

**General Conditions of Contract Page 1 of 8 January 2011**  
**SGB-CAPE (a division of WACO AFRICA (PTY) LTD)**  
**(hereinafter referred to as “the Supplier”)**  
**GENERAL CONDITIONS OF CONTRACT FOR HIRE AND ERECTION OF**  
**SCAFFOLDING.**  
**(additional to special conditions of contract)**

1. All references in these general conditions to “the Customer”, shall mean the company to which SGB-Cape will be supplying scaffolding equipment.
2. The period of contract hire shall begin on the date of delivery of the equipment, and ends on the date of collection of equipment.
3. Any additional rental of equipment will be charged per week, and any portion of a week will be charged as a full week.
4. Quotations and prices exclude Value Added Tax (VAT). VAT will be charged and be payable at the current rates, unless the Customer provides written proof of its exemption from payment of VAT.
5. Quotations are valid for 30 days from date of quotation and are subject to the Supplier having labour, equipment and transport available and being able to start work within 3 months of receipt of the Customers official order. No equipment or services will be supplied without an official written order or letter of acceptance.
6. Any retention imposed by the Customer’s principal shall not be withheld when payment is made to the supplier, as the equipment does not form part of any permanent structure.
7. The Customer is responsible for all equipment from the first day of delivery to the last day of collection. The Customer shall make good to the Supplier any damage to the Supplier’s equipment whilst on site unless caused by the negligence or willful act or default of the Supplier or its employees. The Customer shall pay the cost of repair in respect of any such damage for which it is so responsible.
8. The Supplier shall deliver and take return of the equipment at the site agreed upon and delivery at the agreed place of delivery shall constitute good delivery whether or not anyone acknowledges delivery on behalf of the Customer.
9. On delivery the Customer shall sign the Supplier’s delivery note and a delivery note signed by the Customer or by someone purporting to sign on behalf of the Customer or by anyone else at the agreed place of delivery shall be proof, until the contrary is proved, of the delivery of the equipment listed thereon, in good condition
10. The Customer shall, both on delivery and regularly thereafter, inspect the equipment for defects.
11. The Customer shall in terms of clause 30.5 be liable for all losses of equipment. The Supplier’s delivery and return notes will be deemed to be a true and accurate record of the equipment taken to and from the site. It is recorded that the equipment is not insured whilst in the Customer’s possession. In the event however that any lost and charged for equipment is subsequently found in the Customer’s possession, the Supplier shall be notified in writing and the Supplier will repurchase the equipment at a reasonable value, taking into account the condition and usefulness of the equipment to the Supplier.
12. The Customer shall provide all facilities required by the Regulations of the Occupational Health and Safety Act 1993, as amended, for its own and the Supplier’s employees without charge to the Supplier.
13. The Customer shall comply with and use its best endeavors to cause its employees and other sub-contractors and their employees to comply with all statutory regulations applicable. The Customer indemnifies and holds harmless the Supplier against all claims and proceedings and costs and expenses in connection therewith in respect of any injury or death of any person or damage to any property or any loss or damage caused by or arising out of the use or misuse of the equipment by any person other than the Supplier or its employees.
14. The Supplier will exercise all reasonable care to ensure that the structure is sound and adequate for the purpose requested by the Customer and that when constructed it will comply with all current statutory regulations applicable. The Supplier undertakes to remedy at its own expense any defects drawn to its attention in writing which have arisen from faulty erection by the Supplier or the use of defective equipment by the Supplier. Any other defects drawn to the attention of the Supplier in writing will be remedied by the Supplier at the Customer’s expense.
15. On completion of the erection, the Supplier will inspect the structure and will ensure it is in sound working order and complies with all statutory regulations. the Supplier will then issue a Handover Certificate. Thereafter, in terms of the Occupational Health and Safety Act and SANS 10085, and any regulations or requirements thereunder or in terms of any relevant legislation, it is the Customer’s responsibility to inspect the scaffold at least once a week and after inclement weather. If the Customer so requests in writing, the Supplier will perform these inspections on behalf of the Customer at the Customer’s expense.
16. Should the Customer perform its own inspections under the Act as detailed in 15 above, and should any defects be discovered, then the Customer shall forthwith:
  - 16.1 Notify the Supplier thereof in writing.
  - 16.2 Take steps to ensure that the equipment does not constitute a danger to any person or property by reason of such defect.
