



GENERAL CONDITIONS OF CONTRACT FOR EQUIPMENT HIRE

1. **DEFINITIONS**

- 1.1. "owner/we/our/us" means Steinmüller Africa (Pty) Limited.
- 1.2. "hirer/you/your" means the person, company or other entity that places the order on the owner.
- 1.3. "the / this agreement" means the agreement concluded between the parties arising out of hirer's acceptance of owner's quotation.
- 1.4. "the order" means the order placed by the hirer on the owner for the hire of equipment, and includes all attachments to the order.
- 1.5. "personal information" means personal information as defined in the Protection of Personal Information Act 4 of 2013 (POPI).
- 1.6. "equipment" means the plant and equipment specified in the quotation.
- 1.7. "quotation" means the owner's offer to the hirer for the hire of equipment.

2. **AGREEMENT**

The owner, in consideration of payment or an undertaking by the hirer to pay the hire charges set out in the quotation, lets to the hirer the equipment described in the quotation. The conditions of hire set out in this document take precedence over any other terms which may have been included in the order. This agreement records the whole agreement between the parties and overrides all other agreements relating to the hire of the equipment. Only conditions, terms or representations expressed herein will be binding on the parties and no variation will be binding unless reduced to writing and signed by both parties.

3. **ORDER OF PRECEDENCE**

In the event of ambiguity or conflict between the documents forming part of this agreement, the following order of precedence will apply:

- a. Quotation, as amended by agreement between the parties (if applicable)
- b. These general conditions of contract for equipment hire
- c. Order

4. **NO CESSION OR SUBLETTING**

You will not cede or assign this agreement, nor sublet, encumber, or re-hire the equipment to any third party or part with possession thereof without first obtaining our written consent.

5. **PAYMENT**

- 5.1. Payment will be made within 30 days from date of invoice or, in the case of COD (cash on delivery) customers, prior to collection of the equipment by you.
- 5.2. Interest on overdue accounts will accrue at 2% above the prime overdraft rate charged by our bankers from time to time.
- 5.3. Unless otherwise agreed, you will not be entitled to claim set off in respect of any amount owing or alleged to be owing to you under any circumstances whatsoever.

6. **HIRE CHARGES, COLLECTION AND PERIOD OF HIRE**

- 6.1. You will pay hire charges in accordance with the daily rate set out in the quotation.
- 6.2. You will be responsible for collecting the equipment from our premises and for delivering the equipment back to our premises.
- 6.3. The period of hire will commence when you collect the equipment and expire when you return it.
- 6.4. We will be responsible for loading and offloading equipment at our premises.

7. **CONDITION AND USE OF EQUIPMENT**

- 7.1. We will ensure that the equipment is in good working order and fit for the purpose for which the equipment is normally used.
- 7.2. You will check the equipment at the commencement of the period of hire and advise us of any defects or faults noticed. We will replace faulty equipment that you return to us and will not charge you for the period during which you were unable to use the equipment, provided you return the equipment to us within 24 hours of the commencement of the period of hire.
- 7.3. We will supply equipment ready to be used by you. In the event that the equipment needs additional fuel, oil or grease during the period of hire, you can purchase these items from us or from a third party provided that you use the grade and type specified by us.
- 7.4. During the period of hire, you undertake that you will use the equipment only for the purpose for which it was hired and in accordance with the operating and safety instructions provided (where applicable).
- 7.5. You will check the state and condition of the equipment at reasonable intervals during the period of hire to ensure that it remains safe and serviceable.
- 7.6. You will be responsible for repairing any punctures that may occur during the period of hire. We will not refund hire charges in the event of any work stoppages caused by punctures.
- 7.7. You will not be permitted to repair or attempt to repair any equipment (excluding punctures) unless authorised to do so by us. Equipment that is not functioning optimally is to be returned to us for repair and maintenance.
- 7.8. You will not make any alterations or modifications to the equipment without our prior written consent.
- 7.9. You will allow us to have access to the equipment at any reasonable time to inspect, test, adjust, repair or replace the equipment as necessary.
- 7.10. You are required to obtain our written permission if you want to use the equipment at any other place than the place specified by you.
- 7.11. You will not remove, deface or cover up any nameplate or identification mark or number on the equipment, nor put any mark on the equipment which suggests that the equipment belongs to you.
- 7.12. You will return the equipment to us in the same condition as when we supplied it to you (fair wear and tear excluded), including re-sharpening drills, cutting edges and other tools.

