



## **PPC Standard Terms and Conditions of Purchase**

### **1. DEFINITIONS**

For the purposes of this agreement the following words shall have the meaning assigned to them unless the context indicates otherwise –

1.1.1 “Consumer” shall mean a person to whom the product is supplied by PPC in the ordinary course of its business, any person that consumes, applies and/or utilises the product concerned and which term shall generally include a "consumer" as that term is defined in terms of the provisions of Section 1 of the CPA;

1.1.2 “off-loading point” shall mean a place designated by PPC, from time to time, for the delivery of the product by the Seller;

1.1.3 “CPA” shall mean the Consumer Protection Act, No. 68 of 2008, as amended, and any regulations promulgated thereunder;

1.1.4 “Parties” shall mean PPC and the Seller;

1.1.5 “PPC” shall mean PPC Ltd, Registration number 1892/000667/06, and any other company in the Group;

1.1.6 “the Group” shall mean PPC South Africa Holdings (Pty) Ltd, PPC Cement SA (Pty) Ltd, PPC Aggregate Quarries (Pty) Ltd, PPC Group Services (Pty) Ltd, Safika Cement Holdings (Pty) Ltd, Pronto Holdings (Pty) Ltd, PPC Lime Limited or any other company forming part of PPC’s group of companies;

1.1.7 “Seller” shall mean the person specified as such in the order;

1.1.8 “product” shall mean those goods or services specified in the order;

1.1.9 “price” shall mean the price for the product specified in the order;

1.1.10 “order” shall mean the form or document specifying the product, Seller and price to which these terms and conditions of purchase are attached, and form an integral part;

1.1.11 “the/this agreement” shall mean the order and these terms and conditions combined.

## **2. APPLICATION**

2.1 These terms and conditions shall apply to any agreement for the purchase of any product by PPC. The Seller acknowledges that the supply of the product to PPC is not exclusive and that nothing contained in this agreement prohibits PPC from appointing anyone else to supply, package, transport or otherwise deal in the product. PPC does not provide any guarantee regarding the volume or frequency of orders that may be placed with/on the Seller.

2.2 Notwithstanding the threshold limitations contained in the CPA, the parties wish to incorporate specific sections of the CPA through reference and for these to be applicable to them as part of these terms and conditions.

2.3 Should there be any conflict between these terms and any other terms of purchasing proposed by the Parties, these terms will apply unless specifically recalled by specific reference to these terms.

## **3. LABELLING AND NOTICES**

3.1 The Seller shall ensure that the labelling of the product complies with the applicable laws. The product or good (as contemplated in terms of the CPA) must display, on or in association with the packaging of the product or goods, a notice in the prescribed manner and form that discloses the presence of any genetically modified ingredients or components of the product or goods in accordance with any statutes.

3.2 The Seller shall comply with all statutes, and is responsible for the correct indication of mass and/or volume on all packaging within the tolerances provided for by law and undertakes to have all measuring equipment regularly calibrated and to have such calibration certificates available for inspection at all times.

3.3 The Seller shall supply the product with adequate instructions or warnings pertaining to any hazard arising or associated with the use of any product and for the safe handling and use thereof. Such notice shall comply with the provisions of Section 22 of the CPA and any other applicable standards.

## **4. PRICE**

4.1 The price shall be less any discount, other than settlement discount, given by the Seller.

4.2 The price shall include –

4.2.1 Value Added Tax;

4.2.2 All delivery cost to destination, irrespective of the manner of time thereof, including the cost of off-loading unless stipulated otherwise on the order;

4.2.3 All packaging and/or container expenses.

4.3 Modifications of the price shall only be allowed if PPC consents thereto in writing.

## **5. AUTHORITY**

PPC shall not be liable for the payment of any amount of money which appears on an order which purports to be issued in the name of PPC where such an order was issued without the appropriate authority. It shall be incumbent on the Seller to make due enquiry regarding authority. The Seller will have no claim for damages of any nature due to the cancellation of the agreement on account of lack of authority.

## **6. DELIVERY**

6.1 The Seller shall deliver the product to PPC –

6.1.1 at the address specified on the order and to no other address;

6.1.2 during normal working hours unless stipulated otherwise on the order;

6.1.3 at the time and date specified on the order, and where such time is not specified, during normal working hours from Monday to Friday.

6.2 Where applicable, the product delivered by the Seller to PPC shall be accompanied by a separate delivery note and, where applicable, an itemized waybill.