  - 16.3 Isolate the defective portion from the rest of the equipment. Should the defect be caused by misuse of the equipment by the Customer or any of its employees or agents, then the cost of remedying the defect shall be for the Customer’s account.
17. Any additions, alterations, adaptations or variations required to the structure by the Customer will be carried out by the Supplier on receipt of written instructions from the Customer and any such additions, alterations, adaptations or variations will be at the Customer’s expense. Separate quotations will be submitted by the Supplier for all such work and such quotations will be deemed to be accepted by the Customer unless queried in writing within fourteen days from the date of the quotation. The Customer undertakes not to carry out or cause to permit to be carried out any alterations, adaptations, variations or additions to the structure or to interfere with it in any way.
18. Where the Customer enters into an agreement with the Supplier for the latter to erect, move, modify or dismantle equipment, the Supplier will perform this work within normal working hours as laid down by the various statutory bodies. Any work carried out outside of these hours will be charged for at overtime rates, these to be subject to negotiation and confirmation in writing.
19. Where the Customer wishes to employ the Supplier’s employees on a day work basis, then this work will be carried out upon receipt of the Customer’s written instructions and will be charged at rates to be agreed in writing.

20. Unless otherwise stated, this contract is based upon the rates of wages and other emoluments and expenses payable by the Supplier to or in respect of workmen engaged upon the erection of scaffolding applicable and current at the date of the contract quotation. Increases and decreases in the Supplier's costs which are consequent upon changes in the said rates or upon any change in or imposition of new government taxes, levies or contributions payable by the Supplier in respect of employees engaged upon or in connection with the work shall be a net addition to or deduction from the price agreed.
21. If progress on or completion of the works specified in this contract is delayed for any reason beyond the control of the Supplier, a fair and reasonable extension of time for executing or completing the works shall be granted to the Supplier. The Supplier shall also be remunerated for any standing time and costs involved with such a delay at the appropriate day work rates.
22. Should the Supplier contend that the Customer has failed to comply with any of its obligations in terms of these general conditions of contract, the onus shall be and remain on the Customer to prove that there has been compliance in terms of these general conditions of contract.
23. All permits or inductions required to carry out the work will be supplied timeously by the Customer free of charge and the Supplier will not be held responsible for any delays caused through no fault of the Supplier with regard to the issuing of work permits, or the carrying out of inductions. The Supplier reserves the right to claim for time spent awaiting permits or inductions at the appropriate day work rates.
24. Any advice given by the Supplier on the use of the equipment (including any drawings or specifications) is given in good faith and with the intention of assisting the Customer. In the event of such advice being incorrect, the customer shall have no claim against the supplier, unless the advice is given negligently and is in writing and signed by a registered professional engineer.
25. Any rights which the Customer and/or any third party may have over temporary buildings, plant, tools, equipment, goods and materials on the site shall not extend to any of the items provided by the Supplier in connection with this contract, which shall remain the unencumbered property of the Supplier at all times. The Customer shall assist the Supplier to regain possession of the Supplier's property.
26. Customers are to complete and submit a CPF (Customer Particular Form) before commencement of supply of equipment or services. A period of approximately 3 (three) days shall be allowed for the credit check to be performed.
27. The risk in and to the equipment shall pass to the Customer immediately upon delivery of the equipment to the Customer. Notwithstanding the passing of risk, ownership in and to the equipment shall at all times remain vested in the Supplier.
28. Should any deliveries be delayed, hindered, prevented or interfered with by any circumstances whatsoever outside the Supplier's control, the time or times for such deliveries shall be extended until the lapse of a reasonable period after the cessation of the said circumstances, and the Supplier shall not be liable for any claim, loss or damage caused by such delay.
29. Under no circumstances whatsoever shall the Supplier at any time be liable for any damages or loss or for any claims for consequential loss or damage which may be sustained by the Customer or for any claims made by any other person whatsoever, in connection with this contract and/or the use of the equipment, and the Customer hereby further indemnifies the Supplier against all such claims. It is specifically recorded and General Conditions of Contract Page 5 of 8 January 2011 agreed that the Supplier shall not under any circumstances whatsoever be liable for any damage to fixtures, fittings, tiling, glazing or floors.
