

SCROOBY'S LABORATORY SERVICE CC

Spectrographic, Chemical and Mechanical Testing of Materials

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SCROOBY'S LABORATORY SERVICE CC STANDARD TERMS AND CONDITIONS

1. INTRODUCTION

- 1.1 SCROOBY'S LABORATORY SERVICES CC ("**Scrooby's**") is an independent laboratory which offers chemical analysis and mechanical testing of various products ("**Services**").
- 1.2 Scrooby's is accredited by the South African National Accreditation System ("**SANAS**") and the International Organisation for Standardization ("**ISO**") 17025 : 2017 to provide spectrographic, dezincification of brass and tensile testing and the operation of a laboratory quality management system.

2. AGREEMENT

- 2.1 Scrooby's only provides its Services on these terms and conditions ("**STCs**"). These STCs therefore bind any person contracting to purchase any Services from Scrooby's ("**Customer**") including by placing any order for Services with Scrooby's or accepting any quotation for the provision of Services by Scrooby's.
- 2.2 The agreement ("**Agreement**") between Scrooby's and the Customer relating to the provision of any Services by Scrooby's comprises collectively these STCs, any quote provided by Scrooby's which is accepted by the Customer (if applicable), any Order Confirmation (as defined in clause 3.2) issued by Scrooby's, any invoice issued by Scrooby's, any price lists communicated by Scrooby's to the Customer from time to time, job cards signed by the Customer, a company and sample form signed by the Customer and any Service specifications provided by Scrooby's ("**Specifications**").
- 2.3 No documents other than those referred to in clause 2.2 form part of the Agreement. No other terms or conditions, whether written or oral, apply to the provision of Services. Any terms and conditions set forth in any document delivered or issued by the Customer in relation to the provision of Services by Scrooby's which conflict with or vary the terms of this Agreement is of no force and effect.
- 2.4 If there is a conflict between this Agreement and any of the other documents comprising the Agreement (as referred to in clause 2.2) the terms of that document/those documents will prevail.

- 2.5 In the event of the Customer being a juristic person which has an annual turnover or asset value of less than the determined financial threshold as contemplated in terms of section 5(2)(b) of the Consumer Protection Act 68 of 2008 (“**the CPA**”), which threshold is currently R2 000 000.00 (two million Rand), then the Customer for the purposes of this Agreement will be referred to as “**the Consumer**” in instances where the provisions of the CPA are applicable.
- 2.6 Any changes to the Agreement will only bind Scrooby’s if they are written and signed by a director or relevant manager of Scrooby’s.
- 2.7 Relaxation by Scrooby’s of its rights is not a waiver of those rights (unless it is a signed written waiver) and Scrooby’s may later enforce its rights as if it had never relaxed them.
- 2.8 Scrooby’s may amend this Agreement from time to time. Such amended STCs apply to all Agreements concluded after Scrooby’s publishes its amended STCs on its website at www.scroobyslab.co.za.

3. **ORDERING SERVICES**

- 3.1 Requests for Scrooby’s services may be made in writing or verbally (“**Order**”).
- 3.2 Scrooby’s may, in its discretion, accept or refuse any Order. If Scrooby’s accepts an Order Scrooby’s will issue an “**Order Confirmation**” to the Customer. The Order Confirmation will set out at least the following:
- 3.2.1.1 the Customer’s, and the Customer’s representative’s, address and other contract details;
 - 3.2.1.2 the Service/s to be provided;
 - 3.2.1.3 the price for the Service/s;
 - 3.2.1.4 the Specifications applicable to the Services if there are any;
 - 3.2.1.5 the estimated turnaround times;
 - 3.2.1.6 the period of validity of any certificate issued by Scrooby’s; and
 - 3.2.1.7 the applicable payment terms.
- 3.3 The Customer may not cancel, amend or vary an Order once Scrooby’s has issued an Order Confirmation unless Scrooby’s, in its sole discretion, agrees to such cancellation, amendment or variation.

