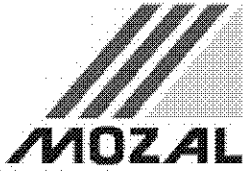


**GENERAL TERMS & CONDITIONS FOR  
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<b>Signed for on behalf of SUPPLIER and hereby warrants that (s)he is duly authorized to sign and accept this complete GTCS, consisting of 11 (eleven) pages and all its Appendices, on behalf of SUPPLIER</b>	
<b>SUPPLIER NAME:</b>	
<b>VENDOR NR:</b>	
<b>SIGNATURE:</b>	
<b>NAME:</b>	
<b>DESIGNATION:</b>	
<b>DATE:</b>	
<b>PLACE:</b>	

***All Suppliers shall be expected to fully comply with all Health, Safety & Environment legislation, rules and procedures at all times. Failure to comply with any such applicable rules may result in immediate termination of the commercial and or any other relationship between Mozal and the offending supplier.***

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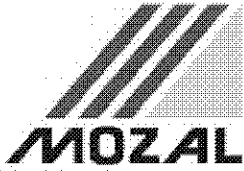
**These terms and conditions shall apply to all AGREEMENTS entered into by and between MOZAL and SUPPLIER of services unless otherwise indicated. Deviations, if any, to the SCOPE OF SERVICE, PURCHASE PRICE and other unique terms and conditions will be included in the LETTER OF AWARD relating to the AGREEMENT.**

**The GTCS shall apply unless expressly excluded or in cases where a written AGREEMENT is entered into without expressly incorporating same.**

**1. DEFINITIONS**

- 1.1 **AGREEMENT** - Agreement is reached when the PARTIES have reached consensus, in writing on the PURCHASE PRICE, the SCOPE of SERVICE, the COMPLETION DATE and EXPIRY DATE, and the method of payment, including the written AGREEMENT entered into by and between MOZAL and SUPPLIER for the execution of the SERVICE as well as all documents incorporated by reference, which establish the rights and obligations of the parties under the said AGREEMENT.
- 1.2 **AGREEMENT PERIOD** - The period for which the AGREEMENT entered into by the PARTIES will be effective and as stated in the LETTER of AWARD.
- 1.3 **AMENDMENT** - Any variation to the AGREEMENT agreed in writing and signed by the PARTIES
- 1.4 **APPROVED OR APPROVAL** - Approval in writing by MOZAL.
- 1.5 **BAR CHART** - A graphic depiction of the manner and period of time over which the SERVICE is to be performed and includes successive bar charts necessitated by changes in the SCOPE of SERVICE or COMPLETION DATE.
- 1.6 **COMPLETE or COMPLETION or FINAL COMPLETION** - The state of completion where, in the opinion of MOZAL, the SERVICE is complete, that all items requiring rectification has been rectified after practical completion and that the SERVICE is free from all known defects (subject however to the provisions of clause 11 - WARRANTY below).
- 1.7 **COMPLETION DATE** - The date the SERVICE is deemed by MOZAL to be COMPLETE or FINAL COMPLETION is reached.
- 1.8 **DAY** - A calendar day.
- 1.9 **EFFECTIVE DATE** - The DATE upon which the AGREEMENT PERIOD commences
- 1.10 **EXPIRY DATE** - The DATE upon which the AGREEMENT PERIOD expires.
- 1.11 **FACSIMILE OR FAX** - Successful dispatch by telefax as confirmed by the sender.
- 1.12 **FINAL ACCEPTANCE** - Will be the act of MOZAL accepting the SERVICE as recorded and dated by a Certificate of Final Acceptance or any other document indicating and dating the act of acceptance of the SERVICE. Defect Liability and Warranty periods will start from the date of Final Acceptance.
- 1.13 **GTCS** - These General Terms and Conditions for Rendering SERVICES to MOZAL.
- 1.14 **HSE** - Health, Safety and Environment
- 1.15 **LAW** - The applicable Mozambican Legislation.
- 1.16 **LETTER OF AWARD** - The letter that supplies a summary of all the documentation relating to the AGREEMENT and describes, records and incorporates the "GTCS", the SCOPE of SERVICE and the PURCHASE PRICE.
- 1.17 **MOZAL** - Mozal S.A.R.L together with its authorized representatives.
- 1.18 **MOZAL INFORMATION** - Any information about MOZAL'S technology in processes, products, business, suppliers, clients, purchasing and marketing action, including information regarding SUPPLIER'S dealings with any affiliate of MOZAL, or any other information whatsoever which may come to the knowledge of SUPPLIER in connection with MOZAL.
- 1.19 **MOZAL OFFICIAL** - The designated MOZAL official, other than the SPECIALIST PROCUREMENT, responsible for the SERVICE.
- 1.20 **PARTY or PARTIES** - MOZAL and/or SUPPLIER.
- 1.21 **PURCHASE PRICE** - Price quoted by the SUPPLIER and accepted by MOZAL and stated as the monetary value and reflected in the LETTER OF AWARD as the PURCHASE PRICE subject to such additions thereto or deductions therefrom as may be made under the provisions hereinafter contained.
- 1.22 **QUOTATION** - Written responses by SUPPLIERS to Requests for QUOTATION by MOZAL. MOZAL will make use of a closed tender system to acquire these QUOTATIONS.
- 1.23 **SAFE OR SAFETY OR SAFELY** - As defined in the applicable Safety Legislation.

