

IMPALA BAFOKENG RESOURCES (PTY) LTD

PURCHASE TERMS AND CONDITIONS

IBR 17 SUPPLY, DELIVER, ASSEMBLE, AND/OR CONSTRUCTION ORDERS

CONTENTS

Clause

- 1.0 Definitions
- 2.0 Supply and Deliver Orders – Contractor’s Documentation
- 3.0 Erection Orders – Contractor’s Documentation
- 4.0 Work Executed on Mine Property
- 5.0 Price Variations
- 6.0 Terms of Payment
- 7.0 Terms and Conditions of Order
- 8.0 Demurrage and Related Charges
- 9.0 Samples
- 10.0 Breach of Order Conditions
- 11.0 Cancellation
- 12.0 Ownership of the Company’s Components
- 13.0 Acknowledgement of Order
- 14.0 Inspection and Expediting
- 15.0 Foreign Exchange Forward Cover
- 16.0 Infringement of Patent, Registered Design or Copyright
- 17.0 Insurance
- 18.0 Submission of Formal Notices

1. **DEFINITIONS**

The following expressions shall, unless the context otherwise requires, have the meanings hereby respectively assigned to them:

- 1.1 **“Company” or “Employer”** means the Company named in the Order.
- 1.2 **“Company’s Components”** means any components, material, or other tangible items supplied by the Company at the Company’s cost to the Contractor as “free issue”.
- 1.3 **“Contractor”** means the person who has undertaken to carry out the Order.
- 1.4 **“Delivery”** means delivery in compliance with the terms of the Order and / or before the due date at the point of delivery specified in the Order.
- 1.5 **“Due Date of Delivery”** means the date stipulated in the Order for delivery of the goods.
- 1.6 **“Engineer”** means the Engineering Manager of Impala Bafokeng Resources (Pty) Ltd. or any other Engineer appointed from time to time by the Company and notified in place of the Engineer designated.
- 1.7 **“Goods”** means whatever is purchased, and includes work to be done, in terms of the Order.
- 1.8 **“Manager Procurement”** means the Manager Procurement of Impala Bafokeng Resources (Pty) Ltd, or its nominated representative appointed from time to time by the Company and notified in writing to the Contractor.
- 1.9 **“Order”** means and includes the contents of the Order as amplified by these instructions and all documents attached to the Order. If there should be any conflict between any such documents then the typewritten contents of the Order shall prevail.
- 1.10 **“Person”** includes incorporated or unincorporated bodies of persons, and the singular shall include the plural and vice versa.
- 1.11 **“Product”** means an item manufactured by the Contractor from the Company’s components and the Contractor’s material and includes any item partially manufactured.
- 1.12 **“Purchase Price”** means the price stated in the Order.
- 1.13 **“Impala Bafokeng”** means Impala Bafokeng Resources (Pty) Ltd acting on its own behalf for and on behalf of the Company.
- 1.14 **“Successful Tenderer”** means the person whose tender has been accepted by the Company and who on acceptance of the Order becomes the “Contractor”.
- 1.15 **“Successful Tenderer’s Material”** means any components, material, or other tangible items supplied by the Successful Tenderer at the Successful Tenderer’s cost.

- 1.16 “**Tenderer**” means the person who submits a tender in response to the Company’s Invitation to Tender.

2. SUPPLY AND DELIVER ORDERS – CONTRACTOR’S DOCUMENTATION

2.1 Contractors should make provision within their pricing for one transparency of all drawings including general arrangements, details for maintenance purposes, power and utilities schematics, equipment outline loading and anchor bolt setting for civil design purposes, clearances for building design purposes, and detail of such operating platforms as may be required to be supported from and by the building, assembly / erection detail, and “as manufactured” drawings. Further, they should make provision for the supply of documentation comprising three prints each of detailed monthly progress reports, spare parts lists, maintenance instruction manuals, and operating instructions. All such documentation is to be certified as correct for end use.

2.2 Should the equipment being purchased require connecting to any other equipment: i.e., ducts, pipes, foundations, bases, etc., the Contractor shall, within fourteen (14) days of the date of the order, supply to the Company a general arrangement dimension drawing of the equipment being purchased to enable the Company to establish the necessary connections prior to equipment delivery. Failure on the part of the Contractor to supply the required drawings timeously will be considered a breach of contract and may result in the contract being cancelled.