4. **PRICE**

- 4.1 From time to time, Scrooby’s may notify the Customer of the prices of the Services which will apply from the date set out in that notice.
- 4.2 In addition, Scrooby’s may, on request, provide the Customer with a quote for a particular order of the Services, which sets out the prices of those Services requested by the Customer for that order.
- 4.3 The “**Price**” for the Services is the price set out in an Order Confirmation and which is based on Scrooby’s current price list at the time unless Scrooby’s has issued a quote in respect of the Services in which case the Price is the Price set out in that quote and accepted by the Customer.

4.4 Despite clause 4.3, from time to time, Scrooby's may give the Customer written notice of any changes to the prices of the Services.

5. PAYMENT

5.1 Unless otherwise agreed in writing the Customer who placed an Order with Scrooby's and/or whose details appear on an Order Confirmation is responsible to pay the Price for the Services to Scrooby's.

5.2 Unless otherwise specified in an Order Confirmation, the Customer must pay the Price to Scrooby's on presentation of Scrooby's' invoice or statement (as is applicable to the Customer) and, despite any other provision of this Agreement Scrooby's is not obliged to provide the Services to the Customer until the Customer has paid the Price, in full, and provided Scrooby's with proof of payment.

5.3 The Customer must pay all amounts to Scrooby's without deduction or set-off and free of bank charges and in South African Rands.

5.4 All payments due and payable by the Customer to Scrooby's in terms of these STC's shall be made in cash, by debit or credit card, or into Scrooby's bank account nominated in writing for such purposes as directed by Scrooby's.

5.5 The Customer bears all risk that the payment may not be received by Scrooby's. The Customer is only regarded as having paid any amount to Scrooby's when the Customer's payment actually reflects in Scrooby's bank account.

5.6 Scrooby's may allocate payments made by the Customer to whichever of the Customer's debts Scrooby's chooses, in its sole discretion.

5.7 Interest will accrue on any amount which is not paid by the due date for payment from the due date until the date on which it is paid in full (both days included), at the prime overdraft lending rate ("**the Prime Rate**") published, from time to time, by Scrooby's primary banker ("**the Bank**") plus 1 percent, or, if it is lower, at the maximum rate prescribed by law. Such interest will be calculated monthly, in arrear and compounded. The accrual and payment of interest in terms of this clause does not prejudice Scrooby's other rights in terms of this Agreement or in law.

5.8 A certificate from the Bank, setting out the Prime Rate and the date and extent of any changes thereto will be proof of its contents until the contrary is proved.

5.9 A certificate signed by a director or manager of Scrooby's setting out the amount (including any interest) due by the Customer and/or the terms of credit granted to the Customer, will be proof of its contents until the contrary is proved

6. SCROOBY'S SERVICES

6.1 Scrooby's takes responsibility for its activities and does not allow commercial, financial or other pressures to compromise impartiality. Scrooby's is furthermore committed to providing a confidential and non-discriminatory service.

6.2 Scrooby's undertakes to provide the Services in accordance with the Specifications (if there are any) and in accordance with industry standards, practice and applicable laws.

6.3 Scrooby's will use those analytical methodologies which are based on or in accordance with its SANAS and ISO accreditations. Any deviations from these methodologies will be made in accordance with recognised industry standards, Scrooby's policies and rules pertaining to quality assurance, and or any relevant referenced standard operating procedure.

6.4 Scrooby's may, from time to time, introduce new Services and/or stop supplying certain Services.

6.5 Scrooby's will notify the Customer of any changes to the Specifications of the Services ordered by the Customer. If, within 7 days after notifying the Customer of such changes, the Customer fails to respond to that notice, the Customer will be deemed to have consented to those changes and the Customer will remain bound by the terms of this Agreement which will continue to govern any purchases of the Services by the Customer.

7. **TURNAROUND TIMES**

7.1 If a Customer requires Scrooby's to conduct its Services within a specified time frame the Customer must inform Scrooby's of this request in the Order by stipulating a date. Scrooby's will confirm the estimated turnaround times for the provision of the Services in its Order Confirmation.

