

## TERMS AND CONDITIONS OF SALE

### IMPORTANT NOTES

- A. These Terms and Conditions shall apply to the rendering of services (“**Services**”) by Vinlab to the Customer. These Terms and Conditions shall be incorporated into every Supply Contract.
- B. Where a provision in these Terms and Conditions is printed in **bold**, the Customer is required to initial each such provision individually in addition to initialing **every page**, in accordance with the provisions of section 49(2)(c) of the CPA, should the provisions of the CPA apply to these Terms and Conditions.
- C. **The Company’s liability in respect of damages is limited, specifically the Customer’s ability to recover losses and/or damages sustained, from the Company, which is limited in accordance with clauses 8, 9, 10 and 11 below.**
- D. **The Customer will not be entitled to rely on representations not contained in a Supply Contract as stated in clause 8.3 and 8.4 below. The Customer will not be entitled to rely on representations made to it in respect of the Services unless same is recorded in the specific written Supply Contract and which contract records in writing that the Terms and Conditions are amended and which document must be signed by the Company and the Customer in accordance with clause 2.2 below. The Customer is to specify below which representations were made to it in respect of the Services and which the Customer relied on when entering into these Terms and Conditions:**

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- E. **The Customer warrants that the information completed by it and/or provided to the Company is truthful, complete and accurate in all respects, and is supplied voluntarily for the purpose of concluding these Terms and Conditions and, if applicable, obtaining credit from the Company in connection with the rendering of Services by the Company.**
- F. **The Company shall be entitled to rely upon all and/or any of the information supplied herein as being completely true and accurate.**
- G. **These Terms and Conditions are applicable to (i) transactions falling within the ambit of the CPA (should the Customer be a juristic person with a turnover or gross asset value at the date of the transaction of less than R2 000 000 or an individual), as well as (ii) transactions not falling within the ambit of the CPA (should the Customer be a juristic person with a turnover or gross asset value at the date of the transaction of more or equal to R2 000 000). Where the terms contained in these Terms and Conditions differ between transactions falling within the ambit of the CPA and transactions not falling within the ambit of the CPA, it will be indicated as such under the applicable clause.**

### 1. INTERPRETATION AND DEFINITIONS

- 1.1 The headings of the clauses in these Terms and Conditions are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of these Terms and Conditions nor any clause hereof. Unless a contrary intention clearly appears, words importing:
- 1.1.1 any one gender include the other genders;

- 1.1.2 the singular include the plural and *vice versa* (the opposite of); and
- 1.1.3 natural persons include created entities (corporate or non-corporate) and the state and *vice versa* (the opposite of).
- 1.2 The rule of construction that a contract shall be interpreted against the party responsible for the drafting or preparation of the contract shall not apply.
- 1.3 Any reference in these Terms and Conditions to a Party shall include a reference to that Party’s assigns expressly permitted under these Terms and Conditions and, if such Party is liquidated or sequestrated, be applicable also to and binding upon that Party’s liquidator or trustee, as the case may be.
- 1.4 The words “**include**”, “**including**” and “**in particular**” shall be construed as being by way of example or emphasis only and shall not be construed as, nor shall they take effect as, limiting the generality of any preceding word/s.
- 1.5 The words “**other**” and “**otherwise**” shall not be construed *eiusdem generis* with any preceding words where a wider construction is possible.
- 1.6 Any references to “**days**” (other than a reference to a “**business day**”), “**months**” or “**years**” in these Terms and Conditions shall be construed as calendar days, months or years, as the case may be, and any reference to a “**business day**” shall be construed as any day of the week, excluding a Saturday, a Sunday and a statutory public holiday. Any reference in these Terms and Conditions to “**business hours**” shall be construed as being the hours between 08:30 and 17:00 on any business day.
- 1.7 In these Terms and Conditions (including the important notes), the following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely:
- 1.7.1 “**CPA**” means the Consumer Protection Act, No. 68 of 2008, as amended;
- 1.7.4 “**Customer**” means the customer, procuring the rendering of Services by the Company pursuant to these Terms and Conditions and/or any Supply Contract;
- 1.7.5 “**Intellectual Property Rights**” means all current and future intellectual property rights, including (without limitation) copyright, trademarks, trade names, know-how, trade secrets, patents, designs, domain names, brands and logos, whether registered or unregistered and howsoever embodied and applications for any of those rights;
- 1.7.6 “**Order**” means each acceptance of a quotation or placing of an order by the Customer for Services to be rendered by the Company, as indicated by the Customer, whether same is conveyed to the Company in writing or orally;
- 1.7.2 “**Parties**” means the Company and the Customer and “**Party**” shall refer to either one of them, as the context requires;
- 1.7.7 “**POPI**” means the Protection of Personal Information Act, No. 4 of 2013, as amended;
- 1.7.8 “**Supply Contract**” means the Order or other contract recording the terms of the specific rendering of Services which has been signed by both Parties, or as otherwise permitted in terms of clause 4.1;
- 1.7.3 “**Terms and Conditions**” means these trading terms and conditions of sale, set out in this document (which for the sake of clarity includes the important notes);