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- 1.24 **SCOPE OF SERVICE** - The complete SERVICE to be performed by SUPPLIER and the standard and specifications to which the SERVICE is to be performed, as described in the LETTER OF AWARD.
- 1.25 **SERVICE or SERVICES** - The SERVICE or work to be performed/rendered by SUPPLIER in terms of the AGREEMENT being *inter alia* the supply of personnel, equipment, materials and expertise, according to the particular AGREEMENT, to be provided by SUPPLIER in terms of the AGREEMENT, and includes additions to or omissions from the SERVICE or work as originally defined. All such services shall at all times comply with all applicable HSE legislation and procedures.
- 1.26 **SITE** - The lands and/or other places, under, over, in or through which the SERVICE is to be executed or carried out and any other areas or places and within any boundaries provided by MOZAL for the purpose of this AGREEMENT.
- 1.27 **SPECIALIST PROCUREMENT** - MOZAL'S Procurement employee responsible for placing the specific AGREEMENT.
- 1.28 **SUB-SUPPLIER** - Any person, firms, company or organization to whom any part of the AGREEMENT has been subcontracted by the SUPPLIER, and includes the legal representatives and successors of such person, firm, company or organization.
- 1.29 **SUPPLIER** - The entity or person or individual to whom the AGREEMENT is addressed as well employees and any person or party that the SUPPLIER involves in the subject matter of an AGREEMENT with MOZAL, including all the successors, legal representatives, assigns, liquidators and trustees
- 1.30 **VAT** - Value Added Tax in South Africa and/or Mozambique, as amended from time to time.
- 1.31 **WORK** - A specific task which forms part of the complete SERVICE that is to be rendered in terms of the AGREEMENT.

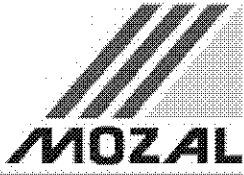
**2. SCOPE OF SERVICE**

- 2.1 If awarded the AGREEMENT, SUPPLIER shall perform/render the SERVICE as described in the SCOPE OF SERVICE and in compliance to this GTCS and in particular to the Health and Safety Appendix attached hereto.
- 2.2 Save where indicated otherwise in writing, SUPPLIER shall provide everything necessary to execute and complete the SERVICE, including formal risk assessments where required by MOZAL.
- 2.3 Should the SERVICE consist of more than one activity to be done as and when required by MOZAL, then each such activity shall be considered as a separate AGREEMENT.
- 2.4 The SUPPLIER shall be deemed to have inspected, examined and satisfied itself with the SITE, its surroundings, the specifications and drawings supplied, characteristics, quality, or/and quantity of the WORK and generally to have obtained its own information on all matters affecting the execution of the SERVICE, including but not necessarily limited to duties, taxes, administration fees, licenses and cross border charges related to the execution of the SERVICE.
- 2.5 No claim by the SUPPLIER for additional payment will be allowed on the grounds of any misunderstanding or misinterpretation in respect of any such matter nor shall the SUPPLIER be released from any risks or obligations imposed on/ or undertaken by it under the AGREEMENT on any such ground or on the ground that it did not or could not foresee any matter which might affect or have affected the execution of the SERVICE.
- 2.6 SUPPLIER shall at all times during performance of the SERVICE, or WORK included in the SERVICE, and upon completion thereof, remove and dispose of all debris, equipment and material caused by or relating to SUPPLIER operations, failing which MOZAL may clean the SITE after giving advance notice to SUPPLIER, the costs of which will be borne by the SUPPLIER.
- 2.7 All scrap material(s) resulting from performance of the SERVICE shall remain the property of MOZAL. SUPPLIER shall upon completion of the SERVICE be responsible for the collection of scrap metals, the removal and transportation thereof from SITE to a destination indicated by MOZAL.

**3. PURCHASE PRICE**

- 3.1 The PURCHASE PRICE shall be the amount set out in the LETTER OF AWARD and may only be amended in accordance with clause 12 - AMENDMENTS hereunder.
- 3.2 In the case of emergency work where circumstances do not permit prior agreement in relation to a price, the PURCHASE PRICE for such emergency work shall be a reasonable market related amount.