8. **BREAKDOWN OF EQUIPMENT AND ACCIDENTS**

- 8.1. You will inform us immediately of any breakdown or unsatisfactory working of the equipment. You will return such equipment within 12 hours of becoming aware of the breakdown and we will endeavour to repair or exchange it.
- 8.2. If a breakdown of the equipment has been reported accordingly, you will not be charged for the duration of the downtime.
- 8.3. Where equipment has broken down and is not readily repairable, we will substitute equipment of a similar type. If no suitable substitute equipment is available immediately, we will suggest alternative dates when you can hire the substitute equipment. If the suggested

replacement or the suggested alternative dates are not satisfactory to you, you may terminate the agreement and claim for a refund (if applicable) for the period during which you were unable to make use of the equipment.

9. **FITTING OF ACCESSORIES**

- 9.1. When the equipment requires the fitting or re-fitting of any accessories (such as drills, wheels, discs, blades, etc), it is your responsibility to ensure that any such accessory is correctly or re-fitted in accordance with any relevant operating or safety instructions that you are given.
- 9.2. If any injury or damage to persons or property or to the equipment arises as a result of you having incorrectly fitted or refitted any accessory, you will be responsible for such injury or damage.

10. **LOSS OR DAMAGE TO THE EQUIPMENT**

The responsibility of care for the equipment and the risk of loss of or damage to property or persons howsoever caused lies with you for the period of hire, irrespective of any insurance policy covering either the equipment or the hirer's liability for damage to the equipment.

11. **INDEMNITY BY THE HIRER AND EXCLUSION OF OWNER'S LIABILITY**

While the equipment is in your care, we will not be liable to you for any damages, whether direct or consequential of whatsoever nature and howsoever arising, and you indemnify us and hold us harmless against all such claims, including the cost of defending any such claim or action.

12. **INSURANCE**

The owner will be responsible for insuring the equipment included in the quotation. In the event that there is an insurance claim for any loss or damage to the equipment, the Hirer will be responsible for the payment of any excess deducted from the claim. The excess amount varies from year to year and will be stipulated in the quote document that has been provided to the Hirer.

13. **OCCUPATIONAL HEALTH & SAFETY ACT 85 OF 1993 ("the Act")**

You acknowledge that you are familiar and undertake to comply with the provisions of the Act and the Regulations made thereunder insofar as they relate to the use of the equipment and accessories.

14. **FORCE MAJEURE**

- 14.1. *Force majeure* means any circumstances beyond the reasonable control of either party and will include but not be limited to, political, industrial or social disturbance or strike (not limited to the hirer's employees), war, revolution, invasion, insurrection, sabotage, epidemic, major accident, fire, flood or other natural disaster. The mere shortage of labour, material or utilities will not constitute *force majeure* unless caused by circumstances which are in themselves *force majeure*.
- 14.2. If either party is prevented or delayed from performing any obligations by *force majeure*, the affected party must as soon as reasonably possible notify the other party of the circumstances constituting *force majeure* and of the obligations affected and the party giving such notice will thereafter be excused from the performance or punctual performance as the case may be of such obligation from the date of such notification for so long as the circumstances of prevention or delay continue.
- 14.3. In the event of the equipment becoming inoperative as a consequence of a *force majeure* event, the parties will agree on appropriate steps to ensure the preservation of the equipment and removal of the equipment from hirer's site.

