

STANDARD TERMS AND CONDITIONS

The following standard terms and conditions will regulate the relationship between the contractor and the customer in respect of all work effected in terms of this agreement.

1 DEFINITIONS

- 1.1 CONTRACTOR - Shall mean the Rent a Renovator franchisee, an independent contractor, contracted by the customer to effect the work in terms of this agreement.
- 1.2 CUSTOMER - Shall mean the owner, or occupier of the property at which the work is to be performed, alternatively the owner's agent who warrants that he is duly authorized to bind the owner in this agreement.
- 1.3 PROPERTY - Shall mean the customer's property at which the work is to be effected and shall be deemed to be at the address reflected on the face hereof, unless the contrary is stated.
- 1.4 WORK - Shall mean all work to be effected in terms of this agreement by the contractor at the property as specified on the face hereof, it being understood that no additional work shall be deemed to form part of this agreement unless it is specifically recorded in an addendum hereto, alternatively altered on the face hereof.
- 1.5 CONTRACT PRICE - Shall be the amount payable in terms of this agreement as specified on the face hereof in respect of the work to be effected at the property.
- 1.6 DRAWINGS - Shall mean architectural drawings prepared in respect of the

work, if the work requires such drawings, which shall be supplied by the customer unless the contractor is specifically instructed to have the drawings prepared by an architect, at such additional fees as may be agreed upon.

1.7 PRACTICAL COMPLETION - Shall mean the date on which the work has been completed and handed over to the customer together with the contractor's final invoice in respect of the work so completed.

1.8 MATERIALS - Shall mean any and all materials, appliances and apparatuses to be installed, or used in the execution of the work.

1.9 EQUIPMENT - Shall mean such tools and machinery as may be necessary to execute the work.

2 APPOINTMENT - The customer appoints the contractor to effect the work at the property and agrees that the terms and conditions as set out herein shall be the sole memorial of the agreement between the parties in respect of the work to be effected.

3 CONTRACTOR TO PROVIDE MATERIALS AND EQUIPMENT - Unless the contrary is specified on the face hereof, the contractor shall provide everything necessary for the proper execution of the work, according to the drawings, if applicable, in a professional and workmanlike manner.

4 LAWS, BYLAWS AND REGULATIONS

4.1 The contractor shall comply with any Act of Parliament, regulations and bylaws of any local authority and/or any public service company, or authority relating to the work, as may be applicable and required, provided that if any fees are payable to any statutory body, or similar entity, the costs thereof shall be for the customer's account, it being recorded that the

contract price stipulated on the face hereof is exclusive of any additional fees, charges, or taxes that may be payable pursuant to this particular clause.

4.2 There shall be no obligation upon the contractor to ensure that the work as directed by the customer and/or the architect do not encroach on building regulations, or building lines, the customer, or his agent, being solely responsible to ensure compliance in this regard.

5 EXECUTION OF WORK IN ACCORDANCE WITH AGREEMENT AND DRAWINGS -

5.1 The contractor shall not make any variation to the drawings, if applicable, and shall effect the work strictly in accordance with the drawings, alternatively the specifications of the work as recorded on the face hereof. Any deviation from the drawings, or specifications on the face hereof shall only be effected if it is properly recorded and signed by the contractor and the customer, or his architect if applicable, and without such written variation in respect of the work, the contractor shall not be obliged to give effect to any additional requirements, or instructions from the customer.

5.2 If the customer requires any additional work, variations, or alterations from the work as specified on the face hereof, he shall advise the contractor thereof and the contractor shall, within seventy-two (72) hours, inform the customer of the cost and time implications occasioned by such a variation. If the customer accepts the additional costs and time implications, an addendum to the agreement specifying the additional costs and time required for purposes of completion of the work, shall be prepared by the contractor and executed by the customer and the customer shall after signature of the addendum immediately proceed to give effect to the customer's instructions, as varied by the addendum.