1.7.4 “Vinlab” or “the Company” means Vinlab Holdings Proprietary Limited (Registration Number: 2018/239669/07) and any reference to “Vinlab” or “the Company” shall include any holding company, subsidiary and/or affiliate of aforementioned company, including Vinlab (Beverages) Proprietary Limited (Registration Number: 2001/010513/07), Vinlab H2O Proprietary Limited (Registration Number: 2018/477660/07), Vinlab Pharma Proprietary Limited (Registration Number: 2022/544589/07), Vinlab Micro Proprietary Limited (Registration Number: 2019/441192/07) and One Vision Investments 307 Proprietary Limited (Registration Number: 2007/023726/07).

## 2. CONTRACT

- 2.1 These Terms and Conditions (read with the applicable Supply Contract) shall solely govern the relationship between the Company and the Customer in respect of the rendering of the Services by the Company to the Customer.
- 2.2 The Terms and Conditions shall prevail over any terms and conditions referred to in any other documentation (including any Supply Contract), unless such other document is a formal written agreement signed by the Company and the Customer, specifically stipulating that the Parties are supplementing or amending these Terms and Conditions.
- 2.3 Each Order accepted by the Company shall constitute a separate Supply Contract between the Parties.
- 2.4 All Services which are requested to be rendered by the Company, shall be communicated to the Company, either via telephone or e-mail, whereafter an analysis request form must be completed by the Customer and forwarded to the Company per email
- 2.5 Any quotation furnished by the Company is only an invitation to place an order with the Company.

## 3. CREDIT

- 3.1 **Where the Customer has applied for and has been afforded credit, these Terms and Conditions shall be read together with the terms of the credit application signed by the Customer and the Company.**
- 3.2 **The Customer authorises the Company and its officer, employees and agents (together, “representatives”) to investigate the Customer’s credit history in any manner and from any source deemed by the Company as appropriate.**
- 3.3 Should the Customer exceed its credit limit as indicated on the credit application form or its account becomes past due, the Customer agrees to and acknowledges that the Company has the right to refuse or cancel any Supply Contract until the account is satisfied in full. The Customer also agrees to and acknowledges that the Company has the right to take any advisable and/or necessary steps to collect all and any amounts outstanding on the Customer’s account.
- 3.4 The Customer agrees that the Company may disclose information regarding the Customer’s credit worthiness and conduct of its account to any registered credit bureau and or other suppliers to the industry.
- 3.5 The Customer will forthwith upon request from the Company update its credit information for the purpose of increasing or maintaining credit limits. The Customer undertakes to notify the Company in writing immediately of any change in credit information and/or any change in

business circumstances of which a reasonable business person would expect or be entitled to be advised.

- 3.6 By submitting a credit application, the Customer authorises the Company to make inquiries into the banking and business/trade references that the Customer has supplied.

Clause 3.7 will only apply in the event of these Terms and Conditions not being regulated by the CPA:

- 3.7 As security for all moneys (whether past or present) owing by the Customer to the Company pursuant to these Terms and Conditions, the Customer hereby cedes and assigns any and all right, title and interest in and to any book debts and other debts and claims of whatsoever nature, present and future, due or to become due to the Customer (including any reversionary rights that there may be from time to time) and to all rights of action arising thereunder.