3. ERECTION ORDERS – CONTRACTOR’S DOCUMENTATION

Contractors should make provision in their pricing for one transparency of all drawings illustrating the “as-built” condition of all works erected by them duly certified as accurate in all respects.

4. WORK EXECUTED ON MINE PROPERTY

All site work executed on the mine’s property shall be subject to the Company’s Safety Standards and Procedures.

5. PRICE VARIATIONS

Variations between rates ruling at the date of tender and those ruling at the times scheduled for incurring costs in relation to ocean freight, customs, and import duties rates of exchange and railage will be payable upon submission of documentary evidence to the successful Contractor.

6. TERMS OF PAYMENT

6.1 Provided that invoices, together with full supporting documentation are submitted in triplicate and received not later than the 23rd day of the month, the standard terms of payment shall be:

6.2 Supply and delivery orders

- 6.2.1 After final delivery has been made and accepted, 90% of the Purchase Price is payable thirty (30) days from date of approval by the Senior Project Manager of the invoice.
- 6.2.2 A further five percent (5%) of the Purchase Price payable thirty (30) days following that in which the Company accepts that commissioning has been completed no later than three (3) months from the date of payment under clause 6.2.1. Retention must be applied for in writing and be authorized by the Company for release;
- 6.2.3 A further five percent (5%) of the Purchase Price thirty (30) days after that in which the Company accepts the completion of a six (6) month defect free maintenance guarantee period except only in such case that commissioning has been deferred by the Company, then the maintenance guarantee period will be deemed as completed no later than nine (9) months from the date of payment under clause 6.2.1. Retention must be applied for in writing and be authorized by the Company for release.

6.3 Erection work orders

- 6.3.1 Monthly progress payments up to eighty percent(80%) of the value of the works carried out as certified by the Company, payable thirty (30) days following the date on which invoices have been approved by the Senior Project Manager, with the sum of all such payments being equal to eighty percent (80%) of the Purchase Price;
- 6.3.2 A further ten percent (10%) of the Purchase Price on completion of erection to the satisfaction of the Company payable thirty (30) days following that on which invoices together with the Company's Take-over Certificates have been submitted;
- 6.3.3 The balance of ten percent(10%) of the Purchase Price on completion of a six (6) month erection works defect-free maintenance guarantee period payable thirty (30) days following submission of invoices together with the Company's Final Acceptance Certificate;
- 6.3.4 In such case as erection works may be deferred by the Company, the balance percentages referred to under clauses 6.3.2 and 6.3.3 shall be paid not later than three (3) months and six (6) months respectively from the date of such deferment.

6.4 Supervision of Erection and Commissioning

One hundred percent (100%) of certified monthly invoices, substantiated by time sheets for such personnel, payable thirty (30) days after invoices have been submitted.

6.5 **Variations**

In the event of changes or site variations during construction or erection these shall be carried out in terms of the Impala Bafokeng Resources (Pty) Ltd standards.

6.5.1 Certified invoices to be submitted in accordance with the instruction on page one of the order on completion of final delivery for supply, or on completion of erection as the case may be. One hundred percent (100%) of the variation/s will be payable on or about the 15th day of the month following the date on which invoices have been approved by the Senior Project Manager.

6.6 **Invoicing**

6.6.1 To effect timely payment and to assist the Company's accounts payable staff with the verification process of ensuring that only valid tax invoices are processed original tax invoices for the supply of goods must be addressed and delivered to the Accounts Department clearly stating the following:

- The word 'Tax Invoice' to be reflected at the top of the document
- The registered name, address, VAT number and registration number of the Contractor
- The name and address of the Company
- A serial number of the invoice
- The date must be stipulated on the invoice.
- The order number
- A description and quantity of the goods
- The amount paid for the goods
- The amount of VAT and the VAT rate

6.6.2 Pro forma invoices are not valid Tax Invoices.

6.6.3 All the above must appear clearly on the tax invoice as legal requirements stipulated by the Receiver of Revenue.

6.6.4 No changes are permitted to be made on tax invoices i.e., change of quantities, value on invoices, or change of order number.

6.6.5 Invoices must be supported by delivery notes endorsed by the relevant responsible person of the Company and/or other relevant supporting documentation.

6.6.6 Failure to comply with this instruction may result in no-payment or delay in payment for which the Company will not be held responsible.

