

**FENNER CONVEYOR BELTING (SOUTH AFRICA) (PROPRIETARY) LIMITED
STANDARD CONDITIONS OF SALE (Rev. 2022 edition)**

INTERPRETATION

1.1 In these Conditions the following words shall have the following meanings:

“Buyer”	The person, firm or company identified overleaf as the Buyer.
“Conditions”	The standard terms and conditions of sale set out in this document and (unless the context otherwise requires) any special terms and conditions agreed in writing between Seller and Buyer.
“Contract”	The contract between Seller and Buyer for the sale and purchase of the Goods and/or performance of the Services, incorporating these Conditions
“Goods”	Any goods agreed in the Contract to be supplied to Buyer by Seller (including any part or parts of the goods).
“Incoterms”	The international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made
“Prime Rate”	The rate of interest (nominal annual compounded monthly in arrears) from time to time published by Nedbank as its prime overdraft lending rate (a certificate from any manager of that bank, whose appointment or authority need not be proved, as to the prime rate at any time and the usual way in which it is calculated and compounded at such time shall, in the absence of manifest or clerical error, be final and binding on the Parties.
“Seller”	Fenner Conveyor Belting (South Africa) (Proprietary) Limited or a subsidiary company (as defined by the Companies Act, Act No. 61 of 1973, as amended from time to time of Fenner Conveyor Belting (South Africa) (Proprietary) Limited
“Services”	Any services agreed in the Contract to be performed for Buyer by Seller (including any part or parts of the services).
“South Africa”	The Republic of South Africa as constituted from time to time

1. GENERAL

These Conditions govern all Contracts entered into by Seller for the supply or sale of the Goods to Buyer or performance of the Services for Buyer. Any order given to Seller, or the acceptance of any tender issued by Seller shall be deemed to constitute an agreement to be bound by these Conditions.

2. OTHER PRINTED OR STANDARD CONDITIONS

It is agreed that only these Conditions shall apply to Contracts between Seller and Buyer for the supply or sale of the Goods and/or performance of the Services and any documents emanating from Buyer which contain printed or standard conditions have been and shall be sent by Buyer and received by Seller on the understanding that they appear on Buyer's documents because they are printed thereon but have no legal effect whatever and Buyer waives any rights which Buyer otherwise might have to rely on such conditions.

3. PREVIOUS CONDITIONS AND VARIATIONS

These Conditions shall have effect in place of any other conditions, which may have previously been notified by Seller to Buyer.

4. LICENCES OR PERMITS

Where an export or import license, a foreign exchange control or similar authorization is required for performance of the Contract, Buyer shall act with due diligence to obtain it in good time. Seller shall not be under any obligation to commence work under the Contract until Buyer has obtained all necessary licenses and authorizations. If Seller in its sole discretion commences work before Buyer has obtained all necessary licenses and authorizations and Buyer fails to obtain such licenses and/or authorizations in good time Seller shall be entitled to deliver any Goods at Seller's premises in South Africa and shall be deemed to have fulfilled its delivery obligations in the Contract, notwithstanding anything to the contrary in the Contract and the Buyer shall be obliged to pay for all such Goods on demand.

5. EXPORT CONTROL CLAUSE

5.1 Seller Group Positions

Buyer shall respect the Seller Group Positions, which may contain more restrictive provisions than the Trade Restrictions as defined below. These Group Positions are based on commercial considerations and other compliance concerns, including but not limited to: money laundering and corruption concerns and concerns related to the financing of terrorism. These Group Positions apply to the Goods sold as spare parts or incorporated in a higher-level assembly (such as fitted unit, a ground vehicle, a plane, etc...). As of production date of the Conditions, the list of countries to which Seller refuses and prohibits any direct or indirect sales (including transit across these countries) is as follows: Cuba, Iran, North Korea, Syria. This list is subject to changes during the term of the agreement and Seller reserves the right to regularly notify such changes to the Buyer.

5.2 Trade Restrictions

Buyer shall comply with all applicable laws and regulations with regard to the supply, sale, transfer, export, re-transfer, or re-export of the Goods, including but not limited to those relating to: trade sanctions (including but not limited to comprehensive or sectoral embargoes and restricted parties) and export controls (including but not limited to military or dual usage products), altogether defined hereafter as "Trade Restrictions". For the avoidance of doubt, all applicable laws and regulations could include those originating out of the United Nations, the European Union, the OSCE, or the United States of America.

