



MASTER REFURBISHMENT AGREEMENT (Agreement Number

- TQ - _____) Between:

LESSAN ENGINEERING (PTY) LTD t/a TURF-QUIP Registration No.

1967/003182/07

VAT No: 4610104947

Address: _____

e-mail address: allen@turfquip.co.za; lessan@turf-quip.co.za; Herein represented by

its duly authorised Director, Allen Worms Identity Number: 710915 5065 08 1

Cell No: 083 259 9634

("the Company")

and

_____ **PTY LTD / CC / TRUST** Registration No.

VAT No: _____

Address: _____

e-mail address: _____

Herein represented by its duly authorised Director, Member, Trustee _____ Identity Number:

Tel No: _____

("the Client")

*** NB* PLEASE READ & SIGN EVERY PAGE AND RETURN THE ORIGINAL
AND DEBIT ORDER FORM TO lessan@turf-quip.co.za.
A COPY WILL BE RETURNED TO YOU. MASTER**

REFURBISHMENT AGR. No: _____

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1. **INTRODUCTION**

- 1.1 The Company hereby agrees to refurbish the Client's equipment, all as detailed in **Schedule "A"** hereto (and referred to hereinafter as "the Goods"), upon the terms and conditions of this Agreement.
- 1.2 The duration of this Agreement from the Commencement Date until the Expiry Date is as set out in **Schedule "A"** hereto.
- 1.3 This Agreement shall commence on the Commencement Date and shall continue for the Contract Period until the Expiry Date or such extended Expiry Date as may be provided for in this Agreement.
- 1.4 All payments owing by the Client to the Company, shall be paid by Debit Order in respect of which a Debit Order Authorisation shall be completed, signed and annexed hereto as **Schedule "B"**.
- 1.5 The conditions of this Agreement shall apply to each and every Schedule hereto as if incorporated in such Schedule.

2. **PAYMENTS AND INTEREST:**

- 2.1 The Client shall pay the payments, as set out in **Schedule "A"**, to the Company for the Contract Period as detailed in **Schedule "A"**.
- 2.2 The Company is not a registered credit provider, as contemplated in the National Credit Act No. 34 of 2005, and accordingly, no interest shall be charged on the payments for the refurbishment services to be rendered, other than in the event of default, as contemplated in Clause 2.5 below.
- 2.3 The payments are fixed for the duration of the Contract Period and shall be payable by the Client to the Company, punctually, free of exchange, free of interest and without any set-off, deduction or demand.
- 2.4 Payment shall be made monthly in advance on or before the 1st day of each month for the duration of this Agreement.
- 2.5 All amounts overdue for payment shall accrue interest at the maximum rate allowed in respect of incidental credit agreements in terms of the National Credit Act No. 34 of 2005 (currently 2% per month), compounded monthly, charged on the reducing balance from the date upon which payment should have been made, until date of final payment by the Company.

2.6 The payments shall be made monthly in advance. Should this Agreement commence on a day other than 1st day of a month, the first payment shall be for an amount equal to the *pro rata* share of the payment based on the number of days from the Commencement Date to the end of the previous month, plus the payment for the following month.

3. **PAYMENT BY DEBIT ORDER**

3.1 The Client shall make payment by means of Debit Order.

3.2 The Client shall sign a Debit Order Authorisation in terms of which the Company shall be authorised to deduct the payments directly from the Client's bank account (the Account Holder's bank account). The duly completed and signed Debit Order Authorisation form shall be attached hereto as **Schedule "B"**.

This condition is mandatory and if not complied with, will result in this agreement being null and void.

3.3 The first debit will be processed on the debit order date, being the 1st day of the month after the Commencement Date and thereafter on the 1st day of each successive month.

3.4 In the event that the debit order date falls on a Sunday or recognised South African public holiday, then the debit order date will fall on the business day immediately before such Sunday or public holiday.

4. **OWNERSHIP**

4.1 The Client warrants that it is the owner of the Goods and that it has valid and absolute title to the Goods. Throughout the Contract Period, the Client shall be and remain the owner of the Goods.

4.2 The Client shall at all times during the term of this Agreement, remain the owner of the Goods.

4.3 Upon expiry of this Agreement at the end of the Contract Period, the Client shall make payment of the final payment amount, on the final payment date (as specified in **Schedule "A"**).

5. **LOCATION OF GOODS AND LANDLORDS HYPOTHEC**

5.1 The Company's staff or agents shall always have the right to inspect the Goods at the Client's premises during business hours for the duration of the Contract Period.

