

HIRE TERMS AND CONDITIONS

1. Interpretation

1.1 The following definitions and rules of interpretation apply in this agreement.

Business Day: a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Business Hours: the period from 9.00 am to 5.00 pm on any Business Day.

Commencement Date: as set out in the Schedule.

Delivery: the transfer of physical possession of the Equipment to the Lessee at the Site.

Delivery Date: As set out in the Schedule.

Deposit: the deposit amount set out in the Schedule.

Equipment: the item(s) of equipment listed in the Schedule, all substitutions, replacements or renewals of such equipment and all related accessories, manuals and instructions provided for it.

Rental Payments: the payments set out in the Schedule and payable by or on behalf of Lessee for hire of the Equipment.

Rental Period: the period of hire as set out in the Schedule.

Risk Period: the period during which the Equipment is at the sole of the risk of the Lessee as set out in clause 6.2.

Schedule: the schedule forming part of these terms which sets out the specific details of the equipment hire.

Total Loss: due to the Lessee's default the Equipment is, in the Lessor's reasonable opinion or the opinion of its insurers, damaged beyond repair, lost, stolen, seized or confiscated.

1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this agreement.

1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.

1.4 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement and any reference to this agreement includes the Schedule.

1.5 A reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted from time to time and all subordinate legislation made under that legislation .

1.6 A reference to **writing** or **written** includes email.

2. Equipment hire

2.1 The Lessor shall hire the Equipment to the Lessee subject to the terms and conditions of this agreement.

2.2 The Lessor shall not, other than in the exercise of its rights under this agreement or applicable law, interfere with the Lessee's quiet possession of the Equipment.

3. Rental Period

The Rental Period starts on the Commencement Date set out in the Schedule and shall continue for the period set out in the Schedule unless and until this agreement is terminated earlier in accordance with its terms.

4. Rental Payments, Deposit and Cleaning Fee

4.1 The Lessee shall pay the Rental Payments to the Lessor in accordance with the Schedule. The Rental Payments shall be paid in pounds sterling and shall be made by bank transfer to the account set out in the Schedule.

4.2 The Rental Payments are exclusive of VAT and any other applicable taxes and duties or similar charges which shall be payable by the Lessee at the rate and in the manner from time to time prescribed by law.

4.3 All amounts due under this agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

4.4 If the Lessee fails to make a payment due to the Lessor under this agreement by the due date, then, without limiting the Lessor's remedies, the Lessee shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 4% a year above the Bank of England's base rate from time to time.

4.5 The Deposit is a deposit against default by the Lessee of payment of any Rental Payments, late return of Equipment (calculated on a daily basis as a proportion of the Rental Payment), additional Cleaning Fees incurred in accordance with 4.6 below, or any loss of or damage caused to the Equipment. The Lessee shall, on the date of this agreement, pay a deposit to the Lessor of the amount set out in the Schedule. If the Lessee fails without due cause to make any Rental Payments in accordance with the Payment Schedule, fails to enable collection or return of Equipment at the end of the Rental Period (whether after the full term or upon early termination for whatever reason), incurs additional Cleaning Fees or causes any loss or damage to the Equipment (in whole or in part), the Lessor shall be entitled to apply the Deposit against such default, additional Cleaning Fees, loss or damage or failure to enable collection or return of Equipment). The Lessee shall pay to the Lessor any sums deducted from the Deposit within ten Business Days of a demand for the same. The Deposit (or balance of the Deposit) shall be refundable by the end of the Business Day after the day on which the Equipment has been returned to the possession of the Lessor and inspected by the Lessor.

4.6 The Cleaning Fee is a charge payable for the cleaning of the Equipment at the end of the Rental Period. The Lessee shall, on the date of this agreement, pay the Cleaning Fee to the Lessor in the amount set out in the Schedule. The Cleaning Fee covers normal cleaning activities consistent with normal usage of the Equipment. It does not include cleaning necessitated by misuse or neglect of the Equipment including without limitation a failure by the Lessee to remove leftover food or food debris. Cleaning required to remedy misuse or neglect may be charged against the Deposit referred to in clause 4.5 above.