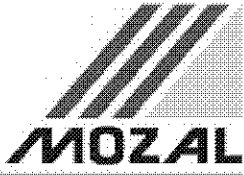
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- 3.3 MOZAL may, at its own discretion and without prior notification to SUPPLIER, retain 10% of the PURCHASE PRICE for 3 (three) months after FINAL COMPLETION.
- 4. EXPEDITING**
- 4.1 Where the SERVICE requires some activities to be performed at SUPPLIER'S facilities, MOZAL shall have the right to expedite such SERVICES, and MOZAL will be allowed reasonable access to the SUPPLIER or SUB-SUPPLIER'S premises for such purposes. SUPPLIER shall ensure that any SUB-SUPPLIERS similarly allow for such access.
- 5. INSPECTION**
- 5.1 MOZAL shall at all reasonable times be entitled to inspect SUPPLIER'S facilities, equipment and / or manufacturing progress. SUPPLIER shall afford MOZAL access to all locations where anything connected with the SERVICE is made, or dealt with, and make available to MOZAL all information and documentation necessary to enable MOZAL to determine progress and quality. SUPPLIER shall ensure that any SUB-SUPPLIERS similarly allow for such access.
- 5.2 SERVICES or parts thereof rejected at such inspections shall be replaced, at the SUPPLIERS cost, with acceptable substitutions, without any delay and, in any event, by the agreed COMPLETION DATE.
- 5.3 The fact that MOZAL inspects the SERVICE does not release the SUPPLIER from its obligations or liabilities in terms of the AGREEMENT, with specific reference to the quality and quantity of the SERVICE.
- 6. SUPPLIER'S PERSONNEL**
- 6.1 MOZAL has the right to refuse admission or to remove SUPPLIER or its employees, invitees, agents and the like from SITE for whatever reason and shall not be liable, to the SUPPLIER or any of the aforesaid persons, for any damages of whatever nature and however arising, and the SUPPLIER indemnifies MOZAL against any claims in respect thereof.
- 7. UNITS OF MEASURE AND LANGUAGE**
- 7.1 All units of measure utilized in terms of the AGREEMENT shall be *Système Internationale* (SI) units.
- 7.2 All communications, specifications, drawings and other documents shall be in at least the English language, but preferably in both English and Portuguese.
- 7.3 Whilst these Terms and Conditions may also be provided in the Portuguese language, in the event of a conflict between the English and Portuguese versions, the English version shall always prevail.
- 7.4 MOZAL confirms that the English version of these Terms and Conditions conforms with and is a true and correct translation of the Portuguese version.
- 8. EFFECTIVE DATE, COMMENCEMENT DATE & PERFORMANCE OF THE SERVICE**
- 8.1 The AGREEMENT shall take effect on the date stated in the LETTER of AWARD, unless otherwise stipulated, in writing, by the SPECIALIST PROCUREMENT.
- 8.2 SUPPLIER shall commence execution of the SERVICE on the date the SITE is handed over or, when the period for execution of the SERVICE commences, or any other date as may be agreed on between the PARTIES.
- 8.3 If required by MOZAL, SUPPLIER shall furnish a BAR CHART, which shall reflect the details required by MOZAL, which BAR CHART should be updated whenever circumstances affecting the AGREEMENT dictate.
- 8.4 SUPPLIER shall execute the SERVICE in accordance with the BAR CHART, or as otherwise agreed, in writing, with responsible MOZAL OFFICIAL.
- 8.5 If applicable a certificate shall be issued by MOZAL recording FINAL COMPLETION on the date that such a completion is obtained.
- 8.6 A certificate of FINAL COMPLETION will not absolve the SUPPLIER, in any way, from liability for latent or other defects, nor from its obligations in terms of sub clause (WARRANTY – 11.2) below.

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**9. INVOICING AND PAYMENT**

- 9.1 Unless otherwise stated in the AGREEMENT, MOZAL shall pay to the SUPPLIER the PURCHASE PRICE as agreed in the LETTER of AWARD, within 30 days after receipt of a valid invoice and after the SERVICE has been completed and accepted by MOZAL.
- 9.2 In addition to any other remedies at law or in delict, MOZAL shall have the right to set off or deduct from any amount due or to become due under the AGREEMENT any costs legally due, damages or expenses which MOZAL has incurred and for which the SUPPLIER is liable under the AGREEMENT or any other order or AGREEMENT with the SUPPLIER or to recover such cost, damages or expenses by other means.

**10. CLAIMS AND EXTENSION OF TIME**

- 10.1 Within 3 (three) days after any occurrence which the SUPPLIER believes justifies an increase in the PURCHASE PRICE and/or extension of time, or any other claim, SUPPLIER shall notify MOZAL in writing thereof.
- 10.2 Within 5 (five) days after such notification, SUPPLIER shall submit to MOZAL a written claim, with relevant supporting documentation setting out the monetary value and time impact of the claim.
- 10.3 Should SUPPLIER fail to act within the time periods stipulated in sub-clause 10.1 and 10.2 above the SUPPLIER shall be deemed to have waived its claim.
- 10.4 The PURCHASE PRICE and/or COMPLETION DATE shall only be adjusted after MOZAL has agreed in writing to a claim.
- 10.5 In the event of a dispute between SUPPLIER and MOZAL concerning a claim, SUPPLIER shall continue with the performance of the SERVICE with due diligence, until such time as a settlement has been reached, or the matter has been resolved in terms of clause 17 - DISPUTE RESOLUTION below.

