

## **1. Definitions, status and governing law**

(a) In these Conditions of Hire and Sale:

- Contract means our quotation, these conditions of hire and sale, your order and our acceptance;
- we/us means the company specified in our quotation;
- you means the person, firm, company or other organisation which has placed the order;
- equipment means the equipment which you have ordered from us.

(b) These conditions override any terms and conditions you may have put forward unless we have agreed to any other conditions in writing.

(c) Unless otherwise agreed, our quotation will be valid for 30 days and is subject to us having equipment and other resources available and receiving reasonable notice to supply the equipment.

(d) The Contract will be governed by Scots law.

## **2. Charges if you are hiring equipment**

(a) Hire charges are due for the hire period, which begins when the equipment leaves our premises, and ends when the equipment is returned to us in good condition. The days the equipment leave and return are included in the hire period. The minimum charge is for one week, unless a longer minimum charge is stated in the Contract.

(b) Hire charges are due for all the time you have the equipment, including public holidays.

(c) If the hire period is for more than three months, we may vary the hire charges after giving you four weeks notice.

## **3. Charges if you are buying equipment**

(a) Charges if you are buying equipment are stated in the Contract.

## **4. Payment**

(a) If we have agreed in writing to let you have a monthly account, you must pay all our monthly invoices within 30 days from the date of the invoice. If you do not have a monthly account with us you must pay us when you place your order, or when the equipment is delivered if we have agreed this with you.

(b) All payments must be made in the currency stated in the Contract.

(c) The charges stated in the Contract do not include VAT or any other taxes, duties, fees or similar which are payable. You must pay these at the prevailing rates in addition to the charges stated in the Contract.

(d) We understand and will exercise our statutory right to interest under the Late Payment of Commercial Debts (Interest) Act 1998 if we are not paid according to agreed credit terms. Any discounts offered to you are offered strictly on condition that payment is made in full within the time set out above and we reserve the right to withdraw any discount should full payment not be made on time.

## **5. Compliance with laws and safety requirements**

(a) You must comply with all applicable laws and regulations having the force of law that relate to the use of the equipment and ensure that you and anyone operating the equipment is fully trained in the safe use of the equipment.

## **6. Delivery and collection of equipment**

(a) If we have agreed to deliver the equipment to you and/or collect the equipment from you, you must provide us with safe access for us to do this. If we provide you with someone to help you load or unload the equipment at your site you are responsible for providing clear instructions to him or her.

(b) You must pay us any agreed charges for delivering or collecting the equipment. If we quote carriage charges, these only cover delivery or collection at the address you have specified. You must pay for any extra time or costs that we incur if you change the delivery or collection address or if we take longer to deliver or collect the equipment than necessary because we are trying to follow your instructions.

(c) You must notify us within 24 hours of receiving the equipment if they have not been delivered in good working order, and to your satisfaction.

(d) You must not move any equipment on hire from the site stated in the Contract without our written permission. You shall confirm to us the location of the equipment forthwith on request.

## **7. Your responsibilities for equipment on hire**

(a) You are responsible for the safe-keeping and safe use of the equipment during the hire period. You must not sub-let the equipment without our express agreement in writing.

(b) You must return the equipment on time and undamaged at the end of the hire period. If you do not, you will be liable for the cost of replacing the equipment, and for our hire charges until you have paid all the costs of replacing the equipment.

(c) You are responsible for maintaining the equipment in good condition during the hire period, and in particular, you are responsible for carrying out the service routines specified, and for any labour or other costs that you incur when carrying these out. You are responsible for ensuring that you are aware of the condition of the equipment, and you must not use the equipment if it becomes defective, damaged or dangerous in any way. If you do not observe these conditions, you will be responsible for the cost of repairing or replacing the equipment, and the hire charges while we carry out the repairs.

(d) If the equipment breaks down or stops working properly during the hire period, we will try to replace it or repair the fault as soon as reasonably possible after you have reported it to us. If replacement equipment is not available, we may end the Contract. You must not attempt any repairs unless you have our express agreement in writing.

(e) You must insure the equipment against all risks, and maintain insurances with coverage and amounts required by applicable law. If the equipment is involved in an accident, you must notify us as soon as possible and then provide us with full details and any assistance we require. You must provide evidence of your insurance to us forthwith on request.

