

# TERMS AND CONDITIONS OF MASTER RENTAL AGREEMENT

1. Hirer hereby rents to User, which hires on the terms and conditions herein and overleaf from the Commencement Date, the goods described in the equipment schedule for the rental payable at the Rental payment frequency and for the Rental period stated therein, subject to the provisions of 20. The terms and conditions of this agreement shall apply in every respect to each and every equipment schedule which the parties may enter into and the goods described in any such equipment schedule shall be rented in accordance with the terms of this agreement as if the terms and conditions of this agreement were incorporated in such equipment schedule and the conclusion by the parties of a further equipment schedule shall create a separate agreement in respect of the goods described in such equipment schedule. The User agrees that should any separate agreement created in terms hereof be terminated by the Hirer in terms hereof or by effluxion of time or from any cause whatsoever arising, such termination shall not affect the obligations of the User to the Hirer in respect of any other separate agreement created in terms hereof and the terms hereof shall remain in force in respect of any other separate agreement created hereby.
- 2.1 User acknowledges and warrants that:
  - 2.1.1 the goods have been or will be purchased by Hirer at the special request of User and solely for the purpose of renting the goods to User;
  - 2.1.2 the goods and the supplier thereof have been selected by User;
  - 2.1.3 Hirer gives no warranties in connection with the goods and the goods are rented voetstoots by User;
  - 2.1.4 all warranties implied by the common law are expressly excluded;
  - 2.1.5 no representations of any nature whatsoever in connection with the goods are made by or on behalf of Hirer;
  - 2.1.6 User has inspected the goods prior to signature of this agreement and that User is in all respects satisfied therewith;
  - 2.1.7 Hirer shall at all times be and remain the owner of the goods and neither User nor any other person on its behalf shall at any stage before or after the termination of this agreement acquire ownership of the goods.
- 2.2 All risks including the risk of destruction or loss of the goods shall pass to User on signature of this agreement and all costs in respect of the delivery and/or installation of the goods shall be paid by User.
- 2.3 User shall be obliged to take whatever steps may be necessary to prevent the destruction or loss of the goods and User shall acquaint itself with the terms and conditions of any insurance policy issued pursuant to 5.1, and undertakes to do everything that may be necessary to ensure compliance with the terms and conditions of such insurance policy.
- 2.4 User has no authority to order or purchase the goods on behalf of Hirer or to act as an agent for Hirer, except that User shall be deemed to accept the goods on behalf of Hirer when the goods are delivered by the supplier to User and User acknowledges that the goods are delivered by the supplier thereof on behalf of Hirer.
- 2.5 User is obliged to obtain the required permission for the installation of the goods on the premises referred to in the equipment schedule(s) and to procure such installation by the supplier of the goods or its authorised agent.
- 2.6 The parties hereby specifically agree that this agreement applies only to the rentals and amounts payable in respect of the goods as set out herein and the equipment schedule(s) and that such rentals and amounts do not include any payments in respect of maintenance and other services of whatever nature. The parties furthermore specifically agree that the non-performance of any of the terms and conditions of any agreement, other than an agreement specifically included herein, in respect of the goods or its maintenance will not be raised as a defence against any claim for the payment of any amount payable in terms of this agreement.
- 3.1 User shall pay to Hirer the rentals in terms of 1. Notwithstanding the provisions contained herein the first rental for the period from the Commencement Date until the first common due date ("the broken period") shall be calculated by the formula:
$$A = B \times C/30,$$
where A = Rental (including VAT), B = Agreed Monthly Rental (including VAT), C = number of days in the broken period. All such payments and any other payments owing in terms of this agreement, shall be made without demand and will not be subject to any set-off, counterclaim and shall be made without deduction of any nature.
- 3.2 All rentals and other payments by User to Hirer shall be made at Hirer's address stipulated overleaf or such other address notified in writing from time to time by Hirer to User.
- 3.3 If User fails to effect any payment in terms of this agreement on the due date thereof, such overdue amount shall bear interest at a rate equal to 6 (six) percent per annum above the prevailing publicly quoted base rate of interest per annum at which any one of Hirer's bankers will lend on overdraft ("prime").
- 3.4 Hirer may appropriate any payments made by or on behalf of User to any indebtedness of whatsoever nature of User to Hirer.