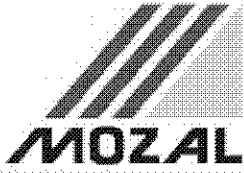
**11. WARRANTY**

- 11.1 The SUPPLIER warrants that the SERVICE will be performed / rendered with due care and diligence:
- 11.1.1 In a workmanlike manner, which shall include but not be limited to, complying with manufacturers/suppliers' specifications, if applicable, to goods, methods or materials used in the performance of the SERVICE.
- 11.1.2 With proper and appropriate unused materials, where applicable.
- 11.1.3 In accordance with the applicable MOZAL Request for QUOTATION and the AGREEMENT and all relevant HSE requirements.
- 11.1.4 With supervision, labour and equipment which are fit for the purpose for which they are required, such that the SERVICE is COMPLETED so that it is fit for the intended purpose.
- 11.2 SUPPLIER shall for 365 (three hundred and sixty five) days from the date of the Certificate of FINAL COMPLETION, or failing the existence thereof the agreed upon completion date, rectify all defects, whether in workmanship or materials, arising from normal use of the SERVICE or the product thereof, by MOZAL.

**12. AMENDMENTS**

- 12.1 The AGREEMENT and the SERVICES may only be amended or varied, in writing, by AGREEMENT AMENDMENT over signature of the parties and SUPPLIER shall only react to written amendments.
- 12.2 No amendment shall be valid unless it is signed by MOZAL.
- 12.3 Such amendments shall not invalidate or otherwise affect the AGREEMENT, except as indicated in the AGREEMENT AMENDMENT.
- 12.4 Adjustments to the PURCHASE PRICE shall be made on the basis of prices used by the SUPPLIER to calculate its QUOTATION prices, otherwise, prevailing market prices.
- 12.5 Monies due for additional SERVICES will not be paid unless SUPPLIER has signed the AGREEMENT AMENDMENT(s) and has returned same to MOZAL. MOZAL may deduct monies arising from omissions regardless of whether SUPPLIER has signed the amendment documents or not.

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**13. FORCE MAJEURE**

- 13.1 Neither PARTY hereto shall be liable to perform any obligation hereunder in the event and to the extent that such failure is caused by a condition of force majeure.
- 13.2 A condition of force majeure shall arise from any circumstances beyond the reasonable control of the affected PARTY, which prevents or impedes the rendering of the SERVICE, including but not necessarily limited to the following:
  - 13.2.1 War or hostilities.
  - 13.2.2 Riot or civil disturbance.
  - 13.2.3 Earthquake, flood, fire or other natural physical disaster.
  - 13.2.4 National or regional strike.
  - 13.2.5 Confiscation, destruction or requisition by order of any government or public authority.
- 13.3 Conditions that shall not constitute force majeure, unless caused by circumstances which are themselves force majeure events, include but are not limited to:
  - 13.3.1 Shortage of labour, materials or utilities or strike at SUPPLIER'S works or premises.
  - 13.3.2 Failure of SUB-SUPPLIER to deliver.
  - 13.3.3 Lack of financial resources on the part of the SUPPLIER.
- 13.4 The PARTY claiming force majeure shall immediately give notice in writing to the other PARTY of the occurrence of such event, as well as specifying the impact of such event on the performance of the specific party, and shall be obliged to take all reasonable steps to minimise the effect of the Force Majeure event.
- 13.5 MOZAL reserves the right to terminate the AGREEMENT should an event of force majeure cause a delay or foreseeable delay in excess of thirty (30) cumulative calendar days in performance of the SERVICE.

