

SKYJACKS, a division of WACO AFRICA (PTY) LTD

STANDARD TERMS & CONDITIONS OF SALE

1. Skyjacks, a division of Waco Africa (Pty) Ltd., (hereinafter referred to as "the Seller"), in consideration for the payment by the Buyer to the Seller of the price of the goods set out overleaf, will sell and deliver to the Buyer the goods scheduled overleaf ("the Goods").
2. The Buyer acknowledges that apart from any guarantee given by the Seller in writing in respect of the Goods, the Seller has not given any warranties or representations or held out any promises or inducements (express or implied) in respect of the Goods or their use or suitability for any purpose.
3. The Seller will not be liable for any loss or damage of whatsoever nature or howsoever arising, whether direct, indirect or consequential which may be sustained by the Buyer in connection with or arising from the use of the Goods.
4. The Goods shall be deemed to be in a state of good order and repair, unless the Buyer notifies the Seller in writing of any defect in the Goods within a period of 10 (ten) days after delivery of thereof.
5. Notwithstanding anything to the contrary which may be herein contained or implied, until the Buyer shall have paid the full purchase price of the Goods to the Seller, and despite delivery of the Goods to the Buyer, ownership of the Goods shall be and remain vested in the Seller. Ownership of the Goods shall pass to the Buyer on payment of the purchase price in full. In addition, and until the purchase price is paid in full:-
 - (a) the Buyer shall -
 - (i) keep the Goods in a state of good order and repair and shall not do or permit to be done anything which may render the Goods liable to attachment or subject to any lien, and shall maintain the Goods free of any encumbrances whatsoever;
 - (ii) not part with or give up possession of the Goods to any other person;
 - (iii) at all times inform the Seller in writing of the place at which the Goods may be found from time to time
 - (iv) only allow the Goods to be used by a Competent Person as defined by the Construction and or Driven Machinery Regulations
 - (b) should the contract of sale be cancelled for any reason whatsoever;

- (i) the Buyer shall forthwith and at his/its own expense return to the Seller all the Goods which may have been delivered to the Buyer in a state of good order and repair, fully cleaned and oiled, and the acceptance of such Goods by the Seller shall be without prejudice and in addition to any other rights of the Seller; and
 - (ii) the Seller shall be entitled to claim from the Buyer;
 - (aa) an amount equivalent to the Seller's then full catalogue price in respect of all Goods delivered and which may have been lost, damaged or destroyed; and
 - (bb) in addition, a reasonable amount as stipulated in the Consumer Protection Act will be claimed from the Buyer as a cancellation fee.
 - (c) should the buyer return the Goods or any portion thereof to the Seller, whether at the Seller's request or otherwise, the Seller shall be entitled to make the claims referred to in 5(b)(ii) above in addition to any other claims which the Seller may have arising therefrom.
6. (a) The purchase price for the Goods shall be paid by the Buyer to the Seller strictly in accordance with the Terms of Payment set forth overleaf. All other amounts payable by the Buyer to the Seller shall be paid on demand.
- (b) Payment of all amounts required to be effected by the Buyer to the Seller shall be paid without any deductions whatsoever and will be free of bank exchange from any branches of any Bank. The Buyer acknowledges that he/it will not be entitled to set off any amounts which the Seller may owe to the Buyer against payments to be made by the Buyer to the Seller under this contract.
- (c) The Seller, in its discretion and without notice to the Buyer, may appropriate and apply or, despite any such appropriation and application, re-appropriate and re-apply any monies received by it from the Buyer arising from this contract towards payment and satisfaction of any cause of indebtedness howsoever arising which the Buyer may then or thereafter owe to the Seller, and irrespective of whether or not such monies were received at the time of or after the incurring of such other liability, and the Buyer shall forthwith make good any shortfall in any amounts due under this contract occasioned by such appropriation or re-appropriation.
- (d) Should the Buyer fail to make payment of any amount as provided for in this contract promptly on the due date for the payment thereof, the Seller shall, without prejudice and in addition to any other rights which it has, be entitled to claim interest at the rate of the Prime bank overdraft rate plus 5% per annum, as quoted by Standard Bank from time to time, on all overdue amounts, which interest shall be calculated monthly in advance from the date upon which the amounts so overdue should have been paid.

7. The Buyer shall not be entitled to cede or assign its rights and obligations in terms of the contract without the prior written consent of the Seller.
8. Should the Buyer fail to comply with his/its obligations in terms of this contract, or if at any time prior to payment in full of the purchase price of the Goods:-

- (a) application is made, either voluntarily or compulsorily, for the sequestration or liquidation or the placing under business rescue of the Buyer; or
- (b) any judgement is obtained against the Buyer and remain unsatisfied for a period of three days thereafter; or
- (c) the Buyer commit an act of insolvency or offer to assign his/its estate or effect or offer to effect a compromise with his/its creditors,

the Seller, without prejudice and in addition to any other rights which it may have, shall be entitled forthwith and without notice to the Buyer, and notwithstanding any previous waiver;

- (i) to cancel this contract and any other incomplete contract which it may have entered into with the Buyer and in respect of which the Buyer is still to discharge obligations in favour of the Seller and claim the immediate return of the Goods. In such event, all amounts paid by the Buyer under this contract shall be retained by the Seller and the Buyer shall be deemed to have waived his/its rights to claim or recover such amounts; and
- (ii) irrespective of whether the Seller cancels this contract, to recover from the Buyer all loss or damages whatsoever sustained by the Seller including, inter alia, all legal fees as between attorney and client, collection charges, tracing fees, storage charges or other similar amounts; or
- (iii) to claim immediate payment of all amounts payable to it by the Buyer in terms of this contract or any incomplete contract referred to in (i) hereof.

9. Should the Seller contend that the Buyer has failed to comply with any of its obligations in terms of this contract the onus shall be and remain on the Buyer to prove the contrary.
10. Any quotation furnished by the Seller and all sales of Goods are made and furnished only upon and subject to the terms and conditions set out in these standard terms and conditions of sale. Unless expressly agreed to in writing by the Seller, no qualification or variation or waiver of any such terms and conditions shall be of any force or effect, nor shall any relaxation or indulgence accorded by the Seller to the Buyer prejudice the rights of the Seller or estop the Seller from exercising its rights in terms hereof.

11. The Buyer warrants that his/its address set forth on the face hereof is correct, and the Buyer hereby chooses his/its physical address as his/its domicilium for all purposes arising out of or relating to this contract or the termination thereof.
12. Any prices quoted by the Seller are subject to adjustment due to any statutory labour or material increases from the date of quotation until date of delivery.
13. Any variation in the foreign rate of exchange between the date of quotation and the date of delivery which affects the imported content of the Goods shall be for the account of the Buyer.
14. In the event of any conflict between these standard terms and conditions and any terms or provisions set out in any document submitted by the Buyer to the Seller, the provisions of these standard terms and conditions shall prevail and apply.
15. In the event of any conflict between these standard terms and conditions and the provisions of any other applicable document of the Seller, the provisions of such other document shall prevail and apply.