## 4. ORDER PROCESS

- 4.1 The Company is entitled to accept, at its own discretion, verbal requests for Services and in such circumstances the information contained in any document reflecting the Customer’s order instructions (whether or not signed by the Customer and/or the Company) shall serve as *prima facie* (at first sight) proof of such order and the Customer’s instructions relating thereto.
- 4.2 **The Company shall be entitled to accept or reject any or all requests for Services placed by the Customer.**

## 5. PRICE

- 5.1 The price payable by the Customer for Services to be rendered by the Company in respect of each Supply Contract shall be those as set out in the Supply Contract and in the event that the Supply Contract does not specify the price, the price contained in the Company’s prevailing price list in force and effect on the date the Customer has placed the relevant Order for the relevant Services will be deemed to be the price payable. The Customer shall, on request, be furnished with a copy of the Company’s prevailing price list (if applicable). The Company however reserves the right to amend its price list at any time without notice to the Customer.
- 5.2 **The purchase price is exclusive of value added tax, sales tax, and any and all other taxes that may be applicable to the Services and any additional items not forming part of the Services, and any such taxes shall be payable by the Customer at the applicable rates. Where an advance payment is subject to sales or value added tax (or equivalent), the sales or value added tax (or equivalent) arising on the advance payment shall be payable by the Customer with the advance payment.**

## 6. PAYMENTS

- 6.1 The Company shall render a tax invoice in respect of Services rendered.
- 6.2 No tax invoices will be issued to any third party or person other than the Customer. The Company makes no warranties or representations that any amounts paid by the Customer in respect of Services rendered are reimbursable by any third parties, and should the Customer be desirous of submitting any tax invoices to a third party or other person for payment, the obligation shall be on the Customer to take the necessary steps in such regard and this shall in no way detract from the Customer’s obligation to make payment of the tax invoice in accordance with these Terms and Conditions or the Supply Contract.

- 6.3 The Company specifically reserves the right to increase its pricing annually in January of every year or as otherwise determined by the Company.
- 6.4 **Payment shall be made by the Customer in full to the Company, without any set-off, deduction or withholding, within 30 (thirty) days of the date of the tax invoice, unless expressly otherwise stated on such tax invoice.**
- 6.5 Where Services are purchased on credit, the credit terms of such purchases shall be regulated by the relevant credit application signed by the Customer and the Company, as well as clause 3 above.
- 6.6 All Supply Contracts accepted by the Company which result in the Customer's account exceeding the prevailing credit limit granted by the Company to the Customer shall, notwithstanding clause 6.4, above become due and payable upon presentation of the tax invoice, and delivery of the relevant Services may be postponed until the Customer has effected payment.
- 6.7 All payments in relation to Services purchased by the Customer shall be made in freely transferable funds, in the currency as stated on the applicable invoice, without any deductions or set-off, free of exchange and commission into the bank account designated by the Company for such purposes from time to time.
- 6.8 **The Customer shall be liable for any and all bank charges payable in respect of any payments made by the Customer to the Company, pursuant to a Supply Contract or otherwise. The Customer shall ensure that all such payments shall clear in the Company's designated bank account for the full purchase price payable.**
- 6.9 Save as specifically stipulated in a Supply Contract, no early settlement discounts or any other discounts are given by the Company and the Customer is not entitled to unilaterally deduct same from any amount due and payable for Services rendered by the Company.
- 6.10 **Every tax invoice and/or statement of the Company shall be deemed to be accepted by the Customer if the Customer has not expressly rejected such tax invoice in writing within 5 (five) business days from date of receipt thereof.**
- 6.11 **To the extent permitted by the CPA and where these Terms and Conditions are not subject to the CPA, the Customer hereby waives all benefits which may arise out of the legal exceptions *non numeratae pecunial* (amount not paid over), *non causa debiti* (no cause of debt), *errore calculi* (computation errors), and revision of accounts and the Customer hereby confirms that it is fully conversant with the force and effect thereof.**
- 6.12 All amounts payable by the Customer to the Company in terms of any and all Supply Contracts, shall become immediately due and owing in the event of:
- 6.12.1 the Customer defaulting in relation to payment of any amounts due and owing by the Customer to the Company in terms of a Supply Contract;
- 6.12.2 any promissory note, bill or other form of financial instrument/payment furnished by the Customer to the Company is dishonoured;
- 6.12.3 the Customer commits any act of insolvency, is provisionally or finally liquidated/sequestered, enters into any compromise with its creditors, enters into business rescue proceedings or the like.