5.3 Buyer shall not cause Seller to, either directly or indirectly, risk any potential violation of any applicable Trade Restrictions. Furthermore, Buyer will not supply, sell, transfer, export, re-transfer, re-export, or otherwise make available or use any Product supplied by Seller in order to circumvent, evade or avoid any applicable Trade Restrictions.

5.4 Buyer shall only supply, sell, transfer, export, re-transfer, re-export, otherwise make available or use Goods as permitted by applicable law and shall not supply, sell, transfer, export, re-transfer, re-export, or otherwise make available, either directly or indirectly, any Goods:

- (a) To any individual, entity or body resident, located, registered, incorporated, domiciled or head-quartered in any jurisdiction targeted by applicable Trade Restrictions;
- (b) To any "Restricted Person": Restricted Person shall mean any individual, entity or body either: (i) specifically designated or listed under Trade Restrictions; (ii) owned or controlled by any person specifically designated or listed under Trade Restrictions; or, (iii) acting for or on behalf of any person specifically designated or listed under Trade Restrictions and
- (c) For any use, purpose or activity which is prohibited or otherwise restricted under Trade Restrictions,

5.5 Where Seller has reasonable cause to suspect that any Product may be or has been supplied, sold, transferred, exported, re-transferred, re-exported, otherwise made available to any jurisdiction targeted by applicable Trade Restrictions, or to a Restricted Person, or for any use, purpose or activity which is prohibited or otherwise restricted under Trade Restrictions, Seller reserves the right to:

- (a) Immediately suspend its performance under the Conditions or any agreement in place with the Buyer;
- (b) Request further information or documentary evidence from the Buyer, including but not limited to:
 - (i) Any licences, authorisations, permits, or approvals obtained by the Buyer with respect to the supply, sale, transfer or export of the Goods;

- (ii) Any End User Certificates or Undertakings supplied to the Buyer;
- (iii) Any shipping or commercial documentation, including: invoices; or, bills of lading,
In order to verify the end use(s) or end user(s) of the Goods.
- (c) Take any other appropriate measure regarding its commercial relationship with the Buyer.

5.6 Buyer certifies that, as of the date hereof, neither Buyer, nor any of the Buyer's Group Companies, nor any of their respective directors or officers is a Restricted Person. Buyer shall immediately notify Seller if Buyer, or any of the Buyer's Group Companies, or any of their respective directors or officers becomes a Restricted Person. Furthermore, Buyer shall immediately inform Seller if Buyer is or become aware or has reasonable cause to suspect that either the Buyer, or any of the Buyer's Group Companies, or any of their respective directors or officers may become a Restricted Person.

5.7 In the event that any Product supplied by Seller is re-supplied, re-sold, re-transferred, re-exported, re-distributed or otherwise made available to any third party, Buyer shall take all actions reasonably necessary to ensure that such third parties: (a) Comply with any applicable Trade Restrictions and Seller Group Positions; and, (b) Do not cause Seller to directly or indirectly violate any applicable Trade Restrictions or Seller Group Positions (as defined in last paragraph of this clause).

5.8 Buyer shall indemnify and hold harmless Seller from and against any losses, costs, claims, causes of action, damages, liabilities and expense, including attorneys' fees, any expense of litigation or settlement, and court costs, arising from any noncompliance with Trade Restrictions or Seller Group Positions by Buyer. Buyer shall be responsible for any act or omission of Buyer, its officers, employees, affiliates, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this clause.

6. DESCRIPTION

6.1 All Goods are supplied subject to reasonable availability to Seller of suitable materials and components. Seller reserves the right to substitute suitable alternative materials and components where necessary.

6.2 All designs, drawings, descriptive matter, weights, dimensions, specifications, and other information contained in or published on Seller's brochures, catalogues websites and advertising material are approximate and by way of information only and are intended merely to present a general idea of the goods or services described therein and shall not form part of the Contract or give rise to any independent or collateral liability of any kind. All prices/discounts specified or listed in or on such media are subject to alteration or withdrawal from time to time without notice.

6.3 All designs, drawings, specifications, brochures, catalogues, websites, price lists, advertising material and computer software are the copyright of and shall remain the property of Seller and must not be copied, reproduced, or divulged either directly or indirectly to any other person without Seller's prior permission.

7. SELECTION OF GOODS AND SERVICES

Buyer:

7.1 acknowledges that selecting goods and/or services requires Buyer to use its own skill and judgment as to which of Seller's goods and/or services meets Buyer's requirement.

