



Unit C3, Berg River Park, Borsenberg
Road, Dal Josafat, Paarl, 7646 Tel:
00 27 21 868 2926
Fax: 00 27 21 868 0690

Denver Agricultural Tractor Spares (Cape) (Pty) Ltd [1994/002683/07]

Email: accounts@denvertractors.com

Website: www.denvertractors.com

GENERAL TERMS OF CONTRACT

1. Denver Agricultural Tractor Spares (Pty) Ltd (Cape) or any of its subsidiaries is hereinafter referred to as the SELLER and the person to whom the invoice is addressed is hereinafter referred to as the buyer.
2. These conditions shall govern the terms of the sale reflected on the reverse side hereof to the exclusion of all others and no variation of these conditions shall be binding upon the Seller unless in writing signed by an authorized representative of the Seller.
3. The point of sale and delivery shall be deemed to occur at the Seller's place of business.
4. Unless otherwise stated on the reverse hereof all prices are nett.
5. **Ownership in respect of the Goods sold by the Seller to the Purchaser from time to time is reserved to the Seller until such time as payment of all amounts due and any accrued interest thereon, owing and payable by the Buyer to the Seller, from what whatsoever cause arising have been paid to the seller in full.**
6. **RETURNS:** Goods returned will only be accepted at our discretion and provided that the relevant pre-authorization procedure is followed. This procedure will be supplied on request. Returns must be sent carriage paid and 10 % handling will be charged on all goods correctly supplied or any goods returned after 14 days from date of invoice regardless of whether the goods were supplied correctly or not. Where returned merchandise was originally ordered as a direct order (on behalf of purchasers from a supplier), no credit will be passed prior to the credit received from the supplier, less the handling cost charged by the supplier.
7. All prices are subject to fluctuation and goods will be debited at the prices applicable on the day of dispatch. An increase in costs between the date of the quotation and the date of delivery will entitle the seller to increase the price by an amount sufficient to compensate it for such additional costs.
8. In the event of the cost of the goods to the Seller increasing, whether as a result of a change in exchange rates or an increase in supplies price or otherwise, between the date of conclusion of the contract and the date of delivery to the Buyer, the Seller shall be entitled to recover such increase from the Buyer. If the Buyer disputes the Seller's right to recover such increase or the amount of such increase the such dispute shall be determined by the Seller's auditors, whose decision shall be final and binding on both parties.
9. Payment Terms are **STRICTLY** 30 (Thirty) days nett from statement date unless other signed agreements are entered into between the Buyer and an Authorised Person within our Company. No settlement discount will be allowed unless other signed agreements are entered into.



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10. No notices, cheques, cash or other documents sent to the Seller through the post or other courier shall be deemed to have been received unless and until actually received by the Seller.
11. Liability of Denver Agricultural Tractor Spares (Pty) LTD with regard to any claim against any defect in the condition, quality, or suitability of the goods for any purpose whatsoever, whether patent or latent, that may arise from the sale of goods is limited to the purchase price of the goods sold, and the company is under no circumstances liable for losses incurred as a result of stoppages or for any direct consequential damages whatsoever arising out of the use or intended use, whether such purpose be known to the Seller or not, or unsuitability of the goods sold. It is understood that the goods are sold to the Buyer voetstoots and that the Seller gives no guarantees or warranties express or implied, nor makes any representation of any nature whatsoever in regard to the fitness of the goods for the intended use. Where the goods supplied have not been manufactured by the seller, no guarantees or warranties contained in the literature printed at the instance of the manufacturers shall be binding on the Seller. ***The above also includes any charges for labour and freight charges for which Denver Agricultural Tractor Spares (Pty) LTD (Cape) will not be liable.***
12. Under no circumstances whatsoever including as a result of its negligent (including grossly negligent) acts or omissions or those of its servants, agents or contractors or other persons for whom in law it may be liable shall the Seller be liable for consequential loss sustained by the Buyer or any third party. This also constitutes a *stipulatio alteri* in favour of such persons the benefits of which may be accepted by them at any time.
13. In lieu of any warranty in law, whether express or implied, the Seller may in its sole discretion replace the defective goods. However no replacement for alleged defects shall arise where the Seller determines that the defects has/have resulted from poor workmanship or improper installation. The Buyer accepts the cost of any expert examination required for the account of the Buyer where goods found not to be defective.
14. ***Any claims a client would like to make against possible defective product requires the completion of our warranty claim form, which can be supplied on request. Any warranty claims made should be done within 14 (fourteen) days from the discovery of the manifestation of the defect. Where the Seller does not have the necessary expertise or knowledge to determine the cause/nature of the defect an independent third party expert will be nominated by the Seller, whose decision shall be final and binding on both parties.***
15. Any warranty claim is subject to the Buyer not causing or endeavouring to cause such part or portion thereof to be repaired by anyone other than the Seller and all the Buyer's obligations to the Buyer in terms of the agreement of sale being strictly observed.



