

TERMS AND CONDITIONS:

1. CONTRACT OF LEASE

1.1 The Hirer hereby rents to User, which hires on the terms and conditions herein and overleaf from the Commencement date specified in the schedules, the goods described therein for the rental payable for the Rental period stated therein, subject to the provisions of 3.1. The terms and conditions of this agreement shall equally apply in every respect to each and every schedule which the parties may enter into and the goods described in any such rented in accordance with the terms of this agreement as if the terms and conditions of this agreement were incorporated in such schedule and the conclusion by the parties of a further schedule shall create a separate agreement in respect of the goods described in such 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 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 shall remain in force in respect of any other separate agreement created hereby.

1.2 If, at the time of the signing of this contract, such equipment will constitute the Goods, being the subject matter of this contract. If the Goods are to be delivered after the signing hereof, the Hirer shall be entitled to select the specific equipment (conforming to the description of the Goods as specified in the Definition Schedule) out of its stock and deliver same to the User, thereby identifying the equipment that will constitute the Goods.

1.3 If, for any reason whatsoever after the delivery of the Goods, the parties agree to substitute the Goods with another item, such substituted goods will, from the date of delivery thereof, constitute the Goods. The non-variation provisions of clause 20 hereof will not apply to the conclusion of such oral agreement but will only be deemed to have been entered into when the substituted Goods are in fact delivered to the User and this contract will thereafter be deemed to have been amended only in respect of the subject matter of this contract.

2. MAINTENANCE

It is recorded that this agreement only applies to the hiring of the goods and that the rentals stipulated in the schedule's do not include payment 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 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. DURATION

3.1 The Initial Rental period shall, irrespective of the date of signature of this contract, commence on the commencement date and shall, after the Initial Rental Period, continue indefinitely, unless written notice of termination is given by any party at least ninety (90) days prior to the expiry of the Initial Rental Period. After the Initial Rental Period, the contract may be terminated by any party on the anniversary date of the Commencement Date, on condition that ninety (90) days prior written notice of such termination is given.

3.2 After the signing of this contract by the User, it shall not be entitled to withdraw there from before the date of acceptance hereof by the Hirer.

4. RENTALS AND PAYMENTS

4.1 The rental shall be payable monthly in advance on the last day of each month & will be charged pro-rata for the month of installation

4.2 All subsequent rentals shall be payable on or before the last working day of each following month and shall, unless

4.3 The Hirer or cessionary/ies advises the User to the contrary in writing, be payable by means of a debit order. All payments in terms of this contract, shall be made free of bank or other charges at the Hirer's address or at such other place as the Hirer or cessionary/ies may direct in writing.

4.4 The User undertakes to examine the Goods or cause same to be examined on or before delivery thereof and the Goods shall irrevocably be deemed to have been delivered in good condition and working order on User's signature to a certificate of acceptance.

4.5 All payments owing in terms of this agreement, shall be made without demand and will not be subject to any set-off or counterclaim and shall be made without deduction of any nature.

5. OWNERSHIP

5.1 Ownership in and to the Goods shall at all times remain vested in the Hirer or its cessionary/ies. The User or any other person on his behalf shall not at any time during or after the expiry of this contract obtain any rights of ownership in the Goods or to retain the right of the use or enjoyment of the Goods or to retain possession thereof.

5.2 The User shall at the termination of this contract for whatsoever reason, return the Goods at his own expense to the Hirer in good repair and condition and in proper working order, fair wear and tear excepted. If the Goods are damaged or not in good repair and working condition the Hirer may reinstate the Goods in such good order and working condition and the costs thereof shall be paid by the User on demand.

5.3 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.

6. USE OF GOODS

The User undertakes that it shall:

6.1 Use the Goods only for the purposes and in the manner for which it is intended to be used.

6.2 Keep the Goods free from the claims of other parties or from attachment and shall not alienate, assign or charge the Goods or any part thereof with any encumbrance or allow any lien to arise thereon or affix the Goods to any other property with the intention of or in such a manner that the Goods become affixed thereto.

6.3 Allow the Hirer or its agent reasonable facilities for the inspection and/or repair of the Goods.

6.4 Keep the Goods in its custody and under its control at the premises mentioned in the Definition Schedule and shall obtain the Hirer's written consent for the removal thereof to other premises. The User shall regularly pay the rental of the premises where the Goods are kept and shall comply with all statutes, regulations or other contractual obligations pertaining to its occupation of the premises.

