

WATER COOLER RENTAL AND MINERAL WATER SUPPLY AGREEMENT

entered into between

The Mineral Water Man (Proprietary) Limited (Reg No: 2002/015999/07) (hereinafter referred to as "TMWM")
and

The Client as described in the Order Form

Terms and Conditions

1. Definitions

- 1.1 "this Agreement" means collectively this rental and supply agreement, the Order Form and any additional Order Forms signed by the Parties;
- 1.2 "the Client's Domicilium" means the Client's chosen *domicilium citandi et executandi* for the purposes of communicating with or giving notice to the Subscriber, being the delivery address detailed in the Order Form.
- 1.3 "Commencement Date" means the date of delivery of the Equipment by TMWM to the Client as evidenced by a delivery note signed by the Client;
- 1.4 "Consumables" means the mineral water, cups and any other consumables ordered by the Client from time to time;
- 1.5 "Equipment" means the water cooler equipment and water bottles to be hired by the Client as detailed in the Order Form;
- 1.6 "Order Form" means the document overleaf setting out full details of the Client, the Equipment to be hired and any specific information relating to this Agreement, and any subsequent order forms signed by the Client;
- 1.7 "the Parties" means collectively TMWM and the Client and "Party" means either one of them as the context requires;
- 1.8 "Rental" means the rental from time to time payable by the Client to TMWM for the hire of Equipment, which Rental for the first 12 (twelve) month period following the Commencement Date, shall be as detailed in the Order Form.

2. Rental of Equipment and Supply of Consumables

- 2.1 TMWM hereby rents to the Client, who hereby hires from TMWM the Equipment upon the terms and conditions contained in this Agreement.
- 2.2 TMWM hereby agrees and undertakes to supply Consumables to the Client upon the terms and conditions contained in this Agreement.

3. Duration

This Agreement shall commence on the Commencement Date and shall continue for a period of 24 (twenty four) full calendar months whereafter it will automatically be renewed for further 12 (twelve) month periods, unless terminated prior to the commencement of any 12 (twelve) month period, by either Party giving notice in writing to the other of them, which notice, in order to be effective, shall be given not later than 30 (thirty) days prior to the expiry of any 12 (twelve) month period.

4. Payment of Rental and Other Amounts Payable

4.1 Rental

- 4.1.1 The Rental shall be paid to TMWM annually, biannually, quarterly or monthly in advance, in accordance with the election made by the Client in the Order Form, on or before the third business day of the relevant period.
- 4.1.2 The Rental shall be escalated on each successive anniversary of the Commencement Date by a rate of not more than 3% (three percent) above the average CPI (being the percentage increase in the consumer price index as published by the department of statistics from time to time) for the preceding year, it however being recorded and agreed that should there be any statutory increases such as wages or fuel and the like, such increases will be passed on to the Client upon the giving of 3 (three) months written notice.
- 4.1.3 TMWM shall be relieved of the obligation to supply goods and service should the Client be in arrears with any payment rightfully due to TMWM,

4.2 Other Amounts Payable

The other amounts payable by the Client for Consumables ordered shall be paid to TMWM on delivery of such Consumables.

4.3 Value Added Tax

All Rental and other amounts payable by the Client in terms of this Agreement are exclusive of Value Added Tax.

5. Undertakings by TMWM

TMWM hereby agrees and undertakes to:

- 5.1 deliver the Equipment to the Client on dates to be agreed upon between TMWM and the Client from time to time;
- 5.2 supply Consumables to the Client on a regular basis as ordered;
- 5.3 maintain the functioning part of the Equipment and test the water quality at Bottling plant twice during each 12 (twelve) month cycle to ensure that the quality of the water is maintained. This does not include sanitation of the equipment which is an optional monthly charge.
- 5.4 Sanitation will be done twice during a 12 (twelve) month cycle when included on the monthly rental contract.

6. Undertakings by the Client

The Client hereby acknowledges and undertakes that:

- 6.1 the Equipment will only be used for the purpose for which it was intended;
- 6.2 it will not make any modification to the Equipment;
- 6.3 the Equipment constitutes "movable" property which has not been installed with the intention that it may accede to the building or structure to which it is installed and that ownership thereof will at all times remain vested in TMWM;
- 6.4 it will at all times maintain the Equipment in good working order, it being recorded and agreed that TMWM shall provide a 12 (twelve) month warranty against defective Equipment, subject at all times to the provisions of 6.5;
- 6.5 it will at all times only use mineral water supplied by TMWM in the Equipment.

7. Ownership

- 7.1 Ownership of the Equipment shall at all times remain vested in TMWM.
- 7.2 The risk in and to the Equipment shall pass to the Client upon delivery of the Equipment and shall remain with the Client until the return of the Equipment by the Client to TMWM in good order and condition. The Client shall be liable in respect of any loss of or damage to the Equipment howsoever caused and the amount of the loss or damage sustained by TMWM shall be payable on demand.
- 7.3 Upon termination of this Agreement, TMWM shall have the right to take possession of the Equipment immediately and the Client shall be held liable for any damage to the Equipment.
- 7.4 The Client undertakes to notify its landlord that ownership of the Equipment is vested in TMWM.

8. Breach

Should the Client commit a breach of any provision of this Agreement and fail to remedy such breach within 7 (seven) days of receiving written notice by delivery by hand or by telefax from TMWM requiring it to do so, then TMWM shall be entitled, without prejudice to its other rights in law, to cancel this Agreement or to claim specific performance, in either event, without prejudice to TMWM's right to claim damages.

9. Insurance

The Client agrees and undertakes to keep the Equipment insured against any loss or damage for the duration of this Agreement with a registered insurer for such value which may be obtained from TMWM in writing from time to time. The Client hereby cedes to TMWM all of the benefits in terms of such insurance.

10. Cession

- 10.1 TMWM shall be entitled to cede, assign, transfer or makeover all or any of its rights and/or obligations in terms of this Agreement.
- 10.2 The Client shall not be entitled to cede, assign, transfer or makeover any of its rights and/or obligations in terms of this Agreement without the prior written consent of TMWM first being had and obtained.

11. General

- 11.1 This Agreement records the entire agreement between the Parties and no variation, amendment or addition to this Agreement shall be of any force or effect unless reduced to writing and signed by both of the Parties.
- 11.2 Neither of the Parties have been induced to enter into this Agreement or to undertake their respective obligations in terms of this Agreement by any representations, warranties, inducements or any other representation.
- 11.3 No extension of time or waiver or relaxation of any of the provisions or terms of this Agreement shall operate as an estoppel against TMWM in respect of its rights under this Agreement, nor shall it operate so as to preclude TMWM thereafter from exercising its rights strictly in accordance with this Agreement.