



PROFESSIONAL CONSULTING & ENGINEERING SERVICES - BMH TERMS AND CONDITIONS OF SERVICES ("BMH T&C's Rev 01)

Pre-amble

Bassonet consulting specializes in consultation, design, project/contracts engineering, intellectual and procurement services regarding Logistical Storage Installations, Materials Handling Installations, Facility, and Structural and Mechanical Engineering Consulting Services including HVAC. This document sets out general conditions of related consultation services effective 1 March 2015.

1 Definition of Terms

In this **Contract**, unless inconsistent with or otherwise expressly indicated by the context:

- (a) "**BMH**" means **African Trip CC**, a closed corporation terms of the laws of the Republic of South Africa, either acting by himself or through an employee, assignee, subcontractor or agent.
- (b) "**Approval**" means **Client's** consent in **Writing** and "**Approved**" shall have a corresponding meaning
- (c) "**Commencement Date**" means the date on which **Client** notifies the **BMH** in **Writing**, of the award of the **Contract**.
- (d) "**Contract**" means "BMH T&C's Rev 01" and/or the Purchase Order placed on BMH to which the **Contract** shall always apply.
- (e) "**Client**" means the person with whom **BMH** contracted and to whom **BMH** will render the **Services**.
- (f) "**Contract Price**" means the price stipulated and agreed in **BMH's** proposal, tender and/or a final order and if agreed between **BMH** and **Client**, subject to such additions thereto or deductions therefrom as may be made from time to time under the provisions of the **Contract**.
- (g) "**Contract Program**" means the sequential commencement and completion dates of activities in the execution of the **Services** reflecting the order of procedure and method that the **BMH** shall follow in carrying out the **Services** to meet the **Date for Completion** as stipulated in **Annexure "B"**.



- (h) “**Contract Documentation**” means any drawing, diagram, calculation, designs, bills of quantities, specifications, data sheets, schedules and other pertinent documents relating to the **Contract** issued by or through the **BMH**.
- (i) “**Date for Completion**” means the date stipulated in the **Contract** for completion of the **Services**.
- (j) “**Drawings**” means and includes plans, sections and elevations, as well as working and detailed drawings, diagrams and schedules relative to the **Contract**, together with all modifications to these and “as-built” drawings.
- (k) “**Documentation**” means any drawing, calculation, designs, specification, and other pertinent documents supplied to **CLIENT** by the **BMH** in terms of the **Contract** together with any modifications to such documents as may from time to time be approved in **Writing** by **CLIENT**.
- (l) “**Parties**” means **Client** and the **BMH** and “third party” means any other person or entity, as the context requires.
- (m) “**Site**” means the area indicated by **Client** where the performance of the **Services** by the **BMH** in terms of the **Contract**.
- (n) “**Services**” means any project related professional services e.g. design, engineering activities, technology, know-how, drafting, quantity surveying, quality control, project management activities etc., to be carried out by the **BMH** in accordance with the **Contract** and specified in **Annexure “A” - Scope of Work and Specification**.
- (o) “**Technical Information**” means all information supplied in **Annexure “A”**, together with all drawings, diagrams, designs, specifications and other pertinent documents as may from time to time be furnished or referred to in **Writing**.
- (p) “**Writing**” means any manuscript, typewritten or printed statement and shall include letters, facsimile including electronic communication.

2 Headings and Interpretation

In this **Contract**, unless inconsistent with or otherwise expressly indicated by the context:

- (a) The clause headings are for reference purposes only and shall not influence its interpretation.
- (b) Words importing the singular, where applicable, also include the plural, and *vice versa*.



- (c) Where figures are referred to in numerals and in words, and there is any conflict, the words shall prevail.
- (d) All Annexures hereto shall be deemed to be incorporated herein and shall form an integral part hereof.
- (e) Expressions defined in the **Contract** shall bear the same meanings in data sheets, schedules or annexures to the **Contract**, which do not contain their own definitions.
- (f) Reference to days, months or years shall be construed as Gregorian calendar days, months or years.

3 Discrepancies in Contract Documents

Should there appear to be any discordance or want of agreement in the description, dimensions or quantities between any of the documents comprised in the **Contract**, the matter shall be referred by the **BMH** to **Client** for a decision before proceeding with the works in respect of which the said discordance or want of agreement appears to exist. The aforementioned notwithstanding, in deciding, **Client** shall be guided by this order of precedence:

- (a) Scope of Work – Annexure “A”;
- (b) The Professional Consulting & Engineering Services Contract;
- (c) Drawings and Technical Specifications;
- (d) Parts List, if any; and,
- (e) Any other document(s) forming part of the Contract

4 Notices

- (a) Any notice, instruction, request, statement or other communication required or permitted to be given hereunder shall be in **Writing** and may be given by delivery to either **Party** or by mailing the same by prepaid registered post, addressed to the other **Party**.
- (b) Any notice or communication required or permitted in terms of the **Contract** will be valid and effective only if it is in **Writing**.



