

TRENCON CONSTRUCTION (PTY) LIMITED

STANDARD PURCHASE ORDER/CONTRACT TERMS AND CONDITIONS

1. Offer and Acceptance. This Purchase Order/Contract constitutes an offer by TRENCON CONSTRUCTION (PTY) LTD, "TRENCON", to purchase Goods (the "Goods") or services (the "Services") from the supplier (the "Seller"). If Seller accepts this offer, TRENCON and Seller will have formed a contract (the "Agreement") on the terms and conditions set forth below. Seller may accept this Purchase Order/Contract either by giving TRENCON written notice of Seller's acceptance or by beginning performance of Seller's obligations under this Purchase Order/Contract or by the expiry of seven days after issue of the Purchase Order without response from the seller, whichever is the earlier. TRENCON hereby limits acceptance of this offer to the terms and conditions contained in this Purchase Order/Contract, and TRENCON hereby gives notice of objection to and rejection of any terms and conditions which add to or differ from those set forth in this Purchase Order/Contract. Any changes or exceptions to these terms and conditions must be expressly accepted in writing by the cognizant TRENCON Subcontract Administrator or Buyer identified elsewhere in this Purchase Order/Contract

2. Prices. TRENCON will not pay prices for the Goods higher than those stated on the front of this Purchase Order/Contract. Unless otherwise specified, the prices include all charges for packaging, handling, storage and delivery. Seller will pay all delivery charges in excess of the delivery charges which TRENCON has agreed in writing to pay. Unless otherwise provided herein, the prices include all taxes not expressly imposed by law on TRENCON. If Seller makes any price reductions after the date of this Purchase Order/Contract but prior to the payment date, such price reductions will be applicable to this Purchase Order/Contract. Seller warrants that the prices of the Goods covered by this Purchase Order/Contract are not in excess of the Seller's lowest prices in effect on the date of this Purchase Order/Contract for comparable quantities of similar Goods.

3. Delivery. TRENCON will not be obligated to accept substitutions, untimely deliveries, deliveries in quantities other than those ordered by TRENCON or deliveries of Goods failing to conform to Seller's warranties contained elsewhere in this Purchase Order/Contract. Time is of the essence in this Purchase Order/Contract. Acceptance by TRENCON whether of substitutions, late deliveries, partial deliveries or deliveries of non-conforming Goods shall not waive the delivery schedule set forth in this Purchase Order/Contract. Seller will immediately give written notice to TRENCON of any actual or potential cause or event which threatens the timely performance of this Purchase Order/Contract. Unless otherwise specified in this Purchase Order/Contract, Seller will retain the risk of loss or damage in transit until Goods are actually delivered to TRENCON'S requested destination. If Goods are not shipped in accordance with TRENCON's direction, Seller shall pay to TRENCON any excess cost occasioned thereby."

4. Inspection. Final inspection and acceptance of Goods shall be made by TRENCON, after delivery at destination unless otherwise expressly indicated in this Purchase Order/Contract, and shall be conclusive except as regards latent defects, fraud, such gross mistakes as amount to fraud, and the Seller's warranty obligations.

Any Goods purchased hereunder shall be subject to inspection and tests by TRENCON to the extent practicable at all times and places, including the period of manufacture and in any event, prior to acceptance. If TRENCON makes any inspection or test on the premises of the Seller, the Seller shall, without additional charge, provide all reasonable facilities and assistance for the safety and convenience of TRENCON' inspectors in the performance of their duties. All inspections and tests shall be performed in such manner as not to unduly delay the work. No inspection or test made prior to final inspection and acceptance shall relieve the Seller from responsibility for defects or other failures to meet the requirements of this Purchase Order/Contract.

In the event any Goods are defective in materials or workmanship, or otherwise not in conformity with the requirements of this Purchase Order/Contract, TRENCON shall have the right either to reject the Goods, require correction, or accept the Goods with an equitable adjustment in price. Any Goods that have been rejected or require correction shall be promptly removed and corrected, or replaced by at the expense of the Seller, promptly after notice. If, after notification by TRENCON, Seller fails promptly to replace or correct any defective Goods, TRENCON may replace or correct such Goods and charge Seller the cost for such replacement or correction, or without further notice, terminate the Purchase Order/Contract for default according to the clause hereof entitled, "Default".