6. **RISK**

6.1 The risk in the Goods shall be held by the Client. The Client may mitigate its risks by insuring the Goods.

6.2 Irrespective of whether the Goods are lost or stolen during the Contract Period, and/or whether the Goods were insured or not and/or whether the insurer acknowledged the Client's claim and/or paid the Client out for the loss of the Goods and/or for any other reason or should any other circumstances whatsoever arise, or irrespective of whatever other circumstances may arise, the Client's obligation to pay all of the payments in terms of this Agreement until the end of the Contract Period will continue unhindered.

6.3 If the Goods are damaged, destroyed or lost the Client shall immediately notify the Company in writing.

7. **USE**

7.1 The Client shall ensure that the Goods are only used with due skill and care and in accordance with the manufacturer's specifications.

8. **MAINTENANCE OF GOODS**

8.1 The cost of maintenance of the Goods is **NOT** included in the payments.

8.2 Daily maintenance, servicing, greasing, checking water and oil levels, cleaning and bolt checks, are the responsibility of the Client and shall be attended to at the Client's cost.

8.3 All scheduled services, periodic maintenance, the replacement of scheduled serviceable parts (as recommended by the manufacturer's specifications for the Goods) and the labour and parts shall be arranged by the Client and shall be for the Client's account.

8.4 The Client shall be liable for, and pay, the costs of tyres, batteries, fuel, and/or for all repairs pursuant to damages to the Goods not covered by the Warranty, including but not limited to the damages caused by the use of contaminated fuel and abusive use of the Goods.

9. **WARRANTY**

9.1 The Company hereby provides a Warranty on the Goods for the period as stipulated in **Schedule "A"** hereto.

9.2 The Warranty on the Goods shall be in respect of any repairs to be effected to the Goods, during the warranty period, which repairs shall be the responsibility of the Company.

9.3 Only the Company and/or its agents may attend to such services or repairs, the costs of which shall be for the Company's account.

9.4 In the event of the Goods requiring repairs covered by this Warranty, the Company may, in its sole discretion elect to replace the Goods with similar Goods and this Agreement shall resume, as if the replacement Goods were the original Goods. In this event the Company shall take ownership of the Client's old Goods so replaced by it, and the Client shall take ownership of the replacement Goods.

Commented [W01]: Allen, what do you think of this clause?

9.5 In the event of a Warranty Claim, the Company shall make the necessary consequential changes to the Agreement in respect of the Contract Period of the Agreement, descriptions of Goods, replacement values etc.

9.6 This Warranty shall not cover breakdowns or repairs caused by misuse or abuse of the Goods. Such repair costs shall be for the account of the Client.

9.7 All normal maintenance issues, and wear and tear repairs to the Goods shall be the responsibility of the Client.

10. **ASSIGN, CESSION OR DELEGATION**

10.1 The Client shall not assign, cede, or delegate any of its rights or obligations in terms of this Agreement, to anyone else without the Company's prior written consent;

10.2 The Company may, on written notice to the Client, assign, cede or delegate any of its rights and/or obligations in this Agreement and/or transfer ownership of the goods to any person whatsoever. Unless the context indicates otherwise, any reference to the Company in this Agreement shall then be deemed to include its cessionary or delegate or other successor in title.

11. **BREACH**

11.1 In the event of any payment being made late or short, then the whole amount owing by the Client to the Company shall immediately become due and payable and interest shall be charged on the arrears as contemplated in Clause 2.5 above.

11.2 In the event of the Client breaching this Agreement in any way and failing to rectify same within 14 (fourteen) days' of having received notice to rectify such breach from

the Company, all amounts owing by the Client to the Company shall immediately become due and payable.

11.3 The Company may, at its election and without prejudice to any other remedy which it may have in terms of this Agreement or may be entitled to in law:

11.3.1 without notice cancel this Agreement and recover from the Client payment of all amounts due in terms hereof; and/or

11.3.2 claim from the Client such damages, including consequential damages, as it may have suffered; and/or

11.3.3 claim specific performance under this Agreement.

11.4 The Client shall be deemed to have breached the Agreement in the event of the Client committing an act of insolvency, as contemplated in the Insolvency Act, 24 of 1936, or allowing any judgment against it to remain unsatisfied for a period of 7 (seven) days unless an appeal has been noted against such judgment, or compromising or attempting to compromise or defer payment of any debt owing by the Client to any of its creditors, or be provisionally or finally liquidated or placed under Debt Review.

12. **JURISDICTIONS AND COSTS**

12.1 The Client consents to the jurisdiction of the Magistrate's Court having jurisdiction over its person, but the Company has the discretion to institute proceedings from the High Court, irrespective of the amount in dispute.

12.2 The Client agrees to pay any costs which may be awarded against it on the scale as between attorney-and-own-client.

12.3 Should the Company choose to institute action in the High Court, the Company shall not be limited to recovering costs on any Magistrate's Court scale.

13. **GOVERNING LAW**

This Agreement shall be governed by and interpreted in accordance with the laws of the Republic of South Africa.