- (c) Any **Party** may by notice to the other **Party** change its facsimile number, e-mail address or the address chosen as its *domicilium citandi et executandi*, to another facsimile number, e-mail address or address which is not constituted exclusively by a post office box address. The change will become effective on the 5th (fifth) day from the deemed receipt of the notice by the addressee.
- (d) Any notice to a **Party** sent by prepaid registered mail (by airmail if appropriate) in a correctly addressed envelope to it at its *domicilium citandi et executandi* will be deemed to have been received on the 5th (fifth) day after posting unless the contrary is proved.
- (e) Any notice to a **Party** delivered by hand during ordinary business hours at its *domicilium citandi et executandi* will be deemed to have been received on the day of delivery unless the contrary is proved.
- (f) Any notice to a **Party** sent by facsimile or e-mail to its chosen *domicilium citandi et executandi*, will be deemed to have received, unless the contrary is proved, immediately upon the issuance, by the transmitting facsimile machine or transmitting computer, of a report confirming the correct transmission of all the pages of the document containing the notice.
- (g) Notwithstanding anything to the contrary herein contained a notice or communication actually received by a **Party** will be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen *domicilium citandi et executandi*.

5 Delegation and Cession

- (a) Either Party may cede any and all of its rights and/or assign or delegate any or all of its obligations under the Agreement to an Affiliate as part of a restructuring process provided that; i) the assigning Party shall remain liable for due fulfilment of any obligations so delegated or assigned in the event that such Affiliate is unable to perform such obligations, ii) such Party issues to the other Party prior written notice of such cession, assignment and/or delegation and, iii) such Party's Affiliate agrees in writing to be bound by the provisions of this Agreement.
- (b) Subject to the provisions of Sub-Clause 5(a), neither Party may cede any nor all of its rights and/or assign nor delegate any or all of its obligations to a third party without prior **Written** consent of the other Party, which consent may not be unreasonably withheld or delayed.
- (c) **BMH** shall have the right to sub-contract in whole or in part to any third party any of its obligations in terms of the **Contract** without prior **Written** consent of **Client**.



6 Applicable Law and Legislation

The **Contract** shall be governed and construed according to the laws of the Republic of South Africa.

7 Arbitration

(a) In the event of any disagreement arising out of this **Contract** or the interpretation thereof while in force or after its termination and **Client** and the **BMH** have failed to reach agreement on any difference or question, such disagreement shall be determined by arbitration in terms of the provisions of the Arbitration Act, Act No 42 of 1965.

(b) Notwithstanding any such disagreement the **BMH** shall proceed with the **Services** unless **Client** shall order the suspension or termination thereof in **Writing**. In the event of **Client** ordering such suspension or termination, **Client** shall provide the **BMH** with 7 (seven) day's prior notice of such suspension or termination. The **Client** shall pay **BMH** for all **Services** rendered up to the date of suspension or termination as the case may be, and direct costs incurred that are necessary or incidental to the suspension or termination. If the aggregate duration of all suspensions under the **Contract** exceed 45 (forty-five) days, **BMH** will have the right to terminate the **Contract** and will be entitled to receive payment for **Services** provided and costs incurred as detailed in this clause 7(b)."

8 Claims

(a) In cases where under this **Contract** there are circumstances that the **BMH** considers entitle it to make a claim for additional compensation not provided for in the **Contract**, the **BMH** shall, within 14 (*fourteen*) *working days* of becoming aware of the event giving rise to the claim, give notice to **Client** of its intention to submit a claim stating the reasons therefore. Failure to do so shall not be deemed to be a waiver of the **BMH's** claim for additional compensation.

(b) Within 10 (ten) days after notifying the Client in terms of 8 (a) above, **BMH** shall submit its detailed claim together with substantiated documentary evidence and amounts in support of such claim to **Client** for consideration. Failure to do so shall not be deemed to be a waiver of **BMH's** claim for additional compensation.