The Seller shall provide and maintain an inspection system according to sound business practice and as otherwise provided in the Purchase Order/Contract. Records of any inspection work by the Seller shall be kept complete and available to TRENCON during the performance of this Purchase Order/Contract and for such longer periods, and in such manner as may be specified elsewhere in this Purchase Order/Contract.

5. Invoices. Unless other payment provisions are specified elsewhere in this Purchase Order/Contract, payment shall be made on the last day of the month following the date on the invoice and only after submission by Seller of a proper TAX invoice and, if applicable, a delivery note signed by an authorised

TRENCON representative. Payment for Goods does not constitute acceptance. TRENCON will take advantage of any discounts incorporated elsewhere in this Purchase Order/Contract, or found on individual invoices, whichever discount is more favourable to TRENCON. Delays in receiving invoice(s), errors or omissions on invoice(s), or lack of supporting documentation required by the terms of this Purchase Order/Contract, will be cause for TRENCON to withhold payment without losing discount privileges. The first day of any discount period shall be the later of (i) the first working day of TRENCON following final acceptance of the Goods, or (ii) TRENCON' receipt of a proper invoice. TRENCON may make adjustments to amounts invoiced by Seller for shortages, rejection, or other failure to comply with the provisions of this Purchase Order/Contract. TRENCON will notify Seller of any such adjustments. Unless specified elsewhere in this Purchase Order/Contract, Seller shall furnish a separate invoice for each shipment of Goods or major increment of service rendered. Invoices must contain the following information:

Seller's name;

Invoice number and date;

Delivery note number and date

Purchase Order/Contract number, line item number, description of the Goods or services, quantity, unit of measure, unit price, and extended total;

Name and address for remittent of payment.

By virtue of its submission to TRENCON, each invoice or claim from Seller shall be deemed to include a warranty by Seller that all amounts claimed by Seller are due and proper. TRENCON shall have the right to audit such claim or invoice and any books, documents or records of Seller that involve transactions relating to or which form the basis of said invoice or claim. In addition to any other rights TRENCON may have under this Purchase Order/Contract, TRENCON shall have a right of action against Seller for any breach of such warranty. Upon request by TRENCON, Seller shall provide written certification of Seller's invoices or claims in such terms, and with such signatures, as TRENCON may prescribe; and TRENCON may ignore any invoice or claim not so certified. Seller shall ensure that each of Seller's Sellers at all tiers are bound by the same obligations as are imposed on Seller by this paragraph.

6. Warranties. In addition to all statutory warranties, express or implied, Seller warrants that all Goods or services furnished hereunder will be free from defects in design, materials and workmanship, will be merchantable, and will conform to all specifications and other requirements applicable to this Purchase Order/Contract. Seller also warrants that Seller has complied, and will comply with laws, regulations and directives that may relate to this Purchase Order/Contract. Seller further warrants that all certifications offered by Seller are authentic, and that all cost and pricing data supplied by Seller are complete. These warranties will survive acceptance, payment and subsequent use and/or resale of any Goods by TRENCON.

7. Risk of Loss. Notwithstanding any term of this Purchase Order/Contract, or any inference therefrom, the risk for any loss of or damage to or destruction of Goods described in this Purchase Order/Contract shall be borne by Seller at all times until the Goods are received and accepted by TRENCON. Title to the Goods passes to TRENCON upon final acceptance after inspection.