14. **VALUE ADDED TAX**

In terms of Value Added Tax Act 89 of 1991, as amended, VAT at the prevailing rate as at date of signature hereto has been included in each payment. If at any time during the currency of this Agreement there is any change in the rate at which VAT is levied,

and or in the amount of VAT payable in respect of the payments. The Company shall recalculate the payments which fall due on or after the date of said change accordingly and shall substitute the recalculated payments for the previous payments.

15. **DOMICILIUM**

15.1 The Parties respective *domicilium citandi et executandi* addresses (“domicilium”) shall be physical addresses in the Republic of South Africa or e-mail addresses. The Parties choose their domicilium for all purposes at the physical and e-mail addresses as recorded on the face of this Agreement.

A postal address shall not constitute a domicilium for purposes of this Agreement.

15.2

15.3 Either Party may change its domicilium by written notice delivered by hand or sent by e-mail to the other Party.

15.4 Any notice delivered by hand or sent by e-mail to the other Party’s domicilium shall be deemed to have been received, on the first business day after delivery thereof.

16. **WHOLE AGREEMENT AND NON-VARIATION**

16.1 This is the entire agreement between the parties relating to the Goods. There are no oral or collateral terms or agreements which in any way vary or modify this Agreement or suspend the operation of same and there are no implied or tacit terms or conditions to be read into this Agreement.

16.2 **Schedules “A” and “B”** hereto were fully completed prior to the signing of this Agreement and the particulars therein are correct.

16.3 This Agreement may not be amended, cancelled or novated except and only to the extent that such amendment, cancellation or novation is reduced to writing and signed by both parties.

16.4 No relaxation by the Company of any of the terms of this Agreement shall be deemed to be a waiver of the Company’s rights and the Company may enforce the terms of this Agreement strictly at any time.

SIGNED at _____ **on** _____ **20** ____.

AS WITNESSES:

1. _____

_____ For **THE**
COMPANY

2. _____

SIGNED at _____ **on** _____ **20** ____.

AS WITNESSES:

1. _____

2. _____

_____ For **THE**
CLIENT

MASTER REFURBISHMENT AGR. No: _____

**SCHEDULE "A"
CONTRACT INFORMATION**

1. **The Goods:**

| No. | Item | Quantity | Serial Number | Agreed Replacement Price of each item (incl. VAT) |
|-----|--------------------|----------|---------------|---|
| 1. | Jacobsen Greenking | 2 | | R.....,00 |
| 2. | Kubota ZD28EC | 1 | | R.....,00 |
| 3. | | | | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |
| 7. | | | | |
| 8. | | | | |
| 9. | | | | |
| 10. | | | | |

Commented [W02]: Allen, I think we can delete this column? Perhaps we can call it "agreed refurbishment cost"?

("the Goods")

2. **Duration ("Contract Period"):**

2.1 Commencement Date: _____;

2.2 Expiry Date: _____;

2.3 The Contract Period is accordingly for 48 / 60 / 72 / 84 (_____) months, unless amended in terms of the Agreement;

2.4 This Agreement shall commence on the Commencement Date and shall continue until the Expiry Date or such extended Expiry Date as may be agreed between the Parties in writing.

3. **Payment:**

3.1 The Client shall pay for the refurbishment services rendered in respect of the Goods, by way of monthly payments, as set out in the Table in Paragraph 1 above, in the amount of R_____ (____) (excl. VAT) per month, for the Contract Period.

3.2 The cost of repairs and maintenance, other than Warranty Repairs, shall be for the Client's account and shall NOT be included in the monthly payments.

3.3 The total monthly payment amount shall according be an amount of R_____ (inclusive of VAT) fixed for the duration of the Contract Period.

4. **Final payment date:** _____

20 ____.

5. **Warranty Period:**

The Goods shall be subject to a warranty from the Company for a period of 12 (twelve) months from the Commencement Date on the terms and conditions as set out in Clause 9 of the Agreement.

MASTER REFURBISHMENT AGR. No: _____

SCHEDULE "B"

DEBIT ORDER AUTHORISATION (TO BE COMPLETED AND ATTACHED)

DEBIT ORDER AUTHORISATION FOR PAYMENT OF REFURBISHMENT COSTS (to be completed electronically)

