



Berman Hire cc, 460 Edison Crescent, Hennopark ext 7, Centurion.  
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VAT No. 4320115811

Invoice no: \_\_\_\_\_ Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## STANDARD CONDITIONS OF AGREEMENT

1.1 The Customer agrees that ( a ) this contract represents the entire agreement between the Customer and Berman Hire cc (hereinafter called "Berman") and that no alterations or additions to this contract may be affected unless agreed to by both parties, reduced to writing and signed by the Customer and a duly authorized representative of Berman; ( b ) that this agreement will govern all future contractual relationships between the parties; ( c ) is applicable to all existing debts between the parties; ( d ) this contract is final and binding and is not subject to any suspensive or dissolutive conditions and ( e ) any conflicting conditions stipulated by the Customer are expressly excluded.

1.2 This contract becomes final and binding on receipt of the acceptance by Berman at its business address in Hennopark.

2. The Customer hereby acknowledges that he / she has read and understood each term of this agreement and accepts them as binding.

3. The Customer warrants that the signatory on the reverse side has been duly authorised to contract on the Customer's behalf.

4. The signatory hereby binds himself / herself in his / her personal capacity as co-debtor jointly and severally the full amount due to Berman and agrees that these standard Conditions will apply mutatis mutandis to him / her.

5.1 The Customer acknowledges that no representations were made by Berman in regard to the goods and services or any of its qualities leading up to this contract.

5.2 The Customer agrees that neither Berman nor any of its employees will be liable for any negligent or innocent misrepresentations made to the Customer.

5.3 It is the sole responsibility of the Customer to determine that the goods and services ordered are suitable for the purposes of intended use.

6.1 All quotes will remain valid for a period of 14 days from the date of the quote.

6.2 The validity of any price quoted is subject to availability and to any increases in the cost price of Berman before dispatch of goods and commencement of services.

6.3 The amount of the increase shall be certified by a duly authorised representative of Berman and such certificate shall be final and binding on the Customer.

6.4 The Customer hereby confirms that the goods and services on the Tax Invoice issued duly represent the goods and services ordered by the Customer at the prices agreed to by the Customer and where delivery / performance has already taken place that the goods and services 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.

6.5 All orders or variations to orders, whether oral or in writing, will be binding and subject to these standard conditions of agreement and may not be cancelled.

6.6 Berman shall be entitled in its sole discretion to split the delivery / performance of the goods and services ordered in the quantities and on the dates it decides.

6.7 Berman shall be entitled to invoice each delivery / performance actually made separately.

6.8 Any delivery note (copy or original) signed by the Customer or a third party engaged to transport the goods and held by Berman shall be conclusive proof that delivery was made to the Customer.

6.9 The risk of damage to, destruction or theft of goods passes to the Customer on conclusion of the agreement of sale or hire.

6.10 Delivery, Installation and performance times given are merely estimates and are not binding on Berman.

6.11 If Berman agrees to engage a third party to transport the goods, Berman is hereby authorised to engage a third party on the Customer's behalf and on the terms deemed fit by Berman.

6.12 The Customer agrees to indemnify Berman against any claims that may arise from such agreement in 6.11 against Berman.

6.15 All goods taken on a rental basis by the Customer is deemed sold if not returned within 7 days of issue in a perfect condition.

7.1 Goods are supplied and sold voetstoots with no warranty against latent defects and all other guarantees including common law guarantees are hereby specifically excluded. Services carry no guarantee.

7.3 No claim under this contract will arise unless the Customer has, within 7 days of the alleged breach or defect occurring, given Berman 30 days written notice by prepaid registered post to rectify any defect or breach of contract.

7.6 All guarantees are immediately null and void should any equipment be tampered with or should the seals on equipment be broken by anyone other than Berman or should the goods be operated outside the manufacturer's specifications.

7.7 Any Item delivered to Berman will form the object of a pledge in favour of Berman for present and past debts.

8. Under no circumstances will Berman be liable for any consequential damages or for any delictual liability of any nature whatsoever.

9. Under no circumstances will Berman be liable for any damage arising from any misuse or abuse of the goods.

10. The Customer agrees to pay the amount on the tax Invoice at the offices of Berman ( a ) cash on order or ( b ) if the Customer is a Credit Approved Customer within the granted credit period as specified on the Credit Application after a tax Invoice is issued by Berman.