8. Insurance Requirements. Seller agrees that any services to be rendered or Goods to be furnished by Seller under this Purchase Order/Contract shall be rendered or furnished as an independent contractor, and Seller shall be solely responsible for the safe conduct of the performance under this Purchase Order/Contract and for the protection of all persons, premises or facilities involved in said performance. Seller shall provide all safeguards and take all necessary precautions to prevent the occurrence of any accident, injury, death or loss to any person or property in the performance of this Purchase Order/Contract, whether on Seller's property, TRENCON'S property or elsewhere. All performance under this Purchase Order/Contract by Seller is at Seller's risk as to the methods, processes, procedures and safe conduct of the work. Seller will indemnify and defend TRENCON and hold TRENCON harmless from and against any and all losses, liabilities, claims, demands, suits, actions, proceedings and subrogations arising from or relating to the performance of Seller's work. Before performing any work on TRENCON' premises, Seller will obtain (and thereafter maintain) all necessary Health and Safety requirements

9. Changes. TRENCON may at any time by written notice make changes within the general scope of this Purchase Order/Contract in any one or more of the following: (1) description of services; (2) time of performance; (3) place of performance; (4) drawings; (5) designs; (6) specifications; (7) method of shipping or packing; (8) place of inspection, delivery or acceptance; (9) quantities; and (10) schedules. Seller shall proceed immediately to perform this Purchase Order/Contract as changed. If any such change causes an increase or decrease in the cost of, or time required for performance of any part of the work under this Purchase Order/Contract an equitable adjustment in the Purchase Order/Contract price and/or delivery schedule will be made, subject to prior agreement. Any claim for adjustment under this clause will be deemed

to be waived unless asserted in writing (including the amount of the claim) and delivered to TRENCON within twenty (20) days from the date of receipt of Seller of the change order or written notice or within such further time as may be agreed upon by the parties.

10. Disputes. In the event a dispute should arise between TRENCON and Seller regarding the terms or the interpretation of this Agreement, Seller agrees to continue to perform under the terms of this agreement to the best of its ability during the period of the dispute. If a dispute arises under this agreement that is not settled promptly in the ordinary course of business, the parties shall seek to resolve any such dispute between them by negotiating at a senior management level promptly with each other in good faith negotiations. This Agreement shall be governed by the laws of the Republic of South Africa.

11. Indemnification. Seller shall protect, defend, indemnify and hold harmless TRENCON, its subsidiaries, affiliates and their agents, employees, officers and directors from and against any and all claims, suits, allegations, judgments, actions, liabilities, losses, damages, penalties, fines, costs and expenses, including property damage or environmental pollution, (the "Loss") resulting from any and all acts of Seller or its employees in the performance or non-performance of this Agreement, including without limitation, improper or defective design, manufacture, material or workmanship in Goods purchased from Seller. TRENCON shall promptly notify Seller of the Loss. TRENCON shall cooperate in, but not be responsible for paying for, any investigation and defence relating to the Loss. Should Seller fail to assume its obligation hereunder, TRENCON shall have the right, but not the obligation, to defend itself and to thereafter require from Seller reimbursement and indemnification for any and all costs and expenses, including attorney's fees paid by TRENCON in connection therewith. Seller having insurance as required hereunder shall in no way be interpreted as relieving Seller of any responsibility under this section. This section shall survive termination, cancellation or expiration of this Agreement.

12. Confidentiality. This document and any material transmitted herewith may contain information proprietary to TRENCON, its subsidiaries or affiliates and such information is not to be used by the recipient for any purpose other than the purpose for which it was transmitted. The information shall be maintained in confidence and not disclosed to third parties without the written consent of TRENCON. Seller will execute a confidentiality and non-disclosure agreement as required by TRENCON.

13. Independent Contractor. Seller is an independent contractor. All individuals that Seller assigns to perform Services are Seller's employees or subcontractors. Nothing in this Agreement, and no conduct, communication, trade practice or course of dealing shall be interpreted or deemed to create any partnership, joint venture, agency, or fiduciary relationship between the parties or their subsidiaries or affiliates.

14. No Assignment. This Purchase Order/Contract may not be assigned and Seller may not delegate any performance, duty or other obligation of Seller without the prior written consent of TRENCON.

15. No Waiver/Severability. No modification, change or waiver of any provision hereof will be effective for any purpose unless such modification, change or waiver is specifically authorized by a TRENCON Procurement Representative. No waiver of any right or remedy in respect to any occurrence or event on one occasion will be deemed a waiver of such right or remedy in respect of such occurrence or event on any other occasion. Invalidity of any part of this Purchase Order/Contract shall not affect the validity of any other part of this Purchase Order/Contract.

