

## APPLICATION TO OPEN AN ACCOUNT

### SECTION A:

(To be completed by ALL applicants) (Hereinafter referred to as "the Credit Applicant")

<b>BUSINESS NAME / NAME OF CREDIT APPLICANT:</b>

Does the Credit Applicant trade under any other name/s?				YES	NO
If yes, please specify:					
Private	Partnership	Company (Pty) Ltd	Close Corporation (cc)	Trust	
VAT Number:		Company Number:		Company Date Registered:	
Physical Address:			Postal Address:		
Office Tel:		Office E-mail:		Cell No:	
Finance Contact Name:			Finance E-mail Address:		
Are the Applicant's business premises rented?				YES	NO

### Who are the Auditors / Accounting Officer of the Credit Applicant?

Name of Accountant:		Office Tel:	
Contact Person:		Address:	

### Details of Applicant's Banker:

Bank Name:		Branch Code:		Account Number:	
Account Name:			Date when account opened:		

#### Trade References: 1

Company Name:		Contact name:		Amount:	
Date Account opened:		Tel:		E-mail address:	

#### Trade References: 2

Company Name:		Contact name:		Amount:	
Date Account opened:		Tel:		E-mail address:	

#### Trade References: 3

Company Name:		Contact name:		Amount:	
Date Account opened:		Tel:		E-mail address:	

Who are the Directors / Members / Trustees of the Company / Close Corporation / Trust?			
Full Name & Surname	ID number	Address	Contact Number
Have any of the directors/members/trustees ever been declared insolvent			YES   NO
Has the company ever	Yes/ No	From date	Until date
Been placed under judicial management? Been placed under provincial liquidation? Ever been sequestrated?			
Wil the Directors/Members be prepared to supply guarantees, If required			YES   NO

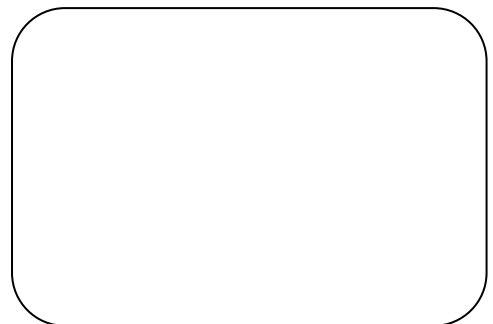
SECTION B: (To be completed by private individual / sole proprietor)					
Identity Number:			Male	Female	
Not Married	Married	Identity Number of Spouse:	In Community of Property	YES	NO
Full name of spouse:			Identity Number of Spouse:		
Have you ever been declared Insolvent?			YES	NO	

SECTION C: Credit request
Approx total purchase per month request:

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 Conditions, 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.

Company Stamp

Authorised Signature \_\_\_\_\_  
 Name (please print) \_\_\_\_\_  
 Witness \_\_\_\_\_  
 Designation \_\_\_\_\_ Date \_\_\_\_\_



**DEED OF SURETYSHIP**

I, the undersigned \_\_\_\_\_ (Full Names),

ID No: \_\_\_\_\_, by my signature do hereby interpose and bind myself jointly and severally unto and in favour of SA Scaffold its orders or assigns, as surety and co-principal debtor with the aforesaid applicant for the due and punctual payment by The Customer to SA Scaffold of any amount, which is now, or, which may here after become owing by The Customer to SA Scaffold from any cause of indebtedness however arising.

I hereby choose as my domicilium address, the address as reflected in page 1 of the face of the application, being the address at which I shall accept services of all legal processes and documents.

SIGNED at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

Authorised Signature \_\_\_\_\_

Name (please print) \_\_\_\_\_

Witness \_\_\_\_\_

Designation \_\_\_\_\_ Date \_\_\_\_\_

**AS SURETY AND CO-PRINCIPAL DEBTOR**

Authorised Signature \_\_\_\_\_

Name (please print) \_\_\_\_\_

Witness \_\_\_\_\_

Designation \_\_\_\_\_ Date \_\_\_\_\_

**STANDARD TERMS AND CONDITIONS APPLICABLE TO ALL AGREEMENTS FOR THE HIRE, SALE, MINING, MANUFACTURING, OR SERVICES RENDERED (ERECTION AND DISMANTLING) BY SA SCAFFOLD GROUP OF COMPANIES**

**GENERAL TERMS**

**DEFINITIONS**

1. **"SA SCAFFOLD"** means the following:
  - a. SA SCAFFOLD HIRE (PTY) LTD REG NO: 2017/095827/07;
  - b. SA SCAFFOLD SALES (PTY) LTD REG NO: 2017/526602/07;
  - c. SA SCAFFOLD MANUFACTURING (PTY) LTD REG NO 2015/027331/07;
  - d. SA SCAFFOLD MINING (PTY) LTD REG NO: 2010/021334/07;
  - e. DANIRO FORMWORK (PTY) LTD REG NO: 2019/209015/07
2. **"Customer"** means the company hiring, or purchasing the equipment or services rendered to from SA Scaffold and includes natural persons, juristic persons, associations of persons, trusts, joint ventures, and any other entity.
3. **"Customer Requirements"** means those requirements set out in the technical proposal forming part of the Quotation
4. **"Equipment"** means any item of whatsoever nature that is supplied to the customer in terms of an agreement, alternatively means all plant, machinery, equipment and components which the Company agrees to hire or sell to the Customer
5. **"Owner"** means SA SCAFFOLD GROUP
6. **"Quotation"** means the quotation attached to these Conditions.
7. **"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 as well as all other quoted prices which include but are not limited to P's & G's, labour, transport, safety files etc., both as stated in the Quotation or as otherwise agreed between the Customer and SA Scaffold from time to time, ALTERNATIVELY means the purchase price in the case of all equipment for purchase as stated in the Quotation or as otherwise agreed between the Customer and SA Scaffold.
8. **"AGREEMENT"** means (i) any acceptance by the customer of a quotation ("offer") submitted by SA SCAFFOLD GROUP or (ii) any order placed by the customer in response to a quotation ("offer") by SA SCAFFOLD GROUP.

