

DEKRA Automotive (PTY) LTD

The Roadworthy Testing and Vehicle Inspection Experts



General Terms and Conditions

1. General Provisions:

- 1.1 All performances by DEKRA are based on these terms and conditions. Any opposing or deviating conditions from the customer will not be recognised, unless DEKRA expressly confirms it in writing.
- 1.2 These terms and conditions apply to both follow-up orders and to ongoing business relationships.
- 1.3 On completion of the services, DEKRA will present and invoice detailing the work done and the Customer must pay the price as specified on the face of the invoice prior to removal of any goods from DEKRA premises, unless it is alternatively agreed upon with DEKRA in writing.

2. Order placement/Application:

- 2.1 Orders shall only be binding on DEKRA if made in writing and insofar as they are accepted by DEKRA in writing or by delivery of any services ordered by submission of an invoice.
- 2.2 Amendments and oral collateral agreements also require written confirmation. This includes Information and assurances made by DEKRA employees, as well as any examiners called in by DEKRA.
- 2.3 If an order is made electronically, DEKRA shall confirm receipt of the order without delay. The confirmation does not constitute a binding acceptance of the order. The confirmation of receipt may be combined with the statement of acceptance.
- 2.4 Insofar as the customer orders work electronically, the text of the contract shall be saved by DEKRA and sent to the customer upon request, along with the present DEKRA terms of contract.

3. Performance/ Delivery:

- 3.1 DEKRA shall carry out its performances impartially, neutrally and to the best of its knowledge, in accordance with the generally accepted rules and in observance of the regulations existing at the time of the acceptance of the order.
- 3.2 Insofar as is necessary for proper execution of the performances, the customer shall obtain information from and carry out surveys of involved parties and third parties, and shall inform DEKRA about this.
- 3.3 The scope of the performance to be rendered by DEKRA shall be stipulated in writing at the time that the order is placed. Partial performances are possible. If changes and/or additions to the stipulated scope of the order arise during the proper carrying out of the order, these shall first be agreed upon in writing as well as between the parties. In respect of the changes or additions, adherence to the contract cannot be reasonably asked of the customer and he has a right of withdrawal. In such a case, however, the customer must pay the agreed fee or, in the absence of agreement, DEKRA's standard rates and charges will apply
- 3.4 The expected completion date is approximate only and time is not of the essence in any contract of work. Orders will be accepted for delivery as and when service's can be made available by DEKRA. If DEKRA is unable to deliver the services and/or goods on the expected date of completion, the customer does not have a right to cancel the contract.
- 3.5 DEKRA is entitled to suspend delivery of services and/or goods, if the customer is in breach of any of the terms hereof.
- 3.6 Should vehicles for whatsoever reason not be removed from the premises or be prevented from being removed, by the third working day after the customer was informed of completion of the service, storage charges shall be levied against the customer at a daily rate equal to the standard hourly rate of labour prevailing at that time.
- 3.7 Viz major, strikes, lock-outs, differences in workmen, accidents to machinery, failure of usual sources of supply of materials, acts of government or quasi government or legislation, or other contingencies beyond the control of DEKRA, shall be sufficient justification for any delay or suspension of delivery. In such an event, the customer shall not have a claim of cancellation of the contract and DEKRA shall deliver as soon as is practically possible.

4. Price

- 4.1 The price of the services rendered and/or goods supplied will be DEKRA's standard rates and charges, ruling at the time the work is carried out and which rates and charges are deemed to be fair and reasonable.
- 4.2 Any quotation given by DEKRA is only an estimate and shall not be binding upon it.
- 4.3 DEKRA reserves its right to change its standard rates and charges and without notice.

5. Additional Work

- 5.1 If any services, additional to that reflected on the face of the order are deemed by DEKRA to be necessary and/or desirable for the maintenance of goods and/or safety of the Customer, such performance shall be deemed to form part of the initial instructions/order. Notwithstanding whether it formed part of the initial scope of services concluded in writing, DEKRA is authorised to proceed with such work provided that the said contract price is not exceeded by 15%. In the event that the contract price is exceeded by the 15%, DEKRA must obtain the customers written consent to proceed.

6. Payment

- 6.1 Upon execution of the order or, if applicable, upon presentation of the invoice, the order fee is due in full immediately, at the latest by the date indicated on the invoice or other date as agreed at time of placing the order.
- 6.2 For the invoicing of DEKRA's performances, the VAT applicable at the time of the complete execution of the order shall be shown separately and levied in addition to the order fee.
- 6.3 The calculation basis for the invoice shall be the currently applicable DEKRA fee scale, which will be made available to the customer on request. This does not apply insofar as a fixed price or another basis of assessment has been expressly agreed upon in writing. Any increases in fees shall be announced forthwith to a client and if not accepted, the client shall forthwith inform DEKRA of non-acceptance in writing, failing which DEKRA will proceed to complete the services.
- 6.4 Bills of exchange, cheques and payment orders will only be accepted pursuant to prior arrangement and will only be considered as payment when duly honoured. All bank expenses shall be borne by the customer.
- 6.5 Offsetting payment with or retaining payment based on a counterclaim vis-à-vis DEKRA is not permitted, unless the counterclaim is uncontested or determined with legal validity.
- 6.6 If the customer is in default with payment of the invoice, then DEKRA can withdraw from the contract or demand compensation instead of performance. Subject to assessment of further damage, DEKRA shall be entitled to levy interest of 5% above the prime overdraft interest rate in the event of payment default of any customer.
- 6.7 Should DEKRA in its sole discretion decide that the customer is not creditworthy, then DEKRA will be entitled to demand cash deposit before an order is executed. Moreover, DEKRA will be entitled to withdraw from an accepted order under such circumstances as a result of the customer's breach of contract and to hold the customer liable for damage suffered to an agreed estimate of damage equal to 15% of the contract price without prejudice to DEKRA's right to claim an increased amount from the client, should DEKRA be able to prove damage suffered to the extent of such increased amount.
This also applies in the event of non-compliance of the payment conditions, in the event of non-payment of cheques or bills of exchange, suspension of payment, opening of bankruptcy proceedings regarding the customer's assets, or rejection of the opening of bankruptcy proceedings for lack of assets of the customer.