30. The Customer agrees that the Supplier may cede or transfer its rights under this contract, and its ownership in the equipment hereby hired and insofar as such may be necessary, agrees upon such cession or transfer to hold the equipment on the basis that ownership therein has passed to the cessionary or transferee subject otherwise to the terms of this contract, and to the extent to which this clause may be construed as a stipulation alteri in favour of such cessionary or transferee, the Customer agrees that the acceptance of cession of this contract by the cessionary or transferee shall constitute an acceptance by the cessionary or transferee of the benefits arising out of this clause.
31. The Customer shall keep the equipment insured both against third party claims and against all risk, loss and damage for the full period of the contract with a registered insurer for such value as may be determined by the Supplier from time to time. The Customer shall further ensure that the Supplier's interest is endorsed on the insurance policy and the Customer shall pay all insurance premiums punctually and shall at all times comply with all the conditions of the insurance policy. The Customer shall forthwith on request exhibit and/or deliver to the Supplier proof of compliance with the obligations undertaken in terms of this clause and in addition exhibit and/or deliver to the Supplier such insurance policies as may be required to be effected in terms hereof.
32. In terms of the equipment being supplied to the customer;
- 32.1 The Customer agrees to keep the equipment in good order and condition and at all times to allow the Supplier and/or its agents and/or its servants to inspect the same.
- 32.2 The Customer shall not use the equipment for any purpose for which it was not intended or which may result in any damage to the equipment, and any direction which the Supplier might give to the effect that the equipment shall not be used for any particular purpose shall be observed by the Customer.
- 32.3 Failing compliance by the Customer with its obligations under 32.1 hereof, the Supplier shall be entitled to have effected any maintenance and/or repair to put the equipment in good order and to recover the reasonable cost thereof from the Customer without prejudice to the Supplier's other rights.
- 32.4 No alteration of or modification to the equipment may be made by the Customer.
- 32.5 In the event of the equipment being lost or damaged or should the Customer fail to return the equipment to the Supplier on termination of this Contract of Hire for General Conditions of Contract Page 6 of 8 January 2011 whatever reason, the Customer shall be liable to pay to the Supplier, the Supplier's then current full catalogue price of such lost or damaged equipment as liquidated damages, as well as all other loss or damages sustained by the Supplier of whatsoever nature, including depreciation of and/or the cost of repairs required to be made to the equipment and all the expenses incurred by the Supplier in obtaining possession of the equipment.
33. Insofar as payment by the Customer is concerned, time is of the essence. All payments required to be made shall be made at the Supplier's place of business and unless otherwise specified and agreed in writing, payments are due 30 (thirty) days from date of invoice. In the event of the Customer failing to pay any amount to be paid by it in terms of this agreement on due date, it shall then be obliged to pay to the Supplier an additional amount in respect of interest at the rate of 2% per month and in addition, should the Supplier refer the matter to its attorneys for collection of such overdue monies or for any claim whatsoever, the Customer shall bear and be liable for all legal charges thus incurred by the Supplier as between the Supplier and its own attorney and shall further be liable for collection charges on such overdue payment payable by the Supplier to its attorneys and for any tracing agents charges and other disbursements necessarily incurred by the Supplier in tracing or endeavouring to trace the Customer or the equipment if he changes his address or removes the equipment without notice to the Supplier and in collecting and/or endeavouring to collect overdue monies or the equipment.
34. The Customer consents in terms of Section 45(1) of the Magistrate's Court Act No. 32 of 1944 as amended in respect of any proceeding which may be instituted against it by the Supplier arising out of or in connection with this contract, to the jurisdiction of any Magistrate's Court which at the time of such proceedings has jurisdiction over it in terms of Section 28(1) of the said Magistrate's Court Act. Notwithstanding the foregoing, the Customer specifically agrees that the Supplier may in its

- discretion disregard the foregoing consent to jurisdiction and institute any proceedings arising out of or in connection with this contract in the High Court of South Africa having jurisdiction.
35. The Customer shall not without the written consent of the Supplier first having been obtained do or omit to do anything which renders the equipment liable to attachment, encumbrance, hypothec or any lien. The Customer shall forthwith upon the signature of this agreement notify the Supplier in writing of the site upon which the equipment will be kept and of the name and address of any landlord of such site.