11.1 The Customer has no right to withhold payment for any reason whatsoever.

11.2 The Customer is not entitled to set off any amount due to the Customer by Berman against this debt.

11.3 All discounts will be forfeited if payment in full is not made on the due date.

12.1 The Customer agrees that the amount due and payable to Berman may be determined and proven by a certificate issued by Berman and signed on its behalf by any duly authorised person, which authority need not be proven. Such certificate shall be binding and shall be prima facie proof of the indebtedness of the Customer.

12.2 Any printout of computer evidence tendered by any party shall be admissible evidence and no party shall object to the admissibility of such evidence party on grounds that such evidence is computer evidence.

13.1 The Customer agrees that interest shall be payable on any monies due to Berman at the maximum legal interest rate prescribed in terms of the Usury Act, from the date they fall due. In the case of late payment interest shall be calculated from the date of order.

13.2 The Customer expressly waives all rights to claim prescription under the relevant provisions of the Prescription Act 68 of 1969 as amended.

14. The Customer agrees that if an account is not settled in full ( a ) against order; or ( b ) within the period agreed in clause 10 above in the case of a Credit Approved Customer, Berman is ( i ) entitled to immediately institute section against the Customer at the sole expense of the Customer, or ( ii ) to cancel the agreement and take possession of any goods delivered to the Customer and claim damages.

15.1 In the event of cancellation, the Customer shall be liable to pay ( a ) the difference between the selling price and the value of the goods at the time of repossession and ( b ) all other costs incurred in the repossession of the goods. The value of repossessed goods will be deemed to be value placed on them by any sworn valuator after such repossession and such valuation will be conclusive proof of the value.

15.2 The Customer irrevocably authorises Berman to enter its premises to repossess any goods delivered and indemnifies Berman completely against any damage whatsoever relating to the removal of repossessed goods.

16.1 All goods supplied by Berman remain the property of Berman until such goods have been fully paid for.

16.2 The Customer is not entitled to sell or dispose of any goods unpaid for without the prior written consent of Berman.

16.3 If any goods supplied to the Customer are of a generic nature and have become property of the Customer by operation of law (confusio or commixtio) the Customer shall be obliged on notice of cancellation of the agreement to retransfer the same quantity of goods in ownership to Berman.

16.4 The Customer agrees to accept any quantity that does not exceed of fall short of the quantity ordered by more than 2% as good and complete performance and shall pay the pro rata contract price for the actual quantity dispatched.

17.1 The Customer shall be liable to Berman for all legal expenses on the attorney-and-client scale of an attorney and counsel incurred by Berman in the event of ( a ) any default by the Customer or ( b ) any litigation in regard to the validity and enforceability of this agreement. The Customer will also be liable for any tracing, collection or valuation fees incurred as well as for any costs including stamp duties, for any form of security that Berman may demand.

17.2 The Customer shall pay three thousand Rand into court or furnish sufficient security in lieu of costs in any action instituted by or against the Customer.

17.3 The Customer agrees that Berman will not be required to furnish security in terms of Rule 62 of the Rules of Court of the Magistrate's Courts.

18. The Customer agrees that no indulgence whatsoever by Berman will affect the terms of this agreement or any of the rights of Berman and such indulgence shall not constitute a waiver by Berman in respect of any of its rights herein. Under no circumstances will Berman be stopped from exercising any of its rights in terms of this contract.

19. Berman shall have the right to institute any action in either the Magistrate's Court or the Supreme Court at its sole discretion.

20.1 Any document will be deemed duly presented to the Customer within ( i ) 3 days of prepaid registered mail to any of the Customer's business or postal addresses or to the personal address of any director, member or owner of the Customer; or ( ii ) within 24 hours of being faxed to any of the Customer's fax numbers or any director, member's or owner's fax numbers; ( iii ) on being delivered by hand to the Customer or any director, member or owner of the Customer; ( iv ) within 48 hours if sent by overnight courier; or ( v ) within 24 hours of being telexed to the Customer's telex number.

20.2 The Customer chooses domicilium citandi et executandi the business address or the physical addresses of any director (in the case of a company), member (in the case of close corporations) or of the owner(s) or partner(s)

21. The Customer agrees to the standard rates of Berman for any goods and services rendered, which rates may be obtained on request.

22. The invalidity of any part of this contract will not affect the validity of any other part.

23. Any order is subject to cancellation by Berman due to force majeure from any cause beyond the control of Berman including (without restricting this clause to these instances); inability to secure labour, power, materials or supplies, or by reason of an act of God, war, civil disturbance, riot, state of emergency, strike, lockout, or other labour disputes, fire, flood, drought or legislation.