- 3.5 If so required by Hirer, User shall complete and deliver to Hirer a banker's debit order document in such form as Hirer may require or promissory notes or such other money market instruments as called for in payment of any future rentals, which shall not be construed or regarded as substituting, varying or novating User's obligation under this agreement. Notwithstanding the foregoing User's signature hereto constitutes User's authority to Hirer or its cessionary to draw against User's bank account, wherever it may be, the amounts due in terms of this agreement.
- 4.1 User acknowledges that the rentals payable in terms of this agreement and the equipment schedule(s) are based on prime as at the Commencement date of this agreement. Should prime change at any time during the term of this agreement, Hirer shall, with effect from date of such change have the right entirely at its discretion and without notice to User, to adjust the rentals payable in terms of this agreement by such amount as would give Hirer the same return in relation to prime. This adjustment is in addition to any annual increase of the rentals as stipulated in the equipment schedule(s).
- 4.2 In the event of any change in any law or regulation or in the interpretation thereof, resulting in an increase to Hirer in the cost of providing or maintaining this Rental Agreement, Hirer shall be entitled to increase the rental payments by such amount as necessary in order to recover such increased cost.
- 4.3 User acknowledges that in terms of the Value Added Tax Act, value added tax ("VAT") at the prevailing rate as at date of signature hereto has been included in each rental. In the event of any change in the rate at which VAT is payable and/or in the amount of VAT payable in respect of the rental payments, the rentals which fall due on or after the date of the said change shall be recalculated accordingly and the said recalculated rentals shall substitute the rentals which were calculated at the old rate.
- 4.4 Any dispute relating to any adjustment in terms of 4.1, 4.2 and/or 4.3 shall be referred to any partner of Hirer's then auditors who shall act as an expert and whose decision shall be final and binding on the parties hereto.
- 5.1 User is obliged to insure the goods for the duration of this agreement for not less than the replacement cost thereof against all risks including political not cover with an insurance company or through an intermediary of User's own choice. User shall ensure that Hirer's interest in the goods and this agreement is noted by the insurer in the policy and shall produce satisfactory proof thereof to Hirer. User hereby cedes to Hirer as security for the due performance of User's obligations in terms of this agreement all of User's right, title and interest in any insurance policy effected in terms of this agreement and undertakes to deliver such policy to Hirer on demand. If User fails to insure the goods, or fails to produce to Hirer written proof of such insurance within 14 (fourteen) days from date of demand, then Hirer shall be entitled to effect such insurance as it deems fit on User's behalf, the premiums in respect of which shall be payable by User to Hirer on demand.
- 5.2 If the goods or any part thereof are lost, stolen or damaged, irrespective of the cause, User shall notify in writing Hirer and insurer immediately. User will have no claim or defence against Hirer if all costs in respect of the repair or replacement of the goods are not recovered in full or at all from the insurer.
- 5.3 User shall be obliged to pay any excess that may be payable in terms of an insurance policy issued pursuant to 5.1.
- 5.4 User confirms that it was given prior written notice of its entitlement of free choice in terms of Section 43(1) of the Short Term Insurance Act 63 of 1998 and has exercised that freedom of choice and was not subjected to any coercion or inducement as to the manner in which it exercised that choice.
- 6.1 User shall at all times keep the goods in its possession and under its control and shall take reasonable care in use of the goods. User shall at its own expense maintain the goods in proper working order and keep the goods free from attachment, hypothec, or other legal charge or process. User shall not sell, let, loan, pledge, transfer or otherwise encumber the goods in any way or permit any lien to arise in respect of the goods, whereupon User undertakes to immediately procure the release of such goods from the same. The goods shall be operated at User's cost and be controlled only by properly trained, licensed and qualified persons. User shall comply with the specifications, instructions and recommendations of the manufacturer for the operation, service, maintenance and/or repair of the goods or part thereof.
- 6.2 User may not materially alter or modify the goods. Any part or accessory added to the goods shall become Hirer's property without any compensation.
- 6.3 User shall at all reasonable times permit Hirer or its representative to inspect the goods.
- 6.4 User shall at its own expense apply for all licenses, certificates, consents or exemptions that may be required for or in connection with the ownership of the goods by Hirer or use of the goods by User.
- 6.5 User admits and agrees that the goods are movable and that the goods are installed with the intention that the goods shall remain movable and that they shall under no circumstances accede to any property.