5. Delivery

- 5.1 Delivery shall be made by the Lessor or a haulage contractor acting on behalf of the Lessor, or if the Lessor agrees in advance in writing, by or on behalf of the Lessee, subject to the Lessor being satisfied as to the arrangements for moving the Equipment, including arrangements for appropriate insurance. Risk shall transfer in accordance with clause 6 of this agreement.
- 5.2 Delivery shall not be undertaken until the Initial Rental Fee, the Cleaning Fee and the Deposit have been paid in cleared funds and the completed Equipment Hire Form (which shall be completed by the Lessor in the form of the example set out in Schedule 1) and Equipment inventory (which shall be completed by the Lessor in the form of the example set out in Schedule 2) have been signed by the Lessee.
- 5.3 The Lessee shall procure that a duly authorised representative of the Lessee shall be present at the Delivery of the Equipment. Acceptance of Delivery by such representative shall constitute conclusive evidence that the Lessee has examined the Equipment and has found it to be in good condition, complete and fit in every way for the purpose for which it is intended. If required by the Lessor, the Lessee's duly authorised representative shall sign a receipt confirming such acceptance.
- 5.4 To facilitate Delivery, the Lessee shall provide access and suitable working conditions to enable Delivery to be carried out safely and expeditiously.

6. Title, risk and insurance

- 6.1 The Equipment shall at all times remain the property of the Lessor, and the Lessee shall have no right, title or interest in or to the Equipment (save the right to possession and use of the Equipment subject to the terms and conditions of this agreement).
- 6.2 The risk of loss, theft, damage or destruction of the Equipment shall pass to the Lessee on Delivery. The Equipment shall remain at the sole risk of the Lessee during the Rental Period and any further term during which the Equipment is in the possession, custody or control of the Lessee (**Risk Period**) until such time as the Equipment is redelivered to the Lessor. During the Rental Period and the Risk Period, the Lessee shall, at its own expense, obtain and maintain the following insurances:
- (a) insurance of the Equipment to a value not less than its full replacement value comprehensively against all usual risks of loss, damage or destruction by fire, theft or accident, and such other risks as the Lessor may from time to time nominate in writing;
 - (b) insurance for such amounts as a prudent owner or operator of the Equipment would insure for, or such amount as the Lessor may from time to time reasonably require, to cover any third party or public liability risks of whatever nature and however arising in connection with the Equipment.
- 6.3 All insurance policies procured by the Lessee shall be endorsed to provide the Lessor with at least twenty days prior written notice of cancellation or material change (including any reduction in coverage or policy amount) and shall on the Lessor's request name the Lessor on the policies as a loss payee in relation to any

claim relating to the Equipment. The Lessee shall be responsible for paying any deductibles due on any claims under such insurance policies.

- 6.4 The Lessee shall give immediate written notice to the Lessor in the event of any loss, accident or damage to the Equipment arising out of or in connection with the Lessee's possession or use of the Equipment.
- 6.5 If the Lessee fails to effect or maintain any of the insurances required under this agreement, the Lessor shall be entitled to effect and maintain the same, pay such premiums as may be necessary for that purpose and recover the same as a debt due from the Lessee.
- 6.6 The Lessee shall, on demand, supply copies of the relevant insurance policies or other insurance confirmation acceptable to the Lessor and proof of premium payment to the Lessor to confirm the insurance arrangements.

