

IMPALA BAFOKENG RESOURCES (PTY) LTD

Purchase Order Terms and Conditions of Contract

This Purchase Order (“PO”) inclusive of any attachments placed by the Buyer for goods and / or services subject to the “General Terms and Conditions of either the Service and / or Goods Contract” of (Impala Bafokeng Resources) and any defined special terms and conditions applicable in term of the PO. The Supplier shall be bound by such terms by virtue of acceptance of the PO, delivering the PO and / or performance in respect for any such PO.

1. Definitions and Interpretation

In the PO, the following words and expressions shall have the meaning hereby assigned to them:

- a) **“Acceptance of Terms”** - means conditioned to the Supplier’s acceptance of all the Buyer’s terms and conditions as contemplated herein and / or in terms of either the Service or Goods Contract. No allowance shall be made for relaxation, indulgence, additions, deletions, or differences in the terms or conditions of the Supplier’s quotation, proposal, acknowledgment, acceptance, or any other document. This PO shall be issued in addition to the Impala Bafokeng Contract and any attachments. In the event of any inconsistency, ambiguity, or conflict between the provisions of any agreement and the terms and conditions of this PO, the inconsistency, ambiguity and / or conflict will be resolved by giving precedence in the following order: the Impala Bafokeng Resources General Terms and Conditions which are available on request), this standard purchase terms, the specified provisions of the PO, and any attachments, including any special conditions of the General and PO).
- b) **“Agreement”** - means the agreement between the Buyer and Supplier for the purchase and sale of Goods and / or Services.
- c) **“Buyer”** - means Impala Bafokeng Resources Proprietary Limited, (Registration Number: 2009/001885/07), a private company with limited liability duly incorporated under the law of the Republic of South Africa.
- d) **“Deliverable”** - means any deliverable or other product or result from Services that is referred to in a PO, and any related materials, data, documentation, inclusive of any Intellectual Property Rights developed by Supplier pursuant to such PO as contemplated as part of the General Terms and Conditions of Contract, unless otherwise agreed to.
- e) **“Delivery Date”** - means the date of delivery of the Goods or the performance of Services as specified in a PO.
- f) **“Delivery Point”** – means the location identified by the Buyer on the PO to which the Supplier is to deliver Goods and / or perform Services, or any other delivery area or point which is specified in writing by the Buyer.

- g) **“Goods”** – means the goods that are required to be delivered by the Supplier pursuant to a PO, and include all materials, component parts, packaging, and labelling of such goods and / or as contemplated in the Impala Bafokeng General Terms and Conditions.
- h) **“Intellectual Property Rights”** – shall bear the same meaning set out in the Impala Bafokeng General Terms and Conditions.
- i) **“Lead Times”** – means the lead times within which the Goods or Services must be delivered by the Supplier, on the PO and or as set out in **Annexure “B”** General Conditions of either the Service and / or Goods Contract.
- j) **“Purchase Order”** – means an official PO issued by the Buyer for the purchase of Goods or Services, including any documents referred to in such purchase order and / or any official amendment thereto between the Buyer and Supplier, to which these Standard Purchase Terms are attached or are incorporated by reference.
- k) **“Services”** - shall have the same meaning as contemplated in the Impala Bafokeng General Terms and Conditions for any services being provided by the Supplier to the Buyer pursuant to a PO.
- l) **“Specifications”** - means the defined requirements and specifications for the Goods or Services that are set out in the applicable PO. Specifications include (i) documentation published by the Supplier relative to the Goods or Services; (ii) operational and technical specifications and functionality of the Goods or Services; (iii) standards or service levels for Services performance; and (iv) the Buyer’s business requirements expressly set out in a PO and/or Impala Bafokeng General Terms and Conditions.
- m) **“Supplier”** – means the party indicated on the PO that is contracting with the Buyer for the purchase and sale of Goods and/or Services, which includes the Supplier’s duly appointed representatives, successors in title and permitted assignees.
- n) **“Supplier Proposal”** - means any acknowledgement, estimate, quote, offer to sell, invoice, or proposal of Supplier relating to the supply of Goods and/or Services to the Buyer, including anything delivered in connection with a request for quotations (RFQ), request for proposal (RFP) or similar process initiated by the Buyer.
- o) **“VAT”** - Shall have the same meaning as contemplated in the Impala Bafokeng General Terms and Conditions.
- p) **“Warranty Period”** - means in respect of any Goods or Services, the longer of (i) the express written warranty period provided by the Supplier for the Goods or Services; and (ii) the period commencing on the date of acceptance of such Goods or Services and ending on the date that is one (1) year from that date.