7.2 The Customer acknowledges and agrees that the turnaround times provided by Scrooby's are estimates and are not binding on Scrooby's. Scrooby's undertakes to use its best endeavours to meet all agreed turnaround times.

8. **SAMPLES**

8.1 The Customer is responsible for obtaining, packaging, transporting and delivering to Scrooby's, the sample/s of the material/s in respect of which Scrooby's must deliver the Services.

8.2 Scrooby's is entitled to reject or accept any sample and may at any time, accordingly, terminate this Agreement for good cause or interrupt the STCs, for an appropriate time period, based on the quality and condition of a sample.

8.3 Ownership, risk and benefit in and to a sample will remain with the Customer at all times. The Customer bears the risk of damage to, or risk of, the sample at all times.

8.4 With each sample, the Customer must provide Scrooby's with the following information:

8.4.1 identification and possible material type of the sample (name, origin and value);

8.4.2 components of the sample (hazardous and non-hazardous components);

8.4.3 approvals, authorisation or licenses required for Scrooby's to be in possession of the sample;

8.4.4 storage and disposal requirements in respect of the sample; and

8.4.5 any other information which may be relevant or necessary in ensuring that the sample's condition does not deteriorate during any of the processes implemented by Scrooby's in order to perform any of its Services.

8.5 If, in Scrooby's sole discretion, the information provided by the Customer in terms clause 8.4 is not complete, correct or satisfactory Scrooby's does not have to provide the Services in respect of that sample or any other samples which form part of the Order relevant to the sample.

- 8.6 Unless a sample is completely consumed during testing or analysis, Scrooby's will keep samples in its possession for a period of 3 months after the date on which it issues a report or certificate as contemplated in clause 10. The Customer is responsible for the collection and disposal of its sample/s during this period. If the Customer fails to collect and/or dispose of the sample Scrooby's may dispose of it as Scrooby's deems fit. Scrooby's may charge the Customer for any related disposal costs arising from this service.
- 8.7 The Customer is liable for any loss, damages, costs (including legal costs on a full indemnity basis) and other liabilities, arising directly or indirectly from or in connection with the sample. The Customer indemnifies any cause of action related to the sample, whether in contract or delict or arising from strict or statutory liability.
- 8.8 The Customer indemnifies Scrooby's and its personnel, against any and all claims for direct or indirect, incidental, special, punitive, exemplary or consequential loss or damages (including, but not limited to, to loss of profit, loss of revenue, loss of anticipated savings, any effect on business transactions, goodwill or other contracts), whether in contract, delict or under statute caused by the sample unless such loss or damage is caused by Scrooby's gross negligence, wilful misconduct or fraud.

9. CHAIN OF CUSTODY

- 9.1 Scrooby's undertakes to keep and maintain a chain of custody record for each sample. The Customer may at any time request a copy of the chain of custody record and Scrooby's will accordingly provide the Customer with a copy thereof, as soon as reasonably possible after receiving such a request.
- 9.2 The chain of custody will *inter alia* contain information confirming the processes each sample has undergone, the various stages of storage, analysis of the sample, and any preliminary outcomes or results from tests.
- 9.3 Scrooby's personnel who come into contact with the sample for purposes of testing and analysing the sample shall duly complete and sign the chain of custody confirming the work that they have done on the Sample.

10. RESULTS AND TESTING/ANALYSIS DATA

- 10.1 Within a reasonable period, after completing the Services in respect of a sample, Scrooby's will prepare a certificate and/or report confirming the outcome and results of the testing and/or analysis done in respect of the sample ("**Results**").
- 10.2 The Results (including any certificate of accuracy) may, in the sole discretion of Scrooby's:
- 10.2.1 specify any period of validity of a certificate of accuracy;
- 10.2.2 clarify that Scrooby's does not warrant that the sample tested is representative of the batch or lot from which it was taken; and/or
- 10.2.3 expressly state that Scrooby's does not give any warranty or guarantee in respect of the Results.