7. Lessee's responsibilities

- 7.1 The Lessee shall during the term of this agreement:
- (a) ensure that the Equipment is kept and operated in a suitable environment, used only for the purposes for which it is designed, and operated in a proper manner by trained competent staff in accordance with any operating instructions provided by the Lessor;
 - (b) take such steps (including compliance with all safety and usage instructions provided by the Lessor) as may be necessary to ensure, so far as is reasonably practicable, that the Equipment is at all times safe and without risk to health when it is being set, used, cleaned or maintained by a person at work;
 - (c) maintain at its own expense the Equipment in good and substantial repair in order to keep it in as good an operating condition as it was on the Delivery Date (fair wear and tear only excepted) including replacement of worn, damaged and lost parts, and shall make good any damage to the Equipment;
 - (d) make no alteration to the Equipment and shall not remove any existing component (or components) from the Equipment;
 - (e) keep the Lessor fully informed of all material matters relating to the Equipment;
 - (f) keep the Equipment at all times at the Site and shall not move or attempt to move any part of the Equipment to any other location without the Lessor's prior written consent;
 - (g) permit the Lessor or its duly authorised representative to inspect the Equipment at all reasonable times and for such purpose to enter on the Site or any premises at which the Equipment may be located, and shall grant reasonable access and facilities for such inspection;
 - (h) not, without the prior written consent of the Lessor, part with control of (including for the purposes of repair or maintenance), sell or offer for sale, underlet or lend the Equipment or allow the creation of any mortgage, charge, lien or other security interest in respect of it;
 - (i) not do or permit to be done any act or thing which will or may jeopardise the right, title or interest of the Lessor in the Equipment;
 - (j) not suffer or permit the Equipment to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if the Equipment is so

confiscated, seized or taken, the Lessee shall notify the Lessor and the Lessee shall at its sole expense use its best endeavours to procure an immediate release of the Equipment and shall indemnify the Lessor on demand against all losses, costs, charges, damages and expenses incurred as a result of such confiscation;

- (k) not use the Equipment for any unlawful purpose;
- (l) ensure that at all times the Equipment remains identifiable as being the Lessor's property and wherever possible shall ensure that a visible sign to that effect is attached to the Equipment; Notwithstanding the foregoing, the Lessee may, subject to advance written agreement of the Lessor (which will not be unreasonably withheld) add its own brand name and/or logo to the exterior of the Equipment by applying temporary covering or stickers to the Equipment which are capable of being removed without causing damage to the Equipment. In the event that damage is caused to the Equipment by the addition of such covering or stickers, the Lessor shall make good the damage and restore the Equipment to its appearance as it was at the Commencement Date .
- (m) permit the removal by the Lessor or its contracted haulage contractor to recover the Equipment at the end of the Rental Period and allow the Lessor or its haulage contractor access to the Site or any premises where the Equipment is located for the purpose of removing the Equipment; and
- (n) not do or permit to be done anything which could invalidate the insurances referred to in clause 6.2.

7.2 The Lessee acknowledges that the Lessor shall not be responsible for any loss of or damage to the Equipment arising out of or in connection with any negligence, misuse, mishandling of the Equipment or otherwise caused by the Lessee or its officers, employees, agents and contractors, and the Lessee shall indemnify the Lessor in full against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Lessor arising out of, or in connection with any failure by the Lessee to comply with the terms of this agreement.

8. Warranty

8.1 The Lessor warrants that the Equipment shall be of satisfactory quality and fit for purpose. The Lessor shall use all reasonable endeavours to remedy, free of charge and as soon as possible, any material defect or malfunction in the Equipment, provided that:

- (a) the Lessee notifies the Lessor of any defect on becoming aware of the defect or malfunction;
- (b) the Lessor is permitted to make a full examination of the defect.

8.2 If the Lessor fails to remedy any material defect or malfunction in the Equipment in accordance with clause 8.1, the Lessor shall, at the Lessee's request, accept the return of part or all of the Equipment and make an appropriate reduction to the Rental Payments payable during the remaining term of the agreement and, if relevant, return any Deposit (or any part of it).

9. Limitation of liability

- 9.1 The restrictions on liability in this clause 9 apply to every liability arising under or in connection with this agreement including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 9.2 Nothing in this agreement limits any liability which cannot legally be limited including liability for:
- (a) death or personal injury caused by negligence;
 - (b) fraud or fraudulent misrepresentation;
 - (c) breach of the terms implied by section 7 of the Supply of Goods and Services Act;
 - (d) any matter in respect of which it would be unlawful for the parties to exclude or restrict liability.
- 9.3 Subject to clause 9.2, the Lessor's total liability to the Lessee shall not exceed the total price of the rental of the Equipment as set out in the Schedule.
- 9.4 Subject to clause 9.2, the Lessor shall not be liable under this agreement for any:
- (a) loss of profits;
 - (b) loss of sales or business;
 - (c) loss of agreements or contracts;
 - (d) loss of anticipated savings;
 - (e) loss of use or corruption of software, data or information;
 - (f) loss of or damage to goodwill; and
 - (g) indirect or consequential loss.
- 9.5 Subject to clause 9.2, all implied terms and conditions as to the quality or performance of the Equipment and any other goods or services provided under this agreement are, to the fullest extent permitted by law, excluded from this agreement.