- 6.6.7 ENSURE that the “bill to party”, legal address and VAT number are correct as follows:

IMPALA BAFOKENG RESOURCES
[Insert Business Area]

VAT Number: 4220204772

7. **TERMS AND CONDITIONS OF ORDER**

The further terms and conditions which shall apply when the Successful Tenderer becomes the Contractor are:

7.1 **Assignment**

The Contractor shall not assign or make over the Order or any part thereof, or any share or interest therein, or entrust the performance of any work relating thereto, to any other person without the prior written consent of the Company which may be refused without any reason being assigned therefore.

7.2 **Discrepancies in Documentation**

Should there appear to be any discordance or want of agreement in description, dimension, or quantities in the Order, the matter shall be referred by the Contractor to the Company for decision before proceeding to execute the Order or the part thereof in respect of which the said discordance or want of agreement appears to exist.

7.3 **Concessions or Waiver of Actions**

Any extension, concession, waiver, or relaxation of any action in the conditions of order given by either party is strictly construed as related to only the matter in respect of which it is given.

7.4 **Guarantees and Warranties**

The Contractor warrants and guarantees that he will provide materials and workmanship of the highest standards prevailing in the Contractor’s type of business in every particular aspect and in accordance with the Order. The goods shall be described and equal in all respects to the specifications, patterns, samples, and drawings specified in the Order and in all documents attached to the Order. Should there be no such description or pattern or sample, the goods shall be to the standards stated above and be the best of their respective kinds and to the satisfaction of the Company.

7.5 **Warranty Period**

7.5.1 For a period of twelve (12) months after the Goods have been commissioned and taken into service by the Company, the Contractor will be responsible, as provided in this clause, for any defects in the equipment, material and workmanship that may develop under normal and proper working conditions. The Contractor shall remedy such defects at his own cost when called upon to do so by the Company.

7.5.2 Should it become necessary for the Contractor to replace or renew any defective portions of the Goods in terms of this clause, the provisions of this clause shall apply to the portions of the Goods so replaced or renewed until the expiration of twelve

(12) months from the date on which such replaced or renewed portions have been taken into service by the Company.

7.5.3 The Contractor shall respond to and initiate the necessary corrective action arising from all reports concerning defects within twenty-four (24) hours of receipt of the report.

7.5.4 Should the Contractor not respond within twenty-four (24) hours to any reports concerning defects or fail to take immediate effective steps to keep the Company's plant in operation, the Company shall thereupon have the right to proceed immediately and take such action as he deems to be advisable, at the Contractor's risk and expense.

7.6 **Delivery Delay Penalties**

7.6.1 Should the goods or any portion thereof not be delivered on or before the due date specified in the Order, the Company shall be at liberty, without prejudice to any other remedy for breach of contract, to determine the contract either wholly or to the extent of such default.

7.6.2 The Company shall be at liberty to purchase other goods of the same or similar description, or order goods to be manufactured as he thinks fit, to make good (i) such default, (ii) in the event of this order being wholly determined, the balance of the goods remaining to be delivered thereunder.

7.6.3 Any excess of the Purchase Price, or cost of manufacture, as the case may be, over the purchase price appropriate to such default or balance, shall be recoverable from the Contractor by the Company in addition to any damages due to late delivery.

7.6.4 The liability imposed upon the Contractor under this paragraph shall be deemed to be in addition to and not in substitution of any other liability which he may incur under these conditions.

7.7 **Risk**

Goods will be accepted at the place of delivery only as regards number and condition of packages and notwithstanding any receipt that may have been given, the Goods shall remain liable to rejection if not in accordance with the Order. Rejected Goods will be held at risk and expense of the Contractor, who, before such Goods are released, shall refund the Purchase Price and all charges incurred by the Company in respect of such goods. Rejected Goods shall, if required by the Company, be replaced by the Contractor immediately upon receipt of notification of rejection. Should the Contractor fail immediately to replace the Goods the Company shall be entitled to the remedy set out in clause 7.6.

7.8 **Packing**

In the absence of any special agreement to the contrary packing cases and packing materials shall be deemed to be included in the Purchase Price and shall remain the property of the Company. Packing and covering to ensure the safe transport and delivery of the Goods, shall be as is customary in the trade, the Contractor being responsible for packing the Goods in such a manner as to ensure freedom from loss or injury in transit due to faulty packing. The

Company shall be entitled to recover from the Contractor any loss or damage which he has suffered arising from failure to comply with this clause.

