax becomes due by reason of these Terms and Conditions and the Purchase Order, such Tax shall be borne by the party upon whom such Tax is imposed by applicable law. "Tax" means: all foreign, federal, state, provincial, local and other taxes, fees, levies, duties and other assessments or charges of whatever kind (including without limitations, income, excise, stamp, transfer, property, value added, real estate, sales, payroll, gains, gross receipts, withholding and franchise taxes) together with any interest, penalties, or additions payable in connection with such taxes, fees, levies, duties or other assessments or charges.

### 11. FORCE MAJEURE

Either Party shall be entitled to suspend performance of its obligations in terms of these Terms and Conditions and/or a Purchase Order to the extent that such performance is impeded or made unreasonably onerous by Force Majeure, meaning, but not limited to, any of the following circumstances: industrial disputes and any other circumstance beyond the control of the parties such as fire, war, extensive military mobilization, insurrection, requisition, seizure, embargo, restrictions in the use of power, currency and export restrictions, epidemics, natural disasters (including pandemics), extreme natural events and terrorists acts caused by any such circumstance referred to in this clause.

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The Party claiming to be affected by Force Majeure shall notify the other Party in writing within five (5) business Days of the intervention and cessation of such circumstance. If a Party fails to give such notice, the other Party shall be entitled to compensation for any additional and/or costs which it incurs and which it could have avoided had it timeously received such notice.

Notwithstanding what is contained herein, either Party shall be entitled to terminate these Terms and Conditions and the related Purchase Order by notice in writing to the other Party if performance of the obligations under these Terms and Conditions and/or a Purchase Order is suspended due to Force Majeure for more than 30 (thirty) calendar days.

## 12. NON-PERFORMANCE AND BREACH

If the Supplier fails to perform any of its obligations under these Terms and Conditions, the Buyer may perform that obligation (but is not obliged to do so) and recover the cost of doing so from the Supplier, who shall pay that amount to the Buyer on demand. If the Supplier breaches these Terms and Conditions, the Buyer may, in its sole and reasonable discretion, select its preferred remedy, including a claim for damages in place of any penalty or liquidated damages which are provided for that breach in terms of these Terms and Conditions. On each occasion, the Buyer may choose its remedy without negatively affecting any of its rights it may have in terms of these Terms and Conditions or at law. The Supplier is liable for all reasonable and necessary legal costs incurred by the Buyer arising from a material breach of these Terms and Conditions by the Supplier, on the attorney and own client scale and on a full indemnity basis, including any tracing fees and collection commission.

## 13. ARBITRATION

Any dispute arising out of or in connection with a Purchase Order or any of these Terms and Conditions, including any question regarding the existence, validity or termination of a Purchase Order or any of these Terms and Conditions, shall be referred to and finally resolved by arbitration. The arbitration shall be governed by the commercial rules of the Arbitration Foundation of Southern Africa. The number of arbitrators shall be one. The Parties shall agree on the arbitrator who shall be an advocate of not less than ten (10) years' experience. If agreement is not reached within 10 (ten) business days after any Party calls in writing for such agreement, the arbitrator shall be a Senior Counsel of no less than 10 (ten) years standing elected by the then President of the Law Society of Namibia, or its successor.

The seat or legal place of arbitration shall be Windhoek, Republic of Namibia. The language to be used in the arbitral proceedings shall be English. Subject to each Party's rights of appeal, the Parties irrevocably agree that the decision of the arbitrators shall be final and binding on them, shall be carried into effect, and shall be capable of being made an order of the High Court of Namibia, Windhoek Main Division (or any successor to that division).

## 14. INDEPENDENT CONTRACTOR

The parties agree that the Supplier, its employees, agents and sub-contractors are performing services as independent contractors and not as the Buyer's employees, regardless of where they perform services.

## 15. INDEMNIFICATION



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In addition to the Supplier's other obligations hereunder, the Supplier, its parents and affiliates shall defend, indemnify and hold the Buyer harmless against any and all demands, damages, claims, liabilities, losses, costs and expenses (including legal expenses) ("Claim") arising of or resulting from: (a) any known or unknown defect in the Goods and/or Services; (b) the negligence of, default of or breach of these Terms and Conditions (including breach of any warranty) by the Supplier, its agents, employees or sub-contractors; (c) any Claim arising from unsafe, defective, contaminated, hazardous or deficient Goods brought against the Buyer in terms of the Child Care and Protection Act 3 of 2015, the Criminal Procedure Act 51 of 1977, Expropriation Act 63 of 1975, etc. (d) alleged patent, copyright, trademark, trade dress, trade secret or other intellectual property right infringement or alleged unfair competition resulting from similarity in design, trademark or appearance of the Goods and/or Services; (e) failure to comply with applicable laws and regulations. The Supplier shall maintain insurance coverage in compliance with applicable law and sufficient to satisfy its indemnification obligations hereunder including without limitation third party liability insurance cover, product liability insurance cover and professional liability insurance cover.

