



Consumer Protection

Legal Audit on Consumer Protection Act & Electronic Communication and Transaction Act

H. Terms and Conditions Sale of Sand

1. Cancellation Policy

T J van Zyl Plant Hire requires a deposit of **50% (or otherwise discussed)** to confirm the order for the sand to be provided. T J van Zyl Plant Hire may impose a cancellation fee in the event of cancellation before the date of delivery. The fee will depend on the nature of the order, the length of notice of cancellation before delivery, the reasonable potential to find alternative clients for the order and the reason for cancellation.

2. Delivery

Notwithstanding anything to the contrary T J van Zyl Plant Hire obligation to finalize the work on time shall in all cases be subject to the following:

(a) Whilst the date and times of delivery are given in good faith and T J van Zyl Plant Hire will use every endeavour to comply therewith, no responsibility can be accepted for any loss or damage incurred by the Client on account of any delay in delivery arising out of any circumstances beyond T J van Zyl Plant Hire control, which circumstances will include, but in no way be limited to:

- Any delays in the supply of sands by T J van Zyl Plant Hire Suppliers which cannot be directly or indirectly attributed to them;
- The client/their employees not providing T J van Zyl Plant Hire with necessary access to their /property/premises in order to deliver the sand as requested;
- If the balance of the contract price payable on date of delivery is not payable on date of anticipated delivery to T J van Zyl Plant Hire.

T J van Zyl Plant Hire will communicate unavoidable delay in delivery.

3. Warranty

T J van Zyl Plant Hire warrants the Client that the sand which have been supplied by T J van Zyl Plant Hire and delivered to the Client shall be free from defects and subject to the following:

- The warranty is effective for a period of six months. The date is determined from date of delivery or date that the sand can reasonably be used which ever occur first and will the Client be entitled to either request a refund; replacement or repair of the sand if the sand supplied are defective within such period; **(Client agrees that Sand must be used within reasonable time and stored in accordance to guidelines as no refund shall be applicable to sand which was left unused as weeds and grass could grow and affect the quality.)**
- T J van Zyl Plant Hire shall not be liable or responsible in any way for any damages of whatsoever nature, including consequential and penal damages, caused by or due to any failure of operation or malfunction of the sand supplied, unless such damages can be attributed to any circumstances reasonably within the control of T J van Zyl Plant Hire;
- The warranty shall immediately be rendered null and void in the event of any of the following:
 - Any alterations or modifications or addition made to the sand supplied, without the prior consent of T J van Zyl Plant Hire;
 - Failure to use sand in accordance with the instructions and specifications of T J van Zyl Plant Hire including storing sand in a facility not sufficiently protected against the forces of nature/in a cool, dry facility or sand not being used within the time frame it will usually still be able to be used;
 - Due to the nature of the product being supplied their maybe some variations in the colour, texture and general appearance of the product being supplied;
 - General misuse and abuse of sand by the Client;
 - Any damage caused by fire, flood, civil disturbance or act of God;
 - The client not providing T J van Zyl Plant Hire access to the sand in order to determine the reason for the failure of the sand.



4. Indemnity

T J van Zyl Plant Hire their employees, management and owners will accept no liability for any damage, loss or injuries including consequential loss incurred by any client due to circumstances beyond our reasonable control.

5. Payment

T J van Zyl Plant Hire reserve their right to suspend delivery of any orders in the event that payment for such orders is not made on time. In the circumstances where payment is outstanding for a period exceeding 30 days we will charge interest at a rate not exceeding 2% per month or as per the maximum rate determined by the National Credit Act from time to time on overdue payments.

All accounts older than 30 days will be handed over for collection and will the Customer be liable to pay all legal fees with regard to the collection of such outstanding amounts on a fees scale as determined by the court of law/tribunal where the collection matter will be adjudicated.

The Customer hereby agrees to the jurisdiction of the Magistrate Court of **Kuilsriver** in the event that any outstanding amount is handed over for collection, although such Magistrate Court may normally not have jurisdiction in the matter.

I. TERMS AND CONDITIONS EXCAVATION WORK

General Obligations of Supplier

T J van Zyl Plant Hire has the obligations to exercise reasonable skill and care, and provide services as agreed between T J van Zyl Plant Hire and the Client of good quality.