7.9 **Law to Apply**

The Order shall in all respects be construed in accordance with the Law of the Republic of South Africa, and any difference that may arise between the Company and the Contractor in regard to the Order shall be settled in the Republic of South Africa, and both parties submit to the tribunal of Arbitration. The Arbitration procedure shall be in terms of the Arbitration Foundation of Southern Africa (AFSA) conducted in the language of English. The place where Arbitration is to be held is in Johannesburg, Republic of South Africa.

7.10 **Regulations to Apply**

7.10.1 The Contractor shall, in the execution of the Order, comply with all relevant statutes, bylaws, and regulations, including but not limited to, the Mines Health and Safety Act No 29 of 1996 (with specific reference to Chapter 2 paragraphs 21 and 22), read together with the Minerals Act No 50 of 1991 and Regulations, and the Occupational Health and Safety Act No 85 of 1993. The Contractor shall ensure that the machinery, plant, equipment apparatus, materials or services to be supplied comply therewith, including all amendments and re-enactments thereof and other provisions having the force of law, and with any local and domestic regulations.

7.10.2 If after the date of the Contractor's tender, there shall be enacted or promulgated any statute, bye-law, regulation, or other provision having the force of law and if compliance therewith shall unavoidably cause a change in the cost to the Contractor in performing any part of the Order which would not otherwise have occurred, and for which no provision is made in the Purchase Price, then the Purchase Price shall be increased or decreased by the amount of such a change in cost.

7.10.3 Notwithstanding anything contained in this clause, all taxes, etc. assessed on the Contractor which are not directly related to the machinery, plant, equipment, apparatus, materials, or services, and all taxes, withholdings, or the like on or calculated by reference to the Contractor's profits shall be for the Contractor's account.

7.11 **Loss and Damage to Goods**

7.11.1 All responsibility for any loss or damage to the Goods whether direct or indirect from whatsoever cause arising and whether or not in contemplation of the Contractor shall be with the Contractor until full and complete delivery in terms of the Order shall have been made by the Contractor.

7.11.2 For erection only Orders, and for supply Orders where the Contractor undertakes erection or installation, full and complete delivery shall not be deemed to have been effected until the Company shall have issued a Final Acceptance Certificate but, from such time as the Company issues a Taking Over Certificate, the Contractor's responsibility for the Goods shall be restricted to loss or damage:

- a) Arising as the result of a cause occurring prior to the issue of a Taking Over Certificate (excluding loss or damage resulting from or the cost of repairing, replacing or rectifying any defect in the design or manufacture of Goods not supplied by the Contractor).

And/or

- b) Occasioned in the course of or arising as the result of any operations carried out by the Contractor, their servants, sub-contractors or agents, for the purpose of rectifying defects or for any other purposes;
- c) Occurring whilst the Goods are in or entrusted to the care, custody or control of the Contractor, their servants, sub-contractors or agents.

7.11.3 For the purpose of this clause and cancellation under clause 11.0 the Goods shall include all equipment and/or materials supplied to the Contractor, their servants, sub-contractors or agents and erected or installed or required to be erected or installed in terms of the Order.

7.12 **Contractor's Liability**

The Contractor shall be liable for and hereby indemnifies the Company against all claims, demands, proceedings, damages, costs, charges and expenses arising in consequence of or incurred in connected with death, illness or disease or, or injury to any person, or loss of, or damage to property (other than as separately provided for by clause 7.10) happening due to or in the course of, or caused by the execution of this Order, unless and to the extent that such claims, demands, proceedings, damages, costs, charges and expenses are due to any act of neglect of the Company, their servants or agents (not being the Contractor's servants, agents or sub-contractors).

Nothing in this clause shall relieve, override, modify or affect the responsibilities of the Contractor under clause 7.10.

7.13 **Terms and Conditions to apply**

Impala Bafokeng Resources (Pty) Ltd Terms and Conditions shall apply. Impala Bafokeng Resources (Pty) Ltd does not accept nor acknowledge any other terms, conditions or agreements unless such have been agreed in writing and incorporated in the Order.

7.14 **Marking of Documents and Packages**

All documents, cases, crates, packages, etc, must be clearly marked or labelled with the Order Number and gross/nett mass.

