

Standard Terms of Agreement:

1. The 'Seller' shall mean WEP Engineering (Pty) Ltd
2. The 'Purchaser' shall mean the person who places an order on the Seller
3. The 'Goods' shall mean all materials, products and services ordered by the Purchaser and supplied by the Seller
4. 'Agreement/Contract' shall mean these standard terms of Agreement read with the sellers' tender (if any), the technical specifications of the purchaser's order as have been agreed by the seller, and such other terms and conditions of agreement as may be agreed between the parties.
5. The purchaser order on the seller shall constitute an offer and an agreement shall only come into existence between the parties when the seller accepts the purchaser's order in writing.
6. These standard terms of agreement shall be deemed to be incorporated in and shall apply consistently to every agreement entered into between the seller and the purchaser.
7. Unless otherwise stated in any quotation given by the seller or elsewhere in writing by the seller, payment of the purchase price in respect of any goods dispatched by the seller shall be paid by the purchaser within 30 days of date of invoice. If the price stated in the Quotation of the seller is subject to a discount, then that discount will only be allowed if payment is made timeously on or before the due date for payment. Should the purchaser fail to pay any amount due and payable on due date or commit any other breach of these conditions of purchase and sale or be placed in liquidation or commit any act of insolvency, the full balance owing to the seller by the purchaser as a date thereof from whatsoever cause arising shall immediately become due and payable without notice. The seller in his sole discretion shall furthermore have the right to cancel the agreement between the seller and the purchaser and to refuse to deliver any further goods to the purchaser, in which event the purchaser shall have no claim whatsoever against the seller arising out of such cancellation or the refusal of the seller to deliver any further goods to the purchaser.
8. The above Quotation includes VAT and stands subject to any variations in the price of steel. It also includes the erection of the construction, if the order allows for same and subject to the condition that the area where the construction is to undertaken is free of any obstructions, including but not limited to trees, rocks and adverse soil conditions.
9. Prices are quoted according to the design and drawings made by WEP Engineering (Pty) Ltd.
10. All materials shall be SANS compliant
11. The seller shall make his best endeavours to effect delivery of the construction within 4-5 weeks after date of order; this is subject to material availability etc.
12. The purchaser shall effect payment of the project as follows: 50% of the purchase price on acceptance of the Quotation, 45% on delivery and 5% on practical completion.

13. The purchaser is responsible for the supply of water, sand, stone and cement, or ready-mix for the foundation on the construction site as well as the reinforcement of the concrete.
14. If it should be necessary to employ the services of crushers, Jackhammers, Crane Hire or Scissor Lift Hire, the cost shall be borne by the Purchaser
15. The purchaser accepts the responsibility to security on the construction site
16. The purchaser shall inform the seller of any matter which might influence the completion of the project and failure to comply with same, shall result in the additional costs for the purchaser
17. No cancellation, waiver, variation, alteration or amendment of these standard terms of agreement shall be valid or binding on the seller unless reduced to writing and signed by a director of the Seller.
18. The contract price is based on the cost of materials, transport, labour, insurance rates ruling at the date of the agreement and any variation in such costs and rates occurring between the date of the agreement and date of payment shall be for account of the purchaser and shall be determined in accordance with the formula included in the agreement, and if no formula is included, in the agreement, then in accordance with the SEISSA principles.
19. If the goods or any component thereof are to be imported, the contract price will be based on the rates of exchange, freight, insurance premiums, landing charges, port dues, custom duty and railage at the date of the agreement. Should these rates vary between the date of the agreement and the date of upon which the charges are actually incurred by the seller, the price shall be adjusted by the amount of the increases or decreases in such charges as finally determined by the seller's auditors in the event of any dispute
20. Payments delayed after the due date for payment shall be subject to interest charges, compounded monthly with effect from the due date of payment at 3% above the ruling prime lending rate prescribed by FNB from time to time.
21. The purchaser shall be deemed to have ceded to the seller in *securitatem debiti*, the purchaser's claims to all amounts owing to the purchaser by the third parties to whom the goods may have been supplied by or on behalf of the purchaser.
22. It is agreed that the set-off shall operate automatically as a matter of law and the moment reciprocal debts between the seller and the purchaser come into existence and independently of the will of the parties and it shall not be necessary for either the seller or the purchaser to specifically raise set-off. Upon the operation of an automatic set-off as mentioned, the debts shall mutually be extinguished to the extent of the lesser debt with retrospective effect.