**INTERPRETATIONS**

9. Headings will not affect the construction of these Conditions.
10. These standard Terms and Conditions shall apply to all agreements for the hire of Equipment by SA Scaffold to the customer, where applicable to the manufacturing and sale of equipment by SA Scaffold to the customer, where applicable to the rental of equipment or machines by SA Scaffold to the customer and where applicable to the rendering of services and lease of equipment by SA Scaffold to the customer save where specifically stated otherwise.
11. The Customer acknowledges that a copy of these standard Terms and Conditions has been furnished to him, alternatively that it may request a copy and that he is acquainted with and accepts the terms and conditions contained therein.
12. These contracts of hire of equipment and/or supply of equipment by SA Scaffold to the Customer and no terms or conditions appearing in any of the Customer's documents, including the Customer's buying order, which are at variance with these conditions shall be binding on SA Scaffold unless specifically agreed to in writing by SA Scaffold.

**QUOTES AND ORDERS**

13. The Quotation and these Conditions comprise all the terms of sale or hire or manufacturing or erection and dismantling between SA Scaffold and the Customer 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 SA Scaffold 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 SA Scaffold unless agreed to and signed in writing by a director of SA Scaffold.
14. No conduct of SA Scaffold or any of its employees shall constitute acceptance of any terms put forward by the Customer in terms of email communication, verbal instructions or the like, and no addition to or variation of these Conditions shall be binding on SA Scaffold unless agreed to and signed in writing by a director of SA Scaffold.
15. A verbal or e-mailed instruction by the Customer to deliver Equipment noted in the Quotation will constitute acceptance of the Quotation and these Terms and Conditions. It is the sole and absolute responsibility of the customer to verify the details of the order and to notify SA Scaffold of mistakes, in writing, immediately within 24 hours.
16. Any Quotation given by SA Scaffold is valid for 14 (fourteen) days only from its date provided that SA Scaffold has not previously withdrawn it, and subject to the availability of stock.

17. SA Scaffold hereby sells or hires to the Customer the Equipment at the Price upon the terms and subject to these Conditions hereinafter appearing.
18. Quotations are subject to the availability of raw materials, hired stock, and stocks of any Equipment at the time of manufacture and or delivery.
19. Should any order be given to the SA Scaffold on an order form reflecting the Customers name as the entity from which the order emanates, such order shall be deemed to have emanated from the Customer, notwithstanding the fact that such order may have been given or signed by a person not authorized by the Customer and such order will be deemed to constitute a valid order.
20. All products supplied at SA Scaffold's ruling price list on the date of dispatch from the factory and not in terms of earlier quotations or prices at the date of order, irrespective of method of delivery.
21. SA Scaffold is a supplier and shall not be considered to be a contractor or sub-contractor or in any other way be bound by the terms of any other agreement or contractual document to which SA Scaffold is not directly a party too.
22. No order accepted by SA Scaffold shall be varied or cancelled by the Customer except with the written consent of SA Scaffold.
23. The Customer agrees to pay all costs resulting from any acts or omissions of the Customer including but not limited to, suspension of supply of Products, modification of requirements, requirements that work be completed earlier than agreed or failure or delay in giving particulars required to enable work to proceed on schedule.
24. SA Scaffold shall have the right, in its sole discretion, to appoint subcontractors and to provide alternative products.
25. No representations regarding the condition, quality, state or suitability of the equipment are binding on SA Scaffold unless those representations have, been reduced to writing and signed on behalf of a director of SA Scaffold
26. All specifications, illustrations, advertisements, brochures and other technical data furnished by SA Scaffold in respect of the equipment, and whether in writing or not, are furnished for information proposes only and shall not form part of the contract or be relied upon by the customer for any purpose, unless and to the extent that they are expressly warranted or guaranteed in writing by SA Scaffold and accordingly expressly incorporated, same shall not form part of the agreement nor bind SA Scaffold in any manner whatsoever and the customer admits he has not been induced to enter into the agreement thereby.

