

West Coast Resources

WEST COAST RESOURCES (PTY) LTD (“WCR”)

(Registration number: 2011/007203/07)

PROCUREMENT TERMS AND CONDITIONS

THE FOLLOWING TERMS AND CONDITIONS SHALL APPLY TO THE AGREEMENT OF SALE BETWEEN SELLER AND WCR OR ANY OF ITS SUBSIDIARIES OR AFFILIATES HEREINAFTER REFERRED TO AS THE BUYER. SHOULD THE SELLER OBJECT TO OR WISH TO ALTER IN ANY MANNER WHATSOEVER ANY ONE OR MORE OF THESE TERMS AND CONDITIONS, SUCH PROPOSED ALTERATIONS SHALL BE OF NO FORCE OR EFFECT UNLESS AND UNTIL ACCEPTED AND AGREED TO BY THE BUYER IN WRITING.

1. These Terms and Conditions shall be applicable to any contract, agreement and purchase order in terms of which the SELLER agrees to supply any goods to and/or perform any work for the BUYER.
2. Unless otherwise stated in the purchase order, the prices quoted shall include delivery to the address shown on the order.
3. Suitable packing and protection against damage are included in the order prices and shall be provided by the SELLER. Unless otherwise stated in the order, all containers and packing materials shall upon delivery become the property of the BUYER.
4. Each package must bear the official order number and show gross, tare and net weight and/or quantity. A delivery note and detailed packing lists (to be enclosed in all packages) must accompany each delivery. The order numbers shall be clearly endorsed on all TAX invoices, delivery notes, statements or any correspondence. Invoices shall be sent directly to the BUYER's head office in Parow, Cape Town. TAX invoices must specify the price of the goods and cost of delivery (if any) separately.
5. All TAX invoices must comply with the requirements of the Value-Added Tax Act, 1991 (Act 89 of 1991). Non compliance will result in payment being withheld.
6. Shipping advice and original bills of lading are to be mailed directly to the BUYER not later than the day of shipment.
7. The SELLER hereby acknowledges that time is of the essence of the applicable purchase order and should the delivery of goods not have taken place on the delivery date stated in the purchase order, the BUYER shall have the right, without prejudice to any of its other rights in terms of the order or law, to cancel the order without payment to the SELLER. The BUYER, however, may at its sole discretion grant a delivery extension in writing if so requested.
8. The SELLER shall indemnify and hold the BUYER, its directors and its subsidiaries harmless against claims and costs which may be incurred in respect of the unauthorized use or infringements of patent rights, trade marks, copyrights, know-how or other immaterial property rights in respect of goods supplied in terms of the order as well as all costs relating to such claims (including all costs as between attorney and own client).
9. Whether the price includes delivery to the BUYER or not, all goods supplied shall remain at the sole risk of the SELLER, and the SELLER shall bear any and all risks and costs arising from or in respect of all losses, damages to or of the goods until such time as the goods have been received by the BUYER or received on behalf of the Buyer. The SELLER alone shall be responsible for and shall make any and all claims in respect of such losses or damages.
10. All information, drawings, specifications, samples, equipment, tools, etc. furnished by or paid for by the BUYER and issued to the SELLER for whatsoever purpose, are strictly confidential and may not be divulged to third parties. The SELLER shall protect and preserve the aforesaid items in good order and return same promptly to the BUYER upon completion of the work, cancellation of the order or its demand.
11. Unless otherwise stated, all goods supplied shall be new and shall be of the best quality and workmanship. The SELLER shall not be relieved of his obligations in respect of the adequacy of the materials and the quality of the goods by reason of the fact that the BUYER did not object thereto, although the same may have been inspected by the BUYER or by reason of the fact that delivery thereof may have been accepted by or on behalf of the BUYER. Appropriate certification of material shall be provided by the SELLER upon request from the BUYER.
12. Should the SELLER deliver any goods which do not conform in specification or quality to that stipulated in this order, the BUYER shall

be entitled to refuse to take delivery or, after having taken delivery, to reject the said goods.

In the event of such refusal or rejection or breach by the SELLER of these Terms and Conditions, the BUYER shall be entitled, without prejudice to its other rights in law:

- (a) to require the SELLER, at his own cost, forthwith to replace the goods with goods of the specification or quality specified in the order; or
 - (b) to cancel the order, in which case the SELLER shall at his own cost remove the goods and shall refund to the BUYER the purchase price and all other costs incurred by the BUYER.
 - (c) to cancel the order in its entirety and, claim damages from the SELLER.
14. Risk in and ownership of Goods shall pass from SELLER to BUYER on delivery and acceptance of goods to the point specified in the purchase order.
15. The SELLER specifically confirms that it is aware of its responsibilities in terms of Section 10 of the Occupational Health and Safety Act and the Mine Health and Safety Act and any other applicable legislation which are in force at the BUYER'S sites. In terms of these Acts, the SELLER shall ensure that the commodities supplied to the BUYER are safe and without risk to health and safety when properly used. Furthermore, the SELLER agrees to advise the BUYER in writing of any inherent danger and/or hazard which may arise from the use or handling of the commodities.
16. Unless the parties expressly and in writing agree otherwise, these Standard Terms and Conditions shall apply to every contract, agreement and/or purchase order and, in the event of any conflict or inconsistency between the terms of the provisions herein to any agreement, contract or purchase order or any terms and conditions of the SELLER, the provisions herein shall prevail.
17. Where services are to be rendered in terms of a purchase order, the provisions set out herein shall apply mutatis mutandis.
18. Should the SELLER have performed strictly in accordance with a purchase order, unless otherwise agreed, payment shall be made within 30 days from date of statement or within the period as agreed upon in writing.
19. The SELLER represents, warrants and covenants to the BUYER the following:
- a) No person has, or shall, as at the effective date of the agreement, contract and/or purchase order, have any right or option to acquire these goods;
 - b) It has full legal right, power and authority to enter into, execute and deliver in terms of the contract,
- agreement and/or purchase order and to perform the obligations, undertakings and transactions set forth therein, and the contract, agreement and/or purchase order has been duly and validly executed and delivered by the SELLER and constitutes a legal, valid and binding obligation, enforceable against the SELLER in accordance with its terms;
- c) It has all the required power to own and dispose of the goods to be sold;
 - d) The goods are being held by the SELLER free and clear of all pledges, security, interest, liens, charges, encumbrances, equities, claims, options, or limitations affecting its ability to sell the goods to the BUYER; Documentary proof in this regard may be requested by the BUYER and SELLER will submit the same to the BUYER;
 - e) The goods shall comply with all statutory requirements and regulations relating to the sale of such goods.
 - f) It agrees to be subject to all applicable permits, concessions and clearances and shall comply with all applicable foreign and domestic laws and regulations in connection with the goods and the SELLER'S performance under the applicable contract, agreement and/or purchase order.
 - g) The execution of the applicable contract, agreement and/or purchase order and the performance of its obligations there under does not and shall not:
 - i. contravene any law or regulation to which the SELLER is subject;
 - ii. contravene any provision of the SELLER's constitutional documents; or
 - iii. conflict with, or constitute a breach of any of the provisions of any other agreement, obligation, restriction or undertaking which is binding on it.