16. Offsets. TRENCON may offset against any sums otherwise due Seller any amounts TRENCON in good faith claims to be due from Seller, whether such claims arise under or outside this Purchase Order/Contract.

17. Force Majeure. Seller shall not be liable for failure or delay in performance resulting from, directly or indirectly, any cause or circumstance beyond its reasonable control. Such causes or circumstances shall include, without limitation, acts of God, acts or orders of any governmental authority, strikes or labor disputes, natural disasters, civil disturbances, difficulties or delays in transportation or delivery services, or other causes beyond the reasonable control of Seller. Seller agrees to notify TRENCON of any such failure or delay in performance as soon as practicable.

18. Rights and Remedies. The rights and remedies of TRENCON provided in these terms and conditions are cumulative, and are in addition to any other rights and remedies that TRENCON may have at law or in equity. IN NO EVENT SHALL TRENCON BE LIABLE FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION LOST PROFITS).

19. Ordering. If this is a "Requirements" type purchase or an "indefinite delivery" type purchase, as stated elsewhere in this Purchase Order/Contract, then Services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from _____ through _____. All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control. If mailed, a delivery order or task order is considered

"issued" when the order is deposited in the mail. Orders may be issued by mail, facsimile, or by electronic commerce methods only if authorized by the authorized TRENCON Subcontract Administrator.

20. Option to Extend Services. TRENCON may require continued performance of any services within the limits and at the rates specified in the contract. The option provision may be exercised more than once. The extension of performance hereunder shall not exceed 6 months from the end of the Purchase Order/Contract, including the exercise of any options. TRENCON may exercise the option by written notice to the Seller at least 30 days prior to the end of the Purchase Order/Contract, either the basic period or the period of any option exercised.

21. Option to Extend the Contract Term. TRENCON may extend the term of this contract by written notice to the Seller at least 30 days before the end of the performance period. If the option is exercised, the extended contract shall be considered to include this option clause. The extension of the contract term shall not exceed six months, including the exercise of any options.

22. Stop Work. TRENCON may, at any time, by written order to the Seller, require the Seller to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Seller, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Seller shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Seller, or within any extension of that period to which the parties shall have agreed, TRENCON shall either -- (1) Cancel the stop-work order; or (2) Terminate the work covered by the order as provided in the Default, or the Cancellation/Partial Termination clause of this contract.

If a stop-work order issued under this clause is cancelled or the period of the order or any extension thereof expires, the Seller shall resume work. TRENCON shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if -- (1) The stop-work order results in an increase in the time required for, or in the Seller's cost properly allocable to, the performance of any part of this contract; and (2) The Seller asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if TRENCON decides the facts justify the action, TRENCON may receive and act upon the claim submitted at any time before final payment under this contract.

If a stop-work order is not cancelled and the work covered by the order is terminated for convenience, TRENCON shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

If a stop-work order is not cancelled and the work covered by the order is terminated for default, TRENCON shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

23. Default. TRENCON may, by written notice of default to the Seller, terminate this Purchase Order/Contract or any part thereof if the Seller fails: (1) to deliver the Goods according to the delivery schedule specified herein, or any extension thereof by Change Order or written amendment; (2) to replace or correct defective Goods according to the "Inspection" clause; (3) to perform any of the other provisions of this Purchase Order/Contract or fails to make progress as to endanger performance of this Purchase Order/Contract according to its terms and in either of the circumstances specified does not correct such failure within a period of ten (10) days, or such longer period as TRENCON may authorize in writing, after receipt of notice from TRENCON specifying such failure.

In the event of termination pursuant to this clause, TRENCON may purchase similar Goods elsewhere on such terms and in such manner as TRENCON may deem appropriate, and the Seller shall be liable to TRENCON for any excess costs occasioned TRENCON thereby.

If, after notice of default under the provisions of (a) above, it is determined that if the failure to perform the Purchase Order/Contract is due to unforeseeable causes beyond the control and without the fault or negligence of the Seller, said notice shall be deemed to have been issued pursuant to the clause entitled "Cancellation/Partial Termination" (as applicable) and the rights and obligations of the parties hereto shall be governed by that clause.