7.2 warrant that it has such skill and judgment and undertakes to exercise it at all times in selecting goods and/or services.

7.3 agrees it will be responsible for ensuring that goods and/or services selected are fit or suitable for Buyer's purpose; and

7.4 agrees that Seller shall not be responsible for any selection made by Buyer and will not have any liability to Buyer for any loss, damages, costs, or expenses suffered by Buyer as a result thereof.

8. PRICE, TENDERS, PACKING AND CARRIAGE

8.1 The price of the Goods and/or Services shall be Seller's quoted price or, where no price has been quoted, Seller's list price current at the date of acceptance of the order. All prices quoted are valid for the period stated on the quotation or if no period is stated, 30 days or earlier acceptance by Buyer after which time they may be altered by Seller without giving notice to Buyer.

8.2 Seller reserves the right by giving notice to Buyer at any time before delivery or performance to increase the price of the Goods and/or Services to reflect any increase in the cost to Seller which is due to any factor beyond the control of Seller (such as, without limitation, increases in raw materials or labour, foreign exchange fluctuation, currency regulation or alteration of duties), any change in delivery dates, quantities or specifications for the Goods or Services which is requested by Buyer or any delay caused by any instructions of Buyer or failure of Buyer to give adequate information or instructions.

8.3 Any tender made by Seller may be withdrawn at any time before acceptance. If not accepted within 30 days from the date of tender, it shall be deemed to have been withdrawn.

8.4 Unless otherwise agreed, packing will be charged for in addition to the price of the Goods and packing cases and materials are not returnable. The Goods will be suitably packed for conditions of normal delivery/shipment. Special packing will only be supplied on express written request and will be charged for in addition to the price.

8.5 Unless otherwise agreed all prices for Goods are given on an ex works basis and where Seller agrees to deliver Goods otherwise than at Seller's premises: -

8.5.1 Goods for home market: carriage charges will be included in the price, unless otherwise agreed between the Seller and the Buyer.

8.5.2 Goods for export markets: carriage charges shall be invoiced on the terms specifically stated in the Contract, or otherwise at Seller's rates prevailing at the time of dispatch.

8.6 The price of the Goods and/or Services is exclusive of any applicable Value Added Tax, and any other sales tax or duty, which Buyer shall pay in addition at the appropriate rate.

9. DESPATCH AND DELIVERY

9.1 Any time or date quoted by Seller for delivery of Goods or performance of Services is given and intended as an estimate only and subject to availability of stock or availability of labour. Seller shall not be liable in any circumstances for any loss or damage of any kind caused by a failure to deliver or perform within such time.

9.2 Unless otherwise agreed in writing, Seller is entitled to make deliveries by installments or partial deliveries. Each installment shall be construed as constituting a separate contract to which all the provisions of these Conditions shall (with any necessary alterations) apply.

9.3 Buyer shall take delivery of the Goods promptly upon the delivery date or dates or at the intervals stated in the Contract or as soon thereafter as Seller notifies Buyer that the Goods are available for delivery. If for any reason Buyer fails to call off or give delivery instructions, or take delivery of the Goods on the due date, or upon receipt of such notification, or otherwise causes or requests a delay in delivery, then, without prejudice to any other rights of Seller hereunder, Seller shall be entitled to store or arrange for the storage of the Goods and if it does so:

9.3.1 It shall so inform Buyer in writing, and

9.3.2 Buyer shall pay or reimburse the reasonable costs (including insurance) of such storage from the due date, or the date of Notification as aforesaid, until delivery to Buyer.

10. PASSING OF OWNERSHIP

10.1 Notwithstanding the provisions of Condition 11, ownership of the Goods shall not pass to Buyer until Seller has received in full in cash or cleared funds:

10.1.1 All sums payable in respect of the Goods; and

10.1.2 All other sums which are, or which become payable to Seller from Buyer on any account including any interest on such sums.

10.2 Until ownership of the Goods has passed to Buyer, Buyer shall:

10.2.1 Hold the Goods on a fiduciary basis as Seller's bailer.

10.2.2 Store the Goods separately to other goods of Buyer or any third party in a way that they remain readily identifiable as Seller's property.

10.2.3 Not destroy, deface, or obscure any identifying mark or packaging on or relating to the Goods; and

10.2.4 Maintain the Goods in satisfactory condition insured for their full price against all risks and hold the proceeds of insurance on trust for Seller and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.