## 7. INTELLECTUAL PROPERTY

- 7.1 Notwithstanding any provision to the contrary in these Terms and Conditions and/or a Supply Contract, all Intellectual Property Rights created by the Company during the course of carrying out the Services shall vest in the service provider.
- 7.2 Vinlab retains all Intellectual Property Rights of whatsoever nature in its drawings, specifications, data and all other information and documents.
- 7.3 Vinlab's trademarks and names shall not be used by the Customer without the prior written consent of Vinlab.
- 7.4 No right or licence is granted in favour of or between the Parties hereto under these Terms and Conditions and/or a Supply Contract in relation to any patent, trademark, copyright, registered design, or other intellectual property right.
- 7.5 The provisions of this clause 7 shall endure, notwithstanding any termination of this Agreement for any reason whatsoever, and shall remain binding on the Parties in perpetuity.

## 8. WARRANTIES

**Clauses 8.1 to 8.3 will only apply in the event of these Terms and Conditions being regulated by the CPA:**

- 8.1 **The Company does not give any warranty, express or implied, in respect of the Services not contained in a Supply Contract, other than those as contemplated in section 56 of the CPA. The warranties contemplated by the CPA will be limited in its scope and to the time period as prescribed by the CPA.**
- 8.2 **It is specifically recorded that all information contained in any marketing materials issued by the Company (whether specific or generic), as well as all correspondence exchanged between the Company and the Customer in respect of the Services and any statements, recommendations, figures, advice, formula, specifications, illustrations, diagrams and the like, is only intended for information purposes and shall not be deemed to bind the Company or constitute any warranties and/or representations granted by the Company to the Customer, unless expressly incorporated into a separate written document signed by both Parties (not including emails exchanged between the Parties) and specifically stipulated to be a warranty/representation granted by the Company.**
- 8.3 **The Customer further confirms that representations not contained in a Supply Contract or reduced to writing and signed by the Company will not entitle the Customer to any claim against the Company in respect of such representations.**

Clauses 8.4 and 8.5 will only apply in the event of these Terms and Conditions not being regulated by the CPA:

- 8.4 The Company does not give any warranty express or implied in respect of Services rendered and advice furnished except those contained in a Supply Contract. The Customer further confirms that representations not contained in a Supply Contract or reduced to writing and signed by the Company will not entitle the Customer to any claim against the Company in respect of such representations.
- 8.5 It is specifically recorded that all information contained in any marketing materials issued by the Company (whether specific or generic), as well as all correspondence exchanged between the Company and the Customer in respect of the Services and any statements,

recommendations, figures, advice, formula, specifications, illustrations, diagrams and the like, is only intended for information purposes and shall not be deemed to bind the Company or constitute any warranties and/or representations granted by the Company to the Customer, unless expressly incorporated into a separate written document signed by both Parties (not including emails exchanged between the Parties) and specifically stipulated to be a warranty/representation granted by the Company.

## 9. INDEMNITY

**Clause 9.1 will only apply in the event of these Terms and Conditions being regulated by the CPA:**

- 9.1 **The Customer agrees that the Company shall not under any circumstances whatsoever, be held liable for damages, direct, indirect, consequential or otherwise, suffered by the Customer pursuant to Services rendered or advice furnished by the Company, unless the Company acted with intent or gross negligence, or unless such claim falls within the ambit of section 55, section 56 or section 61 of the CPA, in which instance the Company shall be liable to the extent and for the duration prescribed by the CPA.**

Clauses 9.2 to 9.3 will only apply in the event of these Terms and Conditions not being regulated by the CPA:

- 9.2 The Customer agrees that the Company (including its directors, employees, agents, representatives, service providers and the like) shall not under any circumstances whatsoever, be held liable for damages, direct, indirect, consequential or otherwise, suffered by the Customer pursuant to Services rendered or advice furnished by the Company.
- 9.3 The Customer hereby indemnifies and holds harmless the Company (including its directors, employees, agents, representatives, service providers and the like) from and against any claims of whatsoever nature instituted by third parties pursuant to Services rendered or advice furnished by the Company to the Customer, including but not limited to claims and liabilities arising from the provisions of the CPA.