- 10.3 **THE CUSTOMER AGREES TO THE USE OF ELECTRONIC SIGNATURES BY SCROOBY'S TO ISSUE THE RESULTS AND HEREBY WAIVE ANY RIGHTS OR REQUIREMENTS UNDER ANY LAWS OR REGULATIONS IN ANY JURISDICTION THAT REQUIRE AN ORIGINAL (NON-ELECTRONIC) SIGNATURE OR DELIVERY OR RETENTION OF NON-ELECTRONIC RECORDS TO THE EXTENT PERMITTED UNDER APPLICABLE LAW.**

- 10.4 Scrooby's will provide the Customer with an electronic copy of the Results as soon as possible after it has been prepared. Scrooby's will keep the original Results and supporting data for a period of 5 years from date of issue during which period the Customer may collect the original from Scrooby's upon reasonable notice.
- 10.5 The Results are electronically signed by Scrooby's and are issued with a date and time stamp unique to each Result. The Results may not be reproduced other than in full and with Scrooby's prior written consent which consent it may withhold for whatsoever nature. In the event of a discrepancy between Results which are in the possession of the client and Scrooby's electronic copy of the Results, Scrooby's electronic copy will prevail.
- 10.6 Scrooby's does not have to provide the Customer with the Results (electronically or in the original) unless and until the Customer has paid the Price for Services in full.
- 10.7 Scrooby's will remain the owner of the Results, all data derived from the Services and all incidental information gathered by Scrooby's during the execution of its Services.
- 10.8 If the Customer disputes the accuracy of the Results, the parties agree to make themselves available to meet, discuss and resolve the dispute in good faith by no later than 30 (thirty) days thereafter with a view to reach a resolution.
- 10.9 If the parties fail to resolve a dispute about the accuracy of the Results as contemplated in clause 10.8 then Scrooby's will retest or reanalyse the sample at Scrooby's costs provided the sample was not completely consumed during the initial testing or analysis. If this second test or analysis indicates that an error occurred during the initial test or analysis Scrooby's will issue new Results correcting such error. If the Customer disputes the Results of the second test or analysis Scrooby's may agree to test or analyse a new sample at Scrooby's costs.

11. EXCLUSION OF WARRANTIES

SCROOBY'S UNDERTAKES TO PROVIDE THE SERVICES IN ACCORDANCE WITH CLAUSES 6.1, 6.2 AND 6.3. EXCEPT FOR THIS UNDERTAKING, SCROOBY'S DOES NOT GIVE ANY EXPRESS OR IMPLIED WARRANTIES OR ANY OTHER GUARANTEES, REPRESENTATIONS OR UNDERTAKINGS IN RESPECT OF THE SERVICES AND ALL OTHER WARRANTIES (INCLUDING TACIT WARRANTIES), GUARANTEES, REPRESENTATIONS AND UNDERTAKINGS IN RELATION TO THE SERVICES ARE EXCLUDED.

12. LIABILITY AND INDEMNITY

- 12.1 **NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, SCROOBY'S WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL LOSS OR DAMAGES (INCLUDING, BUT NOT LIMITED TO LOSS OF PROFIT, LOSS OF REVENUE, LOSS OF ANTICIPATED SAVINGS, ANY EFFECT ON BUSINESS TRANSACTIONS, GOODWILL OR OTHER CONTRACTS), WHETHER IN CONTRACT, DELICT OR UNDER STATUTE, ARISING IN CONNECTION WITH THE SERVICES OR FROM ITS PERFORMANCE IN TERMS OF THIS AGREEMENT UNLESS SUCH LOSS OR DAMAGE IS CAUSED BY SCROOBY'S GROSS NEGLIGENCE, WILFUL MISCONDUCT OR FRAUD.**

12.2 THE CUSTOMER INDEMNIFIES, AND HOLDS HARMLESS, SCROOBY'S AND ITS PERSONNEL, AGAINST ANY AND ALL THIRD PARTY CLAIMS FOR DIRECT OR INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL LOSS OR DAMAGES (INCLUDING, BUT NOT LIMITED TO, TO LOSS OF PROFIT, LOSS OF REVENUE, LOSS OF ANTICIPATED SAVINGS, ANY EFFECT ON BUSINESS TRANSACTIONS, GOODWILL OR OTHER CONTRACTS), WHETHER IN CONTRACT, DELICT OR UNDER STATUTE ARISING IN CONNECTION WITH THE SERVICES OR SCROOBY'S PERFORMANCE IN TERMS OF THIS AGREEMENT UNLESS SUCH LOSS OR DAMAGE IS CAUSED BY SCROOBY'S GROSS NEGLIGENCE, WILFUL MISCONDUCT OR FRAUD.