## DELIVERY AND RISK

27. SA Scaffold shall provide the dates and times of delivery of equipment in good faith and shall not be liable to the Customer for any subsequent variations nor shall the customer be entitled to terminate the agreement by reasons of SA Scaffold's failure to deliver or have available for collection by the agreed date.
28. Any delivery of Equipment by SA Scaffold to the Customer shall be deemed to be completed when the Products are off-loaded at the delivery address of the Customer, failing which, the premises of the Customer, or when the Equipment are handed over to the third party engaged to transport the Equipment on behalf of the Customer.
29. The risk in all Equipment delivered by SA Scaffold shall pass to the Customer as soon as the Equipment leaves SA Scaffold's premises. The risk in all Equipment collected by Customer from SA Scaffold's premises will pass to the customer immediately on collection. The Risk in all equipment collected by third party transport on behalf of the Customer shall pass to the Customer as soon as the equipment leaves SA Scaffold's premises, notwithstanding the fact that ownership may remain vested in SA Scaffold's until payment is received in full of the contract price
30. 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. SA Scaffold'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.
31. The Customer shall provide suitable access roads to and level ground at the point of off-loading at the delivery address or premises of the Customer, unless otherwise agreed.
32. Delivery will be in full economical loads and at one point only. SA Scaffold will under no circumstances string Products on site or at the point of delivery.
33. If SA Scaffold agrees to engage a third party to transport the Products, SA Scaffold is hereby authorised to engage, at the cost of the Customer, such third party on the Customer's behalf and on the terms deemed fit by SA Scaffold. The Customer indemnifies SA Scaffold and holds it harmless against any claims that may arise from such agreement.
34. The signature of any employee or representative of the Customer on SA Scaffold's Delivery Note (copy or original) shall be prima facie proof that the type and quantity of Products, manufactured to the correct specifications, were properly delivered to and accepted by the Customer.
35. If the Customer fails to collect the Equipment within 2 (two) days of the Customer's notice given and he has

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not concluded an agreement with SA Scaffold that SA Scaffold will deliver the Equipment, then SA Scaffold may consider the Customer's failure as a repudiation of the contract with immediate effect, in which case SA Scaffold may:

36. Recover from the Customer all losses caused by the Customer's breach;
  - i. Retain any payment made by the Customer before termination of the Contract;
  - ii. Recover from the Customer the cost of hiring the Equipment for the minimum 1-4 week period referred to above; and
  - iii. Hire the Equipment to somebody else.
37. If the Customer disputes the quantity of equipment delivered then the customer must before 17:00 on the same day, inform SA Scaffold exactly of the equipment that has been short delivered and specify same on the original delivery note.
38. SA Scaffold in the event of a dispute delivery may on 8:00 on the following day send out a representative to conduct a recount of the equipment with the Customer to confirm or reject same, within 48 hours from date of dispute.
39. SA Scaffold's representative recount will be a final binding and *prima facie* proof of the delivery.
40. In the event that the delivery was indeed a short delivery SA Scaffold may in its sole and absolute discretion either within 7 days:
  - i. Make good the shortfall by one or more deliveries; or
  - ii. Reduce the Price pro rata to the Contract quantity.
41. 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.
42. SA Scaffold shall be entitled, in its sole discretion, to split the delivery of Products in quantities, on the dates and at the times it decides, and to invoice separately each delivery actually made.
  - a. SA Scaffold will prepare an Equipment delivery note for each delivery or collection describing the Equipment forming part of that delivery or collection.
  - b. At the time of such delivery, a copy of the delivery note will be given to the Customer and shall constitute proof of delivery of the Equipment.
  - c. At the time of a collection of material on site, SA Scaffold will prepare a return note via email 72 hours after collection. The yard count will constitute prima facia proof of the return of equipment and will be deemed correct and final.

#### **DURATION OF HIRE**

43. In Respect of any hiring of equipment, hiring will commence on the date the equipment leaves SA

Scaffold's premises for delivery to the customers site or delivery address named in the quotation or the date on which the equipment is made available for collection by SA Scaffold to its agents, and shall continue until the equipment is returned. The customer must hire the equipment for a minimum period of 1 week.

#### **PAYMENT**

44. Hire charges will be calculated on a daily basis and charges weekly (7days) and invoices shall be issued monthly for the period in question.
45. Hire Charges will be continued to be charged and payable after termination of the agreement until the equipment is returned by the customer to SA Scaffold.
46. Hire charges are payable in cash by the customer to SA Scaffold within 30 (thirty) days from the date of the monthly statement to be sent by SA Scaffold to the customer.
47. The Customer shall pay to SA Scaffold the full amount reflected in the tax invoice issued by SA Scaffold:
  - a. promptly upon presentation of the Provisional Invoice to the Customer; or
  - b. in the case of a Credit Approved Customer, within 30 (thirty) days from the date of the tax invoice.
48. Payment may be transferred to the following bank account:
  - a. Acc Name: SA Scaffold Manufacturing  
Acc number: 410921491  
Branch code: 051001  
Bank: Standard Bank
  - b. Acc name: SA Scaffold Hire  
Acc number: 011799080  
Branch code: 051001  
Bank: Standard Bank
  - c. Acc name: SA Scaffold Mining  
Acc number: 012453684  
Branch code: 051001  
Bank: Standard Bank
  - d. Acc name: SA Scaffold Sales  
Acc number: 310412609  
Branch code: 051001  
Bank: Standard Bank
  - e. Acc name: Daniro Formwork  
Acc number: 62813709633  
Branch code: 250655  
Bank: First National Bank
49. The Customer hereby confirms that the equipment or services on any Tax Invoice issued duly represent the equipment ordered by the Customer at the prices agreed to by the Customer and, where delivery/performance has already taken place, that the Equipment were inspected and that the Customer is satisfied that these conform in all respects to the quality and quantity ordered and are free from any defects. All Equipment delivered shall