8. DEMURRAGE AND RELATED CHARGES

Unless otherwise provided in the Order all charges at sending stations, such as weighing, loading, sheeting, storage, and demurrage, shall be borne by the Contractor.

9. SAMPLES

In the event of any samples required by the Company not being claimed within a period of one (1) month from date of submission, the Company shall not be liable for payment of the cost of any such samples.

10. BREACH OF ORDER CONDITIONS

Should the Contractor commit any breach of the terms of this Order or go into liquidation or be placed under judicial management or become insolvent, the Company shall be entitled to cancel the Order, in which event the Company shall, inter alia, be entitled to the remedies provided in clause 7.6, and the Contractor shall be liable to pay the Company all damages, direct or indirect, which the Company may suffer due to the Order not being carried out. Any amount that may have been set aside by way of retention against eventual delivery shall be retained by the Company and set off against any such damages when determined.

11. CANCELLATION

Should the Company temporarily suspend work on or cancel the Order, the Company and the Contractor shall agree upon any payments to be made to the Contractor for the work carried out before the event causing cancellation or suspension and, failing agreement, that amount shall be determined by arbitration in accordance with the South African Arbitration Act No 42 of 1965, and the award of the arbitrator, arbitrators or umpire appointed in terms of the said Act shall be final and binding on the parties.

12. OWNERSHIP OF THE COMPANY'S COMPONENTS

The Successful Tenderer shall at no time become the owner of the Company's components and accordingly:

12.1 Prior to the accession thereof to the Successful Tenderer's material, the Company shall at all times be and remain the owner of the Company's components.

12.2 Immediately on accession of the Company's components to the Successful Tenderer's material, the Company shall be deemed to be the owner of the resultant product whether such product has been completed or not. The Company shall accordingly be entitled to demand and obtain delivery of the product against payment to the Successful Tenderer of the product's purchase price or such part thereof to which the Successful Tenderer may be entitled by virtue of the Successful Tenderer's material and labour.

13. ACKNOWLEDGEMENT OF ORDER

These terms and conditions are automatically accepted by the Contractor should a statement to the contrary not be received within fourteen (14) days of Order dispatch date. The Contractor's attention is drawn to the acknowledgement of Order annexure which must be returned to the Company.

14. INSPECTION AND EXPEDITING

All work covered by the Order is subject or liable to inspection and expediting by the Company's representative during the course of manufacture or on completion.

15. FOREIGN EXCHANGE FORWARD COVER

Any liability on the part of the Company for variation in foreign exchange rates is excluded. This risk is for the Contractor's account and must be carried or covered by a forward exchange contract unless otherwise stated in the Order.

16. INFRINGEMENT OF PATENT, REGISTERED DESIGN OR COPYRIGHT

16.1 When the Successful Tenderer becomes the Contractor, it shall thereby be deemed to undertake that it will keep the Company indemnified and held harmless against:

16.1.1 Any actions, claims or proceedings which may be instituted or made by any third party for infringement or alleged infringement of any patent, registered design or copyright, in any way arising out of or attributable to the execution or proposed execution of this Order or the subsequent use or proposed use by the Company of the equipment, materials, processes, works or other goods supplied, commissioned or erected, or to be supplied, commissioned or erected.

16.1.2 All or any liability, damages, losses, expenses, or costs (including costs as between attorney and client) incurred or suffered by the Company before or after completion of the Order in relation to or resulting from the aforementioned actions, claims or proceedings or infringement or alleged infringement of patent, registered design or copyright.

16.2 The Contractor shall have the right, in order to avoid such actions, claims or proceedings, and in all cases at its own expense, to substitute non-infringing equipment, materials or processes, to modify such infringing equipment, materials or processes, or to obtain the necessary licenses to use the infringing equipment, materials or processes; provided that such substitutions or modifications satisfy all criteria of the contract and remain subject to all provisions of the contract, and provided further that the Company's written consent shall be first hand and obtained, which consent shall not be unreasonably withheld.

17. INSURANCE

The Contractor's attention is drawn to the Company's Insurance Policy which is available on request.