General Obligations of Client

The Client is responsible for giving T J van Zyl Plant Hire access to the site when he needs it and for providing facilities such as secure storage for equipment, power supply etc.

Variations

Any departure from the initial agreement including Plans and Specifications will be Clients sole responsibility unless T J van Zyl Plant Hire approves such changes in writing.

Property and Risk

Ownership of all equipment is retained by T J van Zyl Plant Hire, but risk of loss or damage passes to the Client when equipment is delivered to the site.

Force Majeure

Unforeseeable events such as flood and fire are covered by this clause, limiting Company liability to the Client.

Cancellation

T J van Zyl Plant Hire require a deposit of **50% (or otherwise discussed)** to confirm the order. T J van Zyl Plant Hire may impose a cancellation fee in the event of cancellation before delivery. The fee will depend on the nature of the order, the length of notice of cancellation before delivery, the reasonable potential to find alternative clients for the order and the reason for cancellation. No refunds on deposits in the event of cancellation for already ordered/made Special-Order Goods.

Indemnity

Although T J van Zyl Plant Hire endeavour to supply a service of exceptional quality, we cannot be held liable in the instance where the service provided is not according to your specifications or specific need, any damage to property due to any circumstances without our reasonable control.



These circumstances will be include but in no way be limited to the following:

- Any material, machinery, etc. damage whilst left unattended at the site during the excavation works;
- Any damage to property during excavation works, if such damage cannot be attributed to our own negligence or fault;
- The client not supplying us with the correct/sufficient information with regards to the excavation works being undertaken.

Finalization

Notwithstanding anything to the contrary T J van Zyl Plant Hire obligation to finalize the work on time shall in all cases be subject to the following:

- (a) Whilst the date times of finalization of the excavation work are given in good faith and T J van Zyl Plant Hire will use every endeavour to comply therewith, no responsibility can be accepted for any loss or damage incurred by the Client on account of any delay in finalization of the excavation work arising out of any circumstances beyond T J van Zyl Plant Hire control, which circumstances will include, but in no way be limited to:
- Any delays in the supply of material by T J van Zyl Plant Hire Suppliers which cannot be directly or indirectly attributed to them;
 - The client/their employees not providing T J van Zyl Plant Hire with necessary information alternatively access to their /property/premises/dwelling in order to determine the specifications or prepare for the excavation work or be undertaken. Please take note in this regard that the Company is responsible for providing access to their property at the scheduled time. Failure to provide access to the property is subject to a R 250.00 non-refundable fee;
 - Any existing damage/impairment to Clients property/plot/dwelling including solid rocks, not being brought to T J van Zyl Plant Hire attention before the excavation work is initiated. In the event of any circumstances regarding to the impairment of the premises T J van Zyl Plant Hire will have the right (but not the obligation) to quote for any additional work to be undertaken;
 - If the balance of the contract price payable on date of order is not payable on date of anticipated order to T J van Zyl Plant Hire.

T J van Zyl Plant Hire will communicate unavoidable delay in finalization of the project. The Client will be responsible to cooperate in good faith with T J van Zyl Plant Hire and must not interfere with T J van Zyl Plant Hire progress of work. It is understood that timely communication and cooperation are necessary for completion of the work. Any delay occasioned by the Client in this regard which results directly or indirectly in expense or inconvenience to T J van Zyl Plant Hire in the completion of the works, shall be for the account of the company. Should such delay exceed **14 days** in duration or more days as agreed to in writing, then and in such case T J van Zyl Plant Hire at its option shall be entitled to terminate the agreement and will be entitled to claim all reasonable damages relating to such delay.

Payment

T J van Zyl Plant Hire reserve their right to suspend excavation works in the event that payment for such work is not made on time. In the circumstances where payment is outstanding for a period exceeding 30 days we will charge interest at a rate not exceeding 2% per month or as per the maximum rate determined by the National Credit Act from time to time on overdue amounts.

All accounts older than 30 days will be handed over for collection and will the Client be liable to pay all legal fees with regard to the collection of such outstanding amounts on a fees scale as determined by the court of law/tribunal where the collection matter will be adjudicated.

The Client hereby agrees to the jurisdiction of the Magistrate Court of **Kuilsriver** in the event that any outstanding amount is handed over for collection, although such Magistrate Court may normally not have jurisdiction in the matter.