(f) You must ensure that the personnel using the equipment are suitably trained, qualified and experienced.

(g) You agree to indemnify and hold us harmless against any claim for injury, death or damage to property arising out of the performance of this Contract, and against any losses, costs or expenses (including, but not restricted to, legal expenses on a full indemnity basis) that we may incur, irrespective of our negligence or breach of duty, statutory or otherwise.

#### **8. Limits of our liability**

(a) All the times we quote for delivering or collecting the equipment are approximate. All specifications of the equipment provided by us are approximate, and we reserve the right to make reasonable substitutions for the equipment or parts of the equipment at any time

(b) We will not be liable for any loss or expenses arising from any delay or failure to carry out the Contract caused by circumstances beyond our control, or from any failure to supply the equipment within any specified times or dates. In the event of any delays beyond our reasonable control, you agree to allow us reasonable additional time to supply the equipment, and to pay us reasonable additional costs incurred.

(c) Neither you nor we shall be liable for any indirect or consequential losses, including, but not limited to business interruption, loss of production, loss of profit.

(d) Unless we have been negligent, we will not be responsible for any loss or damage arising from or attributable to any advice, statement or representation given by us in relation to the equipment about its' specification, performance, capability or suitability.

(e) Our liability to you for any reason whatsoever (except for death or personal injury) shall be limited to the sums paid by you in respect of the equipment. You may request in writing that our liability should be limited to a higher sum and this will be agreed on the condition that we can put in place suitable insurance cover for the higher sum and you pay to us in advance the premiums payable in respect of that insurance.

#### **9. Variations**

(a) Variations to the Contract will not be binding on us unless authorised by us in writing.

#### **10. Circumstances when we may end the Contract**

(a) We may break this Contract if:

- you breach this Contract; or
- you become bankrupt; or
- as a company, start to be wound up or a receiver or administrator is appointed over all or part of your assets; or
- you enter into any agreement with your creditors or a voluntary agreement is made which affects you; or
- you enter into a voluntary agreement; or
- you are an individual and you die; or
- you are a partnership and the partnership is dissolved for any reason; or
- there is, in our reasonable opinion, a substantial change in the control of your company.

If we end the Contract in these circumstances it will end immediately and we may repossess any or all of the equipment. If we end the Contract it will not affect our right to recover any money you owe us under the Contract or damages we claim as a result of you breaching this Contract. On termination of the Contract for any reason all sums payable by you to us shall become due immediately.

#### **11. Ownership and responsibility for the equipment and our property**

(a) If you buy equipment from us, you will become responsible for loss or damage as soon as the equipment is delivered to you. We will continue to own the equipment until you have paid for them in full. Until we have received full payment for the equipment you will hold the equipment on our behalf and you must return it to us if we ask you and you will at all times keep the equipment separate from all other equipment. We may enter any land or premises of yours to recover our equipment.

(b) If you have hired the equipment from us, we will continue to own the equipment at all times. We may affix a sign showing that the equipment belongs to us. You may not cover or damage this sign. We may enter any land or premises where we reasonably believe the equipment are. We may do this at any reasonable times and after giving reasonable notice. We can only have this access if we need to inspect, test, repair, service, replace or repossess the equipment.

(c) You agree to keep our premises and other property free from any and all claims, liens and encumbrances.

#### **12. Confidentiality and Intellectual Property Rights**

(a) We continue to own the intellectual property rights in the equipment and any designs, data or other information that we have given to you, and they may only be used in relation to and for the duration of this Contract.

#### **13. Assignment**

(a) We may assign this Contract, in whole or in part, to any other party. You may not assign this Contract without our prior written consent.

#### **14. Rights of third parties**

(a) We do not grant any right to any person other than you to enforce any term of the Contract, except other members of the group of companies to which we belong.

#### **15. Dispute resolution**

(a) The parties will attempt in good faith to resolve any dispute or difference which arises out of or in relation to this Contract.

(b) The parties submit to the exclusive jurisdiction of the Court of Session in Edinburgh, although it is agreed that we may take steps to recover any equipment belonging to us or any sums due by you to us before any competent court.

#### **16. Separate terms**

(a) If any term in this Contract cannot be or is not enforced, this will not affect the remaining terms