Given by: (ACCOUNT HOLDER) ("the Account Holder")

| | | | | | | |
|--|---------------------------|-------------------------------------|---------|--------------------------|--------------|--------------------------|
| Account type (select ONE) | Current | <input type="checkbox"/> | Savings | <input type="checkbox"/> | Transmission | <input type="checkbox"/> |
| Monthly payment Date | 1 st | <input checked="" type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> |
| Start Month: | Click here to enter text. | | | | | |
| End Month (If applicable): | Click here to enter text. | | | | | |
| Account holder's name: | Click here to enter text. | | | | | |
| Account number: | Click here to enter text. | | | | | |
| Bank: | Click here to enter text. | | | | | |
| Branch code: | Click here to enter text. | | | | | |
| Amount: | Click here to enter text. | | | | | |
| Cellular Telephone number: | Click here to enter text. | | | | | |
| E-mail address: | Click here to enter text. | | | | | |
| Address: | Click here to enter text. | | | | | |
| | Click here to enter text. | | | | | |
| Turf-Quip Ref. No (as per statement): | TQ- | | | | | |
| Debit Order Authorisation date: | Click here to enter text. | | | | | |

To: Lessan Engineering (Pty) Ltd t/a TURF-QUIP ("the Company")

A. Authorisation

1. The Account Holder hereby verifies its authority in respect of the above-mentioned account and attaches a bank letter verifying the account details or a cancelled cheque for identification purposes¹.
2. The Account Holder hereby authorises the Company to issue and deliver payment instructions to the Company's banker for collection against the Account Holder's above-mentioned account at the Account Holder's above-mentioned bank (or any other bank or branch to which the Account Holder may transfer his/her/its account).

¹ Attach bank letter or cancelled cheque.

3. This Authorisation is conditional upon the sum of each such payment instructions never exceeding the Account Holder's obligations as agreed to in the Agreement.
4. This Authorisation shall commence on and shall continue until the Account Holder's indebtedness to the Company has been paid in full.
5. The individual payment instructions so authorised to be issued must be issued and delivered monthly, as per the date above.
6. The first debit will be processed on the debit order date, being the 1st day of the month after the Commencement Date and thereafter on the 1st day of each successive month. In the event that the debit order date falls on a Sunday or recognised South African public holiday, then the debit order date will fall on the business day immediately before such Sunday or public holiday.
7. The Account Holder will ensure that funds are always available on the debit order date. In the event of there being insufficient funds available in the Account Holder's bank account to fully satisfy the debit order, the Company's bankers shall continue to re-present the payment instruction to the Account Holder's bank until such time that all outstanding obligations are fully satisfied. The Account Holder and Client shall be jointly and severally liable for all bank charges incurred in this event.
8. The Account Holder understands that the withdrawals hereby authorised will be processed through a computerised system provided by the South African Banks. The Account Holder also understands that details of each withdrawal will be printed on his/her/its bank statement.

B. Mandate

The Account Holder acknowledges that all payment instructions issued by the Company shall be treated by the Account Holder's abovementioned bank as if the instructions had been issued by the Account Holder personally.

C. Banking Details

Payment from the Account Holder's bank account, in terms of this Debit Order Authorisation, will be made directly to the Company's bank account, being:

Account Name: Lessan Engineering (Pty) Ltd t/a TURF-QUIP Bank: First National Bank-
Church Square Pretoria
Account No: 51050615315
Branch Code: 25 14 45

REF. TQ-_____ NB – THIS MUST BE INCLUDED

D. Cancellation

1. The Account Holder agrees that in the event of this Debit Order Authorisation being cancelled, for whatever reason, such cancellation will not cancel the Master Refurbishment Agreement. The Account Holder shall not be entitled to any refund of any amounts withdrawn while this Authorisation was in force, if such amounts were legally owing in terms of the Master Refurbishment Agreement.

2. Should the Account Holder's bank, for any reason, reclaim from the Company's bank any of the amounts paid in terms of this Authorisation, and decide to pay such amounts over to the Account Holder, the Account Holder undertakes to immediately refund such amounts to the Company.

3. Assignment

The Account Holder acknowledges that the Company's rights and / or obligations in this Authorisation may be ceded, delegated or assigned to a third party, if the Company's rights and / or obligations in the Agreement are also ceded, delegated or assigned to that third party, but in the absence of such assignment, this Debit Order Authorisation cannot be assigned to any third party.

4. Continuation

This debit order authorisation will remain in place for the duration of the Master Refurbishment Agreement.

Signed at _____ on this ____ day of _____ 20 ____.

OF ACCOUNT HOLDER SIGNATURE

NAME IN FULL
ID Number: _____

in his/her capacity as Director / Member / Trustee of _____(Pty) Ltd/CC/Trust².

If a Legal Entity is the Account Holder the full name of the Legal Entity must be shown and the authorised person(s) must sign indicating his/her/their capacity(ies).

Witnesses 1:

Signature

Witnesses 2:

Signature

² Delete whichever is not applicable.

Full Names: _____

Full Names: _____ **SCHEDULE
"C"**
Bank Letter or Cancelled Cheque

(Attach bank letter verifying the account details or a cancelled cheque for identification purposes)

MASTER REFURBISHMENT AGR. No: _____