

TERMS AND CONDITIONS OF SERVICE



1. These terms shall apply to any sale of goods or any provision of services by MAN Truck & Bus (S.A.) (Proprietary) Limited ("MAN") notwithstanding anything to the contrary in any other document issued by MAN or the Customer.
2. Ownership of any goods sold by MAN in terms hereof to the Customer shall remain vested in MAN, until the purchase price of such goods has been paid in full.
3. The risk in any goods sold by MAN to the Customer shall pass to the Customer on delivery of all or any portion of such goods purchased and delivered, a signed delivery note being proof that the goods have been delivered and received in good condition.
4. The purchase price of any goods sold and delivered by MAN to the Customer, and the charges for any services rendered by MAN to the Customer, shall be paid immediately upon invoice.
5. MAN shall not be liable for any damages suffered by the Customer arising from the damage or destruction of any of the Customer's vehicles or other goods whilst on MAN's premises whether by fire, theft, weather, MAN's negligence or any other cause.
6. The Customer shall not be entitled to withhold payment of any amount due in terms hereof by virtue of any claim the Customer may have for compensation for loss or damage to goods, or other property, or for any reason whatsoever, nor shall the Customer be entitled to claim or enforce any set-off as against MAN from whatever cause arising.
7. MAN shall not be liable to the Customer for any damages or losses sustained as a result of MAN being unable to deliver any goods or render any services timeously, or at all.
8. In the event that the Consumer Protection Act 68 of 2008 ("CPA") is applicable to a transaction between the Customer and MAN, the following shall apply:
 - 8.1 Within 6 (six) months after delivery, the Customer may return to the premises of MAN, any defective portable goods in the original packaging which: (i) are not reasonably suitable for the purpose for which they are generally intended; and/or (ii) are not of a good quality, in good working order and free of any defects; and/or (iii) will not be useable and durable for a reasonable period of time; and/or (iv) do not comply with applicable safety standards. MAN shall repair or replace the failed, unsafe or defective goods at MAN's cost or grant the Customer a credit equivalent to the price paid by the Customer for the goods. If, within 3 (three) months after repair by MAN, the defect or unsafe feature has not been remedied or a further defect of unsafe feature is discovered, MAN shall replace the failed, unsafe or defective goods at MAN's cost or grant the Customer a credit equivalent to the price paid by the Customer for the goods. MAN shall be entitled to levy a charge upon returned goods in accordance with section 20 of the CPA. Repair times and repair costs given are merely estimates and are not binding on MAN, save and except that in respect of transactions in terms of which the customer has requested an estimate of the repair costs to be incurred before the repair is undertaken, MAN shall not increase any estimated repair costs unless it has informed the Customer of any proposed increase and the Customer has agreed thereto.
 - 8.2 The Customer acknowledges that it will at all times comply strictly with any instructions in respect of MAN products and any instruction booklet or chart issued by MAN available on request as well as to all legal and municipal laws and regulations. The Customer undertakes to be responsible to make all its employees handling any MAN product comply with the same.
 - 8.3 In the event that there is any conflict between the terms and conditions of this Agreement and the provisions of the CPA, the provisions of the CPA shall prevail.
9. In the event that the Consumer Protection Act 68 of 2008 ("CPA") is not applicable to a transaction between the Customer and MAN, the following shall apply:
 - 9.1 The Customer may return any defective portable goods to the premises of MAN at the Customer's own cost and packed in the original packaging of the goods and all risks for the duration of repair remain with the Customer. The Customer shall be responsible for payment of all repairs to defective goods. Repair times and repair costs given are merely estimates and are not binding on MAN.
 - 9.2 MAN shall not be liable and the Customer indemnifies MAN against any malfunction of equipment save and except for a grossly negligent act by MAN.
10. New goods are guaranteed according to the Manufacturer's product specific warranties or agreed specifications and the implied warranty of quality as contained in the CPA only and all other guarantees including common law guarantees are hereby specifically excluded. Repairs and parts are guaranteed according to the warranty on repaired goods contained in the CPA for a period of 3 (three) months against faulty workmanship. Parts are also guaranteed according to the Manufacturer's product specific warranties. Liability under this clause is restricted to the cost of repair or replacement of faulty goods or services or granting of credit.
11. Neither MAN nor any person acting for and on behalf of MAN will be liable for any loss, damage or injury whatsoever and howsoever arising including without limitation, all direct and indirect damages, consequential and special losses or damages, sustained by the Customer or any third party. Save and except for gross negligence on the part of MAN and any claim in terms of section 61 of the CPA, the Customer hereby indemnifies MAN against any and all loss or damage to any property and/or any or all loss, damage and/or injury suffered by any person, including consequential loss or damage, arising from or in connection with or as a result of any act or omission of MAN in relation to the goods, the services rendered, the workmanship or the supply and delivery of goods. Under no circumstances shall MAN be liable for any damage arising from any misuse or abuse of the goods.
12. It is acknowledged that the Customer may hereafter enter into one or more transactions with a company which is a subsidiary of MAN or which is associated with MAN. In such event, these terms shall apply mutatis mutandis to any transaction between the Customer and the subsidiary or associate company concerned.