GENERAL TERMS AND CONDITIONS

FOR THE PURCHASE OR SUPPLY OF GOODS AND SERVICES

OF

B & E INTERNATIONAL

Registration No: 1982/010924/07

(“**Company**”)

These General Terms and Conditions (“**Terms**”) govern the purchase and/or supply of goods and/or services by the Company, and apply to and are incorporated by reference into every Purchase Order (as defined below) issued by the Company to a supplier (“**Supplier**”). These Terms need not be physically attached to, or enclosed with, a Purchase Order in order to form part of, and be binding in respect of, that Purchase Order. The current version of these Terms is available from the Company on request.

1) **Interpretation:**

Unless the context otherwise requires, the following terms have the meanings given when used in these Terms:

a) **‘Anti-Corruption Laws’** means any laws or international conventions relating to anti-corruption including:
   i) the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions 1997;
   ii) the United Nations Convention against Corruption 2003;
   iii) the Foreign Corrupt Practices Act of 1977 of the United States of America (as amended by the Foreign Corrupt Practices Act Amendments of 1988 and 1998) (“FCPA”);
   iv) the UK Bribery Act 2010;
   v) any other applicable law (statute, ordinance, rule or regulation, order of any court, tribunal or any other judicial body or any other administrative requirement) which:
   - Prohibits the offering of any gift, payment or other benefit to any person or any officer, employee, agent or advisor of such person; and/or
   - Is broadly equivalent to the FCPA and/or the UK Bribery Act 2010 or was intended to enact the provisions of the OECD Convention, or which has as its objective the prevention of corruption and which are applicable in the jurisdiction in which the Supplier is registered, conducts business and/or which any of the Services are performed.

b) ‘**Terms’** means these General Terms and Conditions for the Purchase or Supply of Goods and Services, as amended, updated or replaced by the Company from time to time in accordance with clause 31, together with each Purchase Order and any other document expressly incorporated by reference into a Purchase Order.

c) ‘**Company's Corporate Policies’** means the most current version of the policies, codes and principles published by the Company available on the following website www.raubex.com as amended from time to time, copies of which are available on request from the Company.

d) **‘SHE Requirements’** means all relevant law and government requirements relating to workplace health and safety and the environment, and the most current version of the Company's policies with respect to health and safety, the environment and stakeholder relationships.

e) **‘Delivery Certificate’** means the certificate issued by the Company once supply of goods and/or services from the Supplier has been accepted by the Company.

f) ‘**Purchase Order’** means the document (however described, and including an electronically generated or transmitted purchase order) issued by the Company to a Supplier specifying, among other things, the goods and/or services to be supplied, quantities, prices and delivery requirements, and into which these Terms are incorporated by reference.

g) ‘**Supplier**’ means the person, firm or company that supplies, or is engaged to supply, goods and/or services to the Company pursuant to a Purchase Order to which these Terms apply.

2) **‘Non-exclusive relationship’:**

The Supplier acknowledges and agrees that the Company may engage any other party to supply goods and/or services of a similar nature to the goods and/or services being supplied by the Supplier in terms of these Terms or any Purchase Order.

3) **Incorporation of these Terms; Purchase Orders**

a) These Terms apply to, and are incorporated by reference into, every Purchase Order issued by the Company to the Supplier for the supply of goods and/or services, whether or not these Terms are physically attached to, or enclosed with, the Purchase Order.
b) By accepting a Purchase Order, commencing performance of a Purchase Order, or delivering any goods and/or services pursuant to a Purchase Order, the Supplier is deemed to have accepted these Terms in full.
c) Each Purchase Order shall specify, amongst other things, the description, quantities, units, prices and delivery date(s) of the goods and/or services to be supplied.
d) In the event of any conflict or inconsistency between these Terms and a Purchase Order, the Purchase Order shall take precedence, but only to the extent of that conflict or inconsistency; these Terms shall otherwise continue to apply in full.