## 10. EXCLUSIONS

**Clause 10.1 will only apply in the event of these Terms and Conditions being regulated by the CPA:**

- 10.1 **Except to the extent that the Company acted with gross negligence or fraudulent intent, the Company shall not be liable for any loss or damages arising from any failure or delay in providing Services to the Customer resulting from circumstances beyond the Company's reasonable control, including but not limited to labour disruptions, power failures, unforeseen public unrest, civil commotion, strikes, riots, terrorism, inclement weather, diesel shortages, coal shortages, strikes in the transport industry and/or acts of the State.**

Clause 10.2 will only apply in the event of these Terms and Conditions not being regulated by the CPA:

- 10.2 The Company shall not be liable for any loss arising from any failure or delay in providing Services to the Customer resulting from circumstances beyond the Company's reasonable control, including but not limited to labour disruptions, power failures, unforeseen public unrest, civil commotion, strikes, riots, terrorism, inclement weather, diesel shortages, coal shortages, strikes in the transport industry and/or acts of the State.

## 11. LIMITATION OF LIABILITY

Notwithstanding anything to the contrary stipulated in a Supply Contract or these Terms and Conditions, the Company's liability for damages, losses, costs and/or expenses sustained by the Customer, shall be limited to the nett invoiced purchase price of the Services concerned.

## 12. FORCE MAJEURE

- 12.1 In the event of any act of God, strike, war-like operation, rebellion, riot, war, civil commotion, lock-out, combination of workmen, interference of trade unions, suspension of labour, fire, explosion, floods, failure of water or power supply, accident, acts, regulations or laws of any government or any circumstance arising or action taken beyond or outside the reasonable control of the Parties hereto preventing them or any of them from the performance of any of the obligations in terms of these Terms and Conditions (any such event hereafter called "Force Majeure") then the Party affected by such Force Majeure shall be relieved of its obligations hereunder during the period that such Force Majeure continues but only to the extent so prevented and shall not be liable for delay or failure in the performance of any obligations hereunder or loss or damage which the other Party may suffer due to or resulting from the Force Majeure, provided always that a written notice shall be promptly given of any such inability by the affected Party.
- 12.2 Any Party invoking Force Majeure shall upon termination of such Force Majeure give prompt written notice thereof to the other Party.
- 12.3 The Parties must use all reasonable endeavours to: (i) prevent and reduce to a minimum and mitigate the effect of any delay occasioned by any Force Majeure event, including recourse to alternate sources of services, equipment and materials and construction equipment; and (ii) to ensure resumption of normal performance of its obligations under these Terms and Conditions after the termination of any Force Majeure event and must otherwise perform their obligations as agreed to the maximum of their ability.
- 12.4 A Force Majeure event does not relieve a Party from liability for an obligation which arose before the occurrence of that event, nor does that event affect the obligation to pay money in a timely manner which matured prior to the occurrence of that event.

## 13. BREACH

- 13.1 If the Customer ("Defaulting Party") breaches any provision of these Terms and Conditions and remains in breach for 14 (fourteen) days after written notice to the Defaulting Party requiring that Defaulting Party to rectify that breach, the Company ("Aggrieved Party") shall be entitled, without prejudice to its right to hold the Defaulting Party liable for damages or any of its other rights, at its option:
- 13.1.1 **to sue for immediate specific performance of any of the Defaulting Party's obligations under these Terms and Conditions, whether or not such obligation is then due; or**
- 13.1.2 **cancel these Terms and Conditions, in which case written notice of the cancellation shall be given to the Defaulting Party, and the cancellation shall take effect on the giving of the notice.**
- 13.2 The Aggrieved Party's remedies in terms of this clause are without prejudice to any other remedies to which the Aggrieved Party may be entitled in applicable law,

including without limitation, the Aggrieved Party's rights to claim damages.