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- be deemed to be in order as aforesaid unless the Customer has given SA Scaffold written notification in terms of clause 37 herein above.
50. Any item delivered to SA Scaffold shall serve as a pledge in favor of SA Scaffold for present and past debts and SA Scaffold shall be entitled to retain or realize such pledges as it deems expedient at the value as determined by any independent valuator the sworn or realized value of pledged Equipment will be offset against the Customer's debts and any excess balance will be paid to the Customer.
  51. The Customer shall not withhold payment and agrees that no extension of payment shall be normally be extended to the Customer and any such extension will not be applicable or enforceable unless agreed to by SA Scaffold, reduced to writing and signed by the Customer and a duly authorized representative of SA Scaffold.
  52. The Customer is not entitled to set off any amount due to the Customer by SA Scaffold against any debt whatsoever.
  53. A certificate under the hand of any director, any manager or secretary of SA Scaffold stating that any sum or sums is/are due and payable by the Customer to SA Scaffold 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 SA Scaffold 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.
  54. The Customer agrees that interest may be levied at the maximum permissible interest provide for by legislation from time to time on any moneys due to SA Scaffold and that interest shall be calculated daily and compounded monthly from the date of acceptance of the order, in the event of the Customer having breached any condition contained herein or if otherwise provided. This does not derogate from Sa Scaffold's right ,to charge mora interest at the legal rate once a letter of demand has been addressed to the customer placing the customer in *mora* and calling for payment on overdue accounts
  55. The Customer agrees that if an account is not settled in full
    - a. against order; or
    - b. within the period agreed above in the case of a Credit Approved Customer, SA Scaffold is:
      - i. entitled to immediately institute action against the Customer at the sole expense of the Customer, or
      - ii. to cancel the agreement and take possession of any Equipment delivered to the Customer and claim damages,
        - iii. to enforce and exercise any *lien* over any item or Equipment of the Customer on which behalf Equipment were delivered and or services were rendered and or other Equipment of the Customer as stated herein until all amount owing by the Customer have been paid in full.
  56. These remedies are without prejudice to any other right SA Scaffold may be entitled to in terms of this agreement or in law. SA Scaffold reserves its right to stop supply immediately on cancellation or in the event of non-payment.
  57. In the event of cancellation, the Customer shall be liable to pay:
    - a. the difference between the selling price and the value of the Equipment at the time of repossession and
    - b. all other costs incurred in the repossession of the equipment. The value of repossessed or retained pledged equipment shall be deemed to be the value placed on them by any sworn valuator after such repossession and such valuation shall be conclusive proof of the value. If the equipment are not recovered for any reason whatsoever, the value shall be deemed to be nil.
  58. SA Scaffold may enter the Customer's premises to repossess any equipment delivered and SA Scaffold shall not be liable for any damage relating to the removal of repossessed equipment, which might be cause by its agents or representatives.
  59. All equipment supplied by SA Scaffold remain the property of SA Scaffold until such equipment have been fully paid for whether such equipment are attached to other property or not. Upon the delivery or tender thereof, any risk to any equipment shall pass to the Customer.
  60. The Customer is not entitled to sell or dispose of any equipment unpaid for without the prior written consent of SA Scaffold. The Customer shall not allow the equipment to become encumbered in any manner prior to the full payment thereof and shall advise third parties of the rights of SA Scaffold in the equipment.
  61. If any equipment supplied to the Customer are of a generic nature and have become the property of the Customer by operation of law, the Customer shall be obliged on notice of cancellation of the agreement to retransfer the same quantity of equipment in ownership to SA Scaffold.
  62. The Customer shall be liable to SA Scaffold for all legal expenses on the attorney-and-own Customer



- scale of an attorney and counsel incurred by SA Scaffold in the event of
- a. any default by the Customer or
  - b. any litigation in regard to the validity and enforceability of this agreement.
63. The Customer shall also be liable for any tracing, collection or valuation fees incurred as well as for any costs, including legal fees on an attorney and own Customer basis, for any form of security that SA Scaffold may demand.
64. SA Scaffold may at any time stating their reasons withdraw with immediate effect the Customer's credit facility.
- a. Without the prior written consent of SA Scaffold 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;
  - c. be entitled to remove the equipment from the original address where the equipment was delivered;
  - d. have the equipment subject to any attachment; liens or any form of encumbrance whatsoever;
  - e. Sell or dispose the equipment;
  - f. Alter or modify the equipment.
65. SA Scaffold or its appointees shall be entitled to inspect the equipment at all reasonable times and, for that purpose, shall be entitled to enter upon the premises upon which the equipment is kept.
66. The Customer shall keep the equipment in good order and at its own costs, repair all damage to the equipment failing which SA Scaffold shall be entitled to effect such repairs and recover the costs thereof from the customer whether during the currency of the lease or after its termination.
67. All payments due hereunder (if not made by direct debit or banker's order) shall be made to SA Scaffold 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 SA Scaffold's address stipulated in the Quotation or such other address as SA Scaffold may from time to time communicate to the Customer. EFT payments must be made into SA Scaffold's designated bank account, proof of such payment must be submitted to the official email addresses. Time shall be of the essence in respect of the payment of all sums due hereunder.
68. Unless otherwise instructed in writing, SA Scaffold is entitled in its absolute and sole discretion to appropriate monies paid by the customer towards any debt to it.
69. In the event that the customer fails to make timeous payments on due date of any amount owing to SA Scaffold, all and any amounts owing to SA Scaffold shall immediately become due owing and payable forthwith, notwithstanding that any applicable credit

periods in respect thereof have not yet expired and the monies would otherwise be due and payable.