4) **Quality:**

a) Goods and/or services shall be supplied strictly in accordance with the terms (quantities, units, description, prices and delivery) stated in the Scope of Goods/and or Services set out in the relevant Purchase Order.
b) The Supplier warrants that the goods and/or services will:
   i) be of merchantable quality and fit for their intended purpose;
   ii) be free from all defects and imperfections affecting performance;
   iii) be of current manufacture, appropriate grade and suitable capacity;
   iv) conform in all respects to the specifications; and
   v) conform with all relevant requirements of any statute, law, regulation or legal requirement which may be in force in the country in which the Supplier is situated.
c) The Supplier shall provide a warranty on the goods and/or services for a period of twelve (12) months after the Goods have been commissioned and taken into service by the Company or 18 (eighteen) months from the date of notification of readiness by the Supplier to deliver the goods whichever is the earlier.
d) Should it become necessary for the Supplier 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.
e) The Supplier shall respond to and initiate necessary corrective action arising from all reports concerning defects within twenty-four hours of receipt of the report.
f) Should the Supplier not respond within twenty-four 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 Suppliers risk and expense.

5) **Risk and Title:**

a) Risk and title in and to the goods shall pass to the Company upon delivery of the goods to the Company and acceptance of the goods by the Company which acceptance shall be confirmed by the issue of a Delivery Certificate.
b) The Supplier warrants that the goods as at date of delivery are free and clear of any lien, claim, demand, security, interest or any other encumbrance.

6) **Packaging:**

The Supplier shall ensure that the goods are packaged as per the instructions in the Scope of Services. In the event that there are no instructions, the Supplier shall meet the packaging standards as is customary in the industry so as to ensure adequate protection for the goods and eliminate damage.

7) **Delivery:**

a) The Company shall not accept any goods in excess of the quantity specified in the Scope of Services. Such goods as may be in excess of the specified quantity be removed by the Supplier from the

Company's site within seven (7) days, at the Supplier's own cost and title and risk in these goods shall remain with the Supplier.

b) The Supplier shall, at the Supplier's cost, replace any goods lost or damaged in transit, howsoever caused.

8) **Tests and Inspections:**

The Company has the right to conduct tests and/or inspections of the goods and/or services after delivery and/or after payments have been made, as the Company may deem necessary.

9) **Invoicing and Payment:**

a) The Supplier shall be paid in accordance with the pricing set out in the relevant Purchase Order.
b) All payments are conditional upon receipt by the Company of the Supplier's tax invoice that complies in all instances with the Value Added Tax Act (Act 89 of 1991) (or any amendments and/or substitutions thereof) and must reflect the Purchase Order number.
c) The Company will pay the Supplier Thirty (30) days end of next month.
d) The Company shall not be liable for any interest for late payments.
e) The Company may refuse payment of any tax invoice which it may contest.

10) **Income Tax Act:**

a) The Supplier warrants that it understands the criteria that apply to distinguish independent Suppliers from personal service providers as envisaged in the Income Tax Act.
b) The Supplier indemnifies the Company against all losses, claims, liabilities, damage or expense which the Company may suffer or be exposed to as a result of, or which may be attributable to any liability of the Supplier for tax in respect of payments made in terms of these Terms or a Purchase Order. For these purposes "tax" includes SITE, PAYE, VAT and all other forms of duties or taxation, and any penalties or interest.

11) **Intellectual Property:**

a) The Supplier warrants that neither the supply of goods, the use of the goods by the Company, nor any design, materials, documents and methods of working provided by the Supplier in the performance of the services will infringe any patent, design, trade mark or name, copyright or other protected right, whether registered or not.
b) In this regard, the Supplier shall indemnify the Company against all liabilities, damages, claims, losses, costs and all other expenses (including legal costs) whatsoever that the Company may incur as a result of any alleged infringement or infringement of intellectual property rights.
c) Title to, copyright in and other intellectual property rights in any documents or other property created by the Supplier for or in connection with the services vests in the Company on creation and the Supplier hereby cedes and assigns all such rights to the Company with effect from the date of creation in order to vest such intellectual property in the Company.

12) **Limitation of Liability:**

a) Neither the Company nor the Supplier shall be liable or responsible to each other for any indirect, consequential or incidental damages, including but not limited to loss of profit or loss of production arising out of a breach of these Terms or a Purchase Order.
b) Clause 12(a) shall not limit the Supplier's indemnity obligations under clauses 9(b), 10(b), 11(b) and 13.