9 Publications and Confidentiality

(a) For the purposes of this **Contract** Confidential Information shall include but not be limited to:

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Email: bassonetmh@gmail.com



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- - (i) All information furnished by **BMH** to the **Client**.
 - (ii) **BMH's** know-how, data, drawings, sketches or diagrams, reports, systems, technical specifications, techniques, manufacturing processes, reports and monitoring results, inventions, patents, tenders and contracts.
 - (iii) Any other commercially sensitive information, such as names of suppliers, customers, manufacturing processes and business strategies.
- (b) The **Client** shall hold in confidence all Confidential Information received from **BMH** and shall:
- (i) not divulge the Confidential Information to any person other to its employees required to perform in accordance with the **Contract**.
 - (ii) only disclose Confidential Information where it is required to be disclosed by law, provided that the **Client** immediately notifies **BMH** of the requirement to disclose and takes all reasonable steps to lawfully resist or narrow the requirement to disclose the Confidential Information.
- (d) With respect to all Confidential Information provided by **Client**, **BMH** will use the same care to prevent disclosure to third parties of such Confidential Information as it employs to avoid disclosure, publication or dissemination of its own information of a similar nature.
- (e) Notwithstanding the foregoing, this clause will not apply to any Confidential Information, which:
- (i) At the time of disclosure to it, in the public domain.
 - (ii) After disclosure to it, published or otherwise, becomes part of the public domain through no fault of **BMH**; or
 - (iii) In the possession of **BMH** at the time of disclosure of it; or
 - (iv) Received after disclosure to it from a **third party** who had a lawful right to disclose such

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information to it or;

- (v) Independently developed by **BMH** without reference to the Confidential Information of the **Client**.

- (f) The provisions of this clause 9 shall survive the cancellation or termination of this **Contract** for any reason whatsoever and remain binding on the **Client** for a period of 3 (three) years.

10 **BMH's Liability and Insurance**

Where ever deemed applicable;

- (a) To the maximum extent permitted by law and notwithstanding and superseding anything to the contrary in the **Contract**:
 - (i) The aggregate liability of the **BMH** arising out of the performance or non-performance of the **Services** or otherwise about the **Contract** is limited to the **Contract Price**.
 - (ii) In no event will either Party be liable to the other for any claim, action, proceeding, loss, damage or cost that:
 - in any manner relates to a loss of revenue, profits, opportunity or production, loss or denial of use of any equipment or facility, increased expense of construction, operation or maintenance, economic loss, loss of goodwill or reputation, delay, business interruption or the cost of repair to or replacement of equipment, facilities or goods and related third party services;
 - in any manner can be construed as indirect, incidental, special, punitive or consequential losses or damages, or
 - is not a direct result of a breach by **BMH** of the **Contract**; and
 - (iv) where **BMH** carries out and is responsible for any design work, **BMH** warrants that the design shall be in accordance with **Specification**, shall be prepared by suitably qualified designers and/or registered designers who possess the experience and capability necessary for the design. In addition, **BMH** shall be responsible for any errors in the design and shall, despite any approval of the design by **Client**, be responsible for costs incumbent in their correction; and

where the **Client** carries out and is responsible for any design work, the **Client** warrants



that the design shall be in accordance with what is required in terms of the **Specification**, shall be prepared by suitably qualified designers and/or registered designers who possess the experience and capability necessary for the design. In addition, the **Client** shall be responsible for any errors in the design and shall, despite any approval of the design by **Client**, be responsible for costs incumbent in their correction.

- (b) All statutory warranties (including those in any relevant trade practices or sale of goods laws relating to the quality or fitness for purpose of the **Services** or any goods, equipment or materials supplied by the **BMH** in connection with the **Services**) are excluded or limited to the maximum extent permitted by law.
- (c) Any action or claim against **BMH** in connection with the **Contract** or the performance or non-performance of **Services**, whether in contract, delict, equity, statute or otherwise, must be made within 12 (twelve) months of the date of the performance or non-performance of the relevant **Services**.
- (d) During the period in which the **Services** are being performed, **BMH** will, at its own expense, maintain insurance to limits as per BMH insurance schedule at the time of entering into the **Contract**.

11 Services to be carried out by the BMH

- (a) **BMH** will perform the **Services** with due care, skill and diligence in accordance with the standard of care normally exercised by professionals providing similar services under similar circumstances. **BMH** will re-perform any **Services** that fail to comply with this standard of care if **Client** gives the **BMH** notice of such failure within 6 (six) months of performance of such **Services**.