Failure of TRENCON to enforce any right under this clause shall not be deemed a waiver of any right hereunder. The rights and remedies of TRENCON under this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Purchase Order/Contract.

Acts of Insolvency - TRENCON may terminate this Purchase Order/Contract by written notice to Seller, if Seller becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment

of a receiver for its business or assets, becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, or has wound up or liquidated, voluntarily or otherwise.

24. Cancellation/Partial Termination. TRENCON at any time by written notice may cancel this Purchase Order/Contract, or any part thereof, at their convenience and for other than for defaults as contemplated under the clause entitled, "DEFAULT", in which event TRENCON shall be liable for the payment of reasonable cancellation charges which shall take into account, among other things, expenses already incurred and the Seller's actual liabilities against commitments incident to this Purchase Order/Contract. Seller shall place all orders for, and schedule deliveries of materials and parts necessary for its performance under this Purchase Order/Contract at such times as will enable Seller to meet, but not unreasonably anticipate, the schedule of deliveries set forth herein. In the event of cancellation of or changes to this Purchase Order/Contract, TRENCON shall not be liable for any charges or costs arising out of commitments unreasonably anticipated by the Seller for the acquisition of said materials and parts, or out of work performed hereunder. In no event shall TRENCON be liable for cancellation charges in excess of the Purchase Order/Contract price.

25. Gratuities. TRENCON employees are not permitted to accept gifts or gratuities from any supplier for themselves or for their families. TRENCON employees are not permitted to take advantage of their position to obtain discounts on procurement of articles for personal use. This is construed by TRENCON as a gratuity. Generally, however, it is permissible for employees to accept advertising novelties, provided that the item is of no appreciable value to the employee and is widely distributed to others with essentially the same business relationship.

26. Public Release/Dissemination of Information. No news release, advertisement, or other disclosure relating to this Purchase Order/Contract shall be made without prior written approval. Further, Seller shall keep confidential all designs, processes, drawings, specifications, reports, TRENCON and other technical or proprietary information and other items furnished or disclosed to Seller by TRENCON in connection with this contract, unless otherwise provided herein or authorized by TRENCON in writing. Seller shall use such information and items, and the features thereof, only in the performance of this contract. Upon completion or termination of this Purchase Order/Contract, Seller shall return all such information and items to TRENCON or make such other disposition thereof as may be directed or approved by TRENCON.

27. Taxes. Unless prohibited by law, Seller shall pay and has included in the price of the Purchase Order/Contract any tax which is required to be imposed upon the Goods ordered hereunder, or by reason of their sale or delivery

28. Compliance with Laws. (a) In the performance of this contract Seller shall comply with all safety laws, and all other applicable local laws, regulations, rules and ordinances (collectively, "applicable laws"). Seller agrees, upon request, to furnish TRENCON a certificate regarding compliance or compliance with applicable laws in such form as TRENCON may from time to time require. Seller agrees to indemnify and hold TRENCON harmless to the full extent of any loss, damage or expense (including attorneys' fees) which TRENCON may incur as a result of Seller's violation of any applicable laws.

29. Order of Precedence. In the event of a conflict between this Agreement and any other documents related thereto, the following order of precedence shall govern:

- a) A master schedule, statement of work or other document describing with particularity the items to be procured or the work to be performed, executed either contemporaneously with this Agreement or subsequently;
- b) The specific terms of this Agreement;
- c) The general terms of this Agreement.

30. Entire Agreement. The terms and conditions set forth herein, including all specifications, drawings and other documents expressly referred to in this Purchase Order/Contract, contain the entire agreement of the parties and supersede all prior negotiations, agreements, understandings or arrangements between the parties with respect to the subject matter hereof. No modifications to this Agreement shall be binding upon the parties hereto or either party individually, unless such modification is in writing and duly signed by an authorized representative of the parties. Paragraph headings herein are for convenience only and shall not limit in any way the scope or interpretation of any provision of this Agreement.