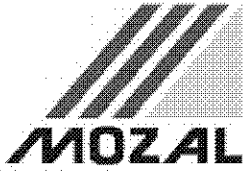
**14. TERMINATION**

- 14.1 MOZAL may in its discretion, unless agreed to otherwise in writing, and at any time, terminate the AGREEMENT by written notice to the SUPPLIER. Unless otherwise agreed to in writing such termination shall become effective 30 (thirty) days after date on which SUPPLIER is reasonably deemed to have knowledge of the contents of the notice of termination. The following shall apply:
  - 14.1.1 At the close of business on the effective date as stipulated in the notice of termination the SUPPLIER shall cease all work.
  - 14.1.2 After ceasing with its activities the SUPPLIER shall deal with plant, equipment, tools, materials and SUB-SUPPLIERS in accordance with MOZAL'S instructions.
  - 14.1.3 During the period between notice of termination and the effective date of such notice as well as in the process of complying with MOZAL'S instructions, SUPPLIER shall assist MOZAL in good faith to minimize costs
- 14.2 Provided that the SUPPLIER complied with the AGREEMENT at the effective date of cancellation, MOZAL, shall, with regard to SERVICES already performed, compensate SUPPLIER in such a manner as will place SUPPLIER in the same position as SUPPLIER was in before entering into the AGREEMENT plus SUPPLIER'S reasonable mark-up on everything expended on the SERVICE
- 14.3 Should either of the PARTIES fail to comply with the terms and conditions of the AGREEMENT and remain in default for 30 (thirty) days after having been given notice to remedy the default, then the other PARTY may cancel this AGREEMENT by giving written notice to this effect.
- 14.4 Should MOZAL at any time, have reason to suspect that the SUPPLIER is no longer capable of rendering the SERVICE, then MOZAL may cancel the AGREEMENT in terms of 15.3.
- 14.5 Cancellation in terms of 15.3 shall be without prejudice to the canceling PARTY's other rights.
- 14.6 If MOZAL cancels the AGREEMENT in terms of 15.3 it shall be entitled to retain all monies due to the SUPPLIER until such time as the SERVICE is complete and clause 15.1.2 shall apply.

**15. CONSEQUENTIAL DAMAGES**

- 15.1 It is agreed that neither PARTY will be liable for special, indirect or consequential damages of any nature however arising from any breach of any of the terms and conditions of the AGREEMENT.

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**16. DISPUTE RESOLUTION**

- 16.1 If any dispute arises relating to the AGREEMENT or the GTCS or any claim for damages is made as the result of breach of any obligation resulting from the AGREEMENT or the GTCS, the PARTIES shall use their best efforts to resolve such disputes through good faith negotiation. Each PARTY shall designate executive management and/or other senior representatives to conduct such good faith negotiations. Any dispute or claim for damages, as applicable, not resolved by such negotiations shall be resolved by arbitration as provided in sub-clause 17.2 below. While a dispute is continuing, both PARTIES are required to continue to perform their respective obligations under the AGREEMENT.
- 16.2 Either PARTY can initiate arbitration by notice of intention to arbitrate to the other PARTY stating the dispute or claim for damages, as applicable, to be arbitrated. Upon the giving of such notice, the dispute or claim for damages, as applicable, shall be determined by an Arbitrator who is agreed upon in writing by the PARTIES. Failing such agreement within 4 (four) weeks after notice by either PARTY, the Arbitrator shall be appointed upon the application of any Party by the United Nations Commission on International Trade Law ("UNCITRAL"), acting under its rules for conciliation and arbitration ("the Arbitration Rules"). The Arbitrator shall be a person whose profession and experience make him/her qualified to consider the dispute.
- 16.3 Any Arbitrator in the conduct of proceedings before him/her shall not be bound by the rules of any court in any jurisdiction, but shall conduct the said proceedings according to the Arbitration Rules of the UNCITRAL (except to the extent they are inconsistent with the provisions of this clause).
- 16.4 The decision of the Arbitrator shall be given in writing as soon as reasonably possible. The decision shall be final and binding upon the PARTIES.
- 16.5 The costs and expenses of the Arbitrator shall be paid by such PARTIES and in such proportions as the Arbitrator determines to be appropriate, and the PARTIES shall bear their own costs and expenses incurred in any such proceedings.
- 16.6 Any arbitration shall be held in Maputo, Republic of Mozambique or at such other place in the Republic of South Africa or Mozambique as may be agreed upon by those involved in the arbitration.
- 16.7 The arbitration proceedings shall be conducted in the English language.

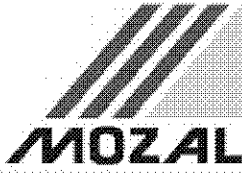
**17. PENALTIES**

- 17.1 SHOULD SUPPLIER fail to complete the SERVICE on the date(s) as agreed with MOZAL, SUPPLIER shall pay penalties in the amount limited to 10% (ten percent) of the final PURCHASE PRICE, as described in the LETTER of AWARD to the AGREEMENT, and any AMENDMENTS thereto.
- 17.2 With reference to sub-clause 18.1, if the COMPLETION DATE is expressed:
- 17.2.1 in terms of months, then the penalty shall be calculated per week,
- 17.2.2 in terms of weeks, then the penalty shall be calculated per day,
- 17.2.3 in terms of days or hours, the penalty shall be calculated per day or per hour.