12 Services to be carried out by Client

- (a) If the **Contract** provides that **CLIENT** shall execute any work or provide any materials, facilities, or services that are necessary to facilitate execution and completion of the **Services** by **BMH** then such work, materials, facilities or services shall be
 - (i) Executed or provided in accordance with the **Contract**.
 - (ii) Compatible with the proper execution and completion of the **Services** by **BMH**; and
 - (iii) Executed and provided at times specified in the **Contract**, or where not so stipulated, then on dates to be mutually agreed between **Client** and **BMH**.



13 Inspection of Site

It is hereby recorded that the **BMH** has not visited the site of the Project to which the proposed **Services** shall apply and that it has not satisfied itself with the site conditions and circumstances affecting the **Services**. Nonetheless, should the **Client** be of a professional view that it is necessary to visit the site of the Project in order to properly and effectively execute the **Services**, then **BMH** shall be expected to visit the site.

14 Program and Delay Damages

- (a) The **Client** and **BMH** shall prior to **Contract** award, based upon the, agree a “high level” **Contract Program** to meet the **Date for Completion**.
- (b) Should the **BMH** fail to meet the milestone dates specified in the **Contract Program** and/or fail to perform and complete the **Services** within the **Date for Completion**, **BMH** shall be liable to the **Client** for payment of liquidated delay damages equalling 0,5% of the **Contract Price** per each week’s delay to a maximum of 5% of the **Contract Price**. This shall be the **Client’s** sole remedy and **BMH’s** sole obligation in terms of lateness in performing the **Services**.

15 Default

- (a) If the **Client** commits a material breach of any provision of this **Contract**, then the **BMH** may call in **Writing** on the **Client** to remedy the breach pursuant to Sub-clause (b) hereunder.
- (b) Should the **Client** fail to remedy the breach and/ or fail to take positive steps acceptable to the **BMH** to remedy the breach complained of within 7 (seven) days from the date of notification calling for the remedy of the complaint, **BMH** shall without prejudice to any of its rights under common law and particularly its rights under the **Contract** be at liberty to terminate the **Contract** with immediate effect on **Written** notice to the **Client**.
- (c) The **Client** shall pay the **BMH** for all **Services** rendered and costs incurred up to and including the date of termination plus a 15% fee of outstanding **Services** to be completed.
- (d) **BMH** shall in the event of any litigation to enforce its rights in terms of the **Contract** be entitled to recover from the **Client** all legal expenses on an attorney-Client basis.

16 Insolvency of Client

If the **Client** becomes insolvent or proposes any assignment to its creditors for settlement of



its debts, or makes or offers to make any assignment with any of its creditors for releasing it wholly or partly from its debts, or if execution is issued against it by virtue of any judgement, or if it commits any act of insolvency, or being a legal entity is placed under judicial management, or commences to be wound up not being merely a voluntary liquidation for the purpose of reconstruction (all of which are deemed to be events of breach) then, **BMH** may give notice in **Writing** to the **Client** to terminate the **Contract**.

17 Extension of Time

- (a) Should the completion of the **Services** be delayed resulting from the inability of the **Client** to fulfil any of its material obligations under the **Contract** (other than under a force majeure situation) or from a delay directly attributable to other contractors engaged by **Client** for work related to the **Services** then **BMH** shall, within 15 (fifteen) days of the occurrence of such supposed delay give notice thereof in **Writing** and of its claim for an extension of time and cost.
- (b) Such claims for variation in the **Contract Price** submitted by the **BMH** shall detail the circumstances and facts covering the claim with substantiating information and details of the **Services** relevant to each claim.
- (c) **BMH** and the **Client** shall agree on the appropriate extension of time and additional cost attributable to the delay.

18 Force Majeure

In this **Contract**, a “force majeure” means an exceptional event or circumstance which is beyond a Party’s control; such a Party could not reasonably have provided against before entering into the Contract; having arisen, such **Party** could not reasonably have avoided or overcome; and, is not substantially attributable to the other Party.

- (a) Upon becoming aware of circumstances giving rise to a breach or likely breach of its obligations because of a force majeure event the **Party** so affected shall forthwith give notice to the other thereof, providing details of the circumstances and the period they are likely to cause the breach to last. Upon such notice having been given the performance of such **Party’s** obligations shall be suspended during the period that the said circumstances persist and such **Party** shall be granted an extension of time for performance equal to the period of delay.
- (b) Should a **Party** be unable to fulfil a material part of its obligations under the **Contract** for a

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period in excess of 30 (thirty) days due to the force majeure event, as contemplated in Sub-Clause (a), then either **Party** shall, in its sole discretion have the right to cancel the **Contract**.

