

# CONDITIONS FOR HIRE AND SALE OF GOODS TO CONSUMERS AND BUSINESSES

The Customer's attention is particularly drawn to the provisions of clause 19 (Limitation of liability).

### INTERPRETATION

In these conditions the following words have the following meanings:

"Consumer" an individual acting for purposes which are wholly or mainly outside that

individual's trade, business, craft or profession;
"Commercial Terms Schedule" means the schedule or letter issued by the Supplier to the Customer, setting out the commercial terms agreed between the parties.

"Contract" means a contract which incorporates these conditions and the Commercial Terms Schedule and made between the Customer and the Supplier for the hire or sale of Goods;

"Customer" means the person, firm, company or other organisation hiring Hire Goods or purchasing Sale Goods;

"Deposit" means any advance payment required by the Supplier in relation to the Hire Goods which is to be held as security by the Supplier;

"Force Majeure" means any event outside a party's reasonable control including but not limited to acts of God, war, flood, fire, labour disputes, strikes, sub-contractors, lock-outs, riots, civil commotion, malicious damage, explosion, terrorism, governmental actions and any other similar

"Goods" means any machine, article, tool, digital content and/or device together with any accessories specified in a Contract which are hired or sold to the Customer:

"Hire Goods" means any Goods which are hired to the Customer;

"Hire Period" means the period of hire, as set out in clause 5;

"Hire Start Date' means as defined in clause 5.1:

"Liability" means liability for any and all damages, claims, proceedings, actions, awards, expenses, costs and any other losses and/or liabilities;

"Order" the Customer's order for the purchase or hire of Goods, as applicable

"Rental" means the Supplier's charging rate for the hire of the Hire Goods which is current from time to time during the Hire Period;

"Sale Goods" means any Goods which are sold to the Customer;

"Specification" means the specification for the Goods supplied by the Supplier to the Customer in writing [referred to in the Commercial Terms Schedule].
"Supplier" means CP Hire (GB) Ltd at the address stated at the end of these terms;

"Total Loss" means the Hire Goods are, in the Supplier's reasonable opinion or the opinion of its insurer(s), damaged beyond repair, lost, stolen, seized or confiscated.

BASIS OF CONTRACT

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.2 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order are complete and accurate
- 2.3 The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order, at which point the Contract shall come into existence.
- Any samples, drawings, descriptive matter or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force.
- Nothing in the Contract shall exclude or limit any statutory rights of the Customer which may not be excluded or limited due to the Customer acting as a Consumer. Where any terms within the Contract do not apply to a Consumer such terms are clearly outlined below.
- In the event of any conflict and inconsistency between these terms and conditions and the Commercial Terms Schedule the Commercial Terms Schedule shall prevail.

### THE GOODS

- 3.1
- The Goods are as described in [the Specification].

  The Supplier reserves the right to amend the [Specification] if required by any 3.2 applicable statutory or regulatory requirement, and the Supplier shall notify the Customer in any such event.
- 3.3 The Supplier may change the Goods provided to the Customer:
- to reflect changes in relevant laws and regulatory requirements; and
- 3.3.2 to implement minor technical adjustments and improvements. These changes will not adversely affect the Customers' use of the Goods.
- $3.4\,$  The Supplier may also make more significant changes to the Goods, but will notify the Customer if any such significant changes are made and, if the Customer is a Consumer, and the change has an adverse impact on the Consumers use of the Goods, the Consumer may then contact the Supplier to end the Contract and will receive a full refund.
- 3.5 Where the Goods are digital content, the Supplier may change the Goods to update digital content, provided that the digital content always matches the description of it that the Supplier provided to the Customer before the Customer bought it. The Supplier might ask the Customer to install these updates.
- For the avoidance of doubt, these terms and conditions are not intended to cover the manufacture and sale of bespoke goods.
  PART 1: TERMS APPLICABLE TO THE HIRE OF GOODS ONLY

### HIRE OF GOODS

- 4.1 The Supplier shall hire the Hire Goods to the Customer subject to the terms and conditions of the Contract.
- The Supplier shall not, other than in the exercise of its rights under the Contractor applicable law, interfere with the Customer's quiet possession of the Hire Goods.