70. The customer shall not be entitled to withhold payment of any amount under any circumstances where it alleges that SA Scaffold failed to comply with any of its obligations in terms of the agreement. The customer irrevocably waives its right to rely on set-off.

## INSURANCE

71. 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 SA Scaffold, 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 SA Scaffold and request the insurers to endorse a note of such interest on the policy of insurance naming SA Scaffold as loss payee. The Customer shall on demand show SA Scaffold 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, SA Scaffold may pay such premium or premiums and recoup the cost of doing so from the Customer.
72. The Customer shall immediately notify SA Scaffold 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 SA Scaffold against all loss or damage to the Equipment not recovered under the policy of insurance.

## RETURN

73. On termination of the hire agreement the customer shall ensure that the equipment are returned to the premises determined by SA Scaffold. The equipment shall be properly cleaned and oiled and in the condition initially delivered, fair wear and tear are alone expected.
74. If the transport of the equipment to the said premises is undertaken by SA Scaffold, the equipment shall be transported at the sole and absolute risk of the customer irrespective whether the transport is undertaken by SA Scaffold or by a third party. Under no circumstances shall SA Scaffold be liable for any damage or risk in the transportation of the equipment.
75. Without derogating from the provisions of the preceding clause and while any amount is still payable to SA Scaffold, SA Scaffold shall be entitled to immediately repossess the equipment in the event of the any one of the following events occurring:

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- a. the estate of the customer be provisionally liquidated or finally liquidated, alternatively the estate is provisionally or finally sequestrated;
  - b. The customer commits an act of insolvency as defined in the insolvency Act, alternatively the customer enters into a compromise with its creditors;
  - c. The Customer files a resolution in terms of Section 129 of the Companies Act to start business Rescue (voluntary) alternatively an application is launched in terms of Section 131 of the Companies Act to start business rescue (court based business rescue)
76. Should SA Scaffold refer the matter to its attorneys and/or collection agents for collection pursuant to a breach by the customer of this agreement, then, without, prejudice to any of its rights which SA Scaffold may have, SA Scaffold shall be entitled to recover from the customer all legal fees, collection fees, tracing fees, disbursements and counsels fees incurred by it from date of handover on the scale as between attorney and own client.
77. In the event of the sale of equipment, If the Customer inspects the Equipment and finds all or any of them do not comply with the standards set by the South African Bureau of Standards or that they have been incorrectly delivered ("the Returnable Material(s)"), then the Customer may return the Returnable Material(s) within 15 (fifteen) days of the date of delivery at its own cost and in the original packaging with the Delivery Note endorsed with details of the complaint.
78. SA Scaffold shall have the right, in its sole discretion, to accept or refuse to grant credit for or to repair or replace the Returnable Material(s).
79. In the event of sale of equipment, Subject to clause 85, the Customer shall not return any Equipment except at the sole discretion of SA Scaffolding and in accordance with a written agreement with SA Scaffolding.
80. New Equipment are guaranteed according to SA Scaffold's product specific warranties or agreed specification only and all other guarantees including common law guarantees are hereby specifically excluded.
81. No claim under this agreement shall arise unless the Customer has, within 3 days of the alleged breach or defect occurring, given SA Scaffolding 30 days written notice by prepaid registered post alternatively email to rectify any defect of breach of the agreement.
82. To be valid, claims must be supported by the original delivery note and invoice.
83. SA Scaffold 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.

#### **CESSION, SUBCONTRACTING AND ASSIGNMENT**

84. SA Scaffold, 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 SA Scaffold remains on the agreed site until returned to SA Scaffold unless otherwise expressly agreed by SA Scaffold.
85. The customer shall not be entitled to cede, assign or transfer any of its rights or obligations in terms of this agreement without the prior written consent of SA Scaffold.
86. The customer agrees that SA Scaffold may cede, assign or transfer its rights under any agreement, and its ownership in the equipment hereby hired and agrees upon such cession or transfer to hold the equipment on the basis that the ownership therein has passed to the cessionary or transferee subject otherwise to the terms of the agreement. To the extent that this clause may be construed as an agreement in favour of a third party in favour of such cessionary or transferee, the customer agrees that the acceptance of cession of this agreement by the cessionary or the transferee shall constitute an acceptance by the cessionary or transferee of the benefits arising out of this clause and agreement.
87. The Customer does hereby irrevocably and in rem suam cede and pledge, in securitatem debiti, unto and in favour of SA Scaffold, all of its right, title, interest, claim and demand in and to all claims/debts/book debts of whatsoever nature and description and howsoever arising (collectively referred to as "the Debts") which the customer may now or at any time hereafter have against all and any persons, companies, corporations, firms, partnerships, associations, syndicates and other legal personae whomsoever (collectively referred to as "the Customer's debtors") without exception as a continuing covering security for the due payment of every sum of money which may now or at any time hereafter be or become owing by the customer to SA Scaffold from whatsoever cause or obligation howsoever arising which the customer may be or become bound to perform in favour of SA Scaffold.
88. Notwithstanding the terms of the foregoing cession the customer is hereby authorised by SA Scaffold, until such authorisation is revoked by SA Scaffold by notice in writing to the customer to institute action, in its own name, against any of the customer's debtors provided that all sums of money which the customer collects from the Customer's debtors shall be collected on the

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SA Scaffold 's behalf and provided further that SA Scaffold shall at any time be entitled to terminate the customers right to collect the customer's debtors.