13) **Indemnity:**

The Supplier shall be liable for and indemnifies and holds the Company harmless against all claims, damages, losses or costs whatsoever relating to or as a result of:

a) the injury or death of any person,
b) a breach by the Supplier of any law in the course of, or caused by the performance of its obligations under the Contract,
c) any damage to property on the Company's Site, to the extent that the damage, death, injury or breach is due to an act and/or omission of the Supplier.

14) **Insurance:**

The Supplier shall effect and maintain all insurances that a prudent person in the Supplier's position would consider appropriate in the circumstances having regard to the Supplier's obligations under the Contract.

15) **Access to Site**

The Company shall, subject to its prevailing security arrangements and standard procedures, provide the Supplier with access to the Company's Sites/premises during the Period. The Company reserves the right at any time to revoke the Contractor's right of access to the Company's Sites/premises, for any valid reason.

16) **Site and Safety:**

a) The Supplier shall comply with the Company's SHE Requirements when on the Company's site/premises.
b) The Supplier shall comply with the Company's Corporate Policies.
c) The Supplier undertakes to comply with all applicable legislation including (but not limited to) the Occupational Health and Safety Act No 85 of 1993, Mine Health and Safety Act No 29 of 1996, Compensation for Occupational Injuries and Diseases Act No 130 of 1993 and Hazardous Substances Act No 15 of 1973.

17) **Confidentiality:**

a) The Supplier shall keep the contents of these Terms and any Purchase Order and any information of or relating to the Company or its operations or affairs or the goods and/or services which may be acquired by the Company confidential, save and except for information:
    i) which is publicly available or becomes publicly available through no act or default of the Supplier; or
    ii) which came into the possession of the Supplier on a non-confidential basis from a source other than the Company which source is not bound by a confidentiality agreement or other obligation of secrecy to the Company or another person and is not otherwise under an obligation of secrecy to the Company or another person ("Confidential Information").
b) The Supplier undertakes not to publish, disclose or reveal any Confidential Information to any other person or party whatsoever, other than as may be required by law, without the Company's prior written consent.
c) The Supplier shall not, without the prior written approval of the Company:
    i) take any photographs of the Company's site/premises or any part thereof;
    ii) publish any article, story or advertisement in connection with the goods and/or services on the site or elsewhere.

18) **Default:**

In the event that:

a) the Supplier breaches any of its obligations under these Terms or any Purchase Order,
b) the Supplier is placed under liquidation or is sequestrated, either provisionally or finally, whether voluntary or compulsorily,
c) the Supplier is placed under business rescue or ceases to carry on business or disposes of some or all of its assets,
d) the Supplier is unable to pay its debts as they become due,
e) the Company issues an instruction to the Supplier to stop work,

then the Company may, without prejudice to any other rights it may have, terminate the relevant Purchase Order(s) with immediate effect without payment or compensation to the Supplier for any damages whatsoever.

19) **Dispute Resolution:**

Any dispute between the parties arising out of these Terms or any Purchase Order shall be submitted to arbitration in accordance with the commercial arbitration rules of the Arbitration Foundation of Southern Africa (AFSA) The arbitration shall be held in Johannesburg.

20) **Force Majeure:**

a) Should either the Company or the Supplier (hereinafter referred to as "the invoking Party") be prevented from fulfilling any of its obligations in terms of these Terms or a Purchase Order as a result of any act of God, war, fire, flood, legislation, insurrection, sanctions, trade embargo, illegal strikes or any economic or other cause beyond the reasonable control of such party (any such event hereinafter called "force majeure") then the invoking party will forthwith give written notice thereof to the other party specifying the cause and anticipated duration of the force majeure.
b) Performance of any such obligations will be suspended from the date on which notice is given of force majeure until the date on which notice is given of termination of force majeure ("Suspension Period").

c) The invoking party will not be liable for any delay or failure in the performance of any obligation hereunder, or loss or damage due to or resulting from the force majeure during the Suspension Period.

21) **Termination of a Purchase Order**

In addition to any other rights that the Company may have under these Terms, the Company may at any time, in its absolute discretion and without cause, terminate a Purchase Order in whole or in part by giving 30 days written notice to the Supplier of its intention to terminate. Subject to the Company's rights under these Terms or the relevant Purchase Order to deduct and withhold amounts owing to the Supplier, the Company must pay the Supplier, as the Supplier's sole remedy in relation to the termination, all amounts due and unpaid for the goods and services at the date of termination.