Where hire of the Hire Goods is to a Customer who is an individual (whether a consumer or otherwise) or relevant recipient of credit as defined under Article 60L of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 e.g. (a). a partnership consisting of two or three persons not all of whom are bodies corporate, or (b) an unincorporated body of persons which does not consist entirely of bodies corporate and is not a partnership('Relevant Individual'), the Hire Period shall commence on the date [specified out in writing by the Supplier] ('Hire Start Date') and shall end on the earlier of (i) [the date specified in the Commercial Terms Schedule]; or (ii) the last day of the 3 month period commencing on the Hire Start Date ('Option 1 Hire End Date'). For the avoidance of doubt, as the Hire Period to Relevant Individuals is no longer than 3 months, the hire of any Hire Goods is not covered by the Consumer Credit Act 1974.

- Where the Customer is not a Relevant Individual, the Hire Period shall commence on the Hire Start Date and shall end on the date specified in the Commercial Terms Schedu ('Option 2 Hire End Date').
- 5.3 On the Option 1 Hire End Date or the Option 2 Hire End Date (as applicable), the Customer shall: (i) physically return the Hire Goods into the Supplier's possession; or (ii) make the Hire Goods available for physical repossession or collection by the Supplier [in a location
- specified by the Supplier], as applicable.
  5.4 For the avoidance of doubt, the Hire Period shall automatically end on the Option 1 Hire End Date or the Option 2 Hire End Date, as applicable and the Customer shall not be required to pay the Rental in respect of any period in which the Hire Goods are in the Customer's possession or control outside the Hire Period.
- Notwithstanding clause 5.4, If the Customer fails to comply with its obligations in this clause 5, then it shall be liable for any financial loss which this causes the Supplier [and shall indemnify the Supplier in full and on demand in respect of any costs, liabilities, losses and expenses (including legal fees) incurred as a result].

### TITLE, RISK AND INSURANCE

- Ownership of the Hire Goods remains at all times with the Supplier. The Customer has no right, title or interest in the Hire Goods except the right to possession and use of the Hire Goods subject to the terms and conditions of the Contract.
- 6.2 The Customer must not deal with the ownership or any interest in the Hire Goods. This includes but is not limited to selling, assigning, mortgaging, pledging, charging, securing, hiring, withholding, exerting any right to withhold, disposing of and/or lending. However, the Customer may re-hire the Hire Goods to a third party provided that it has the prior written consent of the
- 6.3 Risk in the Hire Goods will pass immediately to the Customer when the Hire Goods leave the physical possession or control of the Supplier. The Hire Goods shall remain at the sole risk of the Customer during the Hire Period and any further term during which the Hire Goods is in the possession, custody or control of the Customer ('Risk Period') until such a time as the Hire Goods are redelivered back into the physical possession of the Supplier.
- 6.4 During the Hire Period and the Risk Period, the Customer shall, at its own expense, obtain and maintain the following insurances:
- 6.4.1 insurance of the Hire Goods 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 Supplier may from time to time nominate in writing;
- 6.4.2 insurance for such amounts as a prudent owner or operator of the Hire Goods would insure for, or such amount as the Supplier 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 Hire Goods; and
- 6.4.3 insurance against such other or further risks relating to the Hire Goods as may be required by law, together with such other insurance as the Supplier may from time to time consider reasonably necessary and advise to the Customer in writing.
- 6.4.4 any insurance waivers and/or insurance that has not been provided by the Supplier to the Customer, irrelevant of whether the Customer is a Consumer or Business, must be clarified and agreed with the Supplier in advance of hiring.
- 6.5 All insurance policies procured by the Customer shall be endorsed to provide the Supplier with at least [twenty OR [NUMBER]] Business Days' prior written notice of cancellation or material change (including any reduction in coverage or policy amount) and shall on the Supplier's request name the Supplier on the policies as a loss payee in relation to any claim relating to the Hire Period. The Customer shall be responsible for paying any deductibles due on any claims under such insurance policies. Any proceeds of any such insurance shall be paid to the Supplier on demand. The Customer must not compromise any claim in respect of the Hire Goods and/or any associated insurance without the Supplier's written consent.
- The Supplier may provide reasonably priced insurance to the Customer in respect of the Hire Goods at an additional cost to the Rental at its discretion and in accordance with separate terms and conditions.
- The Customer shall give immediate written notice to the Supplier in the event of any loss, accident or damage to the Hire Goods arising out of or in connection with the Customer' possession or use of the Hire Goods.
- 6.8 If the Customer fails to effect or maintain any of the insurances required under this agreement, the Supplier 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 Customer. 6.9 The Customer shall, on demand, supply copies of the relevant insurance policies or other insurance confirmation acceptable to the Supplier and proof of premium payment to the

### DELIVERY AND COLLECTION

Supplier to confirm the insurance arrangements.