13. CONFIDENTIALITY

13.1 For the purposes of this clause, "**Confidential Information**" means any information of a commercial, technical, financial and/or economic nature relating to the parties' businesses, the samples, the Services, the Results and any other information of a confidential and proprietary nature, which is supplied by either party to the other in writing or supplied as data contained in computer readable media, and any such information which is supplied in a form other than in writing but excludes information in the public domain.

13.2 The parties must procure that its officers, employees, shareholders, advisers, agents and other representatives:

13.2.1 keep all Confidential Information in the strictest confidence;

13.2.2 not utilise the Confidential Information for any purpose other than as contained in this Agreement;

13.2.3 do not disclose the Confidential Information to any third party without the other party's prior written consent on each occasion, which may require that such third party signs a confidentiality undertaking on terms substantially acceptable to that other party before it gives its consent; and

13.2.4 take all steps legally available to them to enforce the agreements signed by third parties in terms of clause 13.2.3.

13.3 If either party is ever legally compelled to disclose any of the Confidential Information belonging to the other party, it must immediately notify the other party of that compulsion and co-operate fully with the other party in contesting or otherwise dealing with the compulsion.

13.4 Each party indemnifies the other against any claims, loss, damages, costs (including costs on an attorney and own client scale) or other liability which the other party may suffer or incur arising from, or in connection with, a breach by it of any of its obligations in terms of this clause 13.

14. INTELLECTUAL PROPERTY

14.1 For purposes of this clause 14 "**Intellectual Property**" means without limitation, all intellectual property of whatsoever nature, including laboratory designed methods, patents, trademarks, trade names, domain names, goodwill, designs, copyright, moral rights, trade secrets, and know-how, in all cases whether or not registered or registerable and including registrations and applications for registration of any of these and rights to apply for the same and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world.

14.2 WITHOUT DEROGATING FROM CLAUSE 10.7, ALL INTELLECTUAL PROPERTY, AND ALL DATA AND OTHER INFORMATION AND DOCUMENTATION RECORDING THE INTELLECTUAL PROPERTY, SHALL VEST AND REMAIN VESTED IN THE PARTY WHO INITIALLY OWNED AND/OR DEVELOPED IT. THE CUSTOMER WILL NOT ACQUIRE ANY RIGHT, TITLE OR INTEREST THEREIN, SAVE AS MAY BE AGREED BETWEEN THE PARTIES IN WRITING FROM TIME TO TIME. FOR CLARITY AND WITHOUT DEROGATING FROM THE GENERALITY OF THIS CLAUSE, THE INTELLECTUAL PROPERTY IN AND TO ANY LABORATORY METHODS DESIGNED DURING ITS DELIVERY OF THE SERVICES WILL AT ALL TIMES VEST AND REMAIN VESTED WITH SCROOBY'S. THE CUSTOMER WILL NOT ACQUIRE ANY RIGHT, TITLE OR INTEREST THEREIN BY VIRTUE OF THE APPLICATION OF SUCH METHODS TO, OR THE DESIGN OF SUCH METHODS FOR, THE CUSTOMER'S SAMPLES.

14.3 Unless otherwise agreed in writing, the parties acknowledge that neither party hereby grants to the other a royalty-free, non-exclusive licence for the duration of this Agreement to use its Intellectual Property.

15. **RELATIONSHIP BETWEEN THE PARTIES**

The relationship of the parties in the terms of this Agreement shall be a relationship as between independent contractors, contracting at arms-length and no relationship as between partners in a partnership, parties in a joint venture, parties in an unincorporated association, principal and agent or employer and employee will be constituted by this Agreement. Neither of the parties will be entitled to bind the credit of the other or to hold itself out as the representative of the other or to make any statements or representations on behalf of the other.