6 WORKMANSHIP

6.1 All materials and workmanship shall be of the kind and quality as described on the face hereof, alternatively in terms of the architect's specifications, if applicable and the contractor shall upon the request of the customer furnish him with vouchers to prove that the materials are of such standard. It is however recorded that the customer shall not be entitled to insist on detailed costings in respect of all materials, it being recorded that the work is performed in terms of a fixed cost, as specified on the face hereof, and that the costs of the materials have been factored into such price irrespective of the costs thereof to the contractor.

6.2 If the customer supplies any materials, or accessories to be utilized in the work, the contractor shall not be responsible for any defects thereto, nor the quality thereof, it being agreed that the contractor shall accept such materials and accessories in the condition in which it is delivered to be utilized in the execution of the work.

7 ACCESS TO THE WORK SITE

7.1 The customer shall afford the contractor access to the property to give effect to this agreement and to perform the work in accordance with the contractor's obligations. In this regard, it is specifically agreed and recorded that the contractor shall have access to the property from 07H00 to 19H00 from Mondays to Saturdays to perform the work and the customer shall make available, at his cost, the necessary water, sanitary facilities and electricity required by the contractor to give effect to its obligations in terms of this agreement.

7.2 The contractor shall further, at the same times specified above, have access to any part of the work already completed and handed over to the customer for occupation as a right of passage through such occupied parts for purposes of reaching the work site on the property.

8 RETENTION AND UNFIXED MATERIALS

8.1 All fixed and unfixed materials, whether purchased by the contractor, or the customer, shall be deemed to be under the control of the contractor and subject to his lien for payment of any amounts which may become owing in terms of the agreement. It is recorded that any materials which have been affixed to the property shall remain subject to the contractor's lien for payment and that no accesio shall occur in terms of which such materials become part of the property as a whole until payment has been effected in full. Once payment in terms of the agreement has been effected in full, all materials which have been fixed to the property shall become the sole and exclusive property of the customer and all unfixed materials shall be removed from the property, the unfixed materials being deemed to be property of the contractor.

8.2 During the execution of the work, the customer shall take reasonable steps to protect all material on his property from the risk of loss, or damage thereto, in the contractor's absence. In the event of loss, the customer agrees to replace such material, at his expense. The contractor shall, during his presence on the property, be responsible for all materials on the property and shall exercise the same caution to protect the customer's interests in the material from the risk of loss, or damage.

9 PRACTICAL COMPLETION - On the date of practical completion, the contractor shall hand the work on the property over to the customer and render a final statement in respect of the contract price. The customer shall be obliged to accept the work and the final invoice, subject to the customer's rights to insist on the repair of any defects that may manifest itself as set out in this agreement.

10 DEFECTS LIABILITY

10.1 Any defects to the work shall be communicated to the contractor within

seven (7) days from the date of practical completion and the contractor shall be afforded an opportunity to inspect the defects and/or workmanship which does not meet with the customer's approval.

10.2 Any defects in the workmanship, material, or damage to the work, or the premises which is as a result of defective material, or inadequate workmanship shall be repaired by the contractor to the reasonable satisfaction of the customer, at the contractor's costs.

10.3 If the customer does not notify the contractor within seven (7) days of any defect in the workmanship and material, it shall be deemed to have been completed to the reasonable satisfaction of the customer and the customer shall have no further right of recourse against the contractor in respect of any repairs, or defects.

11 TIME TO COMPLETE WORK

11.1 The contractor shall commence the execution of the work on a date mutually suitable to the parties, and if such date is specified on the face hereof, then on such date as specified.

11.2 The work shall be completed within a reasonable period from the date of commencement, it being recorded that the customer shall have no right in respect of any penalties if the work is not completed within a specified period of time, unless it is specifically recorded that time is of the essence for completion thereof.

12 INDEMNITY

12.1 The contractor indemnifies the customer against any liability, loss, claim, or proceedings of whatever nature arising in common law, or by statute consequent upon personal injuries to, or the death of any person, or employee of the contractor arising out of, or in the course, or caused by the

execution of the work, unless such loss, injury, or death is due to any act, or omission of the customer, or his servants, or any agent acting in the interests of the customer.