10.3 Notwithstanding Condition 10.2, Buyer may use the Goods in its production processes or resell the Goods before ownership has passed to Buyer. Any sale of the Goods by Buyer shall be solely on the condition that such sale shall be on Buyer's own behalf in the ordinary course of Buyer's business and Buyer shall deal as principal when making such sale. The proceeds of any such sale shall be held on trust for the Seller and the provisions of condition 10.4 shall apply thereto, *MUTATIS MUTANDIS*.

10.4 Buyer's right to possession of the Goods shall terminate and the price of all Goods and Services shall become due and payable immediately if:

10.4.1 Buyer has any bankruptcy or insolvency or sequestration order made against it or makes an arrangement or composition with its creditors or (being a body corporate) convenes a meeting of creditors, or has a liquidator or trustee (whether provisional or final) or a receiver and/or manager, administrator or administrative receiver appointed in respect of its person or undertaking or any part thereof, or a resolution is passed or a petition presented for the winding up or sequestration of Buyer or for the granting of an administration order in respect of Buyer, or any proceedings are commenced relating to the insolvency of Buyer; or

10.4.2 Buyer encumbers or in any way charges any of the Goods or suffers or allows any execution to be levied on its property or obtained against it or fails to observe or perform any of its obligations under the Contract or any other contract between Seller and Buyer or is unable to pay its debts or Buyer ceases to trade.

10.5 Seller shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from Seller.

10.6 Buyer grants Seller, its agents, and employees an irrevocable license and right at any time to enter any premises where the Goods are or may be stored, in order to inspect them, or, where Buyer's right to possession has terminated, to recover them.

10.7 Where Seller is unable to determine whether any Goods are the goods in respect of which Buyer's right to possession has terminated, Buyer shall be deemed to have sold all goods of the kind sold by Seller to Buyer in the order in which they were invoiced to Buyer.

10.8 On termination of the Contract, howsoever caused, Seller's (but not Buyer's) rights contained in this Condition 10 shall remain in effect.

10.9 Buyer shall pay to Seller on demand on a full indemnity basis all costs and expenses (including legal expenses) incurred by Seller in recovering the Goods pursuant to Condition 10.6.

11. PASSING OF RISK

- 11.1 Goods for home market: in cases where Seller carries or arranges the carriage of the Goods, risk passes upon delivery by the carrier to or to the order of Buyer. In all other cases risk passes on collection from Seller's premises.
- 11.2 Goods for export markets: risk passes in accordance with the Incoterm that Seller and Buyer have agreed shall apply to the Contract. In all other cases risk passes on collection from Seller's premises.

12. LOSS OR DAMAGE IN TRANSIT

- 12.1 In cases where Seller carries or procures the carriage of the Goods, Seller shall not in any event be liable for loss of or damage to the Goods in transit unless the following conditions are complied with:
- 12.1.1 In the case of any loss from a consignment of Goods or of damage to the Goods Seller must be notified in writing within 3 clear days of delivery to Buyer.
- 12.1.2 In the case of non-delivery of the whole consignment of the Goods, Seller must be notified within 7 clear days after the date of invoice.

13. PAYMENT

- 13.1 Goods for home market: unless otherwise agreed in writing, payment of the price in full is due on delivery of the Goods.
- 13.2 Goods for export markets: unless otherwise agreed in writing, payment of the price is due upon the presentation of the invoice together with the appropriate documents of title and shipping documents.
- 13.3 Services: unless otherwise agreed in writing, payment of the price is due no later than completion of the Services.
- 13.4 Time of payment is of the essence in all cases.
- 13.5 Buyer shall not in any circumstances or for any reason whatsoever be entitled to make any deduction or withhold any sum from the price by way of set-off or counterclaim.
- 13.6 Where payment is overdue Seller shall be entitled to charge interest at a rate which is 3% above the prime rate on all outstanding accounts, such interest to accrue from the day the account becomes due to the day of actual payment thereof, whether before or after any judgment, subject to the maximum rate of interest permitted by law from time to time.

14. SAMPLES

- 14.1 Samples are sent and inspected solely to enable Buyer to judge the quality of the bulk and shall not render any sale a sale by sample.
- 14.2 All samples are to remain the property of Seller and shall be returned to Seller on request.

15. TOOLS, DIES, ETC.

All tools, patterns and other equipment used in the manufacture of any of Seller's goods or to perform any of Seller's services shall remain the property of Seller unless otherwise expressly agreed in writing. Buyer shall not permit any third party to neither use such equipment nor disclose to any third party any technical, dimensional or design details, or any other information in respect of such equipment at any time, without the Seller's prior written consent first being obtained.

16. BUYER'S MATERIAL AND PARTS

- 16.1 Buyer's material and parts shall be delivered to Seller's works free of all charge to Seller. All materials removed as part of the Seller's processes or as a consequence of performing the Services become the property of Seller and are allowed for in Seller's estimate or quotation.
- 16.2 Seller shall not be liable for the value of any materials or finished parts sent for fitting or other purposes, or for any loss or damage whatsoever and however caused or resulting from the negligent performance or non-performance of the machining, cutting, fitting or other works specified in the Contract.
- 16.3 Buyer's materials or parts sent for fitting shall be suitable in every way for the machining, cutting, or fitting specified in the Contract and Seller is to have no obligation to check such suitability. Buyer will pay Seller for work done and for consequential damage to machines and tools of Seller arising directly or indirectly from any unsuitability of Buyer's materials or parts as aforesaid.

17. LIEN

- 17.1 In addition to any lien to which Seller may otherwise be entitled, in the event of Buyer's insolvency or failure to pay the price or any sum due under the Contract or any other contract with Seller (including any contract treated as a separate contract by virtue of Condition 9.2 hereof) Seller shall be entitled to a general lien on all goods of Buyer in Seller's possession for any sums due and unpaid under the Contract or under any contract between Seller and Buyer, and for the reasonable costs of storing, handling and insuring the goods during the exercise of such lien, which costs shall accrue from day to day.
- 17.2 Seller may at any time give notice requiring that all sums due and payable to Seller on any account whatsoever be paid not later than seven days from the date of the notice. Notice given by Seller in accordance with this Condition 17 shall be in writing specifying the amount due and the date for payment and shall be sent by registered post to the registered office of Buyer. If all sums due are not paid by the said date Seller shall be entitled to sell the goods or any part of them to meet all sums owing to Seller and all expenses on the sale.

18. BUYER'S SPECIFICATIONS AND DESIGNS

18.1 When Goods and/or Services are supplied or performed to Buyer's specification or design, Buyer shall indemnify Seller fully in respect of loss, damages, costs and expenses awarded against or incurred by Seller in connection with or paid or agreed to be paid by Seller in settlement of any claim made or proceedings brought against Seller by any party claiming infringement of patent rights, copyright, design right, trade mark or other industrial or intellectual property rights which results from Seller's use of Buyer's specification or design.

18.2 Buyer warrants that any design or specification furnished or given to Seller shall not be such as will cause Seller to infringe any patent, copyright, design right, trademark or other industrial or intellectual property right in the execution of Buyer's order.

18.3 Buyer warrants that any design or specification furnished or given to Seller shall be complete in every respect (including without limitation all necessary technical information) sufficient to enable Seller to manufacture the Goods and/or perform Services to comply with all applicable performance, durability, health, safety, conformity and labeling requirements whether of Buyer or Buyer's customer or howsoever arising at law and Buyer shall indemnify Seller fully in respect of loss, damages, costs and expenses incurred by Seller which results from any incompleteness in Buyer's specification or design.

19. BUYER'S ASSISTANCE

19.1 Where the Services are to be performed on Buyer's premises, Buyer agrees to provide Seller on a timely basis with such access, machine downtime, utilities and equipment and access to Buyer's employees, as Seller shall reasonably require in order performing the Services in accordance with the Contract.

19.2 If Buyer shall fail to perform its obligations in Condition 19.1 or shall fail to perform them in a timely manner Buyer acknowledges and agrees that Seller shall be entitled to delay performance of the Services until such time as Buyer has complied in all respects with its obligations in Condition 19.1 and to increase the price for the Services to reflect any increased costs to Seller caused by Buyer's failure to perform or late performance.

20. EXTENT AND LIMITS OF LIABILITY (DEFECTIVE GOODS AND SERVICES)

20.1 Subject to the provisions of this Condition 20, Seller guarantees all Goods of its manufacture against any defect which can be proved to Seller's satisfaction to have been caused by faulty materials or workmanship and which Appears within such period as is set out in the Contract

20.2 Should such defect appear within such period, Seller's liability will be limited solely to repairing, or at its option, replacing the defective Goods or part free of charge provided that Seller shall not be liable for such defect in any circumstances if: -

20.2.1 the Goods have been subjected to unsuitable storage, treatment, or handling prior to use or to abnormal use, or to use under abnormal conditions or beyond their capacity as rated and recommended by Seller; or

20.2.2 The defect has been caused or contributed to by exposure to direct weather conditions (whether before or after installation), or by operation in abnormal atmospheric conditions, or by reason of faulty installation, servicing, or repair of the Goods by any person other than a duly authorized representative of Seller; or

20.2.3 Buyer fails as soon as possible after the assumed defect has become apparent to notify that defect to Seller in writing quoting the serial number if any and the date of purchase.

20.3 Seller's aforesaid guarantee shall be subject to the following further provisos, namely:

20.3.1 Where the design of goods of the type in question has been altered since the Goods were dispatched, Seller may at its option supply goods of the new design.

20.3.2 Any repair or examination of defective Goods or parts shall be carried out at Seller's premises and Buyer shall at its own expense and risk adequately pack the Goods and return them to Seller.

20.3.3 The decision of Seller is final as to whether or not a defect is due to faulty workmanship or material.

20.3.4 if in the opinion of Seller, the Goods are satisfactory in operation or, if defective, then defective only as a result of circumstances for which Seller is not liable hereunder, or as a result of fair wear and tear, Buyer shall if required by Seller pay a reasonable charge for the examination of the Goods by Seller and any cost of returning the Goods to Buyer. In such case, Seller will submit to Buyer a quotation for repair of the Goods before affecting any repair.

20.3.5 Seller shall not in any case be liable under this Condition 20 or at all in respect of any Goods not of Seller's manufacture although Seller will do all that is reasonable at Buyer's expense to secure for Buyer the benefit of rights equivalent to rights which Seller may have against the supplier of such Goods; and

20.3.6 Seller shall not be liable for any costs of stripping or reassembling any equipment into which any of Seller's goods may be fitted.

20.4 Seller guarantees all Services performed by Seller against defects in workmanship for such period as is set out in the Contract. Should such defect appear within such period, Seller's liability will be limited solely to re-performing the Services free of charge or refunding the price where it has been paid provided that Seller shall not be liable for such defect in any circumstances if Buyer fails as soon as possible after the assumed defect has become apparent to notify that defect to Seller in writing. The decision of Seller is final as to whether or not a defect is due to faulty workmanship or material.

20.5 Subject to Conditions 20.1 to 20.4, the following provisions set out the entire liability of Seller (including any liability for the acts or omissions of its employees, agents and sub-contractors) to Buyer in respect of:

20.5.1 Any breach of these Conditions.

20.5.2 Use made or resale by Buyer of any of the Goods, or of any product incorporating the Goods; and

20.5.3 Any representation, statement or delictual act or omission including negligence arising under or in connection with the Contract.

20.6 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

20.7 Nothing in these Conditions excludes or limits the liability of Seller for any matter, which it would be illegal for the Seller to exclude or attempt to exclude its liability.

20.8 Subject to Condition 20.6 and 20.7:

20.8.1 Seller's total liability in contract, delict (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to [whichever be the greater of (i) such sum as seller may by reasonable steps be able to obtain under such insurance Seller has which covers the claim or (ii) the amount paid by Buyer for the Goods or Services in question].

20.8.2 Seller shall not be liable to Buyer for economic loss or loss of profit, goodwill, and business opportunity or production downtime or for any type of indirect or consequential loss or damage, costs, expenses, or other claims for consequential compensation of whatsoever nature and howsoever caused, which arise out of or in connection with the Contract.

21. DEFAULT OR INSOLVENCY

Without prejudice to the provisions of Condition 10.4, on the occurrence of any of the events set out in Condition 10.4, Seller shall be entitled forthwith to terminate the Contract. Termination of the Contract shall be without prejudice to any of Seller's other rights including, without limitation, to recover payment due in respect of delivered Goods or Services performed and all expenses properly incurred by Seller in performing the Contract and/or to cancel further deliveries and/or suspend further performance and/or to recover any Goods not paid for.

22. SET OFF

Seller shall be entitled to apply any sum in any way arising out of the Contract due from Seller to Buyer in settlement of any sum due from Buyer to any other company in the Fenner Group of Companies and (where there is any amount due from any other company in the Fenner Group of Companies to Buyer) Seller shall on behalf of Buyer be entitled to give to such other company a good receipt for any sum which such other company may pay to Seller in settlement of any sum due from Buyer to Seller in any way arising out of the Contract. "The Fenner Group of Companies" shall mean Fenner PLC and all subsidiary companies of that company as defined by Section 736 of the Companies Act 1985 of the United Kingdom, as amended from time to time.

23. FORCE MAJEURE

Without prejudice to the generality of any previous exclusion or limitation of liability, Seller shall not be liable for any failure to fulfill any term of any transaction governed by these Conditions if fulfillment has been delayed, hindered or prevented by any circumstances whatsoever which are not directly within Seller's control and if Seller is able to fulfill some but not all of the demand for its goods and/or services Seller may allocate its available supplies and resources amongst its customers including parent, subsidiary and associated companies in such manner as Seller in its absolute discretion considers to be fair and the Buyer will have no claim against the Seller in this regard.

24. BUSINESS ETHICS AND ANTI-CORRUPTION

24.1 Seller conducts its business with integrity and honesty and has a zero-tolerance approach to unethical business practices, bribery, corruption, collusion and coercive business practices. All business partners, suppliers, customers and consultants and contractors are required to comply with applicable anti-corruption and ethical conduct rules. For purposes of these conditions:

24.1.1 "Corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence the action of a public official in the context of any procurement process or contract execution.

24.1.2 "Fraudulent practice" means a misrepresentation or omission of Facts in order to influence a procurement process or the execution of a contract.

24.1.3 "Collusive practice" means a scheme or arrangement between two or more suppliers with or without the knowledge of Seller aimed at setting prices at artificial, non-competitive levels.

24.1.4 "Coercive practice" means any act or omission which harms or threatens harm, whether directly or indirectly, to persons or their property to influence their decisions or participation in a procurement process or execution of a contract; and

24.1.5 "Applicable anti-corruption laws and ethical rules" includes, but is not limited to the following:

24.1.5.1 The Prevention and Combating of Corrupt Activities Act of 2004.

24.1.5.2 Organization for Economic Cooperation and Development (OECD) Rules.

24.1.5.3 Any act or omission which constitutes a corrupt, fraudulent, collusive, or coercive practice as defined above.

24.1.5.4 Any foreign laws aimed at combatting corruption and bribery which are applicable to the Contract.

- 24.2. The Buyer must comply with the applicable anti-corruption laws and ethical rules.
- 24.2.1 Ensure that it implements and enforces policies and procedures to ensure compliance with the provisions of this clause 24.
- 24.2.2 Promptly notify Seller of any request or demand for financial or other advantage of any kind received by the Buyer in connection with the performance of the Contract or if any foreign public official is appointed as an officer or employer or acquires an interest in the Buyer.
- 24.3 If the Buyer engages in any act or omission which is in violation of the applicable anti-corruption legislation and ethical rules, or which constitutes a corrupt practice, fraudulent practice, collusive practice or coercive practice, Seller may summarily terminate the Contract. The Buyer indemnifies and holds Seller harmless against any loss, damage or costs incurred as a result of any breach by the Buyer of the provisions of this clause 24 whether or not Seller has terminated the Contract.

25. GENERAL

- 25.1 Buyer shall not assign the Contract or any part of it without the prior written consent of Seller.
- 25.2 Seller shall be entitled to assign the Contract or any part of it to any person, Firm or company and Seller shall further be entitled to sub-contract any of its obligations in its discretion.
- 25.3 Buyer shall not use Seller's name, logo or other intellectual property rights in advertising or publicity without Seller's prior written consent.
- 25.4 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.
- 25.5 Failure or delay by Seller in enforcing or partially enforcing any provision of the Contract will not be construed as a waiver of any of Seller's rights under the Contract.
- 25.6 Any waiver by Seller of any breach of, or any default under, any provision of the Contract by Buyer will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the Contract.
- 25.7 Each right or remedy of Seller under the Contract is without prejudice to any other right or remedy of Seller whether under the Contract or not.
- 25.8 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving notice.
- 25.9 Subject to Conditions 22, 25.1 and 25.2, nothing in these Conditions confers on any third party any benefit or any right to enforce any of these Conditions.
- 25.10 The formation, existence, construction, performance, validity, and all aspects of the Contract shall be governed by South African law and the parties submit to the jurisdiction of the South African courts.

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