10. Termination

- 10.1 Without affecting any other right or remedy available to it, the Lessor may terminate this agreement with immediate effect by giving written notice to the Lessee if:
- (a) the Lessee fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 10 days after being notified in writing to make such payment;
 - (b) the Lessee commits a material breach of any other term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 10 days after being notified in writing to do so;
 - (c) the Lessee repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;
 - (d) the Lessee suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability

partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (**IA 1986**);

10.2 The Lessee may terminate the Rental Period at any time upon giving written notice to the Lessor of not less than the number of days set out in the "Early Termination" period set out in the Schedule, subject to payment of the Rental Fee for the period up to and including the date of Early Termination.

10.3 This agreement shall automatically terminate if a Total Loss occurs in relation to the Equipment.

11. Consequences of termination or expiry

11.1 On expiry or termination of this agreement, however caused:

- (a) the Lessor's consent to the Lessee's possession of the Equipment shall terminate;
- (b) the Lessor may, by its authorised representatives, without notice and at the Lessee's expense, retake possession of the Equipment and for this purpose may enter the Site or any premises at which the Equipment is located; and
- (c) without prejudice to any other rights or remedies of the Lessee, the Lessee shall pay to the Lessor on demand:
 - (i) all Rental Payments and other sums due but unpaid at the date of such demand together with any interest accrued pursuant to clause 4.4; and
 - (ii) any costs and expenses incurred by the Lessor in recovering the Equipment or in collecting any sums due under this agreement (including any storage, insurance, repair, transport, legal and remarketing costs).

11.2 On termination of this agreement pursuant to clause 10.1, without prejudice to any other rights or remedies of the Lessor, the Lessee shall pay to the Lessor on demand a sum equal to the whole of the Rental Payments that would (but for the termination) have been payable if the agreement had continued from the date of such demand to the end of the Rental Period, less:

- (a) a discount for accelerated payment at the percentage rate set out in the Payment Schedule; and
- (b) the Lessor's reasonable assessment of the market value of the Equipment on sale.

11.3 The sums payable pursuant to clause 11.2 shall be agreed compensation for the Lessor's loss and shall be payable in addition to the sums payable pursuant to clause 11.1(c). Such sums may be partly or wholly recovered from any Deposit.

11.4 Any provision of this agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this agreement shall remain in full force and effect.

11.5 Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

12. Force majeure

Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for 21 days, the party not affected may terminate this agreement by giving 7 days' written notice to the affected party.

13. Confidential information

13.1 Each party undertakes that it shall not at any time during this agreement, and for a period of two years after termination or expiry of this agreement, disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party except as permitted by clause 13.2.

13.2 Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with clause 13; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

13.3 Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

14. Assignment and other dealings

This agreement is personal to the parties and neither party shall assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement.

15. Entire agreement

15.1 This agreement constitutes the entire agreement between the parties.

15.2 Each party acknowledges that in entering into this agreement it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement.

16. Variation

No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

17. No partnership or agency

17.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

18. Further assurance

Each party shall execute and deliver such documents and perform such acts as may reasonably be required for the purpose of giving full effect to this agreement.

18.1 No counterpart shall be effective until each party has delivered to the other at least one executed counterpart.

19. Third party rights

19.1 Unless it expressly states otherwise, this agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

20. Notices

20.1 Any notice given to a party under or in connection with this agreement shall be in writing and shall be delivered by hand or by first-class post or other next working day delivery service at its address set out in the Schedule. Alternatively, the notice may be given by email to the email address of the recipient party set out in the Schedule.

20.2 Any notice shall be deemed to have been received:

- (a) if delivered by hand, at the time the notice is left at the proper address;
- (b) if sent by first class post or other next working day delivery service, at 9.00 am on the Business Day after posting; or
- (c) if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.

20.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

21. Governing law

This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

22. Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation.