

# 1. SERVICE SPECIFICATION WITH PRICING

## Terms and Conditions

1. The terms hereof shall form part of and apply to any extensions of this agreement.
2. Unless otherwise specifically stipulated in writing to the contrary by Sanitech, the terms hereof shall supersede and prevail over any terms and conditions contained in any documents submitted by the Customer.
3. Hire Goods are hired subject to them being available for hire to the Customer at the time required by the Customer. The supplier will not be liable for any loss suffered by the Customer as a result of the Hire Goods being unavailable for hire where the Hire Goods are unavailable due to circumstances beyond the Supplier's control.
4. The following specific provisions shall apply in the event that the transaction entered into between Sanitech and the Customer is for the hire of goods and services delivered, namely:
  - 4.1. All unit rates quoted are for a minimum hire period of 31 days.
  - 4.1.2 The Supplier may set a reasonable credit limit for the Customer. The Supplier reserves the right to terminate or suspend the Contract for the hire of the Hire Goods and/or the provision of Services if allowing it to continue would result in the Customer exceeding its credit limit or the credit limit is already exceeded.
- 4.1.3 Hire will be charged for in full from the first month of delivery;
5. **PAYMENT**
  - 5.1 The Customer shall pay the Rental, charges for any Services and/or any other sums payable under the contract to the Supplier at the time and in the manner agreed in section 3 of this agreement. The Supplier's prices are, unless otherwise state, *exclusive of any applicable VAT* for which the Customer shall additionally be liable;
  - 5.2 Where a Deposit is required for the Hire Goods it must be paid in advance of the Customer hiring the Hire Goods.
  - 5.3 If the Customer fails to make any payment in full on the due date the Supplier may charge the Customer *mora* (interest on late payment) interest (both before and after judgment) on the amount unpaid at the rate prescribed by law, which interest shall be compounded monthly.
  - 5.4 The Customer shall pay all sums due to the Supplier under this contract without any set-off, deduction, counterclaim and/or any other withholding of monies.
  - 5.5 In the event of a dispute such request must be lodged in writing and forwarded to Sanitech within 21 days of date of dispute. No payment may be withheld due to a query/dispute on the account.
  - 5.6 For customers without approved credit facilities, where the period of hire has expired and the customer wishes to extend the hire contract further, the customer is required to pay the full value of the hire and services for the extended period immediately and prior to the commencement of the extended period.
  - 5.7 A standard service fee will be charged if any Sanitech drivers or service crew is made to wait longer than 30 min to discharge their duties.
  - 5.8 Any unauthorised / un-communicated movements (re-sites) of equipment that leads to missed services will still be charged in full.
  - 5.9 Sanitech reserves the right to charge for Hire in any circumstances that prevent Sanitech from being able to collect its equipment until the equipment is collected.
6. **RISK OWNERSHIP**
  - 6.1 Risk in the Hire Goods and any Products will pass immediately to the Customer when they leave the physical possession or control of the Supplier.
  - 6.2 Risk in the Hire Goods will not pass back to the Supplier from the Customer until the Hire Goods are in the physical possession of the Supplier and this shall apply even if the Supplier has agreed to cease charging the Rental.
  - 6.3 Ownership of the Hire Goods shall be vested with the Supplier.
7. **CARE OF GOODS**
  - 7.1 The Customer shall:
    - 7.1.1 not remove any labels from and/or interfere with the Hire Goods, their working mechanisms or any other parts of them and take reasonable care of the Hire Goods and only use them for their proper purpose in a safe and correct manner in accordance with any operating and/or safety instructions provided or supplied to the Customer;
    - 7.1.2 Notify the Supplier immediately after any breakdown, loss and/or damage to the Hire Goods;
    - 7.1.3 Take adequate and proper measures to protect the Hire Goods from theft, damage and/or other risks;
    - 7.1.4 Notify the Supplier of any change of its address and upon the Supplier's request provide details of the location of the Hire Goods;
    - 7.1.5 Keep the Hire Goods at all times in its possession and control and not remove the Hire Goods from the site without the prior written consent of the Supplier;
  - 7.2 The Hire Goods must be returned by the Customer in good working order and condition (fair wear and tear excepted) and in a clean condition.
8. **BREAKDOWN**
  - 8.1 The Customer shall be responsible for all expenses, loss (including loss of Rental) and/or damage suffered by the Supplier arising from any breakdown of the Hire Goods due to the Customer's negligence, misdirection, misuse of the Hire Goods and/or as a result of the Customer failing to comply with any of its obligations in terms of these terms and conditions.
  - 8.2 The Supplier will at its own cost carry out all routine maintenance and repairs to the Hire Goods during the Hire Period and all repairs which are required due to fair wear and tear and/or an inherent fault in the Hire Goods.
  - 8.3 The Customer will be responsible for the cost of all repairs necessary to Hire Goods during the Hire Period which arise otherwise than as a result of fair wear and tear, an inherent fault and/or the negligence of the Supplier while carrying out routine maintenance and/or repairs
  - 8.4 The Customer must not repair or attempt to repair the Hire Goods unless authorised to do so in writing by the Supplier.
9. **LOSS OR DAMAGE TO THE HIRE GOODS**
  - 9.1 If the Hire Goods are returned in damaged or defective state except where due to an inherent fault in the Hire Goods the Customer shall be liable to pay the Supplier for the cost of any repair required to return the Hire Goods to a condition fit for re-hire and to pay the Rental, in accordance with the provisions of clause 9.3, until such repairs and/or cleaning have been completed.
  - 9.2 The Customer will pay to the Supplier the replacement cost of any Hire Goods which are lost, stolen, damaged beyond economic repair and/or any other loss during the Hire Period less the amount paid to the Supplier under any policy of insurance taken out in accordance with these conditions.
  - 9.3 The Customer shall pay the Rental for the Hire Goods up to and including the date it notifies the supplier that the Hire Goods have been lost, stolen and/or damaged beyond economic repair. From that date until the Supplier has replaced such Hire Goods the Customer shall pay, as a genuine pre-estimate of lost rental profit, a sum as liquidated damages being equal to two thirds of the Rental that would have applied for such Hire Goods for that period. The Supplier shall use its reasonable commercial endeavours to purchase replacements for such Hire Goods, using the monies paid under clause 9.2 above.
  - 9.4 The Customer shall not be liable for any cost of cleaning or repair due to fair wear and tear, in the event that the Customer has paid the "Damage Waiver" fee. The Customer shall however remain liable for any other damages as set out above.
10. **TERMINATION BY NOTICE**
  - 10.1 If the Hire Period has a fixed duration, subject to the provisions of Section 11 neither the Customer nor the Supplier shall be entitled to terminate the Contract before the expiry of that fixed period unless agreed with the other party in writing.
  - 10.2 If the Hire Period does not have a fixed duration either the Customer or the Supplier shall be entitled to terminate the Contract upon giving to the other party an agreed 60-day period of notice.
  - 10.3 If no period of notice has been agreed or specified in writing the Customer may terminate the Hire Period by the physical return of the Hire Goods to the Supplier and the Supplier shall be entitled to terminate the hire of the Hire Goods by giving not less than 14 days' notice to the Customer.
  - 10.4 Upon termination of the Contract the Customer shall immediately:
    - 10.4.1 Return the Hire Goods to the Supplier or make the Hire Goods available for collection by the Supplier as requested by the Supplier; and
    - 10.4.2 All arrear Rentals, Charges for any Services and/or any other sums payable under the Contract shall immediately become due and payable.
11. **DEFAULT**
  - 11.1 If the Customer:-
    - 11.1.1 fails to make any payment to the Supplier when due;
    - 11.1.2 breaches the terms of the Contract and, where the breach is capable of remedy, has not remedied the breach within 14 days of receiving notice requiring the breach to be remedied;
    - 11.1.3 provides incomplete, materially inaccurate or misleading facts and/or information in connection with the Contract;
    - 11.1.4 appears reasonably to the Supplier to be about to suffer any of the above events; then the Supplier shall have the right without prejudice to any other remedies, to exercise any or all of the rights set out in clause 11.2 below.
  - 11.2 If any of the events set out in clause 11.1 above occurs in relation to the Customer then:
    - 11.2.1 the Supplier may enter, without prior notice, any premises of the Customer (or premises of third parties with their consent) where Hire Goods owned by the Supplier may be and repossess any Hire Goods;
    - 11.2.2 the Supplier may withhold the performance of any Services and cease any Services in progress under this and/or any other Contract with the Customer;
    - 11.2.3 the Supplier may immediately cancel, terminate and/or suspend the Contract and/or any other contract with the Customer; and/or
    - 11.2.4 all monies owed by the Customer to the Supplier shall immediately become due and payable.
  - 11.3 Any repossession of the Hire Goods shall not affect the Supplier's right to recover from the Customer any monies due under the Contract and/or any damages in respect of any breach which occurred prior to repossession of the Hire Goods.
  - 11.4 Upon termination of the Contract the Customer shall immediately:
    - 11.4.1 return the Hire Goods to the Supplier or make the Hire Goods available for collection by the Supplier as requested by the Supplier; and
    - 11.4.2 pay to the Supplier all arrear Rentals, charges for any Services and/or any other sums payable under the Contract.
12. **LIMITATIONS OF LIABILITY**
  - 12.1 All warranties, representations, terms, conditions and duties implied by law relating to fitness, quality and/or adequacy are excluded to the fullest extent permitted by law.
  - 12.2 If the Supplier is found to be liable in respect of any loss or damage to the Customer's property the extent of the Supplier's Liability will be limited to the retail cost of replacement of the damaged property.
  - 12.3 Any defective Hire Goods must be returned to the Supplier for inspection if requested by the Supplier before the Supplier will have any Liability for defective Hire Goods.
  - 12.4 The Supplier shall have no Liability to the Customer if any monies due in respect of the Hire Goods and/or the Services has not been paid in full by the due date for payment.
  - 12.5 The Supplier shall have no Liability for additional damage, loss, liability, claims, costs or expenses caused or contributed to by the Customer's continued use of defective Hire Goods and/or Services after a defect has become apparent or suspected or should reasonably have become apparent to the Customer.
  - 12.6 The Customer shall give the Supplier a reasonable opportunity to remedy any matter for which the Supplier is liable before the Customer incurs any costs and/or expenses in remedying the matter itself. If the Customer does not do so the Supplier shall have no Liability to the Customer.
  - 12.7 The Supplier shall have no Liability to the Customer to the extent that the Customer is covered by any policy of insurance arranged as a result of the Contract and the Customer shall ensure that the Customer's insurers waive any and all rights of subrogation they may have against the Supplier.
  - 12.8 The Supplier shall have no Liability to the Customer for any:-
    - 12.8.1 consequential losses (including loss of profits and/or damage to goodwill);
    - 12.8.2 economic and/or other similar losses;
    - 12.8.3 special damages and indirect losses; and/or
    - 12.8.4 business interruption, loss of business, contracts and/or opportunity;
  - 12.9 Each of the limitations and/or exclusions in this Contract shall be deemed to be repeated and apply as a separate provision for each of:
    - 12.10 Liability for breach of contract; Liability in delict (including negligence); and Liability for breach of statutory and/or common law duty; except clause 12.9 above which shall apply once only in respect of all the said types of Liability.
13. **GENERAL**
  - 13.1 Upon termination of the Contract the provisions of clauses 4.2, 4.4, 4.5, 9.1, 9.2, 9.3 and Section 7 shall continue in full force and effect.
  - 13.2 The Customer shall be liable for the acts and/or omissions of its employees, agents, servants and/or subcontractors as though they were its own acts and/or omissions under this Contract.
  - 13.3 The Customer agrees to indemnify and keep indemnified the Supplier against any and all losses, lost profits, damages, claims, costs (including legal costs on a full indemnity basis), actions and any other losses and/or liabilities suffered by the Supplier and arising from or due to any breach of contract, any negligent or wrongful act and/or omission and/or any breach of statutory duty by the Customer.
  - 13.4 The Supplier shall have no Liability to the Customer for any delay and/or non-performance of a Contract to the extent that such delay is due to any Force Majeure events. If the Supplier is affected by any such event then time for performance shall be extended for a period equal to the period that such event or events delayed such performance.
  - 13.5 All third-party rights are excluded and no third parties shall have any rights to enforce the Contract. This Contract is governed by and interpreted in accordance with South African law and the parties agree to submit to the non-exclusive jurisdiction of the South African courts.
  - 13.6 The Customer shall be liable to the Supplier for all legal expenses including tracing and collection fees, on the attorney-and-own-client-scale incurred by the Supplier in the event of any default by the Customer or any litigation in regard to the validity and enforceability of these Terms.
  - 13.7 The Customer undertakes to notify the Supplier in writing of any change of address of its principal place of business and/or registered office where applicable.
  - 13.8 The Customer and its officials choose/s its *domicilium citandi et executandi* for the purpose of service of letters, notices, accounts, summons or any other legal action and/or application and the like for any other purpose, the physical address set out in this document.
  - 13.9 A certificate issued by Sanitech and signed by a manager, whose authority it will not be necessary to prove, shall constitute prima facie (valid on the face thereof) proof of both the indebtedness and the amount of the indebtedness by the Customer to Sanitech and may be used for such purposes in any action or application brought by Sanitech against the Customer, including but not limited to; provisional or summary judgment applications or liquidation proceedings