17.1 Loss and/or Damage to Goods

17.1.1 From the commencement to the completion of the works the Contractor shall take full responsibility for the care thereof and of all temporary works and materials and in case any damage, loss or injury shall happen to the works or to any part thereof or to any temporary work or materials from any cause whatsoever (save and except the Excepted Risks as defined in Sub-Clause (2) of this Clause), shall at its own cost repair and make good the same so that at completion the works shall be in good order and condition and in conformity in every respect with the requirements of the Contract/Order and the Engineer's or Architect's instructions. In the event of any such damage, loss or injury happening from any of the excepted risks, the Contractor shall, if and to the extent required by the Company, repair and make good the same as aforesaid at the cost of the Company. The Contractor shall also be liable for any damage to the works occasioned by him in the course of any operations carried out by him for the purpose of complying with his obligations under then Warranty/Maintenance/Defect Clauses.

17.1.2 Excepted Risks

The “excepted risks” are:

- a. War, invasion, act of foreign enemies, hostilities, or warlike operations (whether war be declared or not) or civil war;
- b. Insurrection, rebellion or revolution;
- c. Mutiny, military rising, military or usurped power, martial law or state of siege, or any other event or cause which determines the proclamation or maintenance of martial law or state of siege;
- d. Riot (insofar as it is uninsurable);
- e. Risks arising from political riot and malicious damage which are insurable at the time of the tender unless it is stated in the Annexure A that the Contractor is required to insure against these risks;
- f. Any consequence for which a fund has been established in terms of the War Damage Insurance and Compensation Act;
- g. Ionising, radiation, or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuels;
- h. A cause due to use or occupation by the Company of any part of the works;
- i. A cause due to the Engineer’s design of the works.

(All of which herein are collectively referred to as “excepted risks”.)

17.2 Damage to Persons and Property

17.2.1 The Contractor shall (except if and so far as the specification otherwise provides) indemnify and keep indemnified the Company against all losses and claims for injuries or damage to any person or property whatsoever (including surface or other damage to land or crops not being on the Site suffered by tenant or occupiers) which may arise out of or in consequence of an construction and maintenance of the works and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto. Provided always that nothing herein contained shall be deemed to render the Contractor liable for or in respect of or to indemnify the Company against any compensation or damages for or with respect to:

- a. Injuries or damage to persons or property resulting from any act or neglect done or committed during the currency of the Order by the Company, its agents, servants, or other contractor (not being employed by the Contractor) or for or in respect of any claims, demands, proceedings, damages, costs, charges, and expenses in respect thereof or in relation hereto.

17.3 Insurance Effected by the Company

17.3.1 Notwithstanding anything elsewhere contained in this Contract and without limiting the obligations, liabilities or responsibilities of the Contractor in any way whatsoever (including but not limited to the requirement of the provision by the Contractor of any other insurances) the Company shall, subject to the terms, limits, exceptions and conditions of the policy, effect and maintain for the Company, the Contractor, and where relevant the Sub-contractors for the duration of the Contract from the commencement until the expiry of the warranty period in terms of the contract terms and conditions.

- a. Contract Works Insurance
- b. Public Liability (Third Party) Insurance

17.3.2 The Company will pay all premiums in connection with the insurance effected by the Company.

17.3.3 The Contractor may affect at his own costs any insurance additional to that effected by the Company which he deems necessary in his own interests. The Company reserves the right to call for full information regarding insurance costs included by the Contractor.

17.3.4 The Contractor will be liable for the Deductible (First Amount Payable) in respect of each claim made by or against the Contractor or his Sub-contractors in terms of the policies effected by the Company in accordance with his responsibilities in terms of the Order terms and conditions.

17.3.5 Where more than one Contractor is involved in the same claim the Deductible will be borne in pro-rata amounts by each Contractor in proportion to the extent of each Contractor's liability, as determined by the Company.

17.4 Amount payable as a result of a claim to be paid to the Company

Any amount which becomes payable to the Contractor or any of his Sub-contractors as a result of a claim under the Contract Works Insurance shall, if required by the Employer, be paid net of the Deductible to the Employer, who shall pay the Contractor from the proceeds of such payment upon rectification, repair, or reinstatement of the loss or damage. This provision shall not in any way affect the Contractor's obligations, liabilities, or responsibilities in terms of the Order.

17.5 Insurance to be Arranged by the Contractor

17.5.1 The Contractor and all Sub-contractors shall provide AS A MINIMUM, the following:

- a. Insurance in terms of the provision of the compensation for the Occupational Injuries and Diseases Act No. 130 or 1993 as amended.
- b. Insurance in terms of the provisions of the Unemployment Insurance Act No. 30 of 1966 as amended.