6.3 The Seller shall supply the exact product required by PPC in terms of this agreement, unless PPC consents in writing to a replaced order.

6.4 The Seller shall supply the exact product required by PPC in terms for this agreement, unless PPC consents in writing to a replacement product.

6.5 The Seller acknowledges that time and place of delivery are of the essence and in the event that the Seller fails to deliver the product timeously and/or to the correct address, PPC may, without prejudice to any other rights which it may have in law or in terms of this agreement, cancel this agreement and recover all damages, including financial consequential damages which may directly or indirectly be sustained by or as a result of such failure. Should PPC in its sole and absolute discretion choose not to cancel this agreement, it shall nevertheless be entitled to recover such damages (including direct or indirect financial consequential damages) as it may have suffered.

6.6 If the delivery is to be made in installments, then the provisions of this clause 6 shall apply to each installment.

6.7 PPC reserves the right to prohibit the Seller's vehicles, and/or vehicles delivering the Seller's product, entry to PPC's premises or off-loading point should PPC, in its sole and absolute discretion, deem the product or those vehicles to pose any safety risk to PPC and/or its employees, representatives, agents or property. Should PPC fail to accept any products when exercising this discretion, PPC shall not be liable to the Seller for any cost or damages of any nature.

6.8 PPC reserves the right to search the Seller's vehicles, and/or vehicles delivering the Seller's product before it enters or leaves PPC's premises or the off-loading point, and in addition, reserves the right to search any Seller's personnel or any sub-contractor, representative or agent of the Seller and the vehicles of those persons. It shall be the responsibility of the Seller to ensure that such persons are aware of this provision.

6.9 The Seller shall be responsible for the off-loading or discharge of the product in the manner specified by PPC, unless otherwise stipulated in the order.

6.10 The Seller is to ensure that the delivery note is signed by a properly authorized person employed by PPC. Such signature shall, however, not be deemed to confirm the accuracy of the contents of the delivery note.

6.11 Notwithstanding any other provision of this agreement, should PPC wish to test the product, the Seller agrees that delivery of the product will only be deemed to have taken place after testing of the product has, to the satisfaction of PPC, been completed.

## **7. MASS AND OTHER SPECIFICATIONS**

7.1 PPC shall have the right, at its option, to determine the net mass of the product by whatever means required, including the use of its own weighbridges. Should the Seller dispute the mass of the product delivered, the Seller must furnish PPC with the reasons for such dispute in writing within 4 (four) days of the date PPC communicated the mass of the product to the Seller, failing which the rights of the Seller shall be deemed to be waived.

7.2 All size, weights and other specifications given by the Seller shall be accurate, and in terms of the Trade Metrology Act of 1973, as amended.

7.3 The mass of the product must be reflected by the Seller on all documents pertaining to the product, including, without limitation, all statements of accounts, invoices and waybills.

## **8. RISK**

8.1 Notwithstanding any other provisions contained in the agreement, ownership in the products and the risk of loss, damage or destruction of the products shall pass to

PPC once the product is delivered, off-loaded or discharged at the off-loading point referred to in 6.1.1 above.

8.2 No provision contained in this agreement shall be constructed so as to limit in any manner whatsoever PPC's right to institute the claim based on the existence of a defect in the product, including, without limitation, a claim for the replacement of the defective product and any consequential damages.

8.3 In addition to any other rights which PPC may have in law or in terms of this agreement, any defects in the product shall, at PPC's option either be made good by the Seller free of charge or the Seller shall be obliged to supply replacement products to PPC at the Seller's expense. Should PPC in its sole and absolute discretion deem the instance in question to be one of emergency, it shall be entitled to purchase replacement products from any other supplier thereof, or repair the defects itself or employ any other person to do so at the Seller's expense.

8.4 Should the Seller use any facilities, equipment containers, silo's or bins of PPC, the Seller shall be responsible for such property by endorsing the order with the details thereof.

8.5 PPC shall not be liable under any circumstances whatsoever for any damages, loss of profit, demurrage, whether direct or indirect, consequential or otherwise, alleged to be sustained by the Seller.

8.6 Risk of loss or damage to the product during delivery remains with the Seller.

8.7 PPC will, as soon as practically possible, record in writing and report to the Seller any shortage of, or damage to any of the product discovered. The Seller will be responsible for any such shortage or damage.