89. The Customer agrees that SA Scaffold may cede or transfer its rights under this contract and its ownership in the equipment and insofar as such consent may be necessary, the Customer agrees upon such cession of transfer to hold the equipment 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 altering in favor 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 or transferee of the benefits arising out of this contract.

## COMPANIES LIABILITY

90. SA Scaffold shall exercise reasonable skill and care to ensure that the Equipment and any drawings, designs, measurements or specifications provided by SA Scaffold satisfies the Customer's Requirements subject to the following:
- i. SA Scaffold shall have no liability whatsoever for any alleged failure of the Equipment or for any drawings, designs, measurements or specifications supplied by SA Scaffold 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 SA Scaffold as the basis for providing the technical proposal forming part of the Quotation;
  - ii. SA Scaffold shall be under no liability in respect of any defect arising from fair wear and tear, willful damage, negligence, abnormal working conditions, failure to follow SA Scaffold's instructions (whether oral or in writing, misuse or alteration or repair of the Equipment.);
  - iii. SA Scaffold shall have no liability in relation to parts, materials or equipment not supplied by SA Scaffold;
  - iv. SA Scaffold shall not be liable for any damage to property of any kind or any economic loss suffered by the Customer as a result of the failure of the 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 SA Scaffold's address stipulated in the Quotation or such other address as SA Scaffold may from time to time communicate to the Customer. EFT payments must be made into SA Scaffold designated bank account; proof of such

payment must be submitted to the official email addresses. Time shall be of the essence in respect of the payment of all sums due hereunder.

91. The Customer shall be liable for interest the prescribed *moratorium* interest rate after demand on all invoices and/or other amounts due in accordance with these Conditions. The Customer agrees to pay all legal costs, including attorney and own client costs, tracing agent's Fees and collection charges which SA Scaffold may incur in taking any steps pursuant to any breach or enforcement of these terms and conditions by the Customer whether or not legal proceedings are instituted.
92. 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 SA Scaffold is or shall be liable to pay or collect.
93. In the event of any breach by the Customer of any term warranty or condition of these conditions, the Customer shall if required by SA Scaffold pay any invoice rendered to the Customer immediately.
94. SA Scaffold may appropriate any payment made by the Customer to such Equipment (including Equipment supplied under any other contract with the Company) as SA Scaffold may in its sole discretion deem fit.
95. In the event that the equipment is expressly warranted by SA Scaffold then the customer undertakes to specifically follow SA Scaffold's specified steps to ensure that as far as is reasonably possible and practical that the equipment will comply with all prescribed requirements and will be safe and without risk to health when properly used. It is agreed that the undertaking shall have the effect of relieving SA Scaffold from the duty imposed upon it by the provisions of section 10 of the occupational health and safety Act of 1993.
96. The Company 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)
97. If any non standard stock Products, or any part of them, are required by the customer which are to be supplied in accordance with specifications, measurements and/or other instructions furnished by the customer. The customer shall not have any claim of whatsoever nature against SA Scaffold should such products not comply with the customers requirements due to incorrect and/or inaccurate specifications, measurements and/or other instructions being furnished by the customer to SA Scaffold is generally not able to supply such Products as aforesaid.
98. Under no circumstances shall SA Scaffold at any time or for any cause whatsoever be held liable for any damage or loss or for any claims for consequential loss or/and damage including but not limited to loss of

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profits, loss of business, loss of production, loss of goodwill or other consequential losses which may be sustained by the customer arising from the design criteria, drawings, measurements, or specifications supplied by SA Scaffold to conform to the Customers Requirements or in connection with this contract and/or equipment, and the customer hereby indemnifies SA Scaffold and hold it harmless against all such claims.

## WARRANTIES AND GUARANTEES

99. No Warranty whether express or implied as to the condition, state, quality or suitability of the equipment is given by SA Scaffold unless such warranty is in writing and signed on behalf of SA Scaffold.
100. The Customer expressly acknowledges and accepts that SA Scaffold shall be entitled to revise the Rental (by such amount as SA Scaffold shall in its absolute discretion determine) if costs of materials, labour or transport increase. Any such revision shall be notified by SA Scaffold to the Customer not less than 2 (two) weeks before the date the revised Rental takes effect.

## OWNERSHIP & PROPERTY

101. In Respect of the Equipment for sale, ownership in such Equipment shall not pass to the Customer until payment of the Price in full in accordance with these Conditions, and has been received by SA Scaffold.
102. Until ownership in the Equipment for sale passes to the Customer in accordance with these Conditions, the Customer shall hold them as Bailee for SA Scaffold and shall store them separately.
103. 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 SA Scaffold. 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.
104. The Customer indemnifies SA Scaffold and holds it harmless against any claims, costs and expenses arising.
105. In respect of Equipment for hire the Equipment shall always remain the property of SA Scaffold 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 SA Scaffold in respect of the Equipment are or may be prejudicially affected.
106. 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 SA Scaffold.

