

SA SCAFFOLD HIRE (PTY) LTD TERMS & CONDITIONS OF TRADING

THE CUSTOMERS' ATTENTION IS PARTICULARLY DRAWN TO CLAUSE 21

DEFINITIONS

1. "Customer" means the company or individual hiring the Equipment from the Owner
2. "Customer Requirements" means those requirements set out in the technical proposal forming part of the Quotation
3. "Equipment" means all plant, machinery, equipment, scaffolding and components which the Owner agrees to sell or hire to the Customer
4. "Owner" means SA SCAFFOLD HIRE (PTY) LTD
5. "Quotation" means the quotation attached to these Conditions. (NOTE)
6. "Price" means the rate of hire in the case of all Equipment for hire multiplied by the number of days for which the Equipment is hired, both as stated in the Quotation or as otherwise agreed between the Customer and the Owner from time to time.

INTERPRETATIONS

1. Headings will not affect the construction of these Conditions.
2. These Conditions apply to the hire of Equipment save where specifically stated otherwise.

CONDITIONS OF TRADING

3. The Quotation and these Conditions comprise all the terms of contract between the owner and the Customer (the Contract) to the exclusion of all other terms and conditions, including without limitation any of those which the Customer may purport to apply under any hire order, confirmation of order or other similar document. No conduct of the Owner or any of its employees shall constitute acceptance of any terms put forward by the Customer, and no addition to or variation of these Conditions shall be binding on the Owner unless agreed to and signed in writing by a director of the Owner. A verbal, faxed or e-mailed instruction by the Customer to deliver Equipment noted in the Quotation will constitute acceptance of the Quotation and these Conditions.
4. Any Quotation given by the Owner is valid for 14 (fourteen) days only from its date provided the Owner has not previously withdrawn it.
5. The Owner hereby hires to the Customer the Equipment at the Price upon the terms and subject to these Conditions hereinafter appearing.
6. In respect of any hiring of the Equipment, hiring will commence on the date on which the Equipment leaves the Owner's premises for delivery to the Customer's site or delivery address named in the Quotation or the date the Equipment is made available for collection by the Owner or its agents, and shall continue until the Equipment is returned or should have been returned to the Owner in accordance with these conditions. The Customer must hire the Equipment for a minimum period of 1 (one) - 4 (four) weeks (Subject to arrangement)

DELIVERY AND RISK

7. When the Equipment is ready for delivery the Owner will give the Customer notice of readiness for collection. The Customer shall then give the Owner 2 (two) day's written notice that either:
 - (a) It intends to collect the Equipment and the Customer shall then collect same on a date notified to the Owner, which date shall be within 2 (two) days of such notice, or

- b) If previously agreed in writing that the Owner shall provide transport, a request that such transport be provided at the Customer's sole expense and the Owner and Customer will then agree a date for delivery PROVIDED THAT time for delivery of Equipment by the Owner shall not be made of essence, and would not entitle the Customer to terminate the contract.
8. If the Customer fails to collect the Equipment within 2 (two) days of the Customer's notice given under Clause 7 and he has not concluded an agreement with the Owner that the Owner will deliver the Equipment in accordance with clause 7(b), then the Owner may consider the Customer's failure as a repudiation of the contract with immediate effect, in which case the Owner may:
 - i. Recover from the Customer all losses caused by the Customer's breach;
 - ii. Retain any payment made by the Customer before termination of the Contract;
 - iii. Recover from the Customer the cost of hiring the Equipment for the minimum 1-4 week period referred to in Clause 6 above; and
 - iv. Hire the Equipment to somebody else.
9. The Owner will endeavour to have the Equipment ready for delivery by the date agreed for delivery or collection in accordance with Clause 7 but shall not incur any liability whatsoever nor shall the Customer be entitled to terminate the Contract, by reason of the Owner's failure to deliver or have available for collection by the agreed date.
10. If the Owner agrees to deliver the Equipment, he shall deliver such Equipment to the Customer's site or address named in the Quotation. The Owner shall arrange carriage of such Equipment to such site or address and the costs of and associated with such carriage, as specified by the Owner to the Customer, shall be reimbursed to the Owner forthwith by the Customer.
11. The risk in all Equipment delivered by the Owner in accordance with Clause 10 shall pass to the Customer as soon as the Equipment leaves the Owner's premises. The risk in all Equipment collected by Customer from the Owner's premises will pass to the customer immediately on collection.
12. The Owner may deliver the Equipment by instalments of any size and any order. Each separate instalment shall be invoiced and/or paid for in accordance with the Contract.
13. The Owner will prepare an Equipment delivery note for each delivery or collection Equipment describing the Equipment forming part of that delivery or collection. At the time of such delivery or collection, a copy of the delivery note will be given to the Customer and shall constitute proof of delivery or collection of the Equipment.
14. The quantity of any consignment of Equipment as recorded by the Owner upon dispatch from the Owner's place of business shall be conclusive evidence of the quantity received by the Customer on delivery unless the Customer produces conclusive evidence proving the contrary within 24 hours of the Equipment being delivered.
15. The Customer is responsible for the unloading of all Equipment at the Customer's site or address named in the quotation and shall supply suitably qualified labour and plant to facilitate the same. The Owner's employees and those of any transport company it employs are not responsible for the unloading of any Equipment at the Customer's site or address named in the Quotation and will not assist in same.
16. If the Owner delivers to the Customer a quantity of Equipment