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16. If the Seller as a show of good faith decides to grant the Buyer leniency in terms of its liability clause and warranty policy at any time, it will not be construed as a novation or waiver of any of the rights of the company hereunder and nor would it constitute an acknowledgement or acceptance of any responsibility.
17. The Seller may require that the goods and equipment be returned to its premises for repair in accordance with the procedures set out in its warranty policy, in which event the cost of return shall be for the Buyer's account.
18. Any order is subject to the cancellation by Denver Agricultural Tractor Spares (Pty) Ltd (Cape) due to force majeure from any cause beyond the control of the Seller, including (without restricting this clause to these instances): inability to secure labour, power, materials or supplies, or by reason of an act of God, war, civil disturbances, riot, state of emergency, strike, lockout, or other labour disputes, fire, flood, drought, or legislation, or if the Buyer breaches any terms of this contact or makes any attempt to compromise, liquidation, sequestration, termination or judgements recorded against the Buyer or any of its principles.
19. The Seller hereby informs the Buyer that the authorised South African distributor of these products is under no obligation to honour the manufacturer's guarantees/warranties or to provide sales service.
20. All risk of loss, damage, destruction or otherwise in the goods sold passes on delivery to the Buyer or its agent. Where delivery is made by road or rail the institution or person handling the transport (e.g. DSV Couriers, Netwerk, EPX, S.A. Post Office) will be deemed to be the agent of the Buyer even though the courier costs are prepaid by the Seller or the Seller's courier account is used for the Buyer's convenience.
21. Any claims regarding errors in despatch or invoicing will not be recognised unless received within 7 calendar days of the date of invoice. In any event the Seller's liability for any such shortage or error shall be limited at its option to the replacement or payment of the value of the goods or equipment so short delivered.
22. VAT represents the current Valued Added Tax.
23. Quotes valid for 14 days (fourteen) days from date of quotation. Quote subject to price and availability at time or firm order.
24. All second hand equipment, parts or tractors are sold as it stands (voetstoets), and Denver Agricultural Tractors (Pty) Ltd (the company) gives no guarantee, express or implied, as to the effectiveness of the equipment unless other signed agreements have been entered into.



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- 25. The Purchaser shall be liable to pay interest to the Seller on all overdue amounts at 3 % (Three percent) per month compounded above the Current Bank Prime Rate, from date of invoice as determined by Nedbank or according to prescribed rate as is specified by the Prescribed Rate of Interest Act 55 of 1955.
- 26. In the event of the purchaser failing to make payment on due date of any due by it to the seller in terms hereof, then the full amount owed by the purchaser to the seller from whatsoever cause arising shall forthwith and without notice become due and payable notwithstanding that the due date for payment thereof shall not otherwise have arrived.
- 27. A dishonoured cheque will be treated as A Bad Debt or an attempt to defraud this Company.
- 28. Any indulgence, leniency or extension granted by Denver Agricultural Tractor Spares (Pty) Ltd at any time, will not be construed as a notification or waiver of any of the rights of the company hereunder.
- 29. The Buyer agrees that if this account is handed over to an attorney for collection, due to failure to adhere to the above terms, then I / We shall be responsible for collection charges and all Attorney-Client costs (Including tracing fees). In regard to any claim which may exceed the normal jurisdiction of the Magistrate’s Court, the seller have the right as his sole option and discretion to institute proceedings in any other competent court which might otherwise have jurisdiction.
- 30. The Credit Receiver consents to the jurisdiction of the Magistrate’s Court as required by Section 45 of Act 32 of 1944, in respect of any action or proceedings which may be brought against it by the Credit Grantor, shall be entitled to bring proceedings in the Supreme Court if such proceedings would but for the a foregoing consent, fall outside the jurisdiction of the Magistrates Court.
- 31. The Seller’s failure to enforce any of the above provisions does not in any way affect the rights of the Seller in terms thereof.

SIGNATURE: _____ **CAPACITY:** _____

NAME IN BLOCK LETTERS: _____

DATE: _____

WITNESS: _____ **SIGNATURE:** _____

I.D. #: _____ **DATE:** _____