- 6.6 User may not without the prior written consent of Hirer remove or keep the goods or permit or allow them to be removed or kept outside the boundaries of the Republic of South Africa.
- 7.1 Unless Hirer is notified by User in writing to the contrary the goods will be kept at the address/es stated in the equipment schedule(s) and User shall forthwith upon signature of this agreement notify Hirer in writing of the name and address of the owner of such premises. User shall immediately notify Hirer in writing of any other premises to which the goods are moved and of the name and address of the owner of such premises. User shall also notify Hirer immediately of any changes that may occur from time to time in the leasehold or ownership of the premises upon which the goods may from time to time be installed or kept.
- 7.2 Prior to the goods being brought onto or installed in any premises, User shall notify the owner and/or lessor of such premises in writing of Hirer's ownership in the goods and User shall notify each new owner or lessor of such premises in writing immediately User becomes aware that a change in the ownership or leasehold of the premises takes place.
8. If User defaults in the punctual payment of any monies as it falls due in terms of this agreement or any other agreement that it has with Hirer or any of its associates, holding or subsidiary or fellow subsidiary companies; or fails to comply with any of the terms and conditions of, or its obligations under any such agreement; or commits any act of insolvency, or being a natural person, assigns, surrenders or attempts to assign or surrender his estate; or allows a default judgement to remain unsatisfied for a period of seven days or be refused rescission within fourteen days of any default judgement; or is sequestrated or placed under judicial management or wound up, whether provisionally or finally; or abandons the goods; or compromises with any of its creditors or endeavours or attempts to do so; or makes any incorrect or untrue statement or representation in connection with this agreement or User's financial affairs or any particulars relevant thereto; or breaches any warranty given in terms of this agreement; or does or allows to be done anything that might prejudice Hirer's rights under this agreement; then and upon the occurrence of any of these events Hirer may elect without prejudice to any of its rights to:
  - 8.1 claim immediate payment of all amounts which would have been payable in terms of this agreement until expiry of the rental period stated in the equipment schedule, whether such amounts are then due for payment or not. Hirer, shall, pending payment of these amounts, be entitled to be possessed of the goods and to retain possession thereof on condition that against such full payment Hirer shall return the goods to the User who shall not be entitled to any rebate or abatement of rentals or other amounts by reason of its loss of possession;
  - 8.2 immediately terminate this agreement without notice, take possession of the goods, retain all amounts already paid by User and claim all outstanding rentals, all legal costs on the attorney and own client scale and, as agreed pre-estimated liquidated damages, the aggregate value of the rentals which would have been payable had this agreement continued until expiry of the Rental period stated in the equipment schedule.
9. Hirer is entitled to cede without notice to User all or any of Hirer's rights under this agreement including its rights of ownership in the goods or any of them, either absolutely or as collateral security, to any other person or persons and whether such cession is made to the cessionary alone or to the cessionary jointly and severally with Hirer or any other person or persons, and if such cession occurs, User shall, if so required by any such cessionary, make all payments direct to such cessionary. Any reference in this agreement to Hirer shall, unless the context indicates otherwise, be construed as referring to the cessionary. User hereby undertakes to accept the cession and to acknowledge the rights of the cessionary in terms of this clause and to hold the goods on behalf of the cessionary, subject to the conditions of this agreement.
10. Should User fail to comply with any of the provisions of this agreement, Hirer shall be entitled but not obliged to effect such compliance on behalf of User. All costs and expenses incurred by Hirer in effecting such compliance or otherwise in protecting its title to the goods shall be paid by User to Hirer on demand.
- 11.1 Notwithstanding the provisions of this agreement should User, in breach of its obligations, fail to return the goods on termination of this agreement then, in addition, and without prejudice, to any other claims that Hirer may have against User pursuant thereto, User shall be liable to continue to pay the rentals to Hirer as if this agreement had not been so terminated.
- 11.2 User shall, on termination of this agreement, return the goods in good working order and condition, fair wear and tear excluded, together with all applicable documents and insurance policies to Hirer at User's cost and expense.
- 11.3 If any of the goods, hired in terms of this agreement, are lost or stolen and not recovered within a period of 21 (twenty-one) days after such loss or theft or are damaged beyond repair, this agreement shall terminate forthwith in respect of such goods, provided that such goods may, at Hirer's election, be replaced with goods which in Hirer's reasonable discretion are of similar nature and condition to such goods in which event this agreement shall apply in every respect to such replacement goods whereupon User undertakes to sign a replacement equipment schedule.