- of up to 5% more or less than the quantity accepted by the Owner then the Customer shall not be entitled to object or reject the Equipment by reason of the surplus or shortfall and shall be liable for the costs of the Equipment at the pro rata Price.
17. Without prejudice to Clause 16 above, the Owner shall have no liability to the Customer in respect of any shortfall in Equipment delivered or collected unless the Customer gives the Owner notice of the shortfall within 2 (two) days of delivery or collection. If the Customer does give such notice, The Owner may at its sole discretion either:
 - i. Make good the shortfall by one or more deliveries; or
 - ii. Reduce the Price pro rata to the Contract quantity.
 18. The Customer shall not be entitled to reject any delivery on the grounds of any excess or short delivery but shall pay the Price or where the Owner exercises the option in Clause 17 (ii) above, the pro rata Price in accordance with that provision.
 19. If the Customer rejects the Equipment upon delivery or collection of the same for any reason other than the circumstances described in Clause 18, the Customer shall notify the Owner forthwith. The Owner will then examine the Equipment and if any are found not to conform to the Customer's Requirements, the Owner may:
 - i. At its own expense replace the Equipment found not to be in accordance with the Customer's Requirements; or
 - ii. Reduce the Price pro rata to the Price payable in respect of the Equipment found not to conform to the Customer's requirements.
 20. The Customer shall not withhold payment for whatever reason and shall be obliged to accept and pay the Price for all Equipment which conforms to the Customer's Requirements.

OWNER'S LIABILITY

21. The Owner shall exercise reasonable skill and care to ensure that the Equipment and any drawings, designs, measurements or specifications provided by the Owner satisfies the Customer's Requirements subject to the following:
 - (a) The Owner shall have no liability whatsoever for any alleged failure of the Equipment or for any drawings, designs, measurements or specifications supplied by the Owner arising out of or in connection with any inaccurate, incomplete, conflicting or ambiguous information drawing design or specification supplied by the Customer and used by the Owner as the basis for providing the technical proposal forming part of the Quotation.
 - (b) The Owner shall be under no liability in respect of any defect arising from fair wear and tear, will full damage, negligence, abnormal working conditions, failure to follow the Owner's instructions (whether oral or in writing, misuse or alteration or repair of the Equipment without the Owner's approval.
 - (c) The Owner shall have no liability in relation to parts, materials or equipment not supplied by the Owner.
 - (d) The Owner shall have no liability for any alleged failure of the Equipment or any drawings, designs, measurements or specifications supplied by the Owner to satisfy the Customer's Requirements if such failure is not notified by the Customer to the Owner forthwith following the Equipment being delivered/collected as applicable.