**18. INDEMNITY**

- 18.1 SUPPLIER agrees to indemnify, hold harmless and defend MOZAL and their officers, employees, agents and representatives, from and against the following liabilities arising as a result of the execution of the SERVICE:
- 18.1.1 any liability with regard to claims by governmental authorities or others for non-compliance by SUPPLIER of any Act or Parliament, law ordinance, regulation or by-law made by a lawful authority provided that such compliance therewith was required for the execution of the AGREEMENT.
- 18.1.2 any liability arising from actual or alleged public or private nuisance arising out of negligent acts or omissions of SUPPLIER or its SUB-SUPPLIER(S).
- 18.1.3 any liability arising from loss or damage to SUPPLIER and/or SUB-SUPPLIER'S equipment and their other property on SITE.
- 18.1.4 any liability arising from claims with regard to the death of/or injury to SUPPLIER'S or SUB-SUPPLIER'S employees or the death of/or injury to third parties (excluding MOZAL employees in respect of whom MOZAL shall hold the SUPPLIER harmless but for 19.1.7)
- 18.1.5 any liability arising from any loss of/or damage to third party property (excluding MOZAL property in respect of which MOZAL shall hold the SUPPLIER harmless but for 19.1.7)

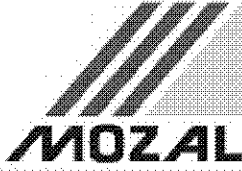
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- 18.1.6 any liability arising from actual or asserted infringement or improper appropriation or use of patents, copyrights, proprietary information or know-how in respect of the SERVICE designed by/or under the responsibility of the SUPPLIER.
- 18.1.7 liability for the payment of/for claim for the deductible payable in the event of a claim against any of MOZAL'S Insurance Policies. This indemnity will not apply in cases where such liabilities are a direct result of gross negligence or wrongful act or omission by MOZAL.
- 18.2 MOZAL hereby indemnifies and hold SUPPLIER harmless from the following liabilities arising from the execution of the SERVICE by SUPPLIER and/or its SUB-SUPPLIERS:
- 18.2.1 All liabilities for consequential loss or consequential damages suffered by MOZAL including without limitation liability for loss of/for use of the SERVICE, loss of profits, loss of product or business interruption.
- 19. CESSION OR ASSIGNMENT**
- 19.1 SUPPLIER shall not cede its rights, nor transfer or assign its rights and/or obligations in terms of any AGREEMENT with MOZAL, in whole or in part, without first obtaining the written consent of MOZAL.
- 20. SUB-SUPPLIERS**
- 20.1 SUPPLIERS shall not enter into AGREEMENTS with SUB-SUPPLIERS for performance of the SERVICE, in whole or in part, without first obtaining the written consent of MOZAL.
- 20.2 MOZAL may nominate SUB-SUPPLIERS to be employed by SUPPLIER. Notwithstanding MOZAL'S approval or nomination of a specific SUB-SUPPLIER, the SUPPLIER shall at all times remain fully responsible for the performance of any SUB-SUPPLIER, and shall ensure that the SUB-SUPPLIER is bound to the SUPPLIER in the same way "mutatis mutandis", as the SUPPLIER is bound to MOZAL, and shall also ensure that all guarantees or other undertakings requested by MOZAL, be transferred from such SUB-SUPPLIER to MOZAL.
- 20.3 In the event that the AGREEMENT is terminated for any reason, MOZAL shall, without prejudice to any of its other rights, be entitled to take over and enforce any Sub-Contracts.
- 20.4 MOZAL shall be entitled (whether in terms of sub-clause 21.3 above or otherwise) to effect payments directly, to the SUB-SUPPLIER in which event the PURCHASE PRICE shall be reduced accordingly. Should MOZAL decide to make payment directly to a SUB-SUPPLIER, MOZAL shall notify SUPPLIER of its decision, and the amount of any payment made or to be made to the SUB-SUPPLIER.
- 20.5 SUPPLIER may within 7(seven) days of such notification inform MOZAL of any relevant information regarding the intended payment.
- 20.6 MOZAL may at any time revoke an approval of a SUB-SUPPLIER or impose further conditions of approval.
- 21. WAIVER**
- 21.1 No act of relaxation, indulgence or grace on the part of MOZAL shall in any way operate as or be deemed to constitute a waiver by MOZAL of any of its rights in terms of the AGREEMENT or AMENDMENT thereof.
- 22. CONFIDENTIALITY**
- 22.1 In all matters concerning the AGREEMENT and / or its general contact with MOZAL, the SUPPLIER and its employees undertake not to disclose to any third party any information whatsoever concerning matters such as MOZAL'S plant, equipment, operation, processes, technologies or commercial, financial or legal affairs.
- 22.2 Without derogating from the generality of the foregoing, SUPPLIER hereby binds itself not to do anything, directly or indirectly, which will or may prejudicially affect MOZAL'S position in the markets, both local and international.
- 22.3 Each PARTY shall, in respect of information received from the other, employ the same methods and endeavors to prevent such information becoming known to others as they do in respect of their own.
- 22.4 The SUPPLIER shall only use the MOZAL INFORMATION, furnished to it, in connection with the SERVICE.
- 22.5 Information furnished by the PARTIES to each other in whatever form shall be returned on demand.

