

**VOLKSWAGEN OF SOUTH AFRICA (PTY) LIMITED – (VWSA)
PURCHASE ORDER TERMS AND CONDITIONS
CONTRACT WORKS**

1. ORDER AND ACCEPTANCE

- 1.1 Contractors shall accept this order by returning the acknowledgement copy duly signed by the CONTRACTOR where indicated within fourteen (14) days of the date of the Order.
1.2 VWSA reserves the right to cancel orders not accepted timely and to accept that performance in terms of this order is deemed acceptance

2. BASIC TERMS

- VWSA and the CONTRACTOR agree:
2.1 That the CONTRACTOR will perform certain work for, render certain services and supply certain goods to VWSA (the "CONTRACT WORKS") as appears from the documents and specifications provided by VWSA describing the CONTRACT WORKS.
2.2 The work will be carried out/installed at the site specified by VWSA (the "SITE").
2.3 The amount to be paid to the CONTRACTOR for the due performance of the CONTRACT WORKS (the "CONTRACT PRICE") is set out on the front of this PURCHASE ORDER.

3. PERFORMANCE

- 3.1 The CONTRACT WORKS shall be carried out with due care and diligence and in accordance with this order, the Schedules, specifications, drawings, written instructions and any other documentation accepted by VWSA (the "CONTRACT DOCUMENTS").
3.2 Any instructions confirmed in writing shall form part of the CONTRACT WORKS requirements.
3.3 The CONTRACT WORKS shall be carried out to Commercial, Industrial, Engineering and Building standards.

4. VERIFICATION

- If the CONTRACTOR is uncertain about any aspect of the performance of the CONTRACT WORKS, written clarification and instructions shall be obtained from VWSA before proceeding or continuing with the CONTRACT WORKS.

5. TIME PERIOD

- 5.1 Unless instructed to the contrary the CONTRACTOR shall commence the CONTRACT WORKS on the date agreed with VWSA and as reflected in the CONTRACT DOCUMENTS.
5.2 Thereafter the CONTRACTOR shall proceed continuously and without interruption until the CONTRACT WORKS are completed, unless otherwise agreed by VWSA.
5.3 The CONTRACT WORKS shall be completed by the date agreed with VWSA and as reflected in the CONTRACT DOCUMENTS.
5.4 (a) If the CONTRACTOR is unable to duly perform the CONTRACT WORKS due to circumstances beyond the control of the CONTRACTOR, the CONTRACTOR shall apply in writing to VWSA for an extension of time.
(b) In such application proof of the reasons for the extension shall be provided by the CONTRACTOR.
(c) The application shall be made at the time the cause for the extension arises.

6. PENALTY

- 6.1 If the CONTRACTOR fails to complete the CONTRACT WORKS timeously the CONTRACTOR shall pay VWSA the penalty as set out in the CONTRACT DOCUMENTS as a genuine pre-estimate of the damages likely to be suffered by VWSA.
6.2 If no penalty is specified in the CONTRACT DOCUMENTS VWSA shall be entitled to a penalty of 5% per week of the CONTRACT PRICE for the duration of the delay.
6.3 VWSA shall be entitled to deduct the amount of the penalty from any payment due to the CONTRACTOR from time to time.

7. VARIATION

- 7.1 Any variations or extras to the CONTRACT WORKS shall be in writing.
7.2 If variations or extras involve a CONTRACT PRICE adjustment, the amount of the adjustment shall be agreed and recorded at the time that the variation or extra is agreed and before the commencement of the variation or extra, failing which VWSA will attract no liability for the costs of any variation or extra.

8. FIXED PRICE

- The CONTRACT PRICE is a fixed price and is not subject to adjustment due to inflation or any other factors, unless agreed to in writing by VWSA.

9. VWSA'S REPRESENTATIVE

- 9.1 VWSA's representative for the purpose of the contract shall be the person nominated on the front of the PURCHASE ORDER or the CONTRACT DOCUMENTS ("VWSA'S REPRESENTATIVE") and such person or persons (who may or may not be independent professionals or experts) who may from time to time be nominated or delegated by such person to assist VWSA'S REPRESENTATIVE.
9.2 Unless otherwise stated VWSA'S REPRESENTATIVE shall act on behalf of VWSA in respect of this agreement and its implementation.
9.3 VWSA'S REPRESENTATIVE shall be entitled to inspect and enter upon the CONTRACT WORKS and the SITE. This right will extend to any work not done on the SITE.