## **9. WARRANTIES**

9.1 The Seller undertakes in favour of and warrants to PPC that –

9.1.1 it has access to the appropriate number of properly trained and qualified personnel in order to ensure that it is able to deal with the products in a safe, professional and timely manner and in accordance with the terms and conditions set out in this agreement;

9.1.2 the products transported by the Seller to PPC will be supplied in accordance with any safety standards and all applicable laws and statutes, free of defects and hazards, whether patent or latent and fit for the purpose of their intended use and, in particular, that the products comply with the requirements and standards of Section 55 of the CPA to which the Seller declares itself to be fully acquainted with;

9.1.3 it shall, at all times, comply fully and timeously with all obligations imposed on it in terms of this agreement and the statutes;

9.1.4 all products transported and delivered to PPC have been properly and lawfully cleared by the relevant authorities and that customs and any other taxes or duties have been duly paid to the correct classification; and

9.1.5 the products will neither be counterfeit goods, infringe upon the rights of any third party under any trademark, trade name, patent, design or any other intellectual property rights nor will the products constitute grey market goods.

## **10. INDEMNITY**

10.1 The Seller shall be liable for and hereby indemnifies PPC, each company in the Group and their directors against all loss, liability, damage or expense of whatever nature which PPC, any company in the Group, Consumers or any third party may suffer as a result of or which may be attributable to the failure by the Seller to perform any of its obligations in terms of this agreement including, without limitations, any loss or damage caused by or arising from –

10.1.1 any loss of the products or damage to the products while at the risk of the Seller;

10.1.2 any failure to transport and deliver the products timeously, adequately or at all, or to the correct off-loading point;

10.1.3 any products returned or recalled pursuant to the provisions of the CPA;

10.1.4 any damage or injury suffered or sustained by PPC, Consumer or any third party in relation to the products;

10.1.5 the acts or omissions of the Seller's agents, representatives and/or subcontractors;

10.1.6 any breach by the Seller of any of the warranties given by or obligations imposed on the Seller in terms of this agreement; and/or

10.1.7 any liability that is described under Section 61(5) of the CPA caused wholly or partly as a consequence of the supply or delivery of any unsafe products, product failure, defect or hazard in any goods or inadequate instructions or warnings provided to the Consumer pertaining to any hazard arising from or associated with the use of any goods as contemplated in Section 61(1) of the CPA, irrespective of whether the harm resulted from any negligence on the part of the Seller or the subcontractor of the Seller.

10.2 PPC and the Group shall not be liable to the Seller for any indirect or consequential loss or damage, including without limitation, loss or profit, revenue, anticipated savings, business transactions or goodwill or other contracts.

10.3 The indemnity provided by the Seller in terms of this clause 10 include any consequential damages that may be suffered by PPC or any company in the Group, including the incurrence of legal charges in order to defend claims and/or to engage in litigation.

10.4 Acceptance by PPC of any delivery of the product shall not release the Seller from any of its obligations, warranties or undertakings in terms of this agreement or otherwise.

10.5 The Seller shall be liable to PPC and/or any other person for all damages, including direct and/or indirect financial loss, which may directly or indirectly be sustained by PPC and/or any other person from any defects in the products or any other breach of the Seller's obligations, warranties and undertakings in terms of this agreement.

10.6 The Seller indemnifies PPC against any claim for infringement or unauthorized use of any patent rights, trademarks or other protected rights which may occur in the manufacture, supply, acceptance or other use of the products in terms of this agreement. All royalties and expenses of whatsoever nature arising out of any patent right, trademark or other protected rights shall be payable by the Seller.

## **11. PLANS, SPECIFICATIONS AND DRAWINGS**

11.1 In this agreement, the terms "defect", "failure", "hazard" and "unsafe" or any derivatives thereof shall have the same meaning as that ascribed to them in terms of Section 53 of the CPA which the Seller declares itself to be fully acquainted with.

11.2 The Seller warrants that none of the products to be transported to PPC shall, as the result of its doing, be defective, prone to failure, constitute a hazard or be unsafe.

11.3 The Parties take cognisance of the provision of Section 55 of the CPA that every Consumer has right to receive goods that –

11.3.1 are reasonably suitable for the purposes for which they are generally intended;

11.3.2 are of good quality, good working order and free of any defects;

11.3.3 will be usable and durable for a reasonable period of time having regard to the use to which they would normally be put and to all the surrounding circumstances of their supply; and

11.3.4 comply with all applicable standards set out in the Standards Act, Act No. 29 of 1993 (or any substituting Act) or any other public regulation.