2. Agreement

The Agreement consists only of (i) these Standard Purchase Terms; (ii) the applicable PO; and (iii) any specifications or other documents expressly referenced in the PO and/or Impala Bafokeng General Terms and Conditions. Any reference in the PO to any Supplier proposal is solely for the purpose of incorporating the descriptions and specifications of the Goods and / or Services contained in such proposal, and only to the extent that the terms of the Supplier's proposal do not conflict with the descriptions and specifications set out in the PO and / or contract. The Buyer's acceptance of such proposal or payment for Goods and / or Services will not constitute the Buyer's acceptance of any additional or different terms in any subsequent Supplier proposals unless otherwise accepted in writing by the Buyer. If there is any conflict or inconsistency between the documents constituting the Agreement, then unless otherwise expressly provided, the documents will rank in the order of precedence in accordance with the order in which they are listed in Section 1(a).

3. Delivery of Goods and Services

- a) The Supplier agrees to supply and deliver the Goods or Services to the Buyer and to perform the Services, as applicable, as set out in this PO and / or the General Terms and Conditions of either the Service and / or Goods Contract.
- b) The Supplier shall, at its own cost, pack, load, and deliver Goods to the Delivery Point and in accordance with the PO delivery terms, shipping, packing, and any other instructions printed on the PO or otherwise provided by the Buyer in writing to the Supplier. No charges shall be allowed for freight, transportation, insurance, shipping, storage, handling, demurrage, cartage, packaging, or similar charges unless otherwise provided for in the applicable PO.
- c) Time is of the essence with respect to the delivery of the Goods and the performance of Services. Goods shall be delivered, and Services performed in terms of the applicable Delivery Date reflected on the PO. The Supplier must immediately notify the Buyer if the Supplier is unlikely to meet the specified Delivery Date. At any time prior to the Delivery Date, the Buyer may, upon notice to the Supplier, cancel or change a PO, or any portion thereof, for any reason, including, without limitation, for the convenience of the Buyer or due to failure of the Supplier to comply with the PO, unless otherwise agreed to.
- d) Title and risk of loss or damage shall pass to the Buyer upon receipt of Goods at the Delivery Point, unless otherwise agreed to by the Buyer in writing. The Buyer has no obligation to obtain insurance while the Goods are in transit from the Supplier to the Delivery Point.
- e) The Supplier shall follow all instructions of the Buyer and cooperate with the Buyer's customs broker as directed by the Buyer (including by providing requested shipping documentation) with respect to all Goods that originate from sources or suppliers based in South Africa.

Inspection; Acceptance and Rejection

- a) Shipments of all Goods and performance of Services shall be subject to the Buyer's right of inspection. The Buyer shall have ninety (90) days (the "Inspection Period") from the date of delivery of the Goods at the Delivery Point or performance of the Services to undertake such inspection, and upon such inspection, the Buyer shall either accept the Goods or Services ("Acceptance") or reject them. The Buyer shall have the right to reject any Goods that are damaged, defective, or delivered in excess of the quantity ordered. In addition, the Buyer shall have the right to reject any Goods or Services that are not in conformance with the Specifications or any term of this Agreement.
- b) Transfer of title to the Buyer of Goods shall not constitute the Buyer's Acceptance of those Goods. The Buyer shall provide the Supplier within the Inspection Period, notice of any Goods or Services that are rejected (inclusive of reasons for such rejection). If the Buyer does not provide the Supplier with any notice of rejection within the Inspection Period, then the Buyer will be deemed to have provided Acceptance of such Goods or Services. The Buyer's inspection, testing, or Acceptance, or use of the Goods or Services hereunder shall not limit or otherwise affect the Supplier's warranty obligations hereunder with respect to the Goods or Services, and such warranties shall survive inspection, test, acceptance, and use of the Goods or Services.
- c) The Buyer's right to reject the Goods shall be at the Supplier's expense and risk of loss for, at the Buyer's option, either: (i) full credit or refund of all amounts paid by the Buyer to the Supplier for the rejected Goods; or (ii) replacement Goods to be received within the time period specified by the Buyer. Title of rejected Goods that are returned to the Supplier shall transfer to the Supplier upon such delivery and such Goods shall not be replaced by the Supplier except upon written instructions from the Buyer. The Supplier shall not deliver the Goods that were previously rejected, unless the delivery of such Goods is approved in advance by the Buyer, and delivery of such Goods must be accompanied by a written disclosure of the Buyer's prior rejection(s) and corrective measures taken.

