

GENERAL CONDITIONS OF HIRE

1. Hire of equipment

TKM Hiring C.C ("the owner") hires to the customer the equipment described over leaf ("the equipment") in terms of these General Conditions of Hire. The parties elect their respective domicilia for the purposes of notice and service of process and proceedings at the addresses stated overleaf.

2. Deposit and hire charges

- 2.1 The hire charges at the rates and the deposit stated overleaf are payable in cash on delivery unless otherwise agreed. The deposit less deduction of amounts due shall be refunded to the customer within a reasonable period of return or collection of the equipment.
- 2.2 The customer shall be deemed to have accepted the correctness of any account unless the owner is notified in writing of any queries of discrepancies within 3 days of date of account.
- 2.3 Any deposit paid in advance to secure bookings will be forfeited if the booking is cancelled less than 30 days prior to the reserved date.

3. Period

- 3.1 The hire commences when the equipment is delivered or collected, and, subject to 9, ends when the owner accepts return of the equipment.
- 3.2 The owner shall use reasonable endeavours to ensure that equipment is delivered or available for collection at the agreed time, but shall not be liable should the equipment not be delivered or be available at such time.
- 3.3 (i) In the event of the Customer failing to return any article of the Owner on the return date, he shall pay the owner Liquidated damages per day in respect of that article calculated at the rate shown overleaf for that article.

(ii) The Customer shall not pay liquidated damages as aforesaid in respect of a period exceeding 5 days, after which the article concerned shall be deemed to have been lost and no further damages shall be claimable, except as provided in sub clause (ii) below.

(iii) The Owner shall have the right to claim his actual damages instead of liquidated damages.

(iv) In the event of any article being returned in any way damaged or not in the same good condition as supplied, the Customer shall be liable to the owner as if he had failed to return it and the provisions of sub clauses (i), (ii) and (iii) shall apply.

4. Equipment

- 4.1 The equipment shall be deemed to be in the quantity and of the description stated overleaf and 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 or its representatives forthwith in writing on delivery of any deficiency in quantity, defective or incorrectly delivered equipment.
- 4.2 The Owner shall, in its sole discretion, be entitled either to terminate this agreement and refund the deposit and any hire charges paid, or to replace the defective or incorrectly equipment or remedy any defects in the delivered equipment.

5. Maintenance and return of equipment

The Customer shall:

- 5.1 Provide dry, under cover storage until such time as the equipment is returned to the owner.
- 5.2 Immediately notify the Owner in writing should any equipment malfunction. The Owner shall repair or replace the equipment at its cost at the owner's principal place of business, unless the Owner in its sole discretion determines that the malfunction is due to improper use of the equipment by the Customer or its agent.
- 5.3 Return the equipment in a clean state and in good order and repair, in particular, but without limitation.
 - 5.3.1 All equipment, (with the exception of the table cloths, furniture and marquees) must be washed and dried. Any equipment returned unwashed will be charged for at a rate determined by the Owner.
 - 5.3.2 Table cloths must be dried before being returned.

In the event that any of the equipment is lost, destroyed or damaged for any reason whatsoever prior to the return thereof, the customer shall be liable to make good the full replacement cost thereof.

- 5.4 The Customer shall not be entitled to substitute any other equipment for the Owner's equipment.
- 5.5 Notwithstanding 2.2, unless the equipment is checked and counted on return or on collection in the presence of a representative of the Owner, who accepts the correctness of a statement as to the quantity and condition of the equipment, the Owner's statement regarding the quantity and condition of the equipment collected shall be final and binding on the Customer

6. use of equipment

The Customer:

- 6.1 acknowledges that he/she is aware of the purpose for which the equipment is intended, and shall only use the equipment for such purpose;
- 6.2 shall use the equipment at his own risk, and indemnifies the owner against any claim of whatsoever nature brought against it by the Customer's employees, agents, representatives, guest or any other third parties arising out of the use of the equipment by the Customer or while in the possession of the customer, or any other cause and all costs and expenses incurred by the Owner on an attorney and own client scale in defending or settling such proceeding;
- 6.3 shall have no claim of any nature against the Owner for any loss suffered or damages sustained by the Customer arising from any cause of whatsoever nature, including, without limitation, the installation, use or malfunction of the equipment or the provisions of these General Conditions other than the specific remedies provided for.

7. No warranties

The Owner furnished no warranties and makes no representations other than those contained herein. The provisions of these General Conditions shall govern the relationship of the parties to the exclusion of all other conditions, whether implied by law or stipulated for by the Customer, unless accepted by the owner in writing.

8. Access

The Owner shall at all reasonable times be entitled to access to any premises of the Customer for the purpose of inspecting or repairing the equipment.

9. Breach

9.1 Should the Customer

- 9.1.1 fail to comply with any obligation imposed on the Customer in terms hereof, all 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
- 9.1.2 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.

9.2 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 damages from the customer as the Owner may have suffered as a result of the breach by the customer of any of his obligations.

9.3 The owner shall not be liable for any damages of whatsoever nature for any reason of whatsoever nature as a result of negligence or otherwise of the owner, its employees or agents.

10. Miscellaneous

- 10.1 The Customer consents to the jurisdiction of the Magistrate's Court having jurisdiction over the Customer, notwithstanding that the Owner's value of the claim may exceed the jurisdiction of the Magistrate's Court. The Owner shall at all times however be entitled to institute proceedings out of the Supreme Court of South Africa if it so chooses.
- 10.2 The Customer will be liable for the Owner's costs on an attorney and own client scale should the Owner institute legal proceedings against the Customer arising out of the provisions of these General Conditions, or arising out of the Customer's use or possessions of the equipment.
- 10.3 The Owner shall be entitled to apply any amount received from the Customer to the liquidation in whole or part, of any obligation whether arising out of this hire or otherwise owned by the Customer to the Owner, irrespective of whether the final amount of the obligation has been determined.

11. Non Variation

No variation of the terms and conditions contained herein or of this clause, amendment, addition or consensual cancellation on the part of the Customer of this agreement, shall be binding between the parties unless reduced to writing in one document signed by both parties.

12. Notices

- 12.1 Any notice to be delivered under this agreement shall be delivered by prepaid registered post, alternatively by hand. If such notice is delivered by prepaid registered post it shall be deemed to have been received by the Customer within 3(three) days of posting. If the notice is delivered by hand it shall be deemed to have been received on the day that it is delivered provided and acknowledgement of receipt thereof is obtained.
- 12.2 Each party may change their domicilium address provided it is not a postestate and it is a physical address in the Republic of South Africa, by affording the other party notice of such change of domicilium in writing.

13. Terms & Conditions will be considered valid though invoice is not signed by the respective Domicilium.