- (c) Neither the **Client** nor the **BMH** shall have any claim of any nature whatsoever against the other for any delayed performance or failure to carry out any of its obligations under the **Contract** because of a force majeure event.
- (d) However, the **Client** shall pay **BMH** for all **Services** rendered up to date of the termination for Force Majeure in accordance with the above.

19 Limitation of Liability

- (a) Neither the Client nor the **BMH** shall be liable or responsible to each other for any indirect, consequential, incidental or contingent damages, including but not limited to such loss of profit or loss of production arising out of a breach of this **Contract** or negligence on its/ their part.
- (b) The maximum amount of compensation payable by the **BMH** in respect of any and all liability under the **Contract** shall be limited as stipulated in clause 10 above.

20 Liability for Defects

- (a) If it is determined between the **Parties**
 - (i) That any of the **Services** provided by **BMH** are defective or not in accordance with the **Contract** (all such matters being hereinafter called “defects”); and
 - (ii) the Client has given notice to the **BMH** in **Writing** of such defect giving particulars of the defects and the date by which **Client** requires the defects to be remedied;
 - (iii) then the **BMH** shall, by not later than the date stipulated in the said notice and/or a date mutually agreed between the Parties should **BMH** not be able to remedy writing the date stipulated, make good the defects so specified.
- (b) The cost of making good such defects shall be for the account of **BMH** where
 - (i) Such defects are due to negligence or failure of **BMH** to exercise the standard of care which would normally be exercised by professionals, providing similar **Services** under similar circumstances; or
 - (ii) Are of a kind specified in the **Contract** to be made good at **BMH’s** expense.
- (c) If **BMH** neglect or refuse to make good any defect to be made good at its cost in terms of sub-

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clause (b) hereof within the period allowed by **Client** and/or the time agreed between the Parties, then the **BMH** shall reimburse **Client** for all reasonable proven costs incurred in rectifying such defects. This shall be **BMH's** sole obligation and the **Client's** sole remedy in terms of remedying defects.

21 Contract Price

*The **Contract Price** shall be as specifically provided for in the **Contract**.*

22 Terms of Payment

- (a) The terms of payment are those detailed in the proposal and/or quotation provided by **BMH** and is based on the milestones provided and/or agreed between the **Parties**.
- (b) If the Client disputes any portion of an invoice, it will pay those amounts that are not in dispute and notify **BMH** of the reasons for the dispute within 5 (five) days of receiving the invoice. Failure to notify **BMH** of the dispute within the required time will be treated as acceptance of the invoice. If it is determined that some or all of the amount in dispute should have been paid at the time it was invoiced, then the **Client** will promptly pay such amount, together with interest at the rate of prime plus 2%.

23 Whole Agreement

This **Contract** constitutes the whole agreement between **CLIENT** and the **Service Provider** as to the subject matter hereof and no agreements, representations or warranties, other than those set out herein, are binding on the **Parties**.

24 Validity

If any provision of this **Contract** is found or held to be invalid or unenforceable, the validity of all the other provisions hereof will not be affected thereby and the **Parties** agree to meet and review the matter and, if any valid and enforceable means is reasonably available to achieve the same objective as the invalid or unenforceable provision, to adopt such means by way of variation of this **Contract**.

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25 Amendments

An amendment to or variation of any of the terms and conditions of the **Contract** shall only be of force and effect if it is in **Writing** and is signed by both **Parties**.

26 Waiver of Rights

No waiver on the part of any **Party** or of any rights arising from a breach of any provision of this **Contract** will constitute a waiver of rights in respect of any subsequent breach of the same or any other provision. Moreover, a waiver of any right shall be in **Writing** and shall specifically state that it is a waiver of a right.

27 Severability

In the event that any of the terms of this **Contract** is found to be invalid, unlawful or unenforceable, such term(s) will be severable from the remaining terms, which will continue to be valid and enforceable.

28 Authority

Each person signing this **Agreement** for and on behalf of a **Party** hereto hereby warrants in his personal capacity that he is duly authorized by such a **Party** to do so.

29 Non-Solicitation

Neither **Party** will, during the term of this **Contract** or for a period of 12 (twelve) months thereafter, either directly or indirectly on its own behalf or jointly with or on behalf of any other person, solicit, engage or employ any employee, independent contractor or other representative of the other **Party** (or any of its affiliates) that has been involved in the provision of the **Services** or with whom the **Party** has otherwise had contact in connection with this **Contract**.

30 In addition to the above (the preceding paragraphs taking precedence where there is conflict)

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Notes:

- Specific Conditions may be stated for each engagement that must be read as additional to the General Conditions in this document.
- This document pertains to Storage, Logistics, Facility, Structural and Mechanical equipment engineering.