23. The risk in and to the goods shall pass to purchaser and claims for non-delivery, shortages, or damages to the goods shall be made in writing by the purchaser within 10 days after delivery, failing which the seller shall be exempted from all liability in respect of such claims.
24. Notwithstanding delivery of the goods by the seller to the purchaser or the use of the goods after delivery, the goods shall remain the property of the seller until it has received payment of the full contract price.
25. The seller shall under no circumstances (even if negligence or gross negligence is proven) become liable to the purchaser for any losses sustained by the purchaser of whatsoever nature and kind, whether directly or indirectly, consequential, special or otherwise which are alleged to have been sustained by the purchaser as a result of – but not limited to
 - 25.1 any delay or failure or delivery of goods
 - 25.2 defective or incorrect materials, workmanship, design or specifications
 - 25.3 without prejudice to the provisions of clause 25 the seller's liability on account of defective materials and workmanship shall be limited exclusively to the repair or replacement thereof at the seller's sole discretion, but the seller shall nevertheless be excused from all liability unless it has been notified of defect in wiring within twelve months after date of delivery of the goods, whether defects be patent or latent.
26. The purchaser hereby renounces the benefits of any other rights not expressly referred in these general conditions or not expressly agreed in writing and to which it may be entitled, or which it may acquire in terms of the Agricultural Credit Act, act 28 of 1966 as amended, the Moratorium Act, act 25 of 1963 or other similar rights under any other statute.
27. Returns, if accepted by the seller in its own discretion and upon such terms as it may prescribe, shall be credited in full, less a minimum of 10%, as a handling charge, subject to the goods being in their specified shelf life and in a marketable condition and provided further that the purchaser shall be liable for all costs of delivery to the seller's designated premises.
28. The purchaser shall indemnify and hold harmless the seller against all claims and expenses of whatsoever nature and description arising from the alleged or actual infringement of all Letters of Patent, Trademarks, Design or Copyright occasioned by the seller's performance of this contract.
29. The purchaser shall keep confidential and shall not use for any purpose other than the contract itself, all drawings and designs supplied by the seller in terms of the contract, and the purchaser shall indemnify the seller against any loss suffered by the seller as a result of the breach of this clause.

30. Should either party be in breach of any material obligations imposed in terms of this contract, the non-defaulting party shall forthwith be entitled to cancel the contract, without prejudice to such other rights as such non-defaulting party may have in terms of this agreement or at law.
31. Regardless of the place of execution, performance or domicile of the parties, this agreement and all modifications and amendments hereof shall be governed by or construed under and accordance with the laws of South Africa.
32. The parties consent to the jurisdiction of the High Court of South Africa in respect of all matters arising out of and in disputes in connection with or in relation to this agreement. Notwithstanding such consent, should the purchaser be in default of the terms of this agreement, the seller shall be entitled in its own discretion to institute action against the purchaser in any competent court of law and the purchaser hereby consents to the jurisdiction of the magistrate's court in terms of section 45 of the Magistrate's court Act, 32 of 1944 as amended.
33. The purchaser hereby chooses its *domicilium citandi et executandi* for all purposes, the delivery or street address of the purchaser reflected on the face hereof.
34. A certificate issued under the hand of any director or manager of the seller reflecting the amount due by the purchaser to the seller at any given time, shall be *prima facie* evidence and proof of the amount due by the purchaser to the seller and such certificate shall be sufficient for purposes of summary judgement, provisional sentence or any other legal proceedings.
35. In the event of action being instituted by the seller against the purchaser, the purchaser agrees to pay the legal costs occasioned thereby on an attorney and own client scale including collection commission payable in terms of law.
36. Any promissory notes and/or bills of exchange shall be deemed to have been accepted by the seller without prejudice to the seller's claims or rights against the purchaser in respect of any promissory note or bill of exchange of which it is an endorser, surety or other party and of which the seller may become the holder.
37. The purchaser shall not be discharged from its obligation to pay the contract price until the seller actually recovers payment in full, notwithstanding the means and method of payment agreed upon by the parties.
38. Any latitude or extension of time which may be allowed by the seller to the purchaser in respect of any payment provided for herein or any matter or thing which the purchaser is bound to perform observe in terms hereof shall not under any circumstances be deemed to be a waiver of the seller's rights at any time.