- 7.1 Unless otherwise agreed between the Supplier and the Customer in writing, It is the responsibility of the Customer to collect the Hire Goods from the Supplier, and return them to the Supplier at the end of the Hire Period. If the Supplier agrees to deliver Hire Goods to and/or collect the Hire Goods from the Customer it will do so at its standard delivery cost, set out in the Commercial Terms Schedule.
- The Supplier shall make the Hire Goods available for collection on the date agreed and at the place specified in the Commercial Terms Schedule, as may be amended from time to time by notice in writing from the Supplier.
- 7.3 If the Supplier agrees to collect the Hire Goods from the Customer, the Customer shall make the Hire Goods available for collection on the last day of the Hire Period and at the place agreed in writing with the Supplier. The Supplier will collect the Hire Goods within a reasonable time of the Hire Goods being made available for collection by the Customer. In accordance with clause 6 above, the risk in the Hire Goods shall remain with the Customer and the Customer shall remain responsible and liable for any loss, damage or theft to the Hire Goods until the Hire Goods are collected by the Supplier. For the avoidance of doubt, if the Supplier does not agree to collect the Hire Goods in accordance with this clause, the Customer shall deliver the Hire Goods to the Supplier at the place specified by the Supplier in the Commercial Terms Schedule, on the last day of the Hire Period.
- 7.4 Where the Customer is a Consumer, and the supply of Hire Goods is delayed by an event outside of the Supplier's control then the Supplier will contact the Consumer as soon as possible and the Supplier will take steps to minimise the effect of the delay. Provided the Supplier does



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this, the Supplier will not be liable for delays caused by the event, but if there is a risk of substantial delay, the Consumer may contact the Supplier to end the Contract and receive a refund for any Hire Goods which have been paid for but not received.

- 7.5 If the Customer is a business, any dates quoted for delivery or collection of the Sale Goods by the Supplier are approximate only, and the time of delivery or collection is not of the essence. The Supplier shall not be liable for any delay in delivery of the Hire Goods that is caused by a Force Majeure event or the Customer's failure to provide the Supplier with adequate delivery or collection instructions or any other instructions that are relevant to the supply or collection of the
- 7.6 The Customer will allow and/or procure sufficient access to and from the relevant site and procure sufficient unloading space, facilities, equipment and access to utilities for the Supplier's employees, sub- contractors and/or agents to allow them to deliver or collect the Hire Goods.
- 7.7 If any of the delivery or collection of the Hire Goods are delayed, postponed and/or are cancelled due to the Customer failing to comply with its obligations the Customer will be liable to pay the Supplier's additional standard charges from time to time for such delay, postponement and/or cancellation .
- 7.8 The Customer shall comply with all applicable legislation relating to the use of red diesel and shall not use red diesel in the Hire Goods unless a HMRC approved exemption applies (as set out in latest Excise Notice 75).
- 7.9 On receipt of the Hire Goods from the Customer at the end of the Hire Period, the Supplier shall carry out an inspection of the Hire Goods, to ensure that the Hire Goods do not contain any red diesel.
- 7.10 If the Supplier determines, in its discretion, that the Hire Goods do contain red diesel including trace elements or that any further use of the Hire Goods will be in breach of applicable legislation relating to the use of red diesel the Supplier reserves the right to charge the Customer:
- 7.10.1 for the cost of draining and flushing the fuel system, as may be required to remove all traces of red diesel to ensure the Hire Goods are in a condition for use by other customers using only fully duty paid diesel/biofuels; and
- 7.10.2 a refill charge of white diesel to fill the Hire Goods to full tank capacity
- 7.11 The Customer hereby indemnifies the Supplier in full and on demand against any and all liabilities, costs, expenses, damages and losses ('Liabilities') suffered or incurred by the Supplier arising out of or in connection with any failure by the Customer to comply with clause 7.8 and all relevant legislation, as updated from time to time, in relation to the use of red diesel in the Hire Goods, including but not limited to Liabilities related to the following:
- 7.11.1 any Hire Goods being impounded by HMRC;
- 7.11.2 any outstanding duty payments on the Hire Goods;
- 7.11.3 any other legal costs, transportation and other expenditure appertaining to the return of the Hire Goods where the Hire Goods have not been drained or flushed of red diesel to a traceability level accepted by HMRC.
- 7.12 The Customer will notify the Supplier immediately if the Hire Goods are seized or confiscated by any third party.