16. **FORCE MAJEURE**

16.1 “**Force Majeure**” means any event or circumstance beyond Scrooby’s reasonable control and which directly or indirectly prevents Scrooby’s from temporarily or permanently complying with any or all of its obligations in terms of any Agreement, irrespective of whether or not the event or circumstance is foreseeable including labour disputes, strikes (whether or not legal), lockouts, riots, civil commotion or unrest, war, military or police actions, any intervention by, or requirement of, any regulatory or administrative authority including any port authority, compliance with any Laws, any change in any applicable Law or any change to, suspension or termination of, any authorisation required by Scrooby’s to enable it to provide the Services to the Customer as a result of which Scrooby’s, in its sole discretion, decides to cancel the Agreement, fire, storm, flood, natural disasters, earthquake, explosion, mechanical breakdown, spontaneous combustion, accident, interruptions of supply of any goods or services, acts of enemies of the state, failure of railway, pipelines, ports and/or roads, vis major or casus fortuitous, cybercrime, damage to or destruction of any of Scrooby’s IT systems, equipment or infrastructure;

16.2 Scrooby’s is not liable for any failure to meet any of its obligations, or any delay in meeting them, to the extent to which that failure or delay is caused by Force Majeure.

16.3 If Scrooby’s is prevented from performing its obligations by Force Majeure, it will give notice to the Customer of the occurrence of the Force Majeure event and will notify the Customer when it is reasonably able to resume performing its obligations.

16.4 If Force Majeure prevents Scrooby’s from performing its obligations for a continuous period of 21 business days either party may terminate this Agreement with immediate effect by giving written notice of termination to the other and neither party shall have a claim against the other arising from, or in connection with, that termination.

17. DISPUTES

- 17.1 Subject to clauses 10.8 and 10.9, any dispute that arises out of or in connection with this Agreement must be resolved by the parties within 15 business days after either party declares the dispute by written notice given to the other party.
- 17.2 If the dispute remains unresolved or the parties fail to agree on an alternative dispute resolution process (such as mediation or arbitration) within 30 (thirty) days (or such extended period as may be agreed) after the date of the referral, either party may take such action as it deems necessary.
- 17.3 If a dispute is referred for mediation or arbitration, then extinctive prescription stops running and is suspended in respect of any debt related to the dispute while it is subject to mediation or arbitration, as the case may be.

18. BREACH

- 18.1 In the event of any of the parties ("**Defaulting party**") committing a breach of any of the terms of this Agreement and failing to remedy such breach within a period of 7 (seven) days after receipt of a written notice from another party ("**Aggrieved party**") calling upon the Defaulting party so to remedy, then the Aggrieved party shall be entitled, at its sole discretion and without prejudice to any of its other rights in law, either to claim specific performance of the terms of this Agreement or to cancel this Agreement forthwith and without further notice, and in either case to claim and recover damages from the Defaulting party.
- 18.2 The parties agree that any costs awarded will be recoverable on an attorney-and-own-client scale unless the Court or Arbitrator specifically determines that such scale shall not apply, in which event the costs will be recoverable in accordance with the High Court tariff, determined on an attorney-and-client scale.

19. DOMICILIUM CITANDI ET EXECUTANDI

- 19.1 The Customer hereby elects, as its domicilium citandi et executandi (address for all correspondence legal and otherwise) at which it will accept service of any process or notice, the address specified on the Order or the Order Confirmation.
- 19.2 Scrooby's hereby elects, as its domicilium citandi et executandi, at which it will accept service at any process or notice:

Physical Address: Scrooby's Laboratory Services CC
21 O'Reilly Merry Street, Rynfield
Benoni, 1501

Email: alan@scroobyslab.co.za
marked for the attention of **Alan Scrooby**

- 19.3 All notices and communication in terms of the Agreement:
- 19.3.1 must be in writing to be effective; and
- 19.3.2 must be sent by hand or e-mail to the physical address or e-mail address elected in terms of clauses 19.1 and 19.2 which physical addresses the parties select as their respective *domicilium citandi et executandi* for service of all notices and legal process.

