

Rentokil Initial (Pty) Ltd -Terms and Conditions

GENERAL TERMS AND CONDITIONS OF TRADE

1. INTERPRETATION

1.1 In these Conditions the following expressions have the following meanings unless the context clearly requires them to mean something else.

Company: the company who purchases the Goods and/or Services from the Seller.

Contract: a contract for the sale and purchase of the Goods and/or Services made when an Order is placed by the Company and accepted by the Seller and incorporating these Conditions.

Delivery Point: the place where delivery of the Goods or the performance of the Services is to take place as specified by the Company in the Order.

Goods: any goods agreed in the Contract to be supplied by the Seller to the Company (including any part or parts of them).

Order: any written order, or any order placed electronically for the Goods placed by the Company with the Seller which shall be subject to these Conditions..

Packaging: all forms of packaging used on the Goods including but not limited to bags, cases, carboys, cylinders, drums, pallets and other containers.

Seller: the person, firm or company who sells the Goods from the Company.

Services: any services agreed in the Contract to be supplied by the Seller to the Company (including any part or parts of them).

1.2 Words in the singular include the plural and in the plural include the singular.

1.3 A reference to one gender includes a reference to the other gender.

1.4 Condition headings do not affect the interpretation of these conditions.

2. ORDERS

2.1 No terms or conditions endorsed on, delivered with or contained in the Seller's acknowledgement of order, confirmation of order, invoice, specification or other document shall form part of the Contract. The Company will only be liable in respect of Orders placed in accordance with the provisions of these Conditions.

2.2 These Conditions apply to all the Company's purchases and any variation to these conditions shall have no effect unless expressly agreed in writing and signed by the Managing Director of the Company or the Finance Director

2.3 An acknowledgement or acceptance of Order must be in writing and shall be deemed to be an offer by the Seller to supply the Goods and/or Services subject to these conditions and the Order.

2.4 The Company may at any time prior to despatch of the Products or performance of the Services amend or cancel an Order by written notice to the Supplier. If the Company amends or cancels an Order, its liability to the Supplier shall be limited to payment to the Supplier of all costs reasonably incurred by the Supplier in fulfilling the Order up until the date of receipt of the notice of amendment or cancellation, except that where the amendment or cancellation results from the Supplier's failure to comply with its obligations under these conditions the Customer shall have no liability to the Supplier in respect of it.

3. DESCRIPTION

3.1 The quality, quantity and description of the Goods and/or Services shall be as set out in the Company's Order.

3.2 The Goods and Services shall comply with any samples, drawings, descriptive matter, specifications and advertising issued by the Seller and any descriptions or illustrations contained in the Seller's catalogues or brochures (including any web based catalogue).

4. DELIVERY

4.1 The Supplier shall deliver each Order to the Delivery Point by the date specified by the Company in the Order.

4.2 The Supplier shall not deliver Orders by instalments except with the prior written consent of the Company.

4.3 If an Order is not delivered or performed on the date specified in the Order, or where no date is specified within a reasonable time after the Order, then, without limiting any other right or remedy the Company may have, the Company may at its sole discretion:

(a) refuse to take any subsequent attempted delivery of the Order;

(b) terminate this agreement and/or the Contract with immediate effect;

(c) obtain substitute products and or services from another supplier and recover from the Supplier any costs and expenses reasonably incurred by the Company in obtaining such substitute products and/or services(c) claim damages for any other costs, expenses or losses resulting from the Supplier's failure to deliver the Order on the delivery date, provided that the Supplier shall have no liability for any failure or delay in delivering an Order to the

extent that such failure or delay is caused by the Company's failure to comply with its obligations under this Agreement.

4.4 It is agreed that time is of the essence in this Agreement.

5. ACCEPTANCE

5.1 The Company shall not be deemed to have accepted any Goods and/or Services until it has had a reasonable time to inspect them following delivery, or, in the case of a latent defect in the Goods, until a reasonable time after the latent defect has become apparent.