Engaging the Engineer's services

The services of the Engineer is engaged by a Formal Instruction on company letter head (electronic or other internationally recognized media) agreeing the Terms and Conditions herein or different T&C's as agreed or by an Order based on a formal Quote with T&C's agreed.

An email, SMS, WhatsApp or any other media via PC or other electronic communication device will be regarded as an order if it contains an instruction or request to perform an inspection or survey whether an order number or Order document had been provided or not.

A Formal agreement may be reached for ad hoc consultation which would be invoiced monthly. Unless subject to a fixed price quote any consult will be invoiced and would include all costs of the consult.

Erection prior to Service request

- 1) If an existing installation is investigated the report on it will not incur liability for consequential damages resulting from such reporting or erroneous conclusions arising from such reports. No liability is accepted for engineering consultation unless an engineering certificate regarding specific aspects mentioned therein is issued and the fees related to it paid for.
- 2) If the service provider is not consulted prior to requesting an "inspected as erected" certificate any and all costs of modification or improvements required and re-inspection costs until the installation is deemed satisfactory in the smallest detail is to be borne by the requestor of the



service. Once ordered by any written or recorded media the service will be invoiced in full as if the installation is worthy of a certificate.

Conflict of Interest

- 3) The Engineer regards his service as completely independent and in line with the ECSA code of conduct.
- 4) Should conflict of interest arise parties will be informed and the decision as to which party will be represented or to completely recuse himself will be communicated.
- 5) The Engineer may be subpoenaed as witness for legal proceedings as recognized by court of law.

Information exchange once service is engaged

- 6) All information that affects BMH's technical decisions or performance or legally must be disclosed when service is requested and communicated as soon as possible when it becomes known.
- 7) Any verbal remarks or decisions need to be verified in writing by either or both parties.
- 8) All actions, decisions affecting the components or installations need to be fully disclosed to the service provider and his approval secured in writing even after the fact.
- 9) Any changes to specification drafted by the service provider whatsoever need to be copied in written or drawn format to the service provider and his approval secured in writing.
- 10) Before any purchasing or physical labour starts to repair, modify or replace components the specification need to be approved by the service provider in writing where the components or service falls within the scope of the service provider or the scope of the service provider is affected.

Scope of Work undertaken

- 11) Standards – This document must be read with “Bassonet Materials Handling - Standards” updated from time to time. The Engineer will at his discretion apply standards to his interpretation in terms of his experience and knowledge.
- 12) Certification Report and Certification of an installation - The Engineer undertakes to inspect, analyze and certify installations or assemblies of components and report on his findings with the purpose to certify the installation and the housing structure as safe to load by intended loads after required corrections/modifications if required
 - a) Inspection means to examine or survey to the engineer's satisfaction the installation in order to:
 - i) Establish all different components used
 - ii) The dimensions of different components used
 - iii) The methods by which components are combined or fastened
 - iv) The stability of assemblies of components (typically pallet rack installation)
 - v) The erection tolerances of assemblies (typically pallet rack installation)
 - vi) The general prevailing conditions affecting the use of the installations
 - vii) The safety precautions affecting the installation regarding fire, floor conditions etc.



- viii) Establish the strength of materials used
 - ix) **It does not mean that each and every component was seen or examined or that all defects are recorded. The Engineer reserves the right to evaluate a random sample of the erection/installation to the satisfaction of applicable standards and his own experience and knowledge as Professional Engineer unless specifically agreed differently.**
- b) Analysis means to Analyze to the Engineer's satisfaction the different component sections found to
- i) Establish the sectional properties
 - ii) Establish the forces that may come to bear on the components or assemblies
 - iii) Study and investigate any condition that may bear on the stresses in the components of the assembly or installation
 - iv) Establish the Ultimate components loads in comparison to Component Resistance
 - v) May or may not include exhaustive analysis by structural analysis software or other methods deemed necessary.
- c) Certify means the Engineer commits his professional responsibility and risk profile in terms of Professional Indemnity Insurance to assuring and re-assuring the end user of the safe use of the assembly of installation by trained personnel using suitable and internationally accepted machinery and methods. He stand to be judged by his peers should components or assemblies fail during normal intended use by personnel and machinery and commits his PI Insurance party to indemnify mistaken work and results. The Engineer takes full liability for the safe use of the assembly or installation (excepting consequential damages or any damages not included in the stated scope of indemnity cover).
- 13) "Design" certificates are only issued for equipment not yet installed and on condition that the physical installation once put up, need to be verified before 25% of design loading. The design certificate is invalidated by use of components or erection of the installation until physically verified and converted to an "inspected as erected" certificate. "Design" Certificates carry no liability and would state clearly "Design Certificate" and "for costing, quote and tender purposes only". These certificates would carry Engineering costs unless subject to "at risk" agreements.
- 14) Engineer's Certification Defects report means to report on defects or lack of provisions for the intended loads established with recommendations on modifications or repairs to achieve intended loads. No liability passes to the Engineer who gives his professional opinion on a matter at hand and no liability is taken for continued use or use after modifications unless an Engineer's certificate is called for and the required fees paid for the issue thereof. The format of the report can be on company letterhead or in the form of an email message.
- 15) Engineering report or recommendation as above. The purpose and intended loading of the installation needs to be stated so the Engineer may judge the installation to that purpose.
- 16) Component Load Confirmation Report for Components installed - an ad hoc rate will be determined per ton in addition to engineering hours, usually a third of normal completed installation certification rate. The component or installation as a whole would not attract any liability unless the opportunity is given to examine the manufactured and installed components at stated rates of compensation.

