

## **DAILY HIRE TERMS AND CONDITIONS**

### **1. HIRE OF EQUIPMENT**

("the owner") hires to the customer the equipment described overleaf

("the equipment") in terms of the General Conditions of Hire.

### **2. DEPOSIT AND HIRE CHARGES**

- a. The customer shall pay the owner the deposit stated overleaf which shall be refunded within 30 days of the return of the equipment less all amounts due.
- b. The hire charges at the rates and the deposit stated overleaf are payable in cash on delivery unless otherwise agreed.
- c. All overdue amounts shall bear interest at the current prime overdraft rate from time to time.
- d. The customer shall be deemed to have accepted the correctness of any account addressed to him, unless the owner is notified in writing of any queries or discrepancies within fourteen (14) days of date of such account.

### **3. PERIOD**

- a. The initial period for which the equipment is hired shall be stated overleaf.
- b. The hire period shall commence when the customer takes delivery of the equipment and subject to 9 & 5c shall end when the owner accepts return of the equipment.

### **4. EQUIPMENT IN GOOD ORDER AND REPAIR**

- a. The equipment shall be deemed to be in good order and repair and fit for the purpose for which it is intended when delivered to the customer, unless the customer notifies the owner of any defects immediately on taking delivery.
- b. The owner shall, in its sole discretion decide whether the equipment is defective or unfit or the purpose for which it is intended and shall be entitled to either terminate this agreement and refund the deposit and any Hire charges paid, or shall replace the defective equipment.

### **5. BREAKDOWN AND REPAIRS**

- a. The customer shall at his own cost, service and maintain the equipment in good running order and repair to the standards required by the owner until the equipment is returned to the owner.
- b. The customer shall immediately notify the owner of any breakdown. The owner shall be entitled to repair or replace the equipment at its cost at the owners principal place of business unless the owner in its sole discretion

determines that the breakdown is due to improper use of or failure to service and maintain, in which event the customer shall on demand reimburse the owner with all costs incurred as a result of the breakdown.

c. The customer shall return the equipment in a clean state and in good order and repair, fair wear and tear accepted in the event that the equipment is lost, destroyed or damaged as a result of any cause prior to the return thereof the customer shall be liable to make good the replacement cost thereof and hire charges shall continue until the customer has paid or replaced the lost equipment.

### **6. USE OF EQUIPMENT AND INDEMNITY**

- a. The customer acknowledges that he is aware of the purpose for which the equipment was designed as well as all safety and maintenance procedures which are required in respect of the equipment by any lawful authority and shall only use the equipment for such purpose and shall comply with all such safety and maintenance procedures. The customer shall be liable for and hereby indemnifies the owner for all damage or loss suffered by the owner should the equipment be used for any other purpose, or should the customer arising from any case, including, without limitation, the use of the equipment and provisions hereof.
- b. The customer shall use the equipment at its own risk, and indemnifies the owner against any claims of any nature brought against it by the customer's employees, agents or representatives or third parties arising out of the use of the equipment while under the control of the customer in terms hereof and all costs expenses incurred by the owner in defending or settling such proceedings. The customer shall have no claim of any nature against the owner for any loss suffered or damages sustained by the customer arising from any cause, including, without limitation, the use of the equipment and provisions hereof.

### **7. NO WARRANTIES**

The owner does not furnish any warranties nor make any representations other than those contained herein and no warranties or representations shall be binding on the owner unless such warranties or representations are reduced to writing and signed by a duly authorised representative of the owner. The owner does not undertake to furnish the customer with any technical advice, but should it do so, it does not warrant the correctness thereof.

### **8. ACCESS**

- a. The customer shall at all times be fully responsible for the equipment prior to the return thereof, and shall return it to the owner at the expiry of the hire or on cancellation of this agreement.

b. The owner shall at all reasonable times be entitled to access to any premises of the customer for the purposes of inspecting or repairing the equipment.

liquidation, in whole or in part, of any obligation whether arising out of this hire or otherwise owed by the customer to the owner, irrespective of whether the final amount of the obligation has been deducted

## **9. BREACH**

a. Should the customer:

i. fail to comply with any obligation imposed on the customer in terms hereof, all of which are deemed to be material, on due date, and persist in such failure for three days after having been given written notice to remedy such default; or

ii. commit any act of insolvency, or be placed in liquidation or sequestration, whether provisional or final, or be placed under judicial management. The owner shall be entitled to. Terminate this agreement forthwith and enter any premises of the customer of any of its obligations.

b. The specific remedies which the owner has against the customer in terms of these general conditions are without prejudice to any other remedies which the owner may have against the customer, including the owner to claim all such consequential and other damages from the customer as the owner may have suffered as a result of the breach by the customer of any of his obligations.

c. The owner's liability to the customer and all persons claiming under him arising for any cause whatsoever, including the negligence of the owner, his employees or agents, shall be limited to the specific remedies provided for herein.

## **10. MISCELLANEOUS**

a. The provisions hereof shall govern the contractual relationship between the owner and the customer, no other provisions, whether stipulated for by the customer in any order form or in any other manner or implied by law shall have any force or effect unless accepted by the owner in writing.

b. The customer consents to the jurisdiction of the Magistrates Court of the district in which this customer address shown overleaf is situated in respect at any legal proceedings arising out of this agreement. The parties elect their respective domicilia citandi et executandi at the addresses shown overleaf for service of process or for the purpose of giving notice.

c. The customer shall be liable for the owner's cost on any attorney client scale in the event the owner instituting legal proceedings against the customer arising at of the provisions of these General Conditions of Hire or arising out of the customer's use or possession of the equipment.

d. The owner shall in its entire discretion be entitled to supply any amount received from the customer to the

## LONG TERM RENTAL GENERAL TERMS

### 1 INTERPRETATION

#### 1.1 In this Agreement:

**Agreement** means these General Terms and the Order Form (and in the event of any inconsistency between the General Terms and the Order Form, the terms of the Order Form will apply).

**Equipment** means the equipment to be provided by Reynolds Hire to the Customer as set out on the Order Form.

**Fees** means the amounts set out in the Order Form.

**Hire Period** means the period during which the Equipment is hired as set out in the Order Form.

**Order Form** means the order form to which these General Terms apply.

**Party** means either Reynolds Hire or the Customer as the context requires.

**Services** means the services to be provided by Reynolds Hire to the Customer as set out on the Order Form.

This Agreement has been drafted to cover the supply of both Services and Equipment to the Customer. For the avoidance of doubt, where the Customer requires Equipment and Services from Reynolds Hire, the provisions of this Agreement relating to Services and Equipment will apply and where the Customer requires Equipment only from Reynolds Hire, the provisions of this Agreement relating to Services will not apply.

### 2 SERVICES

**This Clause applies only if Services are to be provided by Reynolds Hire to the Customer.**

#### 2.1 Reynolds Hire will:

- (a) use commercially reasonable efforts to provide the Services to the Customer, which Services will include repair and maintenance of the Equipment at intervals as set out in the Order Form;
- (b) when providing the Services, Reynolds Hire will carry out work and supply parts which Reynolds Hire, in its discretion, deems appropriate to maintain the Equipment in good working order; and
- (c) repair defective Equipment at the Customer's premises or, at the election of Reynolds Hire, at its premises or wherever else it deems practical. All transport costs will be for the account of the Customer.

2.2 The cost of any service carried out by Reynolds Hire that is not scheduled in the Order Form and/or the call-out costs, and/or the cost of any work beyond routine maintenance carried out by Reynolds Hire (including the replacement of parts) is for the account of the Customer and will be charged at Reynolds Hire's prevailing charges for replacement parts and Services at the time.

2.3 Reynolds Hire can discharge its Service obligations either directly or by using any nominated contractor, sub-contractor or agent.

2.4 The Fees due for Services are payable on presentation of invoice.

### 3 EQUIPMENT

3.1 Reynolds Hire agrees to provide the Equipment for hire and the Customer agrees to hire the Equipment under the terms of this Agreement.

#### 3.2 *Loss of or Damage to Equipment*

(a) The Customer will at all times during the term of this Agreement have a duty of care to treat the Equipment with at least the same standard of care as it does its own assets of a similar kind. Such care includes storage in a safe and secure environment, suitable and safe transportation and appropriate use of the Equipment.

(b) In the event that the Equipment is lost, stolen or damaged, the Customer must immediately notify Reynolds Hire. The Customer undertakes to pay Reynolds Hire, on demand, the standard list price for purchase of the Equipment so lost, stolen or damaged. Without limiting Reynolds Hire's right to fully recover such amount from the Customer, the Customer authorises Reynolds Hire to apply the deposit or any portion thereof towards any replacements or repairs deemed necessary by Reynolds Hire in its discretion.

(c) The Customer is obliged to take out such insurance as is necessary to cover its liability in terms of this Agreement, including but not limited to insurance for loss or damage to the Equipment at the list price of the Equipment. Reynolds Hire reserves the right to request proof of insurance at any time prior to or during the Hire Period.

(d) The Customer hereby indemnifies Reynolds Hire against every expense, liability, loss, claim or proceeding whatsoever in respect of any personal injury, damage to property (including the Equipment) arising out of or in connection with the hire, delivery, use, misuse, non-use, collection or return of the Equipment by the Customer or any part thereof.

#### 3.3 *Return of Equipment*

The Equipment must be returned to Reynolds Hire prior to 16h00 on the final date of hire. Late returns will be charged at Reynolds Hire's then current daily hire rate.

#### 3.4 *Responsibility*

(a) Risk in the Equipment transfers to the Customer when they take receipt of it and continues until Reynolds Hire confirms receipt of the return of the Equipment.

(b) Ownership of the Equipment will always remain with Reynolds Hire. The Customer will ensure that the Equipment is not subject to any right of retention or claim by a third party and will immediately notify Reynolds Hire if any person tries to assert any rights over the Equipment.