11.4 Furthermore, the Parties take cognisance of the provision of Section 56 of the CPA, and acknowledge that it is impliedly warranted that the goods supplied or transported by the Seller comply with the requirements of the provisions of Section 55 of the CPA.

11.5 Without any prejudice to any other rights reserved in its favour in terms of this agreement, PPC shall be entitled to return the products to the Seller should any of the products not comply with the provisions of this agreement or be returned by a Consumer to PPC if the products fail to satisfy the requirements of Section 55 of the CPA or if it is so claimed by a Consumer. The Seller shall forthwith compensate PPC in respect of the returned products.

11.6 Where applicable, the Seller warrants, and must ensure, that the product conforms with the exact requirements and stipulations of PPC and the plans, specifications, drawings and other data supplied by PPC to the Seller.

11.7 All plans, specifications, drawings and other data supplied by PPC in respect of, or in connection with, the product shall at all times –

11.7.1 remain the sole and absolute property of PPC;

11.7.2 be maintained in good condition by the Seller;

11.7.3 be returned to PPC by the Seller as and when demanded by PPC; and

11.7.4 be used by the Seller only, who shall only use such plans, specifications, drawings and other data for the purpose of this agreement and for no other purposes whatsoever.

11.8 All plans, specifications, drawings, samples and other data supplied or to be supplied by PPC in respect of, or in connection with, the product, shall not be copied or handed to or come into the possession of any person without the Seller having obtained the prior written authority of PPC to do so, and shall be returned to PPC on delivery of the product.

11.9 All products manufactured in accordance with the plans, specifications, drawings, samples and/or other data supplied to or otherwise come into the possession of any other person other than PPC, then in addition to any other rights which PPC may have in law or in terms of this agreement, PPC shall be entitled to cancel this agreement and claim any damages.

## **12. RETURN OF PRODUCTS**

12.1 Notwithstanding anything to the contrary contained in this agreement, PPC shall, at its election be entitled to stop the loading or offloading of the products, alternatively, reject the product(s) concerned after the delivery thereof –

12.1.1 if the product supplied by the Seller does not meet the safety standards and any additional requirements stipulated in the order;

12.1.2 in the event of non-compliance by the Seller of any of its obligations in terms of this agreement;

12.1.3 as a result of a product recall under the circumstances envisaged in clause 13 below.

## **13. PRODUCT RECALL**

13.1 On the occurrence of any of the events stipulated in clauses 11.5 and 12.1 above and at the election of PPC, the Seller shall –

13.1.1 replace at no extra cost to PPC, the rejected products with products meeting the specification and requirements set out in the order, it being agreed that the Seller will reimburse PPC with costs, taxes and expenses incurred as a result of the supply of defective products; or

13.1.2 issue PPC with a credit note in respect of the rejected products; and

13.1.3 reimburse PPC with its applicable standard handling fee, if so charged.

13.2 Save to the extent specifically prescribed in terms of the order, it is agreed that the responsibility of the entire stock shall remain with the Seller and in consequence of which PPC shall be entitled to return the products to the Seller under the following circumstances –

13.2.1 overstock, that is when the available products are in excess of PPC's demand;

13.2.2 stock deranging as a result of Consumer trends and/or demands that shall include seasonal stock;

13.2.3 in-store damage or destruction (including damage to packaging);

13.2.4 products returned by a Consumer that do not comply with Section 55 of the CPA or which the Consumer claims do not so comply or returned for any other legitimate reason;

13.2.5 discontinuation of the brand; and

13.2.6 generally, if PPC is entitled to do so for any other legitimate reason.

13.3 The Seller shall, under the circumstances referred to in clause 13.2 above, cause the products concerned to be collected from PPC's premises at the sole expense of the Seller and shall issue PPC with a credit note in respect of the returned products. The Seller shall forthwith remove any trade marks and/or own brands of PPC from the products so returned.

13.4 Notwithstanding anything contained in the agreement to the contrary, should PPC have a right to return the products to the Seller, but is unable to do so by virtue of the fact that the products have been used as a raw material in the manufacture of cement or any other product produced by PPC and the cement or such other product is returned to PPC by a Consumer, then PPC shall be entitled to demand from the Seller the full value of the cost of the cement or such other product that is returned by the Consumer to PPC, and the Seller agrees to pay PPC the cost of the returned cement or such other product.