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- 17) The Engineer may use personnel to perform work on his behalf under his guidance and will as found necessary perform any additional investigations, checks or work or engage any other professional to perform work with the agreement of the end user or his agent.
- 18) Personnel employed or contracted by the Engineer to perform work are not in any way mandated to express an opinion on the work or equipment being worked on behalf of the Engineer or BMH and the Client is advised not to pressurise the contractor or employee for any opinion or result while or after performing work.
- 19) The engineer reserves the right to use any combination of methods and work as found necessary at his discretion to achieve the aim of the work or certificate which is safe use of equipment with intended loads.

General Conditions of Engineering Certificate

- 20) Certificates will be issued on the basis that the SEMA or other agreed codes of practice serve as the standard. Erection and deflection tolerances as published in these codes need to be adhered to by the client and his sub-contractors performing work or services related to the equipment in question.
- 21) The Engineer reserves to right to certify on the side of caution as site conditions or drawings are interpreted and if any loads are less than desired by final user or service engager this would only be consider for revision if information acted on is proven incorrect and/or modification and improvements to achieve desired loads are carried out on the Engineer's instruction to the Engineer's specification at cost for the end user only.
- 22) If a certificate is issued the general and specific conditions appearing on the certificate apart from these need to be adhered to strictly, if not the certificate is invalidated without possibility of refund.
- 23) No certificate may be used to verify any other installation or component than intended by the certificate.
- 24) Misrepresentation - the Engineer or consultant known as Bassonet Consulting or Bassonet Materials Handling or Etienne Basson Pr Eng Sole Proprietor
 - a) May not be misrepresented in any way that creates an incorrect perception in the mind of the final owner/recipient of the equipment or service regarding any aspect of the service or equipment provided.
 - b) Will not misrepresent himself or any other entity to the final recipient of the service or equipment nor will entertain any requests towards the same.
- 25) The structure that houses the installations had been designed by a Competent Person as intended by the Professional Engineer's Act.
- 26) The OHS Act and Local Council By-laws are adhered to by the user.
- 27) Loading as given adhered to and use of the installation by personnel proven trained in the execution of their duties.
- 28) Pallets and other containers supported on equipment in a good state of repair and sufficiently constructed to bear the loads intended.
- 29) If any aspect whatsoever of the installation is changed or any additions or removal of equipment within risk proximity of the originally certified equipment performed, this certificate becomes



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null and void.

- 30) This certificate is strictly linked to the specific project and may not be used to validate any other project design.
- 31) Professional Indemnity will only be available once the invoice is settled.
- 32) Certificate valid for one year only, to be re-issued annually at fractional cost taking CPI into account. Direct Inspection Costs will be invoiced fully in addition to the fractional certificate cost plus ruling inspection costs if requested within 30 days of the expiry of the current certificate.
- 33) The Engineer Reserves the right to visit and inspect the installation covered by the certificate at any time during the validity period of the certificate. If the Engineer is denied reasonable access the certificate is invalidated immediately and the original Client/Agent as well as End User may be notified verbally and/or by any electronic means at the disposal of the Engineer at that time. If this occurs the Certificate may only be re-instated by full inspection of which the costs will be borne by the End User or Owner as applicable.