13.3 **All legal costs incurred by the Aggrieved Party in consequence of any default of the provisions of these Terms and Conditions by the Defaulting Party shall, subject to specific limitations in terms thereof, be payable on demand by the Defaulting Party on the scale as between attorney and own client and shall include collection charges, the costs incurred by the Aggrieved Party in endeavouring to enforce such rights prior to the institution of legal proceedings and the costs incurred in connection with the satisfaction or enforcement of any judgment awarded in favour of the Aggrieved Party in relation to its rights in terms of or arising out of these Terms and Conditions.**

13.4 **All payments received shall be allocated firstly towards legal costs (if applicable), thereafter interest, and lastly towards the capital amount owing in respect of the Customer's outstanding indebtedness.**

#### 14. CANCELLATION

14.1 Without prejudice to any other rights of the Company under these Terms and Conditions, the Company shall be entitled to immediately terminate these Terms and Conditions by written notice in the event that the Customer is placed in liquidation or under business rescue, whether provisional or final, or has passed a resolution for its voluntary winding-up (or, in each case, the equivalent or similar nature under the laws of the jurisdiction in which the Customer is registered or its principal place of business) or the Customer defaults on payment for the Services.

14.2 The Company shall be entitled to cancel these Terms and Conditions at any time and for any reason, by giving 30 (thirty) days' written notice to that effect to the Customer. Any and all obligations on the part of the Parties in respect of these Terms and Conditions that accrued before the date of cancellation shall remain enforceable between the Parties.

14.3 Upon cancelling these Terms and Conditions, the Company shall be entitled to elect whether the separate Supply Contracts, entered into between the Customer and the Company, will be cancelled as well.

#### 15. NOTICES AND DOMICILIUM

Any notice given by either Party shall be hand delivered or sent by e-mail to the other's *domicilium citandi et executandi* (i.e. an address where notices and legal documents may be delivered) and shall be deemed to have been on the date of delivery by hand or the business day immediately following the date on which the email was sent, unless the contrary is proved. Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by a Party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen *domicilium citandi et executandi*.

#### 16. DISPUTE RESOLUTION

16.1 Save in respect of those provisions of these Terms and Conditions which provide for their own remedies which would be incompatible with the dispute resolution process contemplated hereinbelow, a dispute which arises between the Parties in connection with the formation or existence of, the implementation of, the interpretation or application of the provisions of, the Parties' respective rights and obligations in terms of or arising out of, or the breach or termination of, the validity, enforceability, rectification, termination or cancellation, whether in whole or in part of,

any documents furnished by the Parties pursuant to the provisions of, these Terms and Conditions, or which relates in any way to any matter affecting the interests of the Parties in terms of these Terms and Conditions, that dispute shall be referred to arbitration in Cape Town before a Senior Counsel of the Cape Bar of at least 15 (fifteen) years' standing. Should the Parties be unable to agree upon an arbitrator, such will be appointed by the chairperson/s of the Cape Bar Council.

16.2 The provisions of this clause: (i) constitute an irrevocable consent by the Parties to any proceedings in terms hereof and no Party shall be entitled to withdraw therefrom or claim at any such proceedings that it is not bound by such provisions; and (ii) are severable from the rest of these Terms and Conditions and shall remain in effect despite the termination of or invalidity for any reason of these Terms and Conditions.

#### 17. LAW AND JURISDICTION

The terms of these Terms and Conditions shall be governed by and construed in accordance with the laws of the Republic of South Africa, regardless of the place of execution or performance in terms of these Terms and Conditions. Vinlab and the Customer furthermore agree that the courts of the Republic of South Africa shall have exclusive jurisdiction for any action or proceedings commenced under these Terms and Conditions.

#### 18. ASSIGNMENT

18.1 The Customer shall not cede and/or assign the benefit and/or the burden of any Supply Contract or these Terms and Conditions, in whole or in part to any third party without the prior written consent of the Company, which consent may in the Company's sole discretion be withheld.

18.2 The Customer may not assign or cede its payment obligations hereunder without the prior written consent of the Company.

18.3 **The Company shall be entitled to cede, delegate and/or assign, subcontract and/or outsource any of the rights and/or obligations of the Company in terms of these Terms and Conditions and/or any Supply Contract to other parties ("Subcontractors") without any further the consent of the Customer.**

18.4 The Company shall use its best endeavours to procure that the Subcontractors shall comply with the provisions of these Terms and Conditions and the terms hereof shall be applicable to such services to be provided by the Subcontractors *mutatis mutandis*.

18.5 The Customer may from time to time be requested to specifically approve, in writing, the whole or a part of the Services being performed by a sub-contractor appointed by the Company. Should such approval be granted by the Customer, the Customer shall indemnify and hold the Company harmless from any and all damages, losses, costs or expenses incurred by the Customer as a result of or arising from the appoint of such approved sub-contractor.