10. SITE INSPECTION

- 10.1 The CONTRACTOR shall inspect the SITE and shall be deemed to have full knowledge of the SITE conditions and other requirements.
10.2 If the CONTRACTOR is not satisfied with any aspect of the SITE, the CONTRACTOR shall be responsible for any costs associated with the necessary rectification unless this has been provided for in the CONTRACT PRICE.

11. WORKS PROGRAMME

- 11.1 (a) As often as may be necessary or on request from VWSA to do so the CONTRACTOR shall supply a programme for the execution of the CONTRACT WORKS.
(b) Such programme shall take into account any reasonable requirements or requests of VWSA.
11.2 (a) Meetings on SITE with VWSA shall take place whenever necessary or requested, but at least once a month to discuss the programme and the progress of the CONTRACT WORKS.
(b) Whenever possible, either party should produce items for the SITE meeting agenda.
(c) Written Minutes of the SITE meetings shall be produced by the CONTRACTOR and be made available forthwith to VWSA. SITE Minutes shall be confirmed at subsequent meetings.

12. PAYMENT OF CONTRACT PRICE

- 12.1 Subject to the provisions of Clauses 12.3 and 13, payment will be made in accordance with the terms stipulated in the CONTRACT DOCUMENTS.
12.2 If no payment terms are stipulated in the CONTRACT DOCUMENTS payment will be made thirty (30) days after issue of the FINAL COMPLETION CERTIFICATE.
12.3 VWSA shall be entitled to withhold payment pending receipt of an original Tax Invoice.

13. RETENTION

- 13.1 VWSA may deduct from any payment an amount equal to the percentage reflected in the CONTRACT DOCUMENTS (the "RETENTION AMOUNT").
13.2 If no RETENTION AMOUNT is specified in the CONTRACT DOCUMENTS the RETENTION AMOUNT will be equal to 10% of the CONTRACT PRICE.
13.3 The RETENTION AMOUNT shall be paid to the CONTRACTOR within thirty (30) days of issue of the FINAL COMPLETION CERTIFICATE.

14. PRACTICAL COMPLETION

- 14.1 When the CONTRACTOR is of the opinion that the CONTRACT WORKS are practically and substantially complete and can effectively be used for the purposes intended, the CONTRACTOR shall in writing request VWSA to inspect the CONTRACT WORKS.
14.2 After inspection (and such testing as may be necessary) VWSA shall either:
(a) Issue a certificate that the CONTRACT WORKS are practically complete ("PRACTICAL COMPLETION CERTIFICATE"); or
(b) Issue a written list of the work to be done to reach practical completion. This work shall be carried out by the CONTRACTOR within a period of thirty (30) days thereof.
14.3 The procedures set out in Clauses 14.1 and 14.2 shall be followed until a PRACTICAL COMPLETION CERTIFICATE has been issued.

15. MAINTENANCE PERIOD

- 15.1 The maintenance period shall commence on the issue of a PRACTICAL COMPLETION CERTIFICATE and shall continue until the issue of a FINAL COMPLETION CERTIFICATE.
15.2 During the maintenance period the CONTRACTOR shall be:
(a) Responsible to repair and/or to replace or otherwise make good any defects or other problems associated with the CONTRACT WORKS or their operation.
(b) Liable for any consequences, losses or damages attributable to or arising from any defect or problems.

16. FINAL CERTIFICATE

- 16.1 After a period of three (3) months from the date of the PRACTICAL COMPLETION CERTIFICATE, or as otherwise specified in the CONTRACT DOCUMENTS, the CONTRACTOR shall in writing request VWSA to issue a FINAL COMPLETION CERTIFICATE that the CONTRACT WORKS are finally complete and free of all patent defects.
16.2 After inspection (and such testing as may be necessary) VWSA'S REPRESENTATIVE shall either:
(a) Issue a FINAL COMPLETION CERTIFICATE that the CONTRACT WORKS are finally complete; or
(b) Issue a written list of the work to be done to reach final completion. This work shall be carried out by the CONTRACTOR within a period of thirty (30) days.
16.3 The procedures set out in Clauses 16.1 and 16.2 shall be followed until a FINAL COMPLETION CERTIFICATE has been issued.

