

A.R.S Small Plant Hire cc

STANDARD TERMS AND CONDITIONS OF HIRE

1. DEFINITIONS

The following words and/or phrases contained hereafter shall bear the following meaning:

"A.R.S" - Shall mean the legal entity as reflected in the header hereof trading as A.R.S Small Plant Hire cc

"The Customer" - Shall mean the person/s natural or artificial as the case may be specified in the particulars of this Credit Application form.

"The Equipment hired" - Shall mean all equipment of whatsoever nature which may be hired by A.R.S Small Plant Hire cc and shall also include any services which may be rendered by A.R.S Small Plant Hire.

2. ESCALATION

A.R.S Small Plant Hire shall have the right to increase the rate of the equipment hired, from time to time, by such amounts as A.R.S Small Plant Hire in its sole discretion deems fair. The customer agrees to A.R.S Small Plant Hire ruling price at the date of delivery, unless otherwise quoted in writing.

3. WARRANTY

A.R.S Small Plant Hire gives no warranty, express or implied that the equipment is suitable for the purpose for which used. The customer must satisfy itself as to the suitability and specifications of the equipment for their end use, and the customer accepts that the equipment is hired in the condition found. The customer by his signature hereto indemnifies and holds harmless A.R.S Small Plant Hire against any claims of whatsoever nature they or any third party may have against A.R.S Small Plant Hire as regards any damages or injuries, including damages and injuries to third parties, as a result of negligence which can be attributed to A.R.S Small Plant Hire, its employees and agents.

4. DELIVERYS

- (a) If it has been agreed upon and there is no one available to accept delivery of the goods hired, A.R.S Small Plant Hire will take the goods back to its premises and the customer will be liable for the costs of returning the goods back to A.R.S Small Plant Hire, plus any additional cost of redelivery.
- (b) The customer agrees to the delivery of goods subject to the return thereof of any goods which are in possession of any other hirer. Should the goods not be returned timeously, A.R.S Small Plant Hire will notify the customer of such failure.
- (c) Due to the nature of the equipment, the machines may break. A.R.S Small Plant Hire will endeavour to repair a machine which is hired as soon as reasonably possible.

5. DEDUCTIONS / SET OFF

No amount whatsoever may be deducted from the invoices without A.R.S Small Plant Hire authorization and the Customer shall not be entitled to make any deductions of any amount due by reason of the fact it contends it has a claim of any nature whatsoever against A.R.S Small Plant Hire. The Customer hereby waives any defense of any nature whatsoever as regarding payments due to A.R.S Small Plant Hire, except for payments effected to A.R.S Small Plant Hire which claim shall be accepted against the submission of proof of such payment.

6. DOMICILIUM

The Customer hereby nominates its street address as stated the face hereof as its registered office address for all purposes arising out of this agreement. All notices forwarded to such address shall be deemed to be received by the Customer after the expiry of five (5) days from the date of posting by registered prepaid post.

7. RESERVATION OF OWNERSHIP

At all material times the ownership in the equipment hired in terms of this agreement shall remain vested in A.R.S Small Plant Hire, or any cessionary to whom A.R.S Small Plant Hire may cede its rights. The customer undertakes at all material times to inform A.R.S Small Plant Hire of the address at which the equipment is to be used and stored and to inform the owner of such premises as to the ownership of the equipment including any form of attachment exercised against the equipment. Failing to meet the above conditions will result into the assumption that the equipment has been stolen and a criminal case will be opened.

8. DEFAULT

Should the Customer fail to pay any amount on due date, or allow any judgment against it to remain unsatisfied for seven (7) days or should it fail to fulfill or should it in the sole discretion of Mentor A.R.S Small Plant Hire, be in breach of any term or condition of this agreement, or should it commit any act of insolvency or should it be wound up, whether provisionally or finally, then and in any of the above events, A.R.S Small Plant Hire shall be entitled at its election and without any prejudice to any other right to:

- (a) Claim immediate payment of all amounts payable in terms hereof and in terms of a subsequent order irrespective of whether or not such amounts are due at the stage; or
- (b) Immediately terminate this agreement, cease supply, retake possession of the equipment hired and claim payment of any damages suffered by A.R.S Small Plant Hire which shall include loss of profit suffered as a result of the breach;
- (c) Claim payment of all attorneys and own client costs incurred, together with collection commission and tracing charges, and all interest calculated at the prescribed rate of interest act.

9. JURISDICTION

The Customer hereby consents to the jurisdiction of the Magistrate's Court having jurisdiction over his person in respect of any person which might be instituted in terms hereof, irrespective of the accounts claimed of the value of the equipment it invoiced in such action, without prejudice to A.R.S Small plant Hire rights to institute proceedings in any other Court having jurisdiction in the matter.

10. SOLE AGREEMENT AND NON VARIATION

This is the only agreement between the parties and no addition hereto or amendments or consensual cancellation thereof shall be of any force or effect unless such addition, amendment or cancellation is incorporated herein by reference or reduced or reduced to writing and signed by both parties.

11. NO RELAXATION

No relaxation or indulgence, which A.R.S Small Plant Hire may grant to the Customer, shall in any way prejudice A.R.S Small Plant Hire may grant to the Customer, shall in any way prejudice A.R.S Small plant Hire rights and shall not be regarded as a waiver of such rights or as notation of this agreement.