### CARE OF HIRE GOODS

- 8.1 The Customer shall:
- 8.1.1 not remove any labels from and/or interfere with or alter the Hire Goods, their working mechanisms, components or any other parts of them and shall take reasonable care of 8.1.1 the Hire Goods and only use them for their proper purpose in a safe and correct manner in accordance with any operating and/or safety instructions provided or supplied to the Customer by the Supplier;
- 8.1.2 notify the Supplier immediately after any breakdown, loss and/or damage to the Hire Goods or of any other material matters relating to the Hire Goods;
- 8.1.3 take adequate and proper measures to protect the Hire Goods from theft, damage and/or other risks;
- notify the Supplier of any change of its address and upon the Supplier's request provide details of the location of the Hire Goods;
- 8.1.5 permit the Supplier at all reasonable times and upon reasonable notice to inspect the Hire Goods including procuring access to any property where the Hire Goods are situated; keep the Hire Goods at all times in its possession and control and not remove the
- Hire Goods from the country where the Supplier is located without the prior written consent of the Supplier;
- 8.1.7 keep the Hire Goods at all times in the country where the Supplier is located and shall only take the Hire Goods out of the relevant country with the prior written consent of the Supplier:
- upon the Supplier giving reasonable notice to the Customer, permit or procure 8.1.8 the right for the Supplier or its duly authorised representatives to enter the premises at which the Hire Goods may be located for the purpose of collecting the Hire Goods;
- 8.1.9 be responsible for the conduct and cost of any testing, examinations and/or checks in relation to the Hire Goods required by any legislation, best practice and/or operating instructions;
- 8 1 10 not do or omit to do anything which the Customer has been notified will or may be deemed to invalidate any policy of insurance related to the Hire Goods;
- not continue to use Hire Goods where they have been damaged and notify the Supplier immediately if the Hire Goods are involved in an accident resulting in damage to the Hire Goods, other property and/or injury to any person; and 8.1.12 where the Hire Goods require fuel, oil and/or electricity to ensure that the proper type
- and/or voltage is used and that, where appropriate, the Hire Goods are properly installed by a qualified and competent person.
- 8.1.13 ensure that any employees, agents or contractors that operate the Hire Goods are, if applicable, adequately and sufficiently qualified and trained to operate the Hire Goods in accordance with all current and applicable legislation;
- 8.1.14 take such steps (including compliance with all safety and usage instructions provided by the Supplier) as may be necessary to ensure, so far as is reasonably practicable, that the Hire Goods are at all times safe and without risk to health when they are being set, used, cleaned or maintained by a person;
- 8.1.15 maintain at its own expense the Hire Goods in good and substantial repair in order to keep it in as good an operating condition as it was on the Hire Start Date (fair wear and tear only excepted) including replacement of worn, damaged and lost parts, and shall make good any

damage to the Hire Goods:

- 8.1.16 not without the prior written consent of the Supplier, attach the Hire Goods to any land or building so as to cause the Hire Goods to become a permanent or immovable fixture on such land or building. If the Hire Goods do become affixed to any land or building then the Hire Goods must be capable of being removed without material injury to such land or building and the Customer shall repair and make good any damage caused by the affixation or removal of the Hire Goods from any land or building and indemnify the Supplier against all losses, costs or expenses incurred as a result of such affixation or removal;
- 8.1.17 not do or permit to be done any act or thing which will or may jeopardise the right, title or interest of the Supplier in the Hire Goods and, where the Hire Goods have become affixed to any land or building, the Customer must take all necessary steps to ensure that the Supplier may enter such land or building and recover the Hire Goods both during the term of the Contract and for a reasonable period thereafter, including by procuring from any person having an interest in such land or building, a waiver in writing and in favour of the Supplier of any rights such person may have or acquire in the Hire Goods and a right for the Supplier to enter onto such land or building to remove the Hire Goods;
- 8.1.18 not suffer or permit the Hire Goods to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if the Hire Goods are so confiscated, seized or taken, the Customer shall notify the Supplier and the Customer shall at its sole expense use its best endeavours to procure an immediate release of the Hire Goods and shall indemnify the Supplier on demand against all losses, costs, charges, damages and expenses incurred as a result of such confiscation;
- 8.1.19 ensure that at all times the Hire Goods remains identifiable as being the Supplier's property and wherever possible shall ensure that a visible sign to that effect is attached to the Hire Goods: and
- 8.1.20 not do or permit to be done anything which could invalidate the insurances referred to
- 8.2 The Hire Goods must be returned by the Customer in good working order and condition (fair wear and tear excepted) and in a clean condition together with all insurance policies. licences, registration and other documents relating to the Hire Goods.
- 8.3 The Customer shall be responsible for all expenses, loss (including loss of Rental) and/or damage suffered by the Supplier arising from any breakdown of the Hire Goods due to the Customer's negligence, misdirection and/or misuse of the Hire Goods including any use of the Hire Goods otherwise than in accordance with the Supplier's instructions.
- 8.4 Subject to clause 9.1, the Supplier will at its own cost carry out all routine maintenance and repairs to the Hire Goods during the Hire Period and all repairs which are required due to fair wear and tear and/or an inherent fault in the Hire Goods. The Customer will be responsible for the cost of all repairs necessary to Hire Goods during the Hire Period which arise otherwise than as a result of fair wear and tear, an inherent fault and/or the negligence of the Supplier while carrying out routine maintenance and/or repairs.
- party to repair the Hire Goods unless authorised to do so in writing by the Supplier.

  9 LOSS OR DAMAGE TO THE HIPE GOODS 8.5 The Customer must not repair or attempt to repair the Hire Goods or appoint any third

### LOSS OR DAMAGE TO THE HIRE GOODS

- Notwithstanding clause 9.2 if the Hire Goods are returned in damaged, unclean and/or defective state except where due to fair wear and tear and/or an inherent fault in the Hire Goods, the Customer shall be liable to pay the Supplier for the cost of any repair and/or cleaning required to return the Hire Goods to a condition fit for rehire and to pay the Rental, in accordance with the provisions of clause 8.4, until such repairs and/or cleaning have been completed.
- 9.2 In respect of any Hire Goods which are lost, stolen or damaged beyond economic repair during the Hire Period the Customer will:-
- for any Hire Goods less than twelve (12) months old from first 9.2.1 registration pay to the Supplier the new replacement cost of the Hire Goods; and/or
- for any Hire Goods more than twelve (12) months old from first registration, pay for the reasonable cost to replace the Hire Goods, as stipulated by the Supplier. 9.3 The Customer shall remain liable to pay the Rental for the Hire Goods up to and including the date it notifies the Supplier that the Hire Goods have been lost, stolen and/or damaged
- 9.4 In addition to the obligation in clause 9.3 to pay the Rental, from the date the Customer notifies the Supplier that the Hire Goods have been lost, stolen and/or damaged beyond economic repair until the date the Customer makes a payment to the Supplier for the replacement of the Hire Goods in accordance with clause 9 ("Lost Rental Period"), the Customer shall pay, as a genuine pre-estimate of lost rental profit, a sum as liquidated damages being equal to two thirds of the Rental that would have applied for such Hire Goods during the Lost Rental Period.

### 10 TERMINATION OF THE HIRE PERIOD

- 10.1 This clause is without prejudice to the termination rights set out elsewhere in these conditions, including in clause 15.
- [Without prejudice to the Consumers right to terminate set out elsewhere in the Contract or by law (where applicable) the Hire Period has a fixed duration, then subject to the provisions of clause 15 neither the Customer nor the Supplier shall be entitled to terminate the Contract before the expiry of that fixed period unless agreed with the other party.]
- 10.3 If the Hire Period does not have a fixed duration either of the Customer or the Supplier is entitled to terminate the Contract upon giving to the other party a period of notice in accordance with clause 10.4.
- 10.4 If no period of notice has been agreed or specified either party shall be entitled to terminate the hire of the Hire Goods by giving not less than 14 days' notice to the other.
- 10.5 The rights set out in this clause 10 are in addition to any rights the Customer may have under clause 14 (and any other legal rights).
- 10.6 The Contract shall automatically terminate if a Total Loss occurs in relation to the Hire Goods