22) **Anti-Corruption Compliance:**

a) A director, employee or agent of the Supplier must not:
   i) give or receive any commission, fee, rebate, gift or entertainment of significant value from; or
   ii) enter into any business agreement with, any director, employee or agent of the Company other than as a representative of the Company or in the ordinary and proper course of business between any of those parties.
b) The Supplier must not undertake any activity that may constitute a breach of any provision of the Anti-Corruption Laws.
c) The Supplier shall at all times comply with, and ensure that any employees, agents, suppliers or any other persons engaged in the provision of the works on behalf of the Supplier to the Company comply with, the Company's policies and procedures, specifically its Code of Business Conduct and Ethics policy and Anti-Fraud and Corruption policy, copies of which are available at www.raubex.com or on request from the Company. The Supplier shall, upon reasonable request by or on behalf of the Company, demonstrate compliance with such requirements including providing evidence of measures taken to achieve such compliance.

23) **Notices:**

Notices must be in writing, in English and addressed to the receiving party at the physical address specified in the Purchase Order, or such other address as the receiving party may notify to the other party in writing from time to time, and will be deemed to have been received:

a) if posted, on the 10th day after posting;
b) if delivered personally, upon delivery;
c) if sent by email:
   i) on a business day, on dispatch of the transmission; or
   ii) on a day other than a business day, on the next business day.

24) **Right to audit:**

The Supplier must permit the Company or its designated internal / external audit representatives reasonable access to the Supplier's premises for the purpose of conducting audits of the Supplier's records and/or processes to the extent necessary to verify the Supplier's compliance with these Terms and the relevant Purchase Order.

25) **Assignment:**

The Supplier may not, without the prior written consent of the Company, assign or otherwise deal with any right, title, interest or obligation under these Terms or any Purchase Order.

26) **Subcontract:**

The Supplier shall not subcontract the whole or portions of the Scope of Services without the prior written consent of the Company. The Supplier shall be responsible for the acts or defaults of any sub Supplier, his agents or employees, as if they were the acts or defaults of the Supplier.

27) **Governing Law:**

These Terms and each Purchase Order are governed by and must be construed and enforced in accordance with the laws of the Republic of South Africa.

28) **Entire Agreement:**

These Terms, together with the relevant Purchase Order, contain the entire agreement between the Company and the Supplier as to the subject matter of that Purchase Order, and supersede any previous arrangements or understandings (if any) between them relating to that subject matter.

29) **Severability:**

If any provision contained in these Terms is void, illegal or unenforceable, that provision is severable from these Terms and the remainder of these Terms has full force and effect.

30) **Non-waiver:**

No failure by a party to enforce any provision of these Terms will constitute a waiver of such provision or affect in any way a party's right to require the performance of such provision at any time in the future.

31) **Amendment:**

a) The Company may amend, update or replace these Terms at any time by publishing an updated version, a copy of which will be made available to the Supplier on request. Any such amendment shall apply to Purchase Orders issued on or after the date of the updated version and shall not retrospectively affect Purchase Orders issued before that date.
b) Any variation to these Terms in relation to a specific Purchase Order shall only be binding if recorded in writing and signed by an authorised representative of the Company.

32) **No other relationship:**

Nothing contained in these Terms or any Purchase Order is to be construed as constituting a joint venture, agency or partnership between the Supplier and the Company. It is specifically recorded that the Supplier is an employer in its own right.

33) **Domicilium and Notices for Purposes of Service**

a) The Company's domicilium citandi et executandi, and its address for the service of all notices and processes arising out of or in connection with these Terms or any Purchase Order, is its registered address as recorded in the relevant Purchase Order, or such other address as the Company may notify to the Supplier in writing from time to time.
b) The Supplier's domicilium citandi et executandi, and its address for the service of all notices and processes arising out of or in connection with these Terms or any Purchase Order, is the address recorded in the relevant Purchase Order, or such other address as the Supplier may notify to the Company in writing from time to time.