17. DEFECTS PERIOD

- 17.1 Unless otherwise specified in the CONTRACT DOCUMENTS, the CONTRACTOR shall be liable for a period of three (3) years from the date of the FINAL COMPLETION CERTIFICATE for any defect which occurs during this period.
17.2 On the discovery of a defect VWSA shall advise the CONTRACTOR of the defect.
17.3 The CONTRACTOR shall be liable to repair or replace the defect and for any consequences, losses and/or damages attributable to or arising from such defect.

18. WORKS RISK

- Until the date of the issue of the FINAL COMPLETION CERTIFICATE, loss of or damage to the CONTRACT WORKS shall be carried by the CONTRACTOR except to the extent that the negligence of VWSA has contributed to such loss or damage.

19. SUB-CONTRACTORS

- 19.1 The responsibility for the performance of all suppliers and sub-contractors to the CONTRACT WORKS shall rest with the CONTRACTOR.
19.2 On the issue of the FINAL COMPLETION CERTIFICATE, the CONTRACTOR shall be deemed to have ceded to VWSA the CONTRACTOR'S rights to any warranties, indemnities or other rights of recourse or shall enforce such rights for the benefit of VWSA.
19.3 VWSA reserves the right to make direct payment to any sub-contractor or supplier who has performed and has not been paid by the CONTRACTOR if such payment is considered reasonable to ensure the continuation or completion of the CONTRACT WORKS. The payment will be deemed to have been made by the CONTRACTOR and shall be deducted from any amount due to the CONTRACTOR by VWSA in respect of the CONTRACT PRICE.

20. DAMAGE RESPONSIBILITY

- The CONTRACTOR –
20.1 Indemnifies VWSA against any claim made against VWSA; and/or
20.2 Will be liable for any loss, damage, injury or death caused to VWSA, its property, its employees or to any other party or the property of any other party, due to the CONTRACTOR'S negligence, or of any person for whom the CONTRACTOR is responsible, arising from or related directly or indirectly to the performance of the CONTRACT WORKS or the failure of the CONTRACTOR to perform in accordance with the CONTRACT DOCUMENTS.

21. INSURANCE

- 21.1 If the Request for Quotation or the performance of any order in terms of the Quotation gives rise to or results in the performance of labour on VWSA'S behalf by the CONTRACTOR, the CONTRACTOR agrees to indemnify and protect VWSA against all liabilities, claims or demands for injuries or damage to any person or property arising out of such performance.
21.2 The CONTRACTOR undertakes to ensure that the CONTRACTOR has adequate insurance cover, and at the request of VWSA, to furnish a certificate from the CONTRACTOR'S insurance brokers showing that the CONTRACTOR carries adequate cover in respect of:
(a) Compensation for occupational injuries and diseases;
(b) Public and Employers Common Law Liability Insurance;
(c) Damage to property;
(d) Suppliers Product Liability Insurance, where applicable;
(e) Project Delay Insurance;
(f) Contractors All Risk Insurance;
(g) Contractors Plant and Equipment Insurance;
(h) Motor Vehicle Liability Insurance.

22. DISPUTE MEDIATION

- 22.1 Any dispute between the parties in regard to any matter arising out of this contract, or its interpretation, or their respective rights and obligations under it or its cancellation, or any matter arising out of its cancellation, shall constitute a dispute for the purposes of this clause (the "DISPUTE").
22.2 Any DISPUTE shall be determined in terms of the provisions of this clause unless the parties to the dispute otherwise agree in writing.
22.3 Either party to the DISPUTE may refer the DISPUTE to an expert for determination subject to the following:
(a) the expert shall act as an expert and not as an arbitrator;
(b) the expert shall determine the venue for any hearing to be conducted;
(c) the expert shall, in his sole discretion determine the procedure to be followed in arriving at this determination;
(d) the parties shall use their best endeavours to ensure that the determination of the expert shall be given within seven (7) days or as soon as possible after it has been demanded;
(e) the expert's determination shall be final and binding and shall be carried into effect and made an Order of any competent Court at the instance of either party;
(f) before making a determination the expert shall hear representations from all parties involved in the DISPUTE provided that should any party fail to present his representations within seven (7) days of request therefor the expert may make the determination without having heard the representations of the defaulting party;
(g) the expert may, in his sole discretion, obtain such professional advice as he deems fit in order to enable him to arrive at his determination;
(h) the parties shall co-operate to the highest degree possible in providing the expert with such information as he may request relative to the matter before him;
(i) the expert shall determine which party shall be liable for his charges;
(j) the expert shall be selected by the CONTRACTOR from a panel of three (3) experts nominated by VWSA.
22.4 This clause constitutes an irrevocable consent by the parties to any proceedings in terms thereof.
22.5 This clause is severable from the rest of this contract and shall remain in effect even if this Contract is terminated for whatsoever reason.