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22.6 All information of whatsoever nature resulting from the SERVICE performed by SUPPLIER shall be owned by MOZAL and be used for MOZAL'S purposes only, unless otherwise agreed by the PARTIES, which agreement shall be in writing and signed before such information is used for any other purpose.

**23. INSURANCE**

23.1 Without limiting SUPPLIER'S liabilities or responsibilities in terms of the AGREEMENT, the SUPPLIER will provide insurance to cover its liabilities and responsibilities in terms of the AGREEMENT.

23.2 Notwithstanding anything elsewhere contained in the AGREEMENT, the SUPPLIER shall provide at least:

23.2.1 Insurance in terms of the Labour Act (No 08/98) being collective insurance protection in respect of its employees and the like against professional illnesses and/or accidents.

23.2.2 Employers Liability covering SUPPLIER and its SUB-SUPPLIER'S liability to its employees up to a minimum amount of US \$ 500 000,00 per occurrence.

23.2.3 Legal Liability Insurance in respect of claims for death of/or injury to persons or loss of/or damage to third party property (other than the SERVICE), up to a minimum amount of US \$ 500 000,00 per occurrence.

23.2.4 Third Party Motor Liability Insurance in respect of all vehicles with a minimum indemnity limit of US \$ 200 000,00 per vehicle per occurrence.

23.3 SUPPLIER shall arrange to have MOZAL noted as co-assured on all its policies arranged in compliance with the duration of the AGREEMENT.

23.4 MOZAL will have the right to examine the policies maintained by the SUPPLIER at any time before or during the AGREEMENT period.

**24. CLAIMS BY THIRD PARTIES & LIENS**

24.1 SUPPLIER waives all liens and rights of possession resulting from the SERVICE.

24.2 Should a third party make a claim against MOZAL for anything connected with or arising from the SERVICE:

24.2.1 SUPPLIER shall forthwith, after notification by MOZAL deal with such a claim in such manner as to avoid all prejudice to MOZAL and keep MOZAL fully informed in regards thereto; or,

24.2.2 alternatively, MOZAL may deal with such claim at its discretion, in which event SUPPLIER shall render MOZAL all necessary assistance in regards thereto

24.3 Should MOZAL incur any expenses or make any disbursement, whether in terms of sub-clause 25.2.1 or 25.2.2, such expenses or disbursements may be deducted from any monies owed to SUPPLIER or shall be reimbursed by SUPPLIER to MOZAL at MOZAL'S sole discretion.

24.4 MOZAL shall have a lien on all the SUPPLIER'S tools and equipment on SITE until COMPLETION of the SERVICE

**25. LABOUR RELATIONS**

25.1 SUPPLIER shall do nothing to the detriment of MOZAL'S labour relations or which may prejudice harmonious labour relations on SITE, regardless of whether MOZAL'S labour or the labour of others are involved and will in particular comply with the Labour Relations appendix attached hereto.

25.2 SUPPLIER shall not recruit personnel in the employ of MOZAL or any of its other SUPPLIERS, or their SUB-SUPPLIERS without MOZAL'S consent, which shall be obtained beforehand in writing.

25.3 Should SUPPLIER experience any labour disharmony, which may have an impact on MOZAL'S operation or SUPPLIER'S performance of the SERVICE, it shall immediately inform MOZAL thereof, and keep it informed.

**26. APPLICABLE LAW**

26.1 The AGREEMENT is subject to and shall be interpreted and construed in terms of the laws of MOZAMBIQUE.

26.2 SUPPLIER shall at all times comply with all applicable legislation.

26.3 Without limiting the generality of 27.1 and 27.2, SUPPLIER shall in particular comply with all laws relating to Security, Safety and Occupational Health and Environment, including FRCP's.

**27. RIGHTS & REMEDIES**

27.1 The provisions of the AGREEMENT shall in no way limit or exclude any rights which MOZAL may have in terms of the applicable LAW.

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**28. SUPPLIER TERMS & CONDITIONS**

28.1 Terms and conditions in SUPPLIER documentation shall be of no force or effect, unless specifically incorporated into the each specific AGREEMENT.

**29. OWNERSHIP OF MATERIALS, MATERIALS SUPPLIED & SUPPLIER'S EQUIPMENT**

29.1 Ownership of goods and materials, supplied by SUPPLIER in connection with the SERVICE shall vest in MOZAL upon it entering the SITE, except if otherwise agreed by the PARTIES, in writing.

29.2 The right to use the SUPPLIER'S equipment, used in connection with the SERVICE and which is on the SITE, shall vest in MOZAL upon the AGREEMENT being cancelled until such time as the SERVICE is completed.