(e) Of any kind or any economic loss suffered by the Customer as a result of the failure of the Equipment or any drawings, designs, measurements or specifications supplied by the Owner to conform to the Customer's Requirements including loss of profits, loss of business, loss of production, loss of goodwill or other consequential losses.

(f) The Owner shall have no liability if the Equipment is not fit for purpose and all other conditions, warranties, stipulations, and undertakings, whether express or implied unless specifically in terms of the Consumer Protection Act 2008 (Act No. 68 Of 2008)

(g) The Owner shall have no liability if the Customer breaches Clause 37 or any part thereof.

PAYMENT

22. In the case of Equipment for hire, the Owner will issue an invoice to the credit approved Customer for the Rental and any other amounts due in accordance with these conditions on the last working day of the month in which the Equipment is delivered or collected or in which other amounts become due and on the last working day of every month thereafter until the date the Equipment is returned to the Owner in accordance with these Conditions. Payment is due 30 (thirty) days from the date of the invoice. Time shall be of the essence in respect of the payment of all sums due hereunder.
23. The Owner may at any time stating their reasons withdraw with immediate effect the Customer's credit facility.
24. All payments due hereunder (if not made by direct debit or banker's order) shall be made to the Owner without any deduction or set-off for any alleged shortfall in delivery defect in quality or failure to conform to the Customer's Requirements or other breach of contract. Payment shall be made at the Company's address stipulated in the Quotation or such other address as the Owner may from time to time communicate to the Customer. EFT payments must be made into the Owners designated bank account, proof of such payment must be submitted to the official fax or email addresses. Time shall be of the essence in respect of the payment of all sums due hereunder. Any payments sent by post shall be so sent at the risk of the Customer.
25. The Customer expressly acknowledges and accepts that the Owner shall be entitled to revise the Rental (by such amount as the Owner shall in its absolute discretion determine) if costs of materials, labour or transport increase. Any such revision shall be notified by the Owner to the Customer not less than 2 (two) weeks before the date the revised Rental takes effect.
26. The Customer shall be liable for interest on all Rental and/o other amounts due in accordance with these Conditions which are paid late at the maximum rate possible as determined in terms of National Credit Act, 2005 (Act No.34 of 2005), The Customer agrees to pay all legal costs, including attorney and client costs, tracing agent's fees and collection charges which the Owner may incur in taking any steps pursuant to any breach or enforcement of these terms and conditions by the Customer whether legal proceedings are instituted.
27. The Price and any other amounts due in accordance with these Conditions is exclusive of VAT, if any, which shall be due at the rate prevailing on the date of the VAT invoice, and any other tax or levy which the Owner is or shall be liable to pay or collect.
28. In the event of any breach by the Customer of any term, warranty or condition of these conditions, the Customer shall if

required by the Owner pay any invoice rendered to the Customer immediately.

29. The Owner may appropriate any payment made by the Customer to such Equipment (including Equipment supplied under any other contract with the Owner) as the Owner may in its sole discretion think fit.

PROPERTY

30. In respect of Equipment for hire the Equipment shall always remain the property of the Owner and the Customer shall have no rights to the Equipment other than as hirer and the Customer shall not do or permit or cause to be done any matter or thing whereby the rights of the Owner in respect of the Equipment are or may be prejudicially affected
31. The specification(s) drawing(s) and design(s) relating to the Equipment (including copyright, design right or other intellectual property in them) shall as between the Parties be the property of the Owner. Where any designs, drawings or specifications has been supplied by the Customer then the Customer warrants that the use of those designs, drawings or specifications shall not infringe the right of any third party.
32. The Customer must not use the Equipment for any purpose for which they are not expressly designed. The Customer hereby agrees that it will not:
- (a) Without the prior written consent of the Owner effect any modification or make any alterations or additions to the Equipment; or
 - (b) Remove or interfere with any identification marks or plates affixed to the Equipment and not attempt or purport to do so or permit the same.