107. The Customer must not use the Equipment for any purpose for which they are not expressly designed for. The Customer hereby agrees that it will not.
108. Any damage whatsoever caused by the equipment during transportation and notwithstanding that such damage was caused by any act or omission of any employee or agent of SA Scaffold or the third party.
109. When the equipment is collected by SA Scaffold or a third party for the removal of the said premises, a receipt of the equipment received for transportation shall be provided by SA Scaffold to the person who hands over the equipment for that purpose. The receipt shall contain a brief description of the equipment and contain notes of any visible damage thereto. The person handling the equipment over for transportation shall sign the receipt and shall be deemed to have the authority to sign such a receipt on behalf of the customer. Unless objection against the correctness of the entries on the receipt is made in writing by the customer before 17:00 on the following day the issue of the receipt, the contents of the receipt, the content of the receipt shall be deemed to be correct and the customer bound thereby.
110. The report of the Assessor shall be final and binding on the customer and will be considered *prima facie* proof of fact and condition of the equipment.
111. In the event of equipment being lost or, in the sole discretion of SA Scaffold, damaged beyond repair, or in the event of the customer failing to return the equipment when obliged to do so, the customer shall be obliged to pay SA Scaffold, on demand, the replacement costs of such equipment, which costs shall be determined on the date on which the equipment are returned, or where applicable the date on which SA Scaffold ascertains that the equipment are lost or that the customer failed to return them. The customer acknowledges that the letting of the equipment constitute a major part of the business of SA Scaffold and that the costs of replacement represent a genuine and agreed pre-estimate of damages suffered by SA Scaffold as a result of the loss or destruction of the equipment or the customer's failure to return same.
112. Upon payment of the equipment that was damaged beyond repair by the customer, the customer is not entitled to the "scrap" equipment due to the nature of SA Scaffold's business and ownership remains vested in SA Scaffold.

## BREACH

113. In the event of the customer failing to pay any invoice on due date or in the event of the customer failing to comply with any of its obligations in terms of this agreement SA Scaffold shall be entitled to

- a. Either to insist of specific performance alternatively, specific fulfillment of its obligations by the customer, further alternatively;
  - b. Without notice to the customer cancel the agreement, repossess the equipment and claim arrear hire charges and such damages as it may suffer as a result of the breach.
114. In the event of SA Scaffold being unable to repossess the equipment because they have been lost or due to the customer being unable to return the equipment to SA Scaffold or in the event of repossessed equipment, in the sole and absolute discretion of SA Scaffold, being damaged beyond repair the parties agree that the damage suffered by SA Scaffold shall be the costs to replace the equipment. Upon payment of the costs of replacement SA Scaffold shall be entitled to sell such equipment at a price determined by SA Scaffold and to credit the Customers account with the nett proceeds of such sale.
115. If the equipment repossessed by SA Scaffold, have to be transported to SA Scaffold's premises this shall be done at the risk and at the costs of the customer irrespective of whether the transport is undertaken by SA Scaffold or a third party. Under no circumstances shall SA Scaffold be laible for any damage whatsoever caused to the Equipment during transportation and notwithstanding that such damage was caused by any act or omission of any employee or agent of SA Scaffold or the third party.
116. Upon receipt of the equipment at the said premises of SA Scaffold shall without delay and within 72 hours prepare a return note reflecting the equipment returned and a brief description of the condition in which each item is returned, subject to clause 42 herein above.
117. An assessor appointed by SA Scaffold, which may be an employee of SA Scaffold, shall thereupon determine the nature and extend of any damage to any of the equipment and the estimated costs of repair thereof.
118. The Customer shall be entitled to have a representative present on the referred to in the above two preceding subparagraphs if such a person is present he/she shall sign the return note and the witness report prepared by the assessor. By signing the the return note and/or the report by the assessor the person shall bind the customer and the contents thereof, so signed, shall be binding on the customer.
119. If no such person is in attendance on the occasions referred to above the return note and report by the assessor shall be forwarded by email to the customer who shall be bound thereby unless objection is made thereto in writing within 3 days after dispatch thereof. The objection shall specify the specific items or entries to which objection is made, notwithstanding such

- objections those items or entries to which no objection is made, shall be binding on the customer.
120. Without derogating from the provisions of the proceeding clauses and while any amount is still payable to SA Scaffold, SA Scaffold shall be entitled to cancel the relevant agreements without notice and immediately repossess the equipment in the event of anyone or more of the following events occurring:
- a. The estate of the customer is provisionally or finally liquidated, as the case may be;
  - b. The customer commits an act of insolvency as defined in the insolvency Act or SA Scaffold forms the reasonable believe in all circumstances that the customer is unable to pay its indebtedness to SA Scaffold in the ordinary course of business; or
  - c. The Customer enters or attempts to enter into a compromise with its creditors.