#### 19. PROTECTION OF PERSONAL INFORMATION

19.1 Where a Party hereto "processes" or requires the other Party to process any "personal information", as such terms are defined in POPI, belonging to that Party, or that of a related party (both acting as "responsible parties" as such term is defined in POPI), the Parties: (i) agree to comply with the provisions of POPI for processing of such personal information, including to only process any personal information received by a Party to the extent

- required hereunder and any further processing as may be authorised by a Party in writing; and (ii) consent to the processing of any of their/its personal information in terms of, pursuant to or for purposes of these Terms and Conditions.
- 19.2 Without limiting the generality of the above, the Customer hereby: (i) consents to Vinlab sharing its personal information with any of its third-party Customers, insurers or to other parties within Vinlab's group of companies, for the purposes of and in line with the provisions hereof; (ii) warrants that where it provides any personal information on behalf of any other person (including its shareholders, directors, members, trustees and the like), it is authorised to give such personal information and to consent to the processing of such person's personal information on their behalf; and (iii) agrees to Vinlab using its personal information for the purposes of informing the Customer about any products or services the Customer might be interested in, except if otherwise indicated by the Customer.
- 19.3 The Customer hereby agrees, notwithstanding any contrary provision in any other agreement between the Parties, that Vinlab retains its full rights to pursue any legal or equitable remedies in the event of any breach or threatened breach of POPI and/or this clause 19, and may prevent the Customer, any of its agents or sub-contractors, or any third party who has received personal information from the Customer in breach hereof from processing such personal information by any legal means available. The Customer further acknowledges that any breach of POPI and/or this clause 19 may subject it to applicable legal penalties, including those provided for under POPI and that Vinlab shall not be liable for any such legal penalties as may be incurred by the Customer in this regard.
- 20.3 No alteration, cancellation, variation of, or addition to the Terms and Conditions shall be of any force or effect unless reduced to writing and signed by both Parties.
- 20.4 Reference to "**writing**" or "**written**" means in writing signed by the issuing party and served by any means including any form of electronic data interchange, i.e. the transmission of data via electronic communication links between or other machine-readable data media.
- 20.5 Each provision in these Terms and Conditions is severable, the one from the other, and, if at any time any provision is or becomes or is found to be illegal, invalid, defective or unenforceable for any reason by any competent court, the remaining provisions shall be of full force and effect and shall continue to be of full force and effect.
- 20.6 These Terms and Conditions shall bind, and shall endure for the benefit of, the Parties and their respective successors and assigns.
- 20.7 The expiration or termination of these Terms and Conditions shall not affect such of the provisions of these Terms and Conditions as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

## 20. MISCELLANEOUS

- 20.1 The Customer shall take all reasonable steps to (a) protect and hold Vinlab's Confidential Information in confidence and prevent its disclosure to third parties; and (b) restrict its use to those purposes consented to in writing by Vinlab or permitted by these Terms and Conditions; provided, however, that the Customer shall not be required to protect or hold in confidence any Confidential Information which (i) is or becomes available to the public without the fault of the Customer, (ii) is independently developed by the Customer, (iii) is disclosed to the Customer by a third party known to the Customer not to be under any duty of confidentiality to Vinlab with respect to such information or (iv) except as may otherwise be required by law. "**Confidential Information**" means Vinlab's know-how, trade secrets, data, proprietary and business information and all other information advised by Vinlab to be confidential information or which, by its nature is or should be considered confidential, whether such information is marked as "confidential" or not. The termination of these Terms and Conditions, for any reason whatsoever, shall not impact or relieve the Customer's obligations in terms of Vinlab's Confidential Information, as stipulated hereinbefore (i.e. these confidentiality undertakings shall survive the termination of these Terms and Conditions).
- 20.2 Notwithstanding any express or implied provisions of these Terms and Conditions to the contrary, no latitude or extension of time which may be allowed by the Parties hereto in respect of any matter or thing that the Parties are bound to perform or observe in terms thereof, shall under any circumstances be deemed to be a waiver of the rights of the Party which grants the said latitude or extension, at any time, and without notice, to require strict and punctual compliance with each and every provision or term thereof.