INSURANCE

33. In the case of Equipment for hire the Customer will throughout the period of the Contract, without prejudice to the liability of the Customer to the Owner, keep the Equipment insured with an insurance company of good repute against loss or damage from all risks (including third party risks) for the full replacement value of that Equipment. The Customer shall notify its insurers that the Equipment is on hire from the Owner and request the insurers to endorse a note of such interest on the policy of insurance naming the Owner as loss payee. The Customer shall on demand show the Owner evidence of the policy of insurance and shall not use or allow the Equipment to be used for any purpose not permitted by the terms and conditions of this policy. If the Customer makes a default in the payment of any premium in respect of the insurance or fails to take out the insurance required by this Clause, the Owner may pay such premium or premiums and recoup the cost of doing so from the Customer.
34. The Customer shall immediately notify the Owner if an event occurs which a risk is covered by the Customer's insurance which the Customer is obliged to take out under the Contract. The Customer shall indemnify the Owner against all loss or damage to the Equipment not recovered under the policy of insurance.

TERMINATION

35. (a) The Customer (being an individual) dies or suffers an interim order (within the meaning of the Insolvency Act No. 34 of 1936) to be made against him or enters a voluntary arrangement or suffers the making of a statutory demand or

the presentation of a petition for a bankruptcy order or make any arrangement or compromise with his creditors; or

- (b) The Customer (being a limited company) enters into compulsory liquidation or voluntary liquidation (not being voluntary liquidation for the purpose of reconstruction or amalgamation only the terms of which have previously been approved by the Owner in writing); or
 - (c) The Customer is placed under debt review applied for business rescue or entered into a Section 311-arrangement in terms of the new Companies Act No. 71 of 2008.
 - (d) Any distress, execution or other legal process shall be levied on or against the Equipment or any part thereof or against any Premises where the same may be: then any hire constituted by the Contract shall terminate without notice and no payment subsequently accepted by the Owner without knowledge of such termination shall in any way prejudice or affects the operation of this Clause.
36. If and on each occasion on which:
- (a) The Customer shall fail to pay any Rental or other sums payable under the Contract in full within 7 (seven) days after the same shall have become due; or
 - (b) The Customer shall commit a breach of any of the other terms of the Contract (if capable of being remedied) shall fail to remedy the breach within 14 (fourteen) days after notice in writing from the Owner requiring the same; or (c) The Customer shall do or cause to be done anything whereby the Owner's rights in the Equipment are prejudiced or put in jeopardy; or
 - (d) If the Owner so decides for any other reasonable cause; then the Owner shall have the right to terminate the Contract forthwith and for all purposes.
37. At the end of the hire of any Equipment or on earlier repudiation or termination in accordance with the Contract:
- (a) All Equipment must be returned to the Owner forthwith at its premises where the Equipment was originally supplied (unless otherwise specified by the Owner) in good repair and in a clean and sound condition (fair wear and tear only accepted) and the Customer shall ensure the safe-keeping, supervision and custody of the Equipment until it is returned or repossessed by the Owner. The Customer shall be responsible for the loading of all Equipment being returned in accordance with all relevant health and safety legislation and guidance. In the event the Owner does not in its opinion believe that the Equipment has been safely loaded the Owner has the right to send the same back to the Customer for safe loading in which case the period of hire will continue until the Equipment has been returned to the Owner in what the Owner in its sole discretion considers is a safe condition. The assessment of the condition of Equipment shall be made solely by the Owner acting reasonably whose assessment shall be binding on the Customer.
 - (b) The Customer shall fully reimburse the Owner for all charges and costs incurred by it for cleaning or repairing damaged or defective Equipment as notified to the Customer. The Customer shall pay the full replacement cost of Equipment listed in the Quotation for all lost or irreparable items as specified by the Owner, based on the Owner's price list current at the date of the repudiation or termination as appropriate.
 - (c) In the event that the Customer fails to return the Equipment within 14 (fourteen) days of being obliged to, the Owner may forthwith and without notice retake possession of such Equipment and for this purpose shall be entitled freely to enter into and upon any premises occupied by or under the control of the Customer. If the Equipment is situated on premises which are

- occupied or controlled by a third party, the Customer shall ensure that it has made enough arrangements with the third party to enable the Owner to enter onto such premises in order to exercise its right under this Clause to retake possession of the Equipment. Without prejudice to the Owner's rights to claim damages the Customer shall on termination or repudiation of that Agreement become immediately liable to pay to the Owner all arrears of Rental, any other amounts due in accordance with these Conditions and any other amounts due and payable and any costs and expenses incurred by the owner in locating, repossessing, and recovering or restoring the Equipment or collecting payments due under the Contract.
38. The Customer shall not be entitled to claim loss of profit or breach of contract in respect of any termination of these Conditions.