## DISPUTE RESOLUTION

121. Any dispute arising out of, or in connection with, this Agreement shall be finally resolved under the Rules of the Small Arbitration process and under the direction of its Secretariat, by one or more arbitrators appointed according to its Rules. Which contact details are listed hereunder:
- GROENKLOOF CHAMBERS  
205 FLORENCE RIBEIRO AVE  
GROENKLOOF EXT 11  
PRETORIA  
TEL NO: (012) 942 2100  
E-MAIL: [MANAGER@GROENKLOOF.CO.ZA](mailto:MANAGER@GROENKLOOF.CO.ZA).
122. Should any dispute, disagreement or claim arise between the parties (called hereafter "the dispute") connected with or concerning this Agreement, the parties shall first try to resolve the dispute by negotiation. This entails that the one party invites the other in writing to a meeting in an attempt to resolve the dispute within 7 (seven) days from date of the written invitation;
123. If the dispute has not been resolved by such negotiation, the parties shall submit the dispute to mediation to be administered by Groenkloof Chambers Small Arbitration Tribunal (SAP) upon the terms set by the SAP Secretariat.
124. Failing a resolution by mediation, the dispute, if arbitrable in law, shall be finally resolved under the Rules of SAP and under the direction of its Secretariat by one or more arbitrators appointed according to its Rules
125. The Parties hereby agree that Arbitration will be held in South Africa, Pretoria being neutral ground.
126. In the event of mediation failing and the dispute has been referred to arbitration the Customer who is the signatory to this agreement and who is duly authorised to enter into this agreement alternatively SA Scaffold's

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representative hereby agree to refer all disputes and differences between the parties

- a. Arising out of or in connection with the application between the parties;
  - b. Alternatively, the disputes and differences set out herein under;
    - i. The failure to make payment in terms of SA Scaffold's invoice for hire and statement within 7 days of transmission to the Customer for whatever reason;
    - ii. The failure to make payment in terms of SA Scaffold's invoice for dirtied and damaged Equipment and statement within 7 days of transmission to the Customer for whatever reason;
    - iii. The failure to make payment in terms of SA Scaffold's invoice for Sale by loss Equipment and statement within 7 days of transmission to the Customer for whatever reason.
127. For final resolution in accordance with the Rules of SAP and under the direction of its Secretariat by an arbitrator or arbitrators appointed under its Rules.
128. In the event of the customer failing to:
- a. Disclose to SA Scaffold's representative the location of the Equipment upon written request and within 48 hours and remain in default to disclose the location of the equipment;
  - b. Disclose to SA Scaffold's representative the endorsed insurance policy as described in clause 75 herein above upon written request and within 48 hours and remain in default to disclose, deliver and or exhibit a copy of the insurance policy in favour of SA Scaffold and remain in default to do so;
129. And in such an event SA Scaffold may in their absolute and sole discretion may refer the dispute upon motion to Rules of SAP and under the direction of its Secretariat to arbitrate the dispute in terms of their expediated rules for the return of the equipment to SA Scaffold's possession.
130. The parties agree that the written demand by SA Scaffold in terms of clause 74 that the dispute be submitted to arbitration, is deemed to be a legal process for the purpose of interruption of extinctive prescription in terms of the Prescription Act, Act 68 of 1969, as amended.
131. The customer hereby chooses as its Domicilium Citandi et Executandi for all purposes arising out of these Standard Terms and Conditions the address as completed by the Customer in page 1 above.

132. Unless the context otherwise requires, the words importing the singular shall include the plural and vice versa, a natural person shall include an artificial person and vice versa and the one gender shall include the other gender and vice versa

## MISCELLANEOUS

133. 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 agreement but the legality, validity and enforceability of the remainder of such agreement shall not be affected.

### 134. Modified Products

- a. Manufacturing of modified (Special – non standard) products will only commence once terms of the quotation have been accepted in writing. As these products are specials or non – standard products, a 50% deposit will have to be made to SA Scaffold before manufacture will commence;
- b. Customers with 50% of the total order value on receipt of the order, and the balance on and when delivered;
- c. Cancellations of/or variations to these orders will only be considered if communicated in writing and acknowledged by SA Scaffold in writing. Orders of this nature incur extraordinary costs, special molding and design costs. Should cancellation or variations be made to any dimensions and/or quantities, it is accepted that these costs will be for the customer's account.
- d. In the event of an order being cancelled after manufacture, the full amount will become payable as per the official order.

### 135. Storage of the equipment:

- a. The customer agrees to pay a storage fee on all equipment not collected within 3 (three) days of original collection date or revised date. The original collection date can be revised up to 48 hours before the original date. A minimum rate of R20.00 per day will apply on products less than one (1) ton. Annual tenders and negotiated bulk call of orders will be negotiated and accepted in writing by both parties.

136. The terms, conditions and provisions contained herein shall constitute the entire agreement SA Scaffold and The Customer and no modification, variation, alteration, amendment, consensual, cancellation or otherwise shall be of any force or effect unless agreed

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to by both SA Scaffold and The Customer in writing and signed by a director of SA Scaffold

137. No indulgence ,latitude, extension of time or delay or the like granted by SA Scaffold to the customer shall in any way whatsoever be constituted as a novation or waiver of any rights which SA Scaffold may have against The Customer nor may operate as an estoppel against SA Scaffold.

138. This Agreement shall be governed by and interpreted in accordance with the Laws of South Africa

139. The Customer undertakes to notify SA Scaffold in writing of any change of address of its principal place of business and/or registered office where applicable. The Customer chooses its *domicilium citandi et executandi* for the purpose of service of letters, notices, accounts, summons or any other legal action and/or application and the like for any other purpose,

the physical address set out herein above on the face of the application at section 1 customer information

140. The customer warrants that its *domicilium citandi et executandi* address is the correct address, and that the it is the sole responsibility of the customer to notify SA Scaffold in writing within 14 days per prepaid registered post or email of its intention to vary its address details which is not a post address, SA Scaffold will verify the change per corresponding writing to give effect to the amended change.

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 \_\_\_\_\_