4. Price/Payment Terms

Prices for the Goods and / or Services will be set out in the applicable PO. Price increases or charges not expressly set out in the PO shall not be effective unless agreed to in advance in writing by the Buyer. The Supplier will issue all invoices on a timely basis. All invoices delivered by the Supplier must meet the Buyer's requirements, and at a minimum shall reference the applicable PO. The Buyer will pay the undisputed portion of properly rendered invoices thirty-five (35) days from the invoice date. The Buyer shall have the right to withhold payment of any invoiced amounts that are disputed in good faith until the parties reach an agreement with respect to such disputed amounts and such withholding of disputed amounts shall not be deemed a breach of this Agreement, nor shall any interest be charged on such amounts. Notwithstanding the foregoing, the Buyer agrees to pay the balance of the undisputed amounts on any invoice that is the subject of any dispute within the time periods specified herein.

5. Hazardous Materials.

The Supplier agrees to provide, upon and as requested by the Buyer, to satisfy any applicable laws governing the use of any hazardous substances on any of the following: (i) all reasonably necessary documentation to verify the material composition, on a substance by substance basis, including quantity used of each substance, of any Goods, and / or any process used to make, assemble, use, maintain or repair any Goods; or (ii) all reasonably necessary documentation to verify that any Goods and / or any process used to make, assemble, use, maintain or repair any

Goods, do not contain, and the Services do not require the use of, any particular hazardous substances specified by the Buyer.

6. Legal Compliance and Workplace Safety

In carrying out its obligations under the Agreement, including the performance of Services, the Supplier shall at all times comply with all applicable national, provincial, and municipal laws, regulations, standards, and codes. Furthermore, the Supplier shall, at its cost, obtain from the relevant authorities, all permits, licenses, consents and / or authorizations required for the performance of the Good and / or Services and for the Supplier to fulfil its obligations in terms of this Agreement. Copies of all such documentation shall be provided by the Supplier, if so, required by the Buyer.

7. Warranties

a) Product Warranties

The Supplier warrants to the Buyer that during the Goods Warranty Period all Goods provided hereunder shall be: (i) of merchantable quality; (ii) fit for the purposes intended; (iii) unless otherwise agreed to by the Buyer, new; (iv) free from defects in design, material, and workmanship; (v) in strict compliance with the Specifications; (vi) free from any liens or encumbrances on title whatsoever; (vii) in conformance with any samples provided to the Buyer; and (viii) compliant with all applicable national, provincial, and municipal laws, regulations, standards, and codes of best practice.

b) Service Warranties

The Supplier shall perform all Services: (i) exercising that degree of professionalism, skill, diligence, care, prudence, judgment, and integrity which would reasonably be expected from a skilled and experienced service provided providing services under the same or similar circumstances as the Services under this Agreement; (ii) in accordance with all Specifications and all Buyer policies, guidelines, by-laws and codes of conduct applicable to the Supplier; and (iii) using only personnel with the skills, training, expertise, and qualifications necessary to carry out the Services. The Buyer may object to any of the Supplier's personnel engaged in the performance of Services who, in the reasonable opinion of the Buyer, are lacking in appropriate skills or qualifications, engage in misconduct, constitute a safety risk or hazard or are incompetent or negligent, and the Supplier shall promptly remove such personnel from the performance of any Services upon receipt of such notice, and shall not re-employ the removed person in connection with the Services without the prior written consent of the Buyer.