- c. Employers Liability Insurance with a limit of indemnity of not less than five million rand (R5,000,000) unless a lesser limit is agreed.
 - d. Motor Vehicle Liability Insurance comprising Balance of Third-Party Motor Risks including passenger liability with a limit of not less than five million rand (R5,000,000) any one accident.
 - e. All Risks insurance in respect of Contractor's Equipment being all constructional Plant including mobile cranes and allied equipment, site huts and temporary accommodation, his own or whether leased, hired, loaned, or lent (except for those intended for incorporation into the Works) for its full replacement value from commencement of loading and whilst in transit to the site, and thereafter the final removal from the Site. The Company shall be included as a joint insured on such policies.
 - f. Where the Order involves manufacturing and/or fabrication of the Works or part thereof at premises other than the site, the Contractor shall satisfy the Company that all materials and equipment for incorporation in the Works are adequately insured during manufacture and/or fabrication. Because the Company has an insurable interest in such Works during manufacture and/or fabrication, the Company shall be noted as a joint insured on the Contractor's Policies of Insurance.
 - g. Imported equipment or component parts or materials to be supplied in terms of this Order which require any process of assembly or finishing in South Africa prior to delivery to the Site are to be insured by the Contractor up to the commencement of transit to site of the assembled or finished equipment component parts or materials unless special arrangements are made with the Company.
 - h. Where the Contractor, in the course of undertaking the Works is required to undertake any work of a professional nature, the Contractor may be called upon to prove to the Company that the Contractor holds adequate and appropriate Professional Indemnity Insurance.
 - i. Any materials that may be supplied by the Company to the Contractor for incorporation in the Works shall be deemed to be part of the Works immediately upon acceptance by the Contractor and shall be the Contractor's responsibility in terms of the Order.
- 17.5.2 The insurances referred to above shall be effected with an Insurance Company approved by the Company and the terms thereof shall be subject to approval by the Company, which approval shall not be unreasonably withheld.
- 17.5.3 The Contractor shall provide the Company with proof in the form of a written statement from the Insurance Company concerned that the insurances required have been effected and proof of the due payment of all premiums thereunder and of

the continuity of the policies for the required period within fourteen (14) days from placement of the Order.

- 17.5.4 In respect of the employees governed by the compensation for Occupational Injuries and Diseases Act No. 130 1993 as amended the Contractor or Sub-contractor shall, if required, satisfy the provision of this sub-clause by producing evidence of payment of the statutory contributions.
- 17.5.5 These insurances shall be maintained in force for the duration of the order including the Defects Liability Period, and in respect of Sub-contractors the Contractor shall be deemed to have complied with the provisions of the requirement relating to insurance by ensuring that the Sub-contractors have effected such insurance.
- 17.5.6 If the Contractor should fail to effect and keep in force any of the insurance referred to above, the Company may effect and keep in force such insurance and pay such premium or premiums as may be necessary for that purpose and from time to time deduct the amount paid by the Company from any monies due or which may become due to the Contractor or recover same as debt from the Order.
- 17.5.7 Failure by the Company to exercise this right shall in no way relieve the Contractor of his obligations and responsibilities.
- 17.5.8 The Contractor warrants that he shall give all notices and shall observe that all the terms and conditions and requirements of all insurances, applicable to this Contract, including compliance with the Company's requirements for the administration of insurance claims.
- 17.5.9 Where the Contractor is responsible for the appointment of Sub-contractors then the Contractor shall ensure that potential and appointed Sub-contractors are aware of the whole content of this clause and enforce the compliance of Sub-contractors with the clause where applicable.

18. **SUBMISSION OF FORMAL NOTICES**

- 18.1 Copies of all formal notices pertaining to claims and/or disputes as sent to the Engineer for additional time and/or additional compensation shall **simultaneously** be sent to the Procurement Manager.

By Post:

The Procurement Manager
Impala Bafokeng Resources (Pty) Ltd
[Insert Business Area]
[Insert Address]

By Hand:

The Procurement Manager
Impala Bafokeng Resources (Pty) Ltd
[Insert Business Area]
[Insert Address]

- 18.2 The Procurement Manager shall at all times be fully advised on all matters associated with the proper contractual and financial control of the Order.
- 18.3 Noncompliance with the above requirements shall render claims for additional compensation null and void.