6.5 Not use the Goods in contravention of any statute, regulation or law and shall strictly adhere to the Hirer's or the manufacturer's instructions as to the use and servicing of the Goods, and shall only use such consumables as are approved by the Hirer.

7. LOSS OR DAMAGES

The Hirer shall not be liable to the User or any other person for any loss or damage (whether consequential or not) caused by any defect in and to which may arise from the use of the Goods.

8. CONDITION OF GOODS

8.1 The User undertakes to examine the Goods or cause same to be examined on or before delivery thereof and the Goods shall irrevocably be deemed to have been delivered in good condition and working order on User's signature to a certificate of acceptance.

8.2 The parties agree that no warranty as to the condition, quality or model of the Goods or as to the fitness of the Goods for any purpose had been given either expressly, tacitly or impliedly and any implied warranty is hereby expressly excluded.

9. RISK

9.1 The risk of loss, damage or destruction to the Goods shall pass to the User on delivery thereof by the Hirer to the User.

9.2 User is obliged to comprehensively insure the goods for the duration of this agreement for not less than the replacement cost thereof against all risks 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. 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. 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. 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 of 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. On termination of this agreement in pursuance to this clause the proceeds of any claim under and in terms of an insurance policy, shall be paid to Hirer and shall be credited against the balance of the rentals that remain unpaid in respect of the goods lost or destroyed immediately prior to termination of this agreement. 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 Initial Rental Period stated in the 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.

9.3 The User confirms that it was given prior written notice of its entitlement of free choice in terms Section 43 (1) of the Short Term Insurance Act 53 of 1998 and had exercised that freedom of choice and was not subjected to any coercion or inducement as to the manner in which it exercised that choice.

10. CESSION

10.1 Hirer shall be entitled to cede and transfer all or some of its rights in terms of this contract, including the right of ownership in and to the Goods to any person or persons and the User hereby agrees, that in the event of such cession:

10.1.1 it will hold the Goods on behalf of and in accordance with the instructions and direction of such cessionary/ies in place of the Hirer, and

10.1.2 it will continue making all payments due in terms hereof to the Hirer, unless it has been instructed otherwise in writing.

10.2 The User shall not be entitled to or have the right to cede or to delegate its rights and obligations in terms of this contract.

10.3 In the event of such cession, all obligations of the Hirer in terms hereof, shall notwithstanding such cession, be discharged by the Hirer and the User will not acquire any right or claim in respect of any such obligation against such cessionary/ies.

11. INTEREST

If any amount due to the Hirer is not paid timeously in terms of this contract, irrespective of whether such amount arises from arrear rentals or disbursements on behalf of the User or from other expenses incurred by the Hirer in connection with this contract as a result of the non-compliance of the User with its obligations, the Hirer shall be entitled, without prejudice to any other rights that it may have to charge interest on any such arrear or unpaid amount at the rate equal to five percent (5%) above the prime rate of interest charged by the banker of the Hirer on overdraft accounts. Such interest will be calculated on the amount unpaid or disbursed from the date it became due until the date of actual payment thereof and shall be calculated and capitalised monthly in advance.

12. ESCALATION

12.1 The rental shall annually, on the anniversary of the Commencement Date, escalate by an amount equal to fifteen percent (15%) of the rental payable during the last month of the previous year.

13. VARIATION IN RENTALS

13.1.1 For all purposes of this agreement "prime" shall mean the publicly quoted basic rate of interest per annum at which Hirer's Bankers will lend on overdraft, as certified by a Manager of the said bankers, whose appointment it shall not be necessary to prove.

13.1.2 The rentals payable in terms of this agreement and the schedules are based on prime. Should prime increase during the term of this agreement, the Hirer shall with effect from date of such increase adjust the rentals payable in terms of this agreement by such amounts as would give the Hirer the same return in relation to prime. This adjustment is in addition to the annual increase of the rentals as stipulated in the schedules/agreement.

14. VALUE-ADDED TAX

The User shall be liable for and shall pay the amount of Value-added Tax payable from time to time in respect of this contract, or any other form of tax that may be imposed and be payable in place of or such Value-added Tax, or in addition thereto.

15. DOMICILE

The parties choose as their domicile for all purposes under this contract, whether in respect of court process, notices or other documents or communications of whatsoever nature, the respective addresses stated in the Definition Schedule above. Any party may by notice to the other party change its domicile to another physical address and/or telefax number in the Republic of South Africa, provided that such change shall become effective only on the 7th day after receipt of the notice.