15. **BREACH AND TERMINATION**

- 15.1. Should either party commit a breach of this agreement and fail to remedy such breach within 24 hours of written demand from the other party, the aggrieved party will be entitled, in addition to any other rights and remedies that it may have, including the right to recover damages, to claim specific performance of all the defaulting party's obligations, whether or not they are due for performance, or to cancel this agreement.
- 15.2. Either party will be entitled to cancel this agreement without notice if the other party is made subject to any provisional or final order of liquidation or judicial management or commences business rescue proceedings or compounds with its creditors or enters into any arrangement of compromise with its creditors or suffers execution to be levied on its goods or fails to satisfy any judgment against it within 30 days thereof.
- 15.3. If you fail to pay any amount within 7 days of due date, we will be entitled to cancel this agreement and take possession of the equipment. Notwithstanding the foregoing, we will be entitled to recover all monies due or to become due in terms of this agreement for the full and unexpired period of hire, together with all costs, including legal costs, incurred by us in connection with cancellation of the agreement and/or obtaining possession of the equipment.

16. **WAIVER**

Failure by either party to enforce any of the provisions of this agreement will not be construed to be a waiver of any of that party's rights in terms of this agreement or prejudice the right of that party to institute action in the future.

17. **JURISDICTION CLAUSE**

This agreement will be interpreted in accordance with the laws of South Africa. The parties consent to the jurisdiction of the Magistrates Court notwithstanding that the claim exceeds the normal jurisdiction of the Magistrate's Court as to amount.

18. **PERSONAL PROTECTION OF INFORMATION: CONSENT & DECLARATION**

These terms and conditions should be read in conjunction with our Privacy Statement found at www.steinmuller.bilfinger.com. You consent to:

- 18.1. the collection, processing and use of your personal information for the purpose of creating products and/or services that may meet your needs; administration of our obligations in terms of any agreement you have with us, processing orders and/or applications submitted by you and for related legal and operational reasons;
- 18.2. the sharing of your personal information with our other entities, employees, agents, subcontractors and affiliates (who may be outside of the Republic of South Africa) on condition they will keep such information private and confidential; and
- 18.3. the retention of such information in terms of applicable legislation.
- 18.4. You warrant the accuracy and completeness of all personal information supplied to us by you and undertake to immediately advise us of any changes to such information.

19. **CODE OF CONDUCT**

- 19.1. We expect integrity and ethical, law-abiding behaviour from all our business partners in line with the Global Compact Initiative and the minimum standards set out below and request that you insist that your own subcontractors and suppliers comply with these principles and standards:
- 19.2. You should actively and consistently counteract criminal or unethical influence on decisions taken by the owner or other companies and institutions and fight corruption within your own companies.

- 19.3. You should not participate in anti-competitive bid rigging and should take action against illegal cartels.
- 19.4. You should comply with all legal requirements and effectively eliminate illegal employment.
- 19.5. You should respect the health and personal rights of your employees and adhere to the principles of respect, fairness and non-discrimination.
- 19.6. You should employ and remunerate your employees on the basis of fair and compliant contracts and maintain international minimum labour standards.
- 19.7. You should observe relevant legal environmental standards and minimise environmental pollution.
- 19.8. You are required to report your own violations of this Code of Conduct, insofar as these affect your business relations with the owner, and are also asked to report any knowledge of misconduct on the part of our employees.
- 19.9. You are required to actively resolve any suspicious cases and to cooperate unconditionally with the owner in this regard. If there are reasonable grounds to believe that you have failed to meet your obligations in this regard, we will be entitled to terminate business relations with you with immediate effect.
- 19.10. Should you violate this Code of Conduct, we retain the right to initiate further legal measures, particularly damage claims. We reserve the right, from time to time, to update this Code of Conduct, and expect that you accept any such changes.
- 19.11. Contact Person: Compliance Representative - Tel: 011 806 3000 Fax: 086 613 1965.

Thus done and signed by the Contractor in _____ on ____ the _____ day of _____ 20 ____ .

Print name

Signature

Job Title (duly authorised)