SUBCONTRACTING AND ASSIGNMENT

39. The Owner, but not the Customer, may assign sub-contract or sublet these conditions or the Equipment or any part thereof and the Customer shall ensure that all Equipment hired from the Owner remains on the agreed site until returned to the Owner unless otherwise expressly agreed by the owner.

MISCELLANEOUS

40. The Owner has designed, manufactured or procured the manufacture of and supplied the Equipment for and to the Customer based on the written undertaking herein that the Customer will ensure that the Equipment will be safe and without health risks when being set, used, cleaned or maintained by the Customer, its employees and/or third party and on the basis that the Owner is relieved from its duty under any relevant legislation, as is reasonable.
41. The Owner will not be liable to the Customer in any civil proceedings brought by the Customer against the Owner under any health and safety legislation and regulations where such exclusion of liability is permitted by law.
42. The Customer shall indemnify and keep indemnified the Owner in respect of any liability, in respect of or in connection with the Equipment incurred directly by the Owner under and relevant legislation.
43. The rights and remedies of the Owner shall not be diminished, waived or extinguished by the granting of any indulgence or forbearance or extension of time by the Owner or by any failure or delay by the Owner in asserting or exercising any such rights or remedies.

44. The Customer agrees that the Owner may cede or transfer its rights under this contract and its ownership in the goods and in so far as such consent may be necessary, the Customer agrees upon such cession of transfer to hold the goods on the basis that ownership therein has passed to the cessionary or transferee subject otherwise to the terms of this contract and to the extent to which this clause may be construed as a stipulation alter in favour of such cessionary or transferee, the Customer agrees that the acceptance of cession of this contract by the cessionary or the transferee shall constitute an acceptance by the cessionary.
45. The Customer consents in terms of Section 45(1) of the Magistrates Court Act No. 32 of 1944 as amended in respect of any proceedings which may be instituted against it by the Owner arising out of or in connection with this Contract, to the jurisdiction of any Magistrates Court which at the time of such proceedings has jurisdiction over it in terms of Section 28(1) of the said Magistrates Court Act. Notwithstanding a foregoing the Customer specifically agrees that the Owner may in its sole discretion disregard a foregoing consent to jurisdiction and institute any proceedings arising out or in connection with this Contract in the Supreme Court of South Africa having jurisdiction.
46. A certificate under the hand of any director, any manager or secretary of the Owner stating that any sum or sums is/are due and payable by the Customer to the Owner in terms of this Contract or stating the amount of any costs, charges or expenses considered in determining the amount of any claim in favour of the Owner against the Customer in terms of this Contract shall be admissible in any court of law and constitute prima facie proof of the contents thereof and shall constitute a liquid document for the purposes of summary judgment or provisional sentence.
47. If any provision in the Contract shall be held to be void, illegal, invalid or unenforceable in whole or in part under any enactment or rule of law such provision or part shall to that extent be deemed not to form part of the Contract but the legality, validity and enforceability of the remainder of such agreement shall not be affected.
48. Nothing in the Contract shall confer or purport to confer on any third party any benefit or right to enforce any term of the Contract in any way whatsoever.
49. The Contract shall be governed and construed in all respects in accordance with the laws of the Republic of South Africa and the Owner and Customer irrevocably submit to the exclusive jurisdiction of the South African Court.

I hereby certify that I am duly authorised to sign this application, a copy of which has been handed to me, and record that we agree to the terms and conditions stated therein and acknowledge that all business will be conducted in terms of the Terms and Condition, which have been specifically brought to my attention and by which we hereby agree to be bound. I acknowledge having received a copy of the Standard Terms and Conditions.

Authorised Signature _____

Name (please print) _____

Witness _____

Designation _____ Date _____