Quotation and Invoicing

- 34) Once the services of the Engineer is engaged towards achieving an agreed purpose and any work whatsoever had been performed towards such purpose, the full amount becomes payable whether certification was possible or not within 60 days of engagement or instruction received (certification may be impossible due to poor workmanship, lack of workmanship ability or design or any other reason).
- 35) **Any bookkeeping, credit control or other company governance requirements need to be made clear in writing before an order or instruction is given for work to be performed. Once any work whatsoever has started invoices are payable in full whether the requirements stem from financial/legal or any other source, the responsibility then is on the instructing party to comply with any requirements without withholding payment.**
- 36) Invoices need to be settled strictly as COD unless differently agreed in writing or per quotation. If not, interest will be levied at 1.5% of outstanding balance per month or part of.
- 37) Any reports or certificates are considered “draft” and carries zero liability until the invoices pertaining to it is settled.
- 38) No indemnity cover is available until the invoice pertaining to the job certification is settled in full.
- 39) All and any costs related to service rendering including all hours spent, administration, stationary, transport, accommodation and subsistence and any other cost related to the particular instruction as appearing on the job or service invoice need to be settled. A Breakdown of costs will be supplied in confidence upon request.
- 40) Specific Conditions of Quotation for Storage Equipment Survey, Report and Certification (this part also appears under conditions of quotation on each quotation that must be read with this complete document as a whole)
 - a) All conditions an inspector may encounter and expected PPE must be fully disclosed before on site activities.
 - b) All Safety and Security requirements must be fully disclosed before work commences. If these requirements such as medicals require additional costs over and above inspection costs allowed it will be added to the final invoice.



- c) The Client need to allow measuring equipment including cameras and Laser devices on site for the sole purposes of the inspection activities
- d) The Client need to make lift equipment available to lift inspectors to desired heights for measurements and to load and unload test weights on and off storage equipment by fair request and agreement. If waiting time exceeds 30 minutes additional time will be invoiced.
- e) Certificates and reports will be delivered electronically, generally within two weeks of completion of the Inspection. Display copies are available on request and will be invoiced additionally.
- f) The quote is based on information received and certain assumptions as to the make-up of the installation. Should these differ from the reality, the quotation may be revised to the lesser or greater as may be the case. ALL load bearing members and devices including wooden bearers are subject to the service and will be invoiced on a combined mass and costs of work basis.
- g) All information requested need to be supplied as far as possible, if not the service provider would have to make reasonable assumptions which may impact on the final approval and/or certification and the conditions specified for that.
- h) The user/owner need to cut samples as required from uprights or beams. The quotation excludes metallurgical testing unless stated differently.
- i) R Two million of liability insurance is available per event, public liability and consequential damages excluded which comes into effect once the invoice is settled.
- j) Inspections are in general based on a representative observed sample, "walking" the installation and in general not all defects will be captured or reported on except when specifically quoted and ordered.
- k) Re-inspections are not included in the quotations as standards of certification are made available and Standards of organisations such as SEMA are freely available to purchase. **Every re-inspection will be invoiced and a re-inspection may be required every time additional work is required to have the equipment conform to standards.** Parties responsible for performing rectification work are assumed to be aware of SEMA and other applicable standards and how to achieve compliance to standards. Should site attendance be required to explain the achievement of compliance this would be invoiced additionally.
- l) BMH is under no obligation to only check items previously found defective during a re-inspection and may check any items at random to re-evaluate the installation after repairs or improvements.
- m) If an Order had been placed on BMH and accepted, in the event the order is cancelled due to an **ACT OF GOD ONLY** all costs incurred including flights, administration, third party order cancellations (if possible), services labour and any other costs reasonably incurred plus administration costs will be invoiced against that order.
- n) **Note - Invoices will be presented as soon as the Engineering report is presented whether the installation is found acceptable to the norms applied or not, unless explicitly differently agreed in writing.**
- o) Prior to Certification, while BMH will at all times furnish defects information as accurate as possible, NO liability will be accepted for any direct or consequential damages resulting from erroneous information given.
- p) The Engineer reserves to right to any time with reasonable notice to the current end user, re-visit the site or review the site inspection or survey or evaluation which is the subject of a survey of inspection by BMH within ten years of the last engagement.

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- q) BMH reserves the right to invoice partially as may be reasonable in terms of costs incurred if any circumstance renders BMH unable to complete the full scope of work as intended.
- r) **Please note, if another Professional Engineering Practise have been engaged prior to placing an order with BMH, BMH cannot perform the service in terms of the ECSA Code of Conduct unless the the other Engineer gives explicit permission in writing. If this fact is not disclosed prior to financial commitments being made, BMH reserves the right to cease all work and Invoice the Client for all liabilities incurred without submitting any reports or calculations other than to the priorly engaged Engineer exclusively.**