- 11.4 On termination of this agreement in pursuance of 11.3 the proceeds of any claim under and in terms of an insurance policy, referred to in 5.1 shall be paid to Hirer and shall be credited against the balance of rentals that remain unpaid in respect of the goods lost or destroyed immediately prior to termination of this agreement as provided for in 11.3. User, however, remains liable for any outstanding rentals and the aggregate of the rentals which would have been payable had the agreement continued until expiry of the Rental period stated in the equipment schedule that may remain unpaid after the crediting of the proceeds of the insurance claim, and such rentals shall be paid on demand by Hirer.
12. A certificate under the hand of any manager of Hirer, as given from time to time, in respect of the indebtedness of User in terms of this agreement or in respect of any other fact shall on the face of it be proof of User's indebtedness to Hirer and/or such other fact. It shall not be necessary to prove the appointment of the person signing such certificate.
13. No relaxation or indulgence granted or given by Hirer to User shall be deemed to be a waiver of any of Hirer's rights in terms of this agreement and such relaxation or indulgence shall not be deemed to be a novation of any of the terms and conditions of this agreement.
14. This agreement is the entire and complete agreement between the parties. No agreement differing from the terms and conditions of this agreement, including consensual cancellation, shall be of any force or effect or create any estoppel, unless it is in writing and signed by the parties to this agreement.
15. In the event of a breach of this agreement by User then all costs and disbursements, including legal costs on the attorney and own client scale incurred by Hirer in recovering possession of the goods or in tracing User and locating the goods and in collecting or endeavouring to collect all or any amounts payable by User to Hirer in terms of this agreement or otherwise and all collection commissions, storage charges, costs of valuation of the goods, costs of restoring goods to a saleable condition, dismantling and removal charges and all other fees and charges shall be for the account of User and are payable on demand as and when incurred.
16. This agreement shall in all respects be governed by and construed in accordance with the laws of the Republic of South Africa.
- 17.1 User hereby consents and submits to the jurisdiction of the Magistrate's Court having jurisdiction over his person in respect of all proceedings in connection with this agreement, notwithstanding that the amount claimed or the value of the matter in dispute exceeds such jurisdiction.
- 17.2 Notwithstanding 17.1, Hirer shall be entitled at its option to institute any proceedings in connection with this agreement against User in any division of the High Court of South Africa having jurisdiction and shall not be limited to the recovery of costs on the Magistrate's Court Scale.
18. If Hirer breaches any of the terms and conditions of, or if it cancels or purports to cancel this agreement prematurely, User may only cancel or accept such cancellation of this agreement provided it shall first have given 14 (fourteen) days written notice to Hirer to remedy such breach or to withdraw such cancellation.
19. User chooses the address overleaf where Hirer may send all documents or serve any legal process. User may change this address by written notice delivered by hand or sent by registered post or transmitted by facsimile to Hirer. Any notice to User's chosen address shall be deemed to have been received on the 8th (eighth) day after the date of posting, if sent by registered post, or on the date of delivery or transmission if delivered by hand or transmitted by facsimile. All notices in terms hereof shall be in writing.
20. This agreement shall continue after the Rental period stated in the equipment schedule subject to the conditions contained herein, for an indefinite period until terminated by either of the parties giving the other written notice of termination, provided that the notice shall not be given before the expiry of the number of months reflected against Rental period in the equipment schedule.
21. All words and phrases importing any one gender include each of the other genders for the purposes hereof and the singular includes the plural and vice versa. Reference to natural persons shall include artificial persons. Each phrase, sentence, paragraph and clause in this agreement is severable the one from the other, notwithstanding the manner in which they may be linked together or grouped grammatically and if in terms of any judgment or order any phrase, sentence, paragraph or clause, is found to be defective or unenforceable for any reason the remaining phrases, sentences, paragraphs and clauses, as the case may be, shall nevertheless be and continue to be of full force and effect.
22. User confirms having agreed on behalf of itself and its directors, shareholders, members and associates that Hirer is entitled at any time to communicate with any person to obtain and provide any information relating to their payment behaviour, credit worthiness or defaults, and that such information may at any time be disclosed to any other person.
23. User acknowledges that any guarantor/s for User is entitled in law to obtain User's confidential financial information.