39. The signature of any employee of the purchaser on any official delivery note, invoice, and weigh bill of the seller or similar paper of any authorised independent carrier of the seller shall constitute good and sufficient proof of delivery of the goods to the purchaser.
40. The purchaser hereby irrevocably and in *rem suam cedes*, pledges, assigns, transfers and makes over unto and in favour of the Seller all their rights, title, interest, claim and demand in and to all claims of whatsoever nature and description and howsoever arising with the purchaser may now or at any time hereafter have against all or any person, companies, corporations, firms, partnerships, associates, syndicates or any other legal personae whomsoever without exception as continuing covering security for the payment of every sum of money which may now or at any time hereafter become due and owing by the purchaser to the seller from whatsoever cause or cause arising and for the due performance of every other obligation howsoever arising which the purchaser may be or become bound to perform in favour of the seller.
- 40.1 The purchaser hereby undertakes that if and whenever the seller will so require, the purchaser will not later than the 7th day of every month deliver to the seller a schedule supplied by a director or manager of all amounts which will have been owing to the purchaser by his debtors on the last day of the preceding month reflecting thereon the amounts so owing by each debtor and the name and the last known address of such debtor
- 40.2 Whether or not the purchaser's debtors have been notified of the cession, all sums of money which the purchaser collects from his debtors or any of them shall be collected and received by the purchaser as agents on the seller's behalf provided that the seller shall be entitled to terminate the purchaser's mandate has been terminated.
- 40.3 Purchaser agrees that the seller shall be entitled at any time hereafter to give notice of this cession to all or any of the purchaser's debtors and take such steps as they deem fit to recover the amounts respectively owing by the debtors to the purchaser from time to time, provided that the seller shall be obliged to refund any amounts to purchaser which are in excess of the amounts to which purchaser will at that stage be indebted to the seller.
- 40.4 Purchaser warrants that the seller will at all times while this cession remains in force be entitled through its duly authorised representatives to inspect all or any of the purchaser's records relating to any of the debts covered by this cession.
- 40.5 Should it transpire that the purchaser entered into prior deeds of cession or otherwise disposed of any of the right, title and interest in and of any prior concession to in favour of the seller, which was signed by the purchaser prior to his signature of these conditions of purchase and sale, which prior cession shall remain in full force and effect.
41. Should any of the terms and conditions set out herein be or become unlawful by reason of any law, then such unlawful provision only shall be severed from these terms and conditions and the remaining provisions shall continue to be of full force and effect.

I, the undersigned, _____ in my capacity as _____ of the Applicant / Purchaser hereby warrant that:

- I am duly authorised by the Purchaser to make this application on its behalf and the above information is true and correct.
- Do hereby on behalf of the purchaser accept and agree to the standard terms of agreement set out herein, which terms I acknowledge having read and understood same

Signature: _____

Full Names: _____

Designation: _____

Date: _____

Suretyship:

I / we the undersigned do hereby bind myself / ourselves jointly and severally in accordance with the standard terms of agreement set out herein as surety / sureties for and co-principal debtor/s in solidum with the purchaser in favour of the seller for the due and punctual payment by the purchaser of all and any monies which the purchaser may now or from time to time hereafter owe to the seller from whatsoever cause and howsoever arising, as well as for the due and punctual performance and discharge by the purchaser of his obligations under any contract or agreement entered into or to be entered into by the purchaser with the seller. I / we hereby renounce the benefits of excussions, division, de duobus vel pluribus reis debendi, cession of actions, no value received and also the benefit non pecunae numeratae with the full force, meaning and effect whereof I / we declare myself / ourselves to be acquainted.

Should I / we default in the due performance of any of my / our obligations in terms of this Suretyship all of which are material, then the seller shall be entitled to recover all legal costs incurred by its attorneys on the scale as between attorney and own client.

I / we choose as domicilium citandi et executandi for all purposes the delivery or street address reflected on the face hereof.

I / we hereby consent to the jurisdiction of the Magistrate's Court in terms of section 45 of act 32 of 1944 as amended.

Signature: _____

Full Names: _____

Designation: _____

Date: _____