## 16. CONFLICT OF INTEREST

Supplier represents and warrants that it has no business, professional, personal, or other interest, including, but not limited to, the representation of other clients, that would conflict in any manner or degree with the performance of its obligations under a Purchase Order or these Terms and Conditions or is reasonably aware of any circumstances that will impair Supplier's impartiality to exercise independent judgment in the interest of the Buyer in performing under a Purchase Order or these Terms and Conditions (each a "Conflict of Interest"). If any such actual or potential Conflict of Interest arises under a Purchase Order or these Terms and Conditions, the Supplier shall immediately inform the Buyer in writing of such Conflict of Interest. If, in the reasonable judgment of the Buyer, such Conflict of Interest poses a material conflict with the performance of the Supplier's obligations under a Purchase Order or these Terms and Conditions, then the Buyer may terminate the Purchase Order and/or these Terms and Conditions immediately upon written notice to Supplier and such termination of the Purchase Order and/or these Terms and Conditions shall be effective upon receipt of the termination notice by the Supplier.

## 17. CONFIDENTIALITY

The Supplier shall consider as "Confidential Information" all non-public information provided by the Buyer; all specifications or other documents prepared by the Buyer in connection with a Purchase Order; the fact that the Buyer has contracted to purchase Goods and/or Services from the Supplier, and all other non-public information relating to a Purchase Order. Without the Buyer's prior written consent, the Supplier shall not disclose or use any Confidential Information for any purpose other than performing a Purchase Order.

## 18. ASSIGNMENT/SUBCONTRACTING

The Supplier may not cede, delegate and/or assign nor subcontract any part of a Purchase Order without the Buyer's prior written consent. If the Supplier subcontracts any part of a Purchase Order, the Supplier shall bind each of its sub-contractors by terms no less stringent than these Terms and Conditions; provided however that nothing contained in any such sub-contracting arrangement shall create, nor be represented to create, a contractual relationship between any such sub-contractor and the Buyer, nor shall the Supplier be relieved of its obligations under these Terms and Conditions or the Purchase Order, notwithstanding the fact that the Buyer consented to Supplier's appointment of the sub-contractor.

## 19. TERMINATION FOR CONVENIENCE



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Upon notice to the Supplier, the Buyer may terminate a Purchase Order or any part thereof solely for its convenience. Upon its receipt of the Buyer's notice of termination, the Supplier will immediately stop and cause all its suppliers and sub-contractors to stop all work under the Purchase Order or the part which has been terminated. The Buyer will pay the Supplier's actual direct costs resulting from the termination but the Buyer will not pay the Supplier for any work performed after receipt by the Supplier of the notice of termination, nor for any costs that the Supplier could reasonably have avoided.

## 20. TERMINATION FOR CAUSE

Without prejudice to any of its other rights or remedies and without incurring any liability, the Buyer may terminate a Purchase Order or any part thereof in the event that the Supplier commits a material breach of its obligations under these Terms and Conditions and/or the Purchase Order. Upon receipt of a notice of termination from the Buyer, the Supplier shall immediately stop and cause all its suppliers and sub-contractors to stop all work under the Purchase Order or the part, which has been terminated.

## 21. LIMITATION OF BUYER'S LIABILITY

The Buyer shall not be liable to the supplier for any indirect damage or consequential losses, including, but not limited to, the loss of profits, loss of income and the loss of data. The Buyer's liability in relation to any claim for loss or damage arising out of or, in connection with, or resulting from these terms and conditions or a purchase order shall in no case exceed the price allocable to the goods and/or services or unit thereof giving rise to the claim.

## 22. TITLE AND RISK

Title to the Goods shall pass to the Buyer upon delivery to the designated delivery point without prejudice to any right of rejection, which may accrue to the Buyer under these Terms and Conditions. Delivery of the Goods and/or Services to the designated delivery point extinguishes the Supplier's proprietary rights in them and the Supplier retains no title. The Supplier shall: (a) be responsible for and bear the risk of loss of or damage to the Goods until they are collected by or delivered to the designated delivery point as stated in the Purchase Order and accepted by the Buyer's authorized representative, and (b) bear all risks and expenses related to the return of rejected Goods requiring correction, including without limitation, freight, duties, insurance, packaging, materials and labor costs.

## 23. WAIVER AND REMEDIES

Neither the Buyer's failure to insist on the performance of any of these Terms and Conditions, nor its failure to exercise any right or privilege, nor its waiver of any breach hereunder, shall be deemed to be a waiver of any of the provisions under these Terms or Conditions or breaches by the Supplier of a Purchase Order whether of the same or a similar type. The rights and remedies provided by these Terms and Conditions are cumulative and in addition to and not exclusive of any rights or remedies provided by law.