15.1 Any notice to a party contained in a correctly addressed envelope and:

15.1.1 sent by prepaid registered post from any Post Office in the Republic of South Africa to any other party to its postal address or physical address as set out in the definition schedule above, shall be deemed to have been received by such party on the 5th day after the posting thereof; delivered by hand to a responsible person during the ordinary business hours at its physical address as set out in the definition schedule above, shall be deemed to have been received by such party on the day of delivery thereof;

15.1.2 transmitted by fax to the telefax number as set out in the definition schedule above shall be deemed to have been received by the addressee on the day after the transmission thereof.

15.2 Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by a party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at the chosen domicile.

15.3 The User undertakes and shall be obliged, whether it gives notice under this clause or not, to advise the Hirer of any change of its particulars contained in the Agreement.

16. BREACH

Should the User fail to comply with any of its obligations arising from this contract, or commit any act of insolvency or die, or attempt to compromise with any of its creditors, or have made any incorrect or untrue statement in connection herewith, or do or cause to be done anything which may prejudice the Hirer's right under this contract, or allow any judgment against it to remain unsatisfied for a period of fourteen (14) days after it came to its notice, or be subject to judicial management, or should the Goods be seized under a legal process issued against the User, the Hirer shall have the right, without prejudice to any other right which it may have at law:

16.1 to cancel this contract without any prior notice, and to take possession of the goods, retain all amounts paid by the User in which event, the User shall pay to the Hirer on demand, any arrear rentals due on the date of cancellation, plus the expenses incurred by the Hirer set out herein plus liquidated damages, amount to the aggregate of all rentals which would, but before such termination, have been payable for the unexpired period of this contract less the market value of the Goods at the date of the return of the Goods to the Hirer or repossession thereof by the Hirer (the market value being the value as determined by a sworn appraiser appointed by the Hirer or at the Hirer's option, the higher of two offers for the Goods obtained by the Hirer from two persons, one of whom shall be a dealer in the particular type of Goods and such market value shall be binding on the User and Hirer for all purposes of this agreement);

16.2 or without terminating this contract, to treat as immediately due and payable all rentals which would otherwise have become due and payable in terms of this contract over the then unexpired period of this contract, and to claim and recover from the User forthwith the aggregate amount of such rentals as well as all rentals and other sums then in arrears in terms of this contract. The Hirer shall, pending payment of all those amounts, be entitled to be in possession of the Goods and to retain possession thereof until full payment by the User whereupon the Goods will be returned to the User and the User shall not be entitled to any rebate of rentals or other amounts by reason of its loss of possession and enjoyment of the Goods while same had been in the Hirer's possession. This risk in the Goods shall, however, remain with the User during the period of possession by the Hirer in terms hereof.

17. CERTIFICATE

The amount of the User's indebtedness to the Hirer at any time, the interest rates from time to time and any other factor relating to the termination of such indebtedness as well as the due date for payment of such amount, may at the option of the Hirer be proved by a certificate signed by any manager of the Hirer. It shall not be necessary to prove the appointment and authority of the person signing such certificate. Such certificate shall be binding on the User as prima facie proof of the facts contained therein and shall by agreement constitute a valid liquid document against the User in any competent Court for the purpose of obtaining provisional sentence or summary judgment against the User.

18. CONSENT TO JURISDICTION

The User hereby consents to the jurisdiction of the Magistrate's Court having jurisdiction over its person in respect of any action by the Hirer arising from this contract or the Cancellation thereof. This consent does not oust the jurisdiction of any other competent court and the Hirer shall be entitled, in its discretion, to institute action against the User in any court of competent jurisdiction. The parties agree that this consent is severable and shall apply even in the event of the cancellation of this contract.

19. APPROPRIATION OF PAYMENTS

Hirer may appropriate any payments made by or on behalf of User to any indebtedness of whatsoever nature of User to Hirer under this contract.

20. WAIVER

No indulgence, latitude, extension of time or omission by the Hirer shall constitute a waiver by the Hirer of any of its rights under this contract and shall not amount, in an appropriate instance, to a condonation by the Hirer of any act or omission on the part of the User and such conduct shall not, in any circumstances whatsoever, give rise to a defence of estoppel. The acceptance by the Hirer of any payment by the User after the cancellation of this contract shall not be deemed to be a waiver of the Hirer's rights or a novation hereof.