c) Intellectual Property Warranty

The Supplier further always warrants to the Buyer that all Goods and / or Services (including any Deliverables) will not violate or infringe any Intellectual Property Rights of the Buyer or any person.

d) Manufacturer Warranties

The Supplier shall assign to the Buyer all manufacturer's warranties for Goods not manufactured by or for the Supplier and shall take all necessary steps as required by such third-party manufacturers to affect the assignment of such warranties to the Buyer.

e) Warranty Remedies

- i. In the event of a breach of any of the warranties defined under these terms of the Impala General terms, and without prejudice to any other rights or remedies available to the Buyer (including the Buyer's indemnification rights hereunder), the Supplier will, at the Buyer's option and at the Supplier's expense, refund the purchase price for, or correct or replace the affected Goods, or reperform the affected Services, within 14 day(s) from the notice issued by the Buyer to the Supplier of a warranty breach. All associated costs, including costs of re-performance, costs to inspect the Goods and / or Services, transport from the Buyer to the Supplier, and return shipment to the Buyer, and costs resulting from supply chain interruptions, will be borne by the Supplier. If the Goods are corrected or replaced or Services are re-performed, the warranties in under this agreement or under the Impala General Terms will continue from the date of the correction or replacement of Goods Warranty Period commencing on the date of Acceptance of the corrected or replaced Goods by the Buyer. If the Supplier fails to repair or replace the Product within the time periods required above, the Buyer may repair or replace the Goods at the Supplier's expense.
- ii. In the event that any Goods provided by the Supplier to the Buyer are subject to a claim or allegation of infringement of Intellectual Property Rights of a third party, the Supplier shall, at its own option and expense, without prejudice to any other right or remedy of the Buyer (including Buyer's indemnification rights hereunder), provide the Buyer with a commercially reasonable alternative, including the right to continue procuring the use of the Goods in question, the replacement of such Goods with a non-infringing alternative to the Buyers satisfaction, or the modification of such Goods (without affecting functionality) to render them non-infringing.

8. Confidentiality

The Supplier shall safeguard and keep confidential any and all information relating to the Buyer obtained by it or provided to it by the Buyer in connection with this Agreement and shall use such information only for the purposes of carrying out its obligations under this Agreement.

9. Insurance

The Supplier represents and warrants to the Buyer: (i) that it has in place insurance policies coverage (as contemplated in Impala Bafokeng General Terms and Conditions) with reputable insurers; (ii) that shall be maintained by the Supplier, including, as applicable, professional liability insurance and comprehensive commercial general liability insurance, product /equipment liability coverage, all-risk contractors' equipment insurance, inclusive of cover in transit to and from Site, and vehicle liability insurance. In addition, the Supplier will take out and maintain, at its own cost, such insurance policies coverage as may be reasonably required by the Buyer from time to time. The Supplier will promptly deliver to the Buyer, as and when requested, written proof of such insurance. If requested, the Buyer shall be named as an additional insured under any such policies. If requested by the Buyer, such insurance must provide that it cannot be cancelled, or materially changed so as not to affect the insurance coverage required under this Agreement.

10. Indemnities

Shall bear the same terms of reference as contemplated under the Impala Bafokeng General Terms and Conditions of either the Goods and / or Services Contract.

11. Severability

Shall bear the same terms of reference as contemplated under the Impala Bafokeng General Terms and Conditions of either the Goods and / or Services Contract.

12. Waiver

Shall bear the same terms of reference as contemplated under the Impala Bafokeng General Terms and Conditions of either the Goods and /or Services Contract.

13. Survival

Any and all provisions of this Agreement which expressly or by implication from its nature is intended to survive the termination or completion of the Agreement will continue in full force and effect after any termination, expiry, or completion of this Agreement.

14. Interpretation

The headings used in this Agreement and its division into articles, sections, schedules, exhibits, appendices, and other subdivisions do not affect its interpretation. Unless the context requires otherwise, words importing the singular number include the plural and vice versa; words importing gender include all genders. References in this Agreement to articles, sections, schedules, exhibits, appendices, and other subdivisions are to those parts of this Agreement. Where this Agreement uses the word “including,” it means “including without limitation,” and where it uses the word “includes,” it means “includes without limitation.”