12.2 The contractor indemnifies the customer against any liability, loss, claim, or proceedings consequent upon the loss of, or damage to any moveable, or immovable property arising out of, or in the course of the execution of the work due to any wilful, negligent, or reckless act, or omission by the contractor, his agents, or servants provided however that the contractor shall be entitled to act on any reasonable instructions by the customer and that the execution of such an instruction shall not lead to any liability in terms of this clause.

12.3 Where any loss, or damage is insurable by a policy insuring structural damage, fire, riots, strike, damage and special perils, the contractor does not indemnify the customer against such loss of, or damage to any structure being altered, or added, it being deemed that the customer will have suitable and adequate structural insurance against the risk against losses in this regard.

13 REMOVAL OF LATERAL, OR OTHER SUPPORT - Where the execution of the work involves the risk of removal of, or an interference with support of joining land, or structures, or to any structures to be altered, or added to in pursuance of this contract, then:-

13.1 The customer shall nominate and engage a professional engineer to design and supervise the provision of the necessary temporary support. The customer shall ensure that an architect issue such engineer's drawings and specifications to the contractor and,

13.2 The customer shall take out an insurance policy, indemnifying the

contractor and customer against any potential losses for the death of, or injury to any persons, or damage to the property consequent upon such removal of, or interference with the support, the costs of which shall be for the customer's account in addition to the amounts specified on the face hereof.

14 EXCLUSION OF LIABILITY

14.1 When any loss results as a result of war, invasion, riot, warlike operations, civil unrest, acts of God, or any other act which is beyond the contractor's control (*vis major*), the contractor shall not be liable for any losses which may result because of such action, notwithstanding any clause herein which may have indemnified the customer against the risk of damages and/or loss.

15 DELAY IN COMPLETION OF WORK

If the work is delayed by an act of God, *vis major*, exceptionally inclement weather, or any other cause beyond the reasonable control of the contractor, the contractor shall be entitled to an extension for the completion of the work, notwithstanding that the time of completion may have been specified as being of the essence, it being agreed that the time for performance will be extended for such a period as the work may have been interrupted for one of the reasons set out in this clause.

16 SUSPENSION OF WORK

The contractor shall be entitled to suspend performance of the work in terms of this agreement:

16.1 In circumstances described in clause 15 above and in the event of a breach by the customer.

16.2 A breach by the customer will include, but not be limited to

16.2.1 Non payment of any interim invoice, or amounts on the date on which it may be owing in terms of this agreement.

16.2.2 The failure by the customer to supply any material in terms of its obligations that may be reasonably required for the performance of the work by the contractor.

16.2.3 The customer not granting the contractor access to the work, or any part thereof.

16.2.4 The customer not making available any electricity, or water which may be required for purposes of the execution of the work.

16.2.5 The customer not making available any drawings by an architect, or not arranging for the appointment of an engineer, where required, for the performance of the work.

16.3 Where the contractor is entitled to suspend the work and the customer fails to remedy its obligations which would enable the contractor to proceed with the work, the contractor shall be entitled to immediately:-

16.3.1 Cancel this agreement and retain all amounts paid.

16.3.2 Insist on payment of the balance of the contract price as stipulated on the face hereof.

16.3.3 Remove all unfixed materials from the premises without any compensation to the customer.

16.3.4 Remove any machinery and plant from the premises.

16.3.5 Exercise his lien in respect of payment for all amounts that may be due and owing in terms of the agreement and without prejudice to any of the above, or other rights the contractor may have in Law, to lock the customer out until such payment has been effected.

17 PAYMENT

17.1 The customer shall pay to the contractor the amount as stipulated on the face hereof together with all additional costs in respect of additional work, or additional services rendered pursuant to the execution of the work on the dates specified for payment.

17.2 The customer shall under no circumstances be entitled to withhold payment, or set same off against any claim it may have against the contractor in terms of this agreement, or for any other reason whatsoever. Withholding of payment shall be deemed to be a material breach of the agreement which would entitle the contractor the remedies set out in clause 16 above.