5.2 If any Goods and/or Services delivered to the Company do not comply with the Contract or are otherwise not in conformity with the terms of this Agreement, then, without limiting any other right or remedy that the Company may have, the Company may reject those Goods and/or Services and:

(a) require the Supplier to repair or replace the rejected Goods or re-perform the defaulting Services at the Supplier's risk and expense in such time frame as the Company may stipulate; or

(b) require the Supplier to repay the price of the rejected Goods and/or Services in full (whether or not the Company has previously required the Supplier to repair or replace the rejected Goods or re-perform the defaulting Services); and

(c) claim damages for any other costs, expenses or losses resulting from the Supplier's delivery of Goods and/or performance of the Services that are not in conformity with the terms of the Order and/or this Agreement.

5.3 The terms of this agreement shall apply to any repaired or replacement Goods and/or re-performed Services supplied by the Supplier.

5.4 If the Supplier fails to promptly repair or replace rejected Goods and/or re-perform the defaulting Services in accordance with clause 5.2(a), the Company may, without affecting its rights under clause 5.2 (c) obtain substitute products and/or services from a third party supplier, or have the rejected Goods repaired by a third party, and the Supplier shall reimburse the Company for the costs it incurs in doing so.

6. RISK/TITLE

6.1 Risk and property in any Goods shall pass to the Company on delivery thereof to the Company.

7. PRICE

7.1 The price for the Goods and/or Services shall be agreed by the Supplier and the Company and shall be exclusive of any value added tax and all costs but inclusive of all costs in relation to Packaging, loading, unloading, carriage and insurance.

8. PAYMENT

8.1 The Seller shall invoice the Company upon delivery of the Goods or following completion of the Services. Payment shall be made within 30 days of receipt of statement unless the Company agrees otherwise in writing.

8.2 Each invoice must quote the relevant Order number. A failure to do so may delay payment.

8.3 If the Company disputes any invoice or other statement of monies due, the Company shall notify the Supplier in writing within 10 working days. The parties shall negotiate in good faith to attempt to resolve the dispute promptly. The Supplier shall provide all such evidence as may be reasonably necessary to verify the disputed invoice or request for payment. The Supplier's obligations to supply the Goods and/or Services shall not be affected by any payment dispute.

8.4 The Company shall not be liable to pay any invoice which is submitted more than 6 months after the Goods have been delivered or the Services have been performed.

9. QUALITY

9.1 The Supplier warrants that (subject to the other provisions of these conditions) on delivery the Goods shall:

(a) be of satisfactory quality

(b) be reasonably fit for purpose; and

(c) be reasonably fit for any particular purpose for which the Goods are being bought provided that the Company had made known that purpose to the Seller at the time the Order was placed.

9.2 The Supplier undertakes warrants and represents on an ongoing basis that:

(a) the Supplier will perform and procure the performance of its obligations under these conditions and any Order in compliance with all applicable statutory provisions;

(b) it has, and will continue to hold, all consents and regulatory approvals necessary to provide the Services;

(c) it shall discharge its obligations under these conditions using personnel of required skill, experience and qualifications and with all due skill, care and diligence and to a standard it is reasonable to expect of a skilled and competent provider of services similar to the Services.

9.3 The Supplier shall not be liable for a breach of any of the warranties in conditions 9.1 if:

(a) the Company makes any further use of such Goods after giving such notice; or

(b) the defect arises because the Company failed to follow the Supplier's written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice; or
(c) the Company alters or repairs such Goods without the written consent of the Supplier.

9.4 Subject to condition 9.3, if any of the Goods do not conform with any of the warranties in condition 9.1 the Supplier shall at the Company's option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that, if the Supplier so requests, the Company shall, at the Supplier's expense, return the Goods or the part of such Goods which is defective to the Supplier.

10. LIMITATION OF LIABILITY

10.1 The following provisions set out the entire financial liability of the parties (including any liability for the acts or omissions of its employees, agents and sub-contractors) to each other in respect of:

(a) any breach of these conditions;

(b) any use made or resale by the Company of any of the Goods, or of any product incorporating any of the Goods; and

(c) any representation, statement or delictual act or omission including negligence arising under or in connection with these conditions or any Order.

10.2 Nothing in these conditions excludes or limits the liability of either party:

(a) for death or personal injury caused by the that party's negligence; or

(b) under section 61(4), Consumer Protection Act, 68 of 2008; or

(c) for any matter which it would be illegal for that party to exclude or attempt to exclude its liability; or

(d) for fraud or fraudulent misrepresentation.