13.5 PPC may, at any time, initiate a product recall if, in its sole discretion, the product does not conform to applicable safety standards or that it may otherwise pose a safety or health issue. Such a recall may be initiated if PPC has become aware or suspects that a product does not conform with the foregoing requirements or as a result of Consumer complaints or reports on product failures, defects, hazards or personal injury, illness or damages to property.

13.6 The Seller is also under an obligation to inform PPC and to initiate a product recall should it become aware of any of the circumstances referred to in 13.1 above. In addition to the foregoing, it also acknowledges that the National Consumer Commission may, in terms of the provisions of Section 60 of the CPA, carry out the recall programme on any terms required by it.

13.7 In the event of a product recall under the abovementioned circumstances, PPC shall be entitled to return all recalled products to the Seller which shall be collected by the Seller at its own expense from PPC's premises and forthwith issue a credit note to PPC in respect thereof. The Seller shall forthwith remove any trade names and/or own brands of PPC from the products so returned.

## **14. SECRECY**

14.1 The Seller shall at all times maintain absolute secrecy with regard to all aspects of the manufacture of the products in accordance with the plans, specifications, drawings, samples and other data supplied by PPC to the Seller.

14.2 PPC shall be entitled at any time to oblige the Seller to take such reasonable security measures as PPC may think fit to ensue such secrecy.

14.3 The Seller shall permit any representative of PPC to inspect and to give direction as to any security measures which PPC may require. Failure by the Seller to comply with any direction, shall entitle PPC to cancel this agreement and claim any damages.

## **15. INSPECTION**

PPC or its representative or any inspector nominated by PPC shall at all times have access to the site, works, workshops or places where any product or portion thereof is being manufactured or stored, and shall have the right to inspect and /or test any portion of the product and/or give such directions in writing as may be deemed desirable in connection with the manufacture or design of the product, or the materials used in the manufacture thereof. Failure by the Seller to comply with any directions, shall entitle PPC to cancel this agreement and claim any damages.

## **16. SUBCONTRACTING**

16.1 The Seller will be entitled to make use of the services of any subcontractor or agent for the purpose of complying with its obligations in terms of this agreement.

16.2 The Seller warrants to PPC that any such contractor, subcontractor or agent appointed by it, possess the necessary skills, expertise and experience needed to comply with the Seller's obligations in terms of this agreement and will comply with all laws that regulate the supply, packaging and transportation of the products.

## **17. CONTAINERS**

17.1 PPC shall not be liable for damage for any reason caused to any container or package of whatsoever nature in which the product is delivered to PPC. Such liability refers to any loss or damage whilst the containers or packages are in the possession of PPC, howsoever arising, including, and without limitation, any act or omission on the part of PPC or its employees, representatives or agents.

17.2 All containers or packages, of whatsoever nature, in which the Seller delivers the product, shall be marked clearly with the reference or order number which appears on the order.

17.3 Any container or package in which the product is delivered, shall be removed from PPC's premises, unless stipulated otherwise on the order or in writing by PPC, within a period of 14 (fourteen) days, failing which PPC shall be entitled to either –

17.3.1 sell such containers or packages so as to meet any cost associated with the storage thereof on PPC's premises; and

17.3.2 attend to the removal of such containers or packages from PPC's premises and claim the cost of such removal from the Seller, notwithstanding the amount of such costs.

## **18. PAYMENT**

18.1 PPC shall pay the price on or before the 25th day of the month following the rendering of a true and correct statement of account by the Seller to PPC.

18.2 The Seller's statement of account shall be rendered in duplicate on the 25th day of a calendar month, or on the closest following business day, in respect of deliveries made during the preceding 30-day period.

18.3 On request by PPC, the Seller shall furnish PPC with the appropriate delivery note to any statement of account.

18.4 The date of payment will be deemed to be that when a cheque for the amount owing is posted to the Seller's address, or the date when the electronic transfer has been affected, or actual payment has been made.

18.5 To the extent that the credit terms have been agreed to in writing between PPC and the Seller, those terms shall apply.

18.6 PPC shall be entitled to deduct or set off any amounts owing by the Seller to PPC.

## **19. INSURANCE**

19.1 The Seller undertakes and warrants that it has and will continue to maintain for the duration of this agreement, adequate insurance policies (with an independent and reputable insurer) to cover its risks in terms of this agreement, including and without limitation, insurance against loss and/or accidental damage to the products and death or injury to any person resulting from the use, consumption, supply, packaging and transportation of the products.