23. PERFORMANCE GUARANTEE

- 23.1 Unless otherwise agreed in writing by VWSA, VWSA will be entitled to require the CONTRACTOR, before commencing with the CONTRACT WORKS, to provide, at the CONTRACTOR'S cost, a Suretyship renouncing the benefit of excussion by a Bank, on terms acceptable to VWSA, guaranteeing the performance of the CONTRACTOR.
23.2 The amount of the guarantee shall be that percentage of the CONTRACT PRICE reflected in the CONTRACT DOCUMENTS.
23.3 The guarantee shall remain in force until the issue of the FINAL COMPLETION CERTIFICATE.

24. BUSINESS HOURS

- Unless otherwise agreed with VWSA all work to be carried out at the SITE shall be during normal business hours.

INTERNAL

- 25. FACILITY REGULATIONS**
 25.1 The CONTRACTOR shall obtain a copy of VWSA's Facility Regulations for contractors on site (the "FACILITY REGULATIONS").
 25.2 The CONTRACTOR will be bound by the contents of the FACILITY REGULATIONS.
 25.3 In the event of a conflict between the FACILITY REGULATIONS and the terms contained in the PURCHASE ORDER, the PURCHASE ORDER will apply.
- 26. NOTICE OF DEFAULT**
 If a party contends that the other party is in default the party shall serve written notice on the defaulting party:
 26.1 Setting out the nature of the default;
 26.2 Requiring the defaulting party, if it relates to payment of a determined amount, to pay within three (3) days of receipt of the notice;
 26.3 Requiring the defaulting party (in any other case) to remedy the default within thirty (30) days of receipt of the notice or, if it is not possible to remedy within this period, within a reasonable period of time;
 26.4 Detailing the possible consequences of a failure to remedy the default within the time period.
- 27. CANCELLATION**
 27.1 If notice has been given in terms of Clause 26 and the default has not been remedied timeously, then the non-defaulting party may either:
 (a) sue for specific performance; and
 (b) recover damages for failing to perform; or
 (c) cancel the agreement; and
 (d) recover damages due to cancellation.
 27.2 Cancellation in terms of Clause 27.1 shall not be competent:
 (a) If the default is not substantial or material; and
 (b) If the defaulting party has given security to the satisfaction of the non-defaulting party for payment of any loss or damage associated with the default.
- 28. GENERAL CLAUSE**
 28.1 Wherever possible defined terms are referred to in capital letters.
 28.2 The clause headings are for indexing purposes only.
 28.3 The signatories to the agreement warrant their authority to represent the parties.
 28.4 Any printed conditions on any Suppliers' documents submitted to VWSA shall not apply, even if countersigned by VWSA, and the Supplier agrees that the relationship with the Supplier will be solely governed by the conditions herein set out and those set out in any Request for Quotation upon which this order is based, unless otherwise agreed to by VWSA in writing;
 28.5 In the event of there being any conflict between the terms of this Order and the terms of any Request for Quotation upon which this Order is based, the terms herein set out shall prevail over the conflicting terms in the Request for Quotation.
 28.6 In the event of any condition set out in this Order being a nullity, such conditions shall be severable from the other conditions set out in this Order which latter conditions shall nevertheless be of full force and effect.
 28.7 Uitenhage, Cape Province, will be regarded as the place of performance and conclusion of this contract.
 28.8 The CONTRACTOR undertakes to ensure that the CONTRACT WORKS provided in terms of the CONTRACT DOCUMENTS are supervised at all times by a competent and experienced supervisor and/or the owner/works director of the CONTRACTOR. Any deviations from this provision must be approved in writing by the VWSA REPRESENTATIVE.
- 29. APPLICABLE LAW**
 29.1 The Request for Quotation and/or any orders submitted by VWSA to the CONTRACTOR will be governed by, and interpreted in accordance with the Laws of the Republic of South Africa.