## 24. COOPERATION AND GOOD FAITH

Each of the Parties undertakes at all times to do all such things, perform all such acts, take all such steps and procure the doing of all such things, within its power and control, as may be open to it, necessary for and incidental to the putting into effect or maintenance these Terms and Conditions.

The Parties shall at all times act in good faith towards each other and shall not bring the other party into disrepute.

## 25. PROTECTION OF PERSONAL INFORMATION & BOKOMO NAMIBIA (PTY) LTD INFORMATION SECURITY REQUIREMENTS





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When processing Personal Information that the Supplier is exposed to during the course of delivering the Goods and/or Services, which include but is not limited to information relating to the Buyer's employees, suppliers, customers, service providers and business. Without limiting the generality of the aforesaid, the Supplier shall ensure that the statutory obligations in respect of privacy and data protection are strictly adhered to when processing data subject's Personal Information and Buyer shall have the absolute right in its sole discretion to conduct a compliance audit of the Supplier's systems and processes when handling and processing personal information.

Notification of security breaches – The Supplier will inform the Buyer in a timely manner regarding any breaches that may impact the Buyer or the integrity of the Buyer's data.

Right to perform assessment – By request or upon significant changes to the relationship, the Supplier will accommodate the Buyer's information security assessments by providing information/documentation on related policies and practices.

Adherence to security practices – Supplier and its sub-contractors will adhere to industry acceptable practices regarding security policies/ guidelines/ standards (including physical security, on boarding and off-boarding resources, etc.).

Timely response to vulnerabilities – the Supplier will remediate, within industry best practice timelines, security vulnerabilities that may impact the Buyer.

Communication of significant changes – Supplier will inform Buyer in a timely manner of major changes in its data environment that may impact Buyer.

Access to Personal Information (PI) – Supplier will notify Buyer of any access it will have to Personal Information (PI). "Personal Information" means Buyer data that relates to or can be attributed to an identified or identifiable natural person and/or information concerning an identified or identifiable natural person that is protected by applicable laws.

## 26. ADDRESS FOR NOTICES AND LEGAL PROCESS

Any written notice must be addressed to: Bokomo Namibia (Pty) Ltd, Plot 10, Brakwater, and Windhoek, Namibia. Any legal document must be delivered to / served by hand at: Bokomo Namibia (Pty) Ltd, Plot 10, Brakwater, and Windhoek, Namibia.

## 27. ENTIRE AGREEMENT

A Purchase Order shall incorporate these Terms and Conditions and shall constitute the entire agreement of the Supplier and the Buyer regarding the supply of Goods and/or Services and shall override and supersede any previous agreement or arrangement whether oral or in writing between the Supplier and the Buyer unless expressly accepted in writing and signed by an authorized representative of the Supplier and the Buyer. These Terms and Conditions and any Purchase Order may not be modified except in writing and signed by an authorized representative of the Supplier and the Buyer.

## 28. GOVERNING LAW

These Terms and Conditions and all Purchase Orders shall be governed by and construed in accordance with the law of the Republic of Namibia.

## 29. GENERAL WARRANTIES

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The Supplier hereby warrants to and in favor of the Buyer that:

- a) It has the legal capacity and has taken all necessary corporate action required to empower and authorize it to enter into these Terms and Conditions;
- b) To the best of its knowledge and belief, it is not aware of the existence of any fact or circumstance that may impair its ability to comply with all its obligations in terms of these Terms and Conditions;
- c) It accepts these Terms and Conditions as principal (and not as agent or in any other capacity);
- d) It is not relying upon any statement or representation by or on behalf of the Buyer, except those expressly set forth in these Terms and Conditions.
- e) there are no circumstances, facts or reasons which are known, or ought to be known by the Supplier, which should have been disclosed to the Buyer and which would have influenced the Buyer's decision in appointing the Supplier to supply the Goods and/or Services;
- f) It has the appropriate governance, risk management, business continuity plans and internal controls in place to deliver the Goods and/or Services in accordance with these Terms and Conditions and to comply with all applicable laws;
- g) It shall at all times manufacturer, supply and deliver the Goods and/or Services with competence, integrity and diligence;
- h) It has the operational capability and financial means and reserves to deliver the Goods and/or Services in accordance with these Terms and Conditions; and
- i) It has in place and will maintain for the duration of its performance under a Purchase Order the requisite licenses, qualifications and authority to provide the Goods and/or Services.

Supplier's representations and warranties under this clause shall be a separate warranty and will in no way be limited or restricted by inference from the terms of any other warranty or by any other provisions in these Terms and Conditions; shall continue and remain in force notwithstanding the completion of any or all the transactions contemplated in these Terms and Conditions; and shall prima facie be deemed to be material and to be a material representation inducing the Buyer to enter into these Terms and Conditions.