21. VARIATION

The parties agree that this contract is the entire agreement between them. No variation hereof, the waiver of any right, the release from any obligation or consensual cancellation hereof shall be of any force or effect unless reduced to writing and signed by the parties.

22. WARRANTY

22.1 User acknowledges and warrants that: -

22.1.1 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;

22.1.2 the Goods and the supplier thereof have been selected by User;

22.1.3 the Goods are rented as is by User;

22.1.4 all warranties implied by the common law are expressly excluded;

22.1.5 No representations of any nature whatsoever in connection with the Goods are made by or on behalf of Hirer;

22.1.6 User has inspected the Goods prior to signature of this agreement and that User is in all respect satisfied therewith;

22.1.7 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.

23. COSTS

The User shall on demand pay all expenses actually incurred by the Hirer either on behalf of the User or as a result of the User's non-compliance with any provision of this contract, including tracing costs, all legal costs calculated on the scale as between attorney and its own client on the wider basis, collection commission, costs of valuation, dismantling, removal and storage of the Goods and all other expenses incurred by taking possession of the Goods.

24. CONSENT TO CREDIT WORTHINESS

User confirms having agreed on Hirer's behalf and on behalf of Hirer's 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 User's payment behaviour, credit worthiness or defaults.

GUARANTEE TERMS AND CONDITIONS:

1. I/ We do hereby bind myself/ourselves jointly and severally as co-principal and for the primary continuing obligation for the proper and punctual payment by the User to the Hirer or its cessionary/ies of all amounts whatsoever due and owing arising out of or incidental to this agreement and the schedules thereto and all and any other indebtedness to Hirer, whether actual or contingent, present or future and howsoever arising (the "Guaranteed Obligations");

2. I/ We agree as a separate, additional, primary and continuing obligation to indemnify Hirer or its cessionary/ies, from time to time on first demand, from and against all and any loss or damage incurred by Hirer or its cessionary/ies as a result of or pursuant to any of the Guaranteed Obligations being or becoming void, voidable, unenforceable or ineffective for any reason whatsoever, whether or not known to Hirer or its cessionary/ies, the amount of such loss being the amount which Hirer or its cessionary/ies would otherwise have been entitled to recover from the User in terms of this agreement or the schedules thereto;

3. I/ We undertake to pay the amounts referred in clause 1 above plus accrued unpaid interest (including any default interest) in terms of this agreement and any other amounts owing to Hirer or its cessionary/ies in terms of this agreement and any schedules thereto at a rate of 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").

4. I/ We acknowledge having received a copy of the aforementioned agreement and the schedules hereto and confirm I/ we are aware of the terms thereof.

5. I/ We shall promptly provide Hirer or its cessionary/ies with such information which is in my/ our possession concerning me/us as Hirer or its cessionary/ies may from time to time reasonably require;

6. I/ We shall ensure that my/ our liabilities under this Guarantee will rank at least equal in point of priority and security with all such other present or future debts (both actual and contingent) which are secured to the same extent as such liabilities hereunder;

7. I/ We renounce the benefits of excussion, division and cession of action, the nature and extent of which I/ we acknowledge myself/ourselves to be aware of;

8. No extension of time or indulgence that may be granted to User in the aforementioned agreement at any time, nor any release of any other security or guarantee shall in any way affect my/ our liability hereunder;

9. I/ We consent to the jurisdiction of the Magistrate's Court provided Hirer shall be entitled to institute action in any division of the High Court of South Africa jurisdiction;

10. I/ We agree to make payment of any legal costs that may be awarded against me/us on an attorney and own client scale;

11. I/ We choose as my/ our domicile for all purposes arising out of this guarantee, the address/ies as set out below;

12. I/ We indemnify and hold Hirer and its cessionary/ies in the event of a cession harmless against any claim arising out of or incidental to the aforementioned agreement, to its breach or its termination for any reason whatsoever;

13. I/ We warrant and represent that I/ we have received and will continue to receive adequate value for the granting of this guarantee;

14. I/ We agree that where it is contemplated that more or one person will sign as guarantor, I/ or any of us who may have signed as Guarantor shall be bound jointly and severally for the whole, irrespective of whether or not the other or others referred to will have executed this document or become bound in terms hereof.

15. I/ We agree that no termination, cancellation, limitation or variation of my/our obligations in terms of this guarantee shall be of any force or effect unless it is in writing and signed by Hirer or its cessionary/ies, in the event of a cession in terms of the aforementioned agreement;

16. The terms of clauses 17, and 24 of the aforementioned agreement shall apply to this guarantee.