19.2 The Seller shall –

19.2.1 provide proof to PPC's satisfaction, on request by PPC, that adequate insurance has been obtained in accordance with the provisions of this agreement, and should it be that this is not to PPC's satisfaction, then PPC may require the Seller to insure with a reputable insurer approved by PPC and for an amount as may be prescribed by PPC;

19.2.2 promptly pay all premiums and duties in respect of such insurance and on request provide proof to PPC's satisfaction that all such premiums and duties have been paid;

19.2.3 if so requested by PPC, note PPC as a beneficiary under such insurance policy/policies and PPC shall be entitled to claim and receive all monies payable under the aforementioned insurance policy/policies and to sign all documents on the Seller's behalf as may be necessary to recover all amounts payable under the insurance policies; and

19.2.4 not permit or do anything which might prejudice any such insurance.

## **20. GOVERNING LAW**

This agreement shall be governed by and interpreted in accordance with the laws of South Africa in all respects.

## **21. JURISDICTION**

21.1 The Seller consents to the jurisdiction of the Magistrate's Court as required by Section 45 of Act 32 of 1944, as amended, in respect of any action or proceedings which may be brought against it by PPC, provided that PPC shall be entitled to bring proceedings in the High Court if such proceedings would, but for the foregoing consent, fall outside the jurisdiction of the Magistrate's Court.

21.2 If the Seller is not a resident of and does not carry on business in South Africa, then the Seller consents and submits to the jurisdiction of either –

21.2.1 the division of the High Court of South Africa in which PPC or a company in the Group has its registered address or principal place of business; or

21.2.2 the South Gauteng High Court, Johannesburg; and all courts of appeal there from for all purposes arising out of this agreement.

## **22. FORCE MAJEURE**

22.1 Should PPC be prevented or restricted directly or indirectly from carrying out any of the obligations under this agreement by any cause beyond its reasonable control, including, without limitation, war, civil commotion, riot, insurrection, strikes, lockouts, fire, explosion, flood, earthquake, bad weather, acts of God and acts of State ("force majeure"), PPC shall be relieved of such obligations during the period that force majeure continues.

22.2 Should the force majeure continue for a period in excess of 1 (one) month, PPC shall be entitled to terminate the agreement in its sole and absolute discretion.

## **23. SUSPENSION OF PPC's OBLIGATIONS**

If the Seller has not met any of its obligations, for whatsoever reason, without prejudice to any rights which PPC may have, PPC may, until the obligations are met by the Seller, suspend the carrying out of its obligations to the Seller.

## **24. TERMINATION**

24.1 Should the Seller default in the performance of any term or condition of this agreement PPC shall be entitled, without prejudice to any other rights, which it may have in law, to forthwith terminate this agreement in whole or in part, and/or claim damages from the Seller.

24.2 Notwithstanding the generality of the foregoing, the Seller shall be deemed to be in default if –

24.2.1 the Seller dies or is sequestrated or surrenders his estate; or

24.2.2 the Seller is in a partnership which is dissolved; or

24.2.3 the Seller is a company, which is placed under a provisional or final order of liquidation or judicial management or business rescue; or

24.2.4 the Seller compromises or attempts to compromise generally with any of its creditors.

## **25. INTERPRETATION**

25.1 In this agreement, unless the context required otherwise –

25.1.1 words importing any one gender shall include the other gender;

25.1.2 the singular shall include plural and vice versa;

25.1.3 a reference to natural persons shall include created entities (corporate or unincorporated) and vice versa; and

25.1.4 the headings have been inserted for convenience only and shall not be used for, or assist or affect the interpretation of this agreement.

## **26. GENERAL**

26.1 This agreement contains the entire agreement between PPC and the Seller.

26.2 PPC or the Seller shall have no claim or right of action arising from any undertaking, representation or warranty not included in this agreement.

26.3 No failure by PPC to enforce any terms and conditions of this agreement shall constitute a waiver of any such terms and conditions, or affect in any way PPC's right to demand performance of any such terms and conditions at any time in the future, nor shall the waiver of any subsequent breach nullify the effectiveness of the terms and conditions hereof.

26.4 The Seller shall not cede any of its rights or delegate any of its obligations under this agreement.

26.5 No alteration or variation of these terms and conditions or this agreement shall apply unless the alterations or variation in question is expressly agreed to in writing and signed by an authorised representative of PPC.