- 19.4 From time to time and by written notice to each other, either party may change its *domicilium citandi et executandi* to any other address which is not a post office box or *poste restante*, within South Africa. Such change will only take effect upon receipt or deemed receipt of such notice to the other party.
- 19.5 Any notice and/or communication will:
- 19.5.1 if delivered by hand during Business Hours to the person apparently in charge of the premises selected by the addressee for the delivery of notices, be deemed to have been received on the date of delivery; and
- 19.5.2 if sent by e-mail to the addressee's selected e-mail address, be deemed to have been received on the first Business day after the date on which it was transmitted from the information system under the control of the sender.
- 19.6 Any written notice and/or communication which has actually been received by a party shall be regarded as sufficient notice even if it has not been sent in the manner provided in this Agreement or to the addresses set out in the Deal Confirmation.
- 19.7 In terms of Section 45 of the Magistrate's Court Act 1944, the Customer hereby consents to the jurisdiction in terms of Section 29 of the said Act as amended in respect of any action to be instituted against the Customer by Scrooby's in terms hereof or otherwise. It shall, nevertheless, be entirely within the discretion of Scrooby's as to whether to process against the Customer in such Magistrate's Court or any Court having jurisdiction.

20. GENERAL

- 20.1 The Customer may not transfer, cede and/or assign any of its rights and/or obligations in terms of this Agreement to any other person without Scrooby's prior written consent in each instance.
- 20.2 Scrooby's may cede or assign any of its rights and/or obligations in terms of the Agreement to any other person, without the Customer's consent.
- 20.3 The Customer may not rely on any representation which allegedly induced it to enter into this Agreement, unless the representation is recorded in this Agreement.
- 20.4 These terms and conditions are severable. If any of the terms and conditions are held by a court to be illegal, then the remaining terms and conditions shall remain valid and of full and force and effect.
- 20.5 The Agreement shall be governed by and construed according to the laws of the Republic of South Africa.
- 20.6 Whenever specific words of a particular class are used in conjunction with general words then the specific words shall not limit the scope of the general words. If any provision is followed by the word "**including**" and specific examples, such examples must not be construed so as to limit the general ambit of the provision concerned.
- 20.7 Headings of clauses are inserted for the purpose of convenience only and must be ignored in the interpretation of this Agreement.
- 20.8 Unless inconsistent with the context, words signifying any one gender will include the others, words signifying the singular will include the plural and vice versa and words signifying natural persons will include artificial persons and vice versa.

- 20.9 For the purposes of this Agreement:
- 20.9.1 "**parties**" means the parties to this Agreement, being Scrooby's and the Customer collectively and "**party**" has a corresponding meaning;
- 20.9.2 "**business day**" means any day other than a Saturday, Sunday or South African public holiday;
- 20.9.3 "**day**" means a calendar day;
- 20.9.4 "**month**" means a month calculated from a particular day in one calendar month to the day before the day numerically corresponding to it in the following calendar month; and
- 20.9.5 whenever any period of time is prescribed, it excludes the first and includes the last day unless the last day falls on a Saturday, Sunday or South African public holiday in which case the last day will be the next succeeding business day.
- 20.10 Any reference to an amount in this Agreement means that amount is exclusive of VAT unless specified otherwise.
- 20.11 The various documents forming part of this Agreement are to be taken as mutually explanatory. In the event of any conflict or inconsistency the provisions contained in these standard terms and conditions must prevail.
- 20.12 If Scrooby's takes any action against the Customer as a result of a breach of this Agreement by the Customer, the Customer will be liable for Scrooby's costs in that regard, including legal costs on an attorney and client scale.
- 20.13 The Customer agrees that its signature or the signature of its and its directors, members, shareholders, officers, employees, contractors, agents or any person purporting to represent it on the official delivery note or waybill of Scrooby's be sufficient proof of delivery of the Services from time to time.