6.8 Deposits on costs may be demanded and/ or partial invoices may be issued by DEKRA corresponding to services already rendered. If the customer is in default with payment of partial invoices despite being given additional time, then DEKRA has a right to refuse to carry out the balance of the order, to withdraw from the contract or to demand damages pursuant to the customer's breach of contract.

7. Deadlines:

7.1 The order deadlines of DEKRA are non-binding, unless their bindingness has been expressly agreed upon in writing.

7.2 Binding delivery time limits for the provision of the examiner's performance or for the execution of the services shall begin upon conclusion of the contract. Insofar as an advance payment was agreed to or documents of the customer are required, the execution time shall not begin to run until the advance payment or documents are received.

8. Suretyship

8.1 Any person signing an order or agreement with DEKRA on behalf of a customer in a representative capacity confirming the acceptance of these conditions, by his signature, binds himself as surety and co-principal debtor in solidum with the customer for payment by him to DEKRA for all amounts which at any time become owing to DEKRA.

8.2 Such suretyship can only be cancelled by DEKRA in writing provided that all amounts owing by the customer to DEKRA at that stage have been settled in full.

9. Warranty and Representation

9.1 Insofar as DEKRA renders services, the parties are in agreement that DEKRA does not warrant any specific result, but only renders services, and that necessary decisions to be made in regard to the services to be rendered fall in the decision and risk area of the customer alone.

9.2 In the event that defects occur within the warranty period, if specifically agreed to in writing, DEKRA shall be entitled to remedy the defects in such a way as it may deem fit. Any additional warranty is excluded.

9.3 In the event of a minor contractual violation, however – in particular in the event of minor defects – the customer shall have no right of cancelling an accepted order. In the event of a defect arising out of a service or part for which DEKRA cannot be held liable, the customer is not entitled to cancel the agreement.

9.4 Complaints about defects shall be made by the customer to DEKRA in writing as soon as they are detected. The goods shall then be made available to DEKRA for inspection in this regard.

9.5 DEKRA shall not be liable for any claim for damages unless arising from the breach of a specific warranty.

10. Liability

10.1 DEKRA shall not be liable to the customer for any special or consequential damages whatsoever, arising out of any breach by DEKRA of any of its obligations in this agreement.

10.2 DEKRA shall be liable for damages, only if DEKRA, its legal representative or duly appointed employee or agent caused the alleged damage deliberately or with gross negligence.

10.3 DEKRA shall not be liable for any damage or loss to the customer due to late performance/ delivery.

10.4 All customer goods or assets are stored at DEKRA premises and handled by DEKRA's representatives at the customer's own risk.

10.5 The customer must within 10 (ten) days from any occurrence notify DEKRA in writing of any damage for which DEKRA will be held liable.

10.6 The customer's rights based on warranties pursuant to clause 9 above remain unaffected.

10.7 Damage claims shall prescribe after 3 years from date of receipt of the examiners report/ performance.

11. Cancellation

11.1 If the customer commits a breach of any of these terms and conditions; or being a natural person, dies or is provisionally or finally sequestered or surrenders his estate; or being a partnership, is dissolved; or being a company, is placed under a provisional or final order of liquidation or judicial management; or compromises or attempts to compromise generally with its creditors, then DEKRA may:-

11.1.1 summarily cancel the contract by giving the customer written notice to that effect, without prejudice to any other rights DEKRA has, including claiming for work already performed, as a result of such breach or cancellation; and

11.1.2 retain the goods subject to this contract should it have such goods in its possession at the time of such breach or cancellation; and

11.1.3 proceed to enforce the customer's compliance with any one or more terms and conditions of this agreement by way of an order for specific performance with or without damages.

12. Jurisdiction

12.1 The customer hereby consents that the Magistrates Court shall have jurisdiction in terms of the Magistrates Court Act.

12.2 Notwithstanding the above, DEKRA is entitled to institute legal proceedings in any other court of competent jurisdiction.

13. Domicilium

13.1 The customer nominates as its domicilium citandi et executandi the physical address reflected on the face of the invoice for service upon it of all notices and processes in connection with any claim arising in terms thereof. Such notice may be given by pre-paid registered mail or hand delivered to the Customer's domicilium.

A Quality Roadworthy Can Save Your Life!