 29.2 The stipulations of International Conventions regarding the International Sale of Goods shall not apply.
- 30. INTELLECTUAL PROPERTY**
 30.1 The SUPPLIER/CONTRACTOR acknowledges that all rights, title and interest in any intellectual property developed in terms of and/or arising from this Agreement, shall vest in VWSA, unless VWSA waives such rights in writing.
 30.2 In this regard, intellectual property shall include the following, if applicable:
 (a) patents;
 (b) designs;
 (c) knowhow;
 (d) copyright;
 (e) trademarks;
 (f) software codes;
 (g) processes and procedures; and
 (h) specifications and/or drawings provided by the SUPPLIER/CONTRACTOR arising from
 (i) the Agreement
 (collectively referred to as "the INTELLECTUAL PROPERTY.")
 30.3 The value of this Purchase Order shall be deemed to include adequate compensation to the SUPPLIER/CONTRACTOR for its contribution in developing the INTELLECTUAL PROPERTY.
- 31. ACCESS TO INFORMATION**
 31.1 The SUPPLIER/CONTRACTOR undertakes to:
 (a) Keep proper records relating to the provision of the GOODS/SERVICES. VWSA shall be entitled but not obligated to specify the records required from time to time;
 (b) Permit Auditors nominated by VWSA and any authorized employees of VWSA, full access at mutually agreed and pre-arranged times, to any information or records in relation to the obligations of the SUPPLIER/CONTRACTOR in terms of this order.
- 32. SUSTAINABILITY**
 The SUPPLIER/CONTRACTOR undertakes to comply with the Volkswagen Group requirements regarding sustainability in its relationships with business partners (Code of Conduct for Business Partners), available at <http://www.vwgroupsupply.com>
- 33. PROTECTION OF PERSONAL INFORMATION ACT ("POPIA") WARRANTY**
 The SUPPLIER/CONTRACTOR:
 33.1 Warrants that when processing any Personal Information made available by or otherwise arising from interactions with VWSA it shall:
 (a) Process such Personal Information only with the knowledge and authorisation of VWSA;
 (b) Not disclose Personal Information to any third parties without the written consent of VWSA unless required by law or in the course of the proper performance of the SUPPLIER/CONTRACTOR's obligations to VWSA;
 (c) Have due regard to information security practices and procedures which may apply to the SUPPLIER/CONTRACTOR generally or be required in terms of specific industry or professional rules and regulations.
 (d) Notify VWSA immediately where there are reasonable grounds to believe that Personal Information has been accessed or acquired by any unauthorised Person.
 (e) Establish and maintain security measures to secure the integrity and confidentiality of Personal Information in its possession or under its control by taking appropriate, reasonable technical and organisational measures to prevent loss of, damage to, or unauthorised destruction of Personal Information and unlawful access to, or processing of, Personal Information and shall take reasonable measures to:
 (i) identify all reasonably foreseeable internal and external risks to Personal Information in its possession or under its control.
 (ii) establish and maintain appropriate safeguards against the risks identified;
 (iii) regularly verify that the safeguards are effectively implemented; and
 (iv) ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.
 (f) Fully comply with the statutory obligations contained in POPIA and other applicable data protection legislation, with which the SUPPLIER/CONTRACTOR warrants that it is fully conversant, when processing Personal Information obtained by the SUPPLIER/CONTRACTOR from VWSA. Without limiting the generality of the aforesaid the SUPPLIER/CONTRACTOR shall ensure that the privacy and data protection conditions are strictly adhered to when processing the Data Subject's Personal Information.
 33.2 Releases and indemnifies VWSA from and against liability for any claim, loss or damage arising from the SUPPLIER/CONTRACTOR's failure to comply with the warranties contained in sub clause 1 and its obligations provided for in POPIA and other applicable data protection legislation.