**30. SITE REGULATIONS**

30.1 If any SERVICES are to be performed on the SITE, the SUPPLIER and the SUPPLIER employees, agents and representatives shall comply with all statutory and governmental safety and health laws and regulations, including FRCP and with any additional requirements and regulations imposed by MOZAL related to services on the SITE.

30.2 In particular, the SUPPLIER shall at all times, comply with MOZAL's published:

30.2.1 Mozal procedure PRO 266 a copy of which is available from the Mozal Responsible person

30.2.2 Industrial Relations Policy;

30.2.3 Safety Management Plan and Regulations;

30.2.4 General Regulations for SUPPLIERS as amended from time to time, which documents are available for inspection by the SUPPLIER at MOZAL's office.

30.2.5 Mozal Contractor's HSEC Agreement form FM-LS-036 a copy of which is available from the Mozal Responsible person.

30.3 The SUPPLIER shall not perform the SERVICES on SITE outside the working hours as stipulated by MOZAL.

30.4 Certain areas in MOZAL are subject to magnetic fields as a result of the operation of the Smelter. These magnetic fields may interfere with the operation of certain equipment and may cause permanent damage to such equipment. It is the responsibility of the SUPPLIER to ensure that equipment supplied by it are compatible to operate under such circumstances as may be required in the specific area, and MOZAL accepts no responsibility or liability whatsoever for damage caused to SUPPLIER equipment as a result of operating under such circumstances.

30.5 MOZAL'S Canteen, Vending Machines and Change house facilities are for use by MOZAL employees only and will therefore not be available for use by SUPPLIERS or their employees, and SUPPLIER shall ensure that its employees are aware of this and abide by this clause. However, the SUPPLIER may make use of water dispensers and the kiosk facilities provided by MOZAL.

30.6 All vehicles entering site including delivery vehicles shall comply to Vehicle and trailer Inspection as per Forms FM-FA-0052 and FM-FA-0122, available from Mozal Security

30.7 Mozal reserves the right to request a random alcohol and drug tests to all staff on delivery vehicles and incoming suppliers, as deemed necessary

30.8 All Suppliers shall be expected to fully comply with all Health, Safety & Environment legislation, rules and procedures including FRCP's at all times. Failure to comply to any such applicable rules may result in immediate termination of the commercial and or any other relationship between Mozal and the offending supplier

30.9 Unless otherwise stated, the use or supply of hazardous substances including chlorinated solvents is prohibited at Mozal.

**31. SECURITY CHECKING**

31.1 The SUPPLIER acknowledges that deliveries and/or entry to the SITE are subject to security checking.

31.2 Staff on delivery vehicles shall be in possession of a valid identification document or passport so that their identity may be established by MOZAL and shall submit to search of their persons.

**32. FOREIGN CURRENCY**

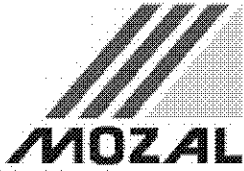
32.1 SUPPLIER shall, if required, arrange forward cover for foreign currency, in accordance with MOZAL'S instructions.

32.2 MOZAL may elect to arrange forward cover for foreign currency.

**33. DUTIES & TAXATION**

33.1 MOZAL is exempt from the payment of V.A.T on any transaction in Mozambique for the acquisition of SERVICES by MOZAL.

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33.2 MOZAL is exempt from the withholding of the IRPC (Corporate Profit Tax), relating to the payments for SERVICES rendered.

**34. ENTIRE AGREEMENT**

34.1 The AGREEMENT entered into between the PARTIES constitutes the entire AGREEMENT between the parties and all previous negotiations, proposals and writings pertaining to the AGREEMENT or the subject matter thereof are superseded thereby, unless expressly included.

**35. FUTURE AGREEMENTS**

35.1 The GTCS (as they may be amended from time to time by MOZAL and notified to the SUPPLIER) shall apply to any future oral or written AGREEMENT for the supply of services by the SUPPLIER to MOZAL, save to the extent that the GTCS are, in any future AGREEMENTS, specifically varied or excluded or are inconsistent with what is expressly agreed in any such future AGREEMENT.

**36. THE ANTI-FRAUD HOTLINE**

36.1 BHPBilliton Fraud Hotlines (not free of charge) have been set up to ensure the Company is capable of immediate response to fraud related issues. This includes suspected frauds, misappropriations and any instance of suspected bribery, corrupt acts or business transactions involving employees, suppliers or contractors.

36.2 The number you can phone to report incidents, anonymously is +27 13 249 3186 or email:

[BusinessConduct@BHPBilliton.com](mailto:BusinessConduct@BHPBilliton.com) or [kobus.boolsen@bhpbilliton.com](mailto:kobus.boolsen@bhpbilliton.com)

**37. GUIDE TO BUSINESS CONDUCT**

37.1 On ALL matters concerning an agreement, the supplier shall ensure that he has read, understands, complies and commits himself to the BHP Billiton Guide to Business Conduct which includes the Anti-Fraud policy.

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