11. ASSIGNMENT

11.1 The Company may assign the Contract or any part of it to any person, firm or company.

11.2 The Seller shall not be entitled to assign the Contract or any part of it without the prior written consent of the Managing Director or Finance Director

12. VARIATIONS

12.1 The Company may vary these conditions at any time provided that

(a) it notifies the Seller in writing of such variation; and

(b) any such variation shall not apply to an Order placed prior to notification of such variation to the Seller

13. FORCE MAJEURE

The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods it has ordered from the Seller (without liability to the Seller) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period in excess of 180 days, the Seller shall be entitled to give notice in writing to the Company to terminate the Contract.

14. GENERAL

14.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.

14.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

14.3 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.

14.4 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Company shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract. 14.6 This Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with South African law, and the parties submit to the exclusive jurisdiction of the South African courts.

15. COMMUNICATIONS

15.1 All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax or e-mail:

(a) (in case of communications to the Company) to its registered office or such changed address as shall be notified to the Seller by the Company; or

(b) (in the case of the communications to the Seller) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Seller as notified by the Seller to the Company.

15.2 Communications shall be deemed to have been received:

(a) if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or

(b) if delivered by hand, on the day of delivery; or

(c) if sent by fax or e-mail on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.

15.3 Communications addressed to the Company shall be marked for the attention of the Company Secretary.

16. ANTI-CORRUPTION

16.1 The Supplier shall not, directly or indirectly have as a partner or owner, and shall not retain or employ to perform services on behalf of the Company under any Contract, any public or other government officials, political party officials, or candidates for public or political party office, or employees of the Company or its customers.

16.2 The Supplier hereby warrants and represents that in performing any Contract, the Supplier shall comply and cause its employees and representatives to comply with all applicable laws, rules, regulations and policies, and shall save the Company harmless against any legal claims resulting from the Supplier's failure to do so.

16.3 The Supplier acknowledges that the Company in dealing with the Supplier places in material reliance on the following representations and warranties made by the Supplier:

(i) neither receipt of any amount due and payable under any Contract, performance of the Services or supply of the Goods for which the said amounts are payable, nor the relationships created hereby or pursuant hereto, are in any respect in violation of the laws, rules, orders, policies or regulations of any country, and

(ii) in connection with the performance of such Services and/or the supply of such Goods, the Supplier will not use any form of trade or communication or pay, either directly or indirectly, or offer to pay, promise to pay or authorize the payment of any money, gift, or other thing of value to any person who is an official, agent, employee or representative of any government or instrument thereof, to any political party or official thereof or to any candidate for political or political party office, to any employee, officer or director of the Company or any of its affiliates or its or their customers, or to any family members thereof, or to any other person while knowing or having reason to believe that all or any portion of such money, gift or thing of value will be offered, given, or promised, directly or indirectly, to any such official, agent, employee or representative, political party, political party official, or candidate, or person for the purpose of influencing any act or decision of any such official to obtain or retain business, or direct business to any person or entity, or for any other improper advantage or purpose

16.4 The Supplier confirms that it has not, and agrees that in its performance under any Contract, it will not directly or indirectly pay, offer or authorize payment of anything of value (either in the form of compensation, gift, contribution or otherwise) to any person or organization contrary to any applicable laws including the laws of the Republic of South Africa (such as the Prevention and Combating of Corrupt Activities Act, 12 of 2004).

16.5 The Supplier agrees to comply with the highest ethical standards when providing any Goods and/or Services under any Contract. The Supplier and its owners, officers, directors, employees and agents have read the Company's Code of Ethics and Code of Conduct and will not engage in any act or omission in carrying out any of its responsibilities under any Contract that would violate the Company's Code of Ethics and/or Code of Conduct.

16.6 The Supplier shall maintain accurate and transparent books and records in accordance with generally accepted accounting principles for all sales, transfers, transactions, marketing, promotions, demonstrations, explanations, or other activities related to the supply of Services and/or Goods to the Company.

16.7 Notwithstanding any other provision of these terms and conditions the Supplier will notify the Company in writing if the Supplier has or should have any reason to suspect that a breach of any of the representations and warranties in this agreement has occurred or may occur.

16.8 The Company shall be entitled to cancel any order forthwith upon written notice to the Supplier without any liability to the Supplier in the event that the Company has any reason to believe that the Supplier has breached any of the provisions of this clause 16.