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12. DISCLOSURE OF PERSONEL INFORMATION

The applicant consent to A.R.S Small Plant Hire furnishing personal and credit information concerns the applicant's dealings with A.R.S Small Plant Hire to a credit bureau and to a third party seeking a trade reference.

13. APPROPRIATION OF PAYMENTS

A.R.S Small Plant Hire at its discretion shall appropriate the payments made in terms of this agreement, firstly to any costs then to any interest outstanding and thereafter to the capital amount outstanding from time to time, or at A.R.S Small Plant Hire sole discretion.

14. TERMS OF PAYMENT

Payment to be made by the Customer is strictly cash unless credit facilities have been granted in writing. Payment for credit facilities granted must be thirty (30) day from the date of statement. The customer shall be liable to pay interest at the maximum permissible finance charge rate as may be chargeable in terms of the Limitations and Disclosure of Finance Charges Act on any overdue balance. Credit facilities granted to a Customer may in the sole discretion of A.R.S Small Plant Hire be suspended or revoked by written notice to the Customer thereafter the full balance owing will immediately become due and payable. The balance reflected on any statement shall be prima facie evidence of the amount due and any certificate issued by an authorized representative of A.R.S Small Plant Hire shall be prima facie proof of the amount due and owing for the purposes of legal proceedings against the Customer including the obtaining of a judgment summary or otherwise and provisional sentence.

15. DELIVERY AND RETURN

Equipment is hired ex A.R.S Small Plant Hire premises and risk shall pass to the Customer upon the equipment leaving A.R.S Small Plant Hire premises. It is a term of this application that equipment will only be deemed to have been returned to A.R.S Small Plant Hire against acknowledgement of the return of the same by a duty application that equipment will only be deemed to have been returned to A.R.S Small Plant Hire who must append his signature on the tax/rental invoice or on/off hire note which records the return of such equipment. In the event of delivery the risk shall pass to the consumer upon receipt of the equipment.

16. POSTING

Should either the Customer or A.R.S Small Plant Hire post or forward any letter or document through the Post Office or any other agent or carrier then the post office or agent or carrier as the case may be shall be deemed to be the agent of the Customer. Facsimiles at all material times will be deemed to be proper service and a positive facsimile report generated or A.R.S Small Plant Hire for machine will be prima facie proof of such transmission.

17. PROOF OF DELIVERY

Signature by the Customer or any representative or employee of the Customer of A.R.S Small Plant Hire delivery note end/or invoice, shall be regarded as acceptance by the customer that the equipment reflected in such delivery note and/or on/off Hire note have been properly regarded and completely delivered.

18. APPLICABLE LAW

Regardless of the place of execution, performance or domicile of parties, this agreement and all modifications hereof shall be governed by and continued under and in accordance with the laws of the Republic of South Africa.

19. INCORPORATIONS OF CONDITIONS OF HIRE

At all material times the "CONDITIONS OF HIRE" which we either displayed at A.R.S Small Plant Hire premises or are available on request shall be deemed to be incorporated in this agreement and shall form an integral part of this agreement.

20. CESSION AGREEMENT

- (a) The Customer does hereby irrevocably and in Ram Sum cede, pledge, assign, transfer and make over unto and in favor of the CREDITOR (ARS), all of its rights, title, claim and demand in and to all claims/debts/book debts of whatsoever nature and description and howsoever arising which the Customer may now or at any time hereafter have against all and any persons, companies, corporations, farms, partnerships, associations, syndicates and other legal personae whomsoever ("the Customer" debtors) without exception as a continuing covering security for the due payment of every sum of money which may now at any time hereafter be or exception as a continuing covering security for the due payment of every sum of money which may now at any time hereafter be or become owing by A.R.S Small Plant Hire from whatsoever cause or obligations howsoever arising which the Customer may be or become bound to perform in favor of A.R.S Small Plant Hire.
- (b) Should it transpire that the Customer at any time entered into prior deeds of cession or otherwise disposed of any of the right, title and cession of all the Customer's reversionary rights? Notwithstanding the terms of the foregoing cession of the Customer shall be entitled to institute action against any of the Customer's debtors provided further that A.R.S Small Plant Hire shall at any time be entitled to terminate the Customer's right to collect such monies/debts.
- (c) The Customer further agrees that A.R.S Small Plant Hire, shall at any time, be entitled to inspect any of the Customer's books or records and in addition shall be entitled to take possession of such books and records (of whatsoever nature) to give effect to the terms of this cession.

21. REPLACEMENT COSTS

The customer accepts full responsibility for any loss or damage to the Equipment after it has been hired from A.R.S Small Plant Hire of the equipment to its pre-delivery condition including replacement in the event of theft or loss or misplacement or non return or damage beyond repair of the equipment will be for the account of the customer. In the event of damage beyond repair or theft or misplacement or non return of the goods the customer accepts and agrees to compensate A.R.S Small Plant Hire at the full retail price of such equipment and further to effect payment of the agreed hire rates until such time as the customer has effected full payment of the full retail price or has returned the equipment in a clean and perfect working condition. In the event of having to reinstate the equipment to its pre-delivery condition the Customer will remain liable for the agreed hire rates until such equipment has been reinstated to its pre-delivery condition.

22. WARRANTY

The signatory warrants and declares that full proper disclosure as to all details and the financial status of the applicant has been made.

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