(c) The Customer agrees that it will not part with control of the Equipment.

(d) The Customer undertakes that: (i) no one will use the Equipment who is not properly qualified, competent and instructed; (ii) it will not allow the Equipment to be misused; (iii) it will ensure that no one but the Customer or Reynolds Hire's authorised representatives have access to the Equipment; (iv) it will not alter, modify or adapt the Equipment; and (v) it will comply with all specifications, instructions and recommendations for use of the Equipment.

(e) The Customer acknowledges that it is responsible for satisfying itself as to the suitability and fitness for its own purpose(s) of the Equipment and that Reynolds Hire will not be liable for any failure of the Equipment to meet the requirements of the Customer. The Customer acknowledges that the Equipment is provided "as is" and Reynolds Hire gives no warranty regarding its functionality.

### 4 FEES AND PAYMENTS

4.1 The Customer must pay the deposit referred to in the Order Form.

- 4.2 The Customer must pay the Fees to Reynolds Hire in accordance with the Order Form and this Clause 4.
- 4.3 The Customer must pay any amounts due to Reynolds Hire caused by loss or damage to Equipment.
- 4.4 Payments due under this Agreement must be made in cleared funds on presentation of the relevant invoice.
- 4.5 Interest is payable on the balance of any overdue invoice at the Prime Rate and will be calculated daily on the outstanding balance until date of payment.

## **5 TERM AND TERMINATION**

- 5.1 This Agreement is effective from the first to occur of the Customer taking delivery of the Equipment or on signature of the Order Form by the Customer. Subject to Clause 5.2, this Agreement will terminate when all parties have discharged their contractual obligations under this Agreement.
- 5.2 Either Party may terminate this Agreement immediately on written notice to the other Party:
- (a) in the event of a material breach of this Agreement by the other Party, which is not remediable or, if remediable, is not remedied within 10 (ten) days after receipt of a letter of breach setting out the nature of the breach and requiring that it be remedied; or
- (b) if the other Party ceases carrying on business in the normal course or goes into insolvency or liquidation or business rescue.
- 5.3 On termination of this Agreement, the Customer must promptly pay to Reynolds Hire all Fees due, including in respect of Services performed up to the date of termination and return and make no further use of any Equipment.
- 5.4 In the event that the Customer returns the Equipment before the last date of the Hire Period, Reynolds Hire reserves the right to charge an early termination fee in the amount/percentage set out in the Order Form.

## **6 PROTECTION OF PERSONAL INFORMATION**

- 6.1 To comply with its obligations in terms of this Agreement, either Party may need to process personal information. Subject to the terms of this clause, each Party hereby authorises the processing of such information.
- 6.2 Each Party will only process personal information in compliance with the Protection of Personal Information Act No. 4 of 2013 and as may be necessary for the purpose of this Agreement or for maintaining its internal administrative processes.
- 6.3 Each Party will implement and maintain technical and organisational security procedures and measures necessary to preserve the security and confidentiality of the personal information in its possession and guard against an authorised or unlawful disclosure, access or processing, accidental loss, destruction or damage.
- 6.4 Reynolds Hire may for the purpose of processing need to transfer personal information to an outsourced information technology service provider and/or to another country. The Customer hereby consents to such processing.
- 6.5 Regarding all personal information made available by the Customer to Reynolds Hire, the Customer warrants that it has the necessary consent and/or permissible ground to make such personal information available to Reynolds Hire for processing.

## **7 LIABILITY**

- 7.1 Reynolds Hire's maximum aggregate liability under or in connection with this Agreement whether in contract, delict

(including negligence) or otherwise, will in no circumstances exceed the Fees paid to Reynolds Hire under this Agreement.

- 7.2 In no event will Reynolds Hire be liable under or in connection with this Agreement for loss of actual or anticipated income or profits, loss of goodwill or reputation, loss of anticipated savings or for any indirect or consequential loss or damage of any kind howsoever arising and whether caused by delict (including negligence), breach of contract or otherwise, whether or not such loss or damage is foreseeable, foreseen or known.

## **8 GENERAL**

- 8.1 This Agreement is the sole record of the agreement between the Parties. No Party is bound by any express or implied term, representation, warranty or promise not recorded herein.
- 8.2 No addition or variation of this Agreement will be of any force or effect unless in writing and signed by the Parties.
- 8.3 The Parties consent to the jurisdiction of the Magistrate's Court in respect of any legal proceedings arising out of or in connection with this Agreement.
- 8.4 No relaxation or indulgence which Reynolds Hire may grant to the Customer will constitute a waiver of its rights and will not preclude it from exercising any rights which may have arisen in the past or which may arise in the future.
- 8.5 A certificate issued by any director of Reynolds Hire in respect of any indebtedness of the Customer under this Agreement will be *prima facie* evidence of the Customer's indebtedness to Reynolds Hire.
- 8.6 Any notice or other communication given in terms of this Agreement must be in writing and will be effective immediately when delivered personally or within 24 (twenty-four) hours of delivery by email.