17.3 If the project endures for a period in excess of fourteen (14) days, the contractor shall be entitled to receive part payment from the customer on the rendering of an interim invoice in respect of the work completed after the period of fourteen (14) days, notwithstanding no provision for interim payments having been made on the face hereof, it being the intention of the parties that the contractor be remunerated for such work at intervals not exceeding two (2) weeks at a time.

17.4 In the event of any payment not being made on due date, the amount then outstanding shall bear interest calculated at a rate of 4% above the prime interest rate charged by the Absa Bank Limited from time to time, calculated from the date on which the payment fell due to date of actual payment.

17.5 In the event of default, all payments shall firstly be appropriated towards interest and costs and thereafter in respect of the capital amount payable in terms of this agreement.

18 GUARANTEES AND WARRANTIES

The contractor shall complete the work to the reasonable satisfaction of the customer according to acceptable standards of workmanship. All work shall be guaranteed against latent defects as a result of defective workmanship for a period of twelve (12) months from date of practical completion. Superficial cracks that may appear as a result of materials drying shall not be regarded as defects. Any claims in respect of defective materials shall be directed by the customer to the supplier and the contractor shall assist in lodging the claim without assuming any liability.

19 CLAIMS

19.1 If the customer has a claim as a result of latent defects, he will address such a claim to the contractor, in writing, within the warranty period of twelve (12) months, setting out in detail the nature and extent of the latent defects.

19.2 Within twenty-one (21) days from receipt of such claim, the contractor shall inspect the defect which is not to the satisfaction of the customer and shall evaluate same with reference to the standard acceptable in the Building and Construction Industry.

19.3 If the contractor is of the view that the work is of acceptable standard, it shall notify the customer, in writing, of its findings as well as the reasons therefore.

19.4 If the customer does not accept the contractor's findings, he shall be entitled, within a period of fourteen (14) days from the date of notification by

the contractor, to refer the matter to arbitration to resolve the complaint, it being agreed that the arbitrator shall be the Rent a Renovator Franchising Group (PTY) LTD in the first instance. As an alternative Rent a Renovator Franchising Group (PTY) LTD may in its own discretion be entitled appoint an architect of no less than ten (10) years experience in the Building and Construction Industry as an arbitrator. All costs in this instance will be for the customers account.

19.5 If the matter is referred to arbitration, the arbitrator shall be requested to complete his findings within a period of thirty (30) days and his finding shall be final and binding upon both parties.

19.6 If the matter is not referred to arbitration within the specified period of time, the customer shall have no further right of recourse.

20 SUB CONTRACTORS

20.1 The contractor shall be entitled to employ the services of any sub contractor provided that the amounts payable to the sub contractor be paid by the contractor and that the sub contractor performs his mandate in terms of the same, or similar conditions to that contained herein.

21 GENERAL

21.1 The agreement shall be governed in all respects by the Laws of the Republic of South Africa.

21.2 The terms and conditions contained herein, read with the nature and extent of the work and the costs reflected on the face hereof, shall constitute the entire agreement and shall not be varied unless same is reduced to writing, duly signed by, or on behalf of the contractor and the customer.

21.3 The customer consents in terms of Section 45 of the Magistrate's Court Act,

32 of 1944, to the contractor instituting any action, or proceedings for enforcing any of its rights under this agreement in the Magistrate's Court of any district having competent jurisdiction by virtue of Section 28 of the same Act. The aforesaid shall however not preclude the contractor from instituting action in any division of the High Court which may exercise competent jurisdiction.

- 21.4 In the event of the customer's default, the customer shall be liable for payment of all fees and costs which the contractor may incur in enforcing its rights in terms of this agreement, including all legal costs calculated on the High Court tariff as between attorney and client.
- 21.5 The contractor shall be entitled to cede and assign any of its rights, or obligations under this agreement to any third party without prior notification to, or any consent of the customer.
- 21.6 The parties choose their addresses specified on the face hereof as its addresses for service of all legal process and any notice delivered by hand shall be deemed to be received on the day it is so delivered, alternatively if same is posted by prepaid registered post, then within four (4) days of date of actual posting of the notice.