  36. All specifications, illustrations, drawings, diagrams, brochures, price lists, dimensions, delivery dates and performance figures furnished by the Supplier, and representations in regard thereto, are approximate and are furnished for information purposes only, and General Conditions of Contract Page 7 of 8 January 2011 unless specifically guaranteed by the Supplier in writing shall not form part of this contract nor bind the Supplier in any way whatsoever.
  37. Should the Customer default in the punctual payment on due date of any amount payable in respect of the hire of the equipment or default in the punctual observance or performance of any of its other obligations or undertakings hereunder or commit an act of insolvency as defined in the Insolvency Act, then the Supplier shall have the right and without notice to immediately cancel this contract in respect of the hire of the equipment and to demand that the Customer forthwith return, at its own expense, any equipment already delivered to the Customer, failing which the Supplier shall have the right to take whatever action it deems necessary to enforce its rights in terms hereof. The foregoing rights of the Supplier shall be without prejudice to and in addition to, or alternatively to any other rights or claims of the Supplier in law.
  38. Where the equipment is collected by the Supplier or is returned by the Customer and the Customer fails to provide for the checking with the Supplier of the equipment then the returns note subsequently issued by the Supplier to the Customer setting out the equipment received by the Supplier shall be final and conclusive as to the equipment so received by the Supplier and binding upon the Customer.
  39. A certificate under the hand of any director, any manager or secretary of the Supplier stating that any particular sum or sums is/are due and payable by the Customer to the Supplier in terms of this contract or stating the amount of any costs, charges or expenses taken into account in determining the amount of any claim in favour of the Supplier against the Customer in terms of this contract shall be admissible in any court of law and prima facie proof of the contents thereof and shall constitute a liquid document for the purposes of summary judgment or provisional sentence.
  40. No relaxation or indulgence granted by the Supplier to the Customer shall be deemed to be a waiver of any of the Supplier's rights in terms hereof nor shall any such relaxation or indulgence be deemed to be a novation of any of the terms and conditions of this contract.
  41. It is expressly agreed that neither the Customer nor any person on its behalf will, at any stage during the subsistence of this contract or thereafter, acquire ownership of the equipment and after termination of this contract, will not retain possession, use or enjoyment of the equipment, in pursuance of the provisions hereof. Ownership of the equipment shall at all times continue to vest in the Supplier.
  42. The risk in the equipment shall pass to the Customer upon delivery, who shall bear every risk of loss, damage or destruction to the equipment of whatsoever kind and howsoever caused until such time as the Customer has placed the Supplier in possession of the equipment upon termination of this contract.
  43. The Customer hereby acknowledges that the Supplier has given to the Customer no warranties or guarantees of any kind whatsoever, whether express or implied, nor made any representations, whether as to the quality, state, condition or fitness for any purpose of the equipment or any part thereof or as to any other matter or thing whatsoever. The Customer further acknowledges that no agent, servant, representative, director or other person who may act for the Supplier has the authority to make any verbal representation, statement, warranty or guarantee which has any binding effect on the Supplier.
  44. The Supplier shall not be responsible at any time for any loss or damage of whatsoever nature and whether general or special and no matter how caused, in any way arising or flowing from or connected with or related to any defect in the equipment or to the inability of the Customer to make use of the equipment, whether such inability is complete or partial. 45. The equipment shall at all times remain the property of the Supplier and the Customer undertakes that at all times it will protect and defend at its own cost and expense, the title of the Supplier, from and against all claims, liens and legal processes of creditors of the Customer and shall keep the equipment free and clear from all such claims, liens and processes. The equipment shall, despite the manner of its attachment to any building at any time, not accede to such building. Upon the termination of this contract, whether by effluxion of time or otherwise, the equipment shall be returned unencumbered by the Customer at its sole expense to the Supplier at such place as the Supplier may in writing designate.
  46. This document sets out and constitutes the entire agreement between the parties as to the subject matter hereof and the Customer acknowledges that there are no collateral oral agreements or conditions that in any way varies these conditions. It is further agreed that the terms and conditions contained herein shall not be altered or varied in any way whatsoever unless agreed in writing and signed by both the Supplier and the Customer. The parties further confirm that this document correctly reflects the nature of the agreement between them, and further shows the intent of both parties.
  47. This contract is personal to the Customer and its rights or obligations herein may not be ceded, transferred, assigned or delegated without the prior written consent of the Supplier having been obtained thereto.
  48. These terms shall apply to and govern any future agreements of hire between the Supplier and the Customer.