### PART 2: TERMS APPLICABLE TO THE SALE OF GOODS ONLY

### TITLE, RISK AND INSURANCE

- 11.1 Ownership of any Sale Goods (except to the extent that those Sale Goods are digital content) remains with the Supplier until the earlier of:
- all monies payable to the Supplier by the Customer for the Sale Goods have 11.1.1 been paid in full; or



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- 11.1.2 if the Customer is a business and the Customer resells the Sale Goods, in which case title to those Sale Goods shall pass to the Customer at the time specified in Clause 11.2. 11.2 Subject to Clause 11.3, if the Customer is a business the Customer may resell or use the Sale Goods in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Sale Goods. However, if the Customer resells the Sale Goods before that time:
- 11.2.1 it does so as principal and not as the Supplier's agent; and
- 11.2.2 title to those Sale Goods shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.
- 11.3 If the Customer is a business, at any time before title to the Sale Goods passes to the
- Customer, the Supplier may:
  11.3.1 by notice in writing, terminate the Customer's right under Clause 11.2 to resell the Sale Goods or use them in the ordinary course of its business; and
- 11.3.2 require the Customer to deliver up all the Sale Goods in its possession that have not been resold, or irrevocably incorporated into another product and if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the relevant Sale Goods are stored in order to recover them.
- 11.4 Until ownership in the Sale Goods passes to the Customer, the Customer shall:-
- 11.4.1 hold the Sale Goods on a fiduciary basis as the Supplier's bailee
- 11.4.2 maintain the Sale Goods in satisfactory condition; and
- 11.4.3 keep the Sale Goods insured against all risks for their full price from the time they leave the physical possession or control of the Supplier.
- 11.5 Risk in the Sale Goods will pass immediately to the Customer when the Sale Goods leave the physical possession or control of the Supplier.

### 12 DELIVERY AND COLLECTION

- 12.1 Unless otherwise agreed between the Supplier and the Customer in writing, It is the responsibility of the Customer to collect the Sale Goods from the Supplier. If the Supplier agrees to deliver it will do so at its standard delivery cost, set out in the Commercial Terms Schedule.
- 12.2 The Supplier shall make the Sale Goods available for collection on the date agreed and at the place specified in the Commercial Terms Schedule, as may be amended from time to time by notice in writing from the Supplier.
- 12.3 Where the Customer is a Consumer, and the supply of Sale Goods is delayed by an event outside of the Supplier's control then the Supplier will contact the Consumer as soon as possible and the Supplier will take steps to minimise the effect of the delay. Provided the Supplier does this, the Supplier will not be liable for delays caused by the event, but if there is a risk of substantial delay, the Consumer may contact the Supplier to end the Contract and receive a refund for any Sale Goods which have been paid for but not received.
- 12.4 If the Customer is a business, any dates quoted for delivery or collection of the Sale Goods by the Supplier are approximate only, and the time of delivery or collection is not of the essence. The Supplier shall not be liable for any delay in delivery of the Sale Goods that is caused by a Force Majeure event or the Customer's failure to provide the Supplier with adequate delivery or collection instructions or any other instructions that are relevant to the supply or collection of the Sale Goods.
- 12.5 The Customer will allow and/or procure sufficient access to and from the relevant site and procure sufficient unloading space, facilities, equipment and access to utilities for the Supplier's employees, sub-contractors and/or agents to allow them to deliver or collect the Sale Goods.
- 12.6 If any of the delivery or collection of the Sale Goods are delayed, postponed and/or are cancelled due to the Customer failing to comply with its obligations the Customer will be liable to pay the Supplier's additional standard charges from time to time for such delay, postponement and/or cancellation.

## PART 3: TERMS APPLICABLE TO BOTH THE SALE OF GOODS AND THE HIRE OF GOODS. AS THE CASE MAY BE

### 13 PAYMENT

- 13.1 The amount of any Deposit and/ or Rental for Hire Goods and/ or monies for Sale Goods shall be as quoted to the Customer or otherwise as shown in the Supplier's current price list from time to time. Where a Deposit is required for the Hire Goods it shall be specified in writing by the Supplier and must be paid in advance of the Customer hiring the Hire Goods. The Supplier may, at its option, also require a payment on account of the Rental in advance of the Customer hiring the Hire Goods ('Advance Payment'). In the event that the Supplier notifies the Customer that it requires an Advance Payment, the Customer shall pay the Advance Payment in accordance with the payment terms set out in the Contract.
- 13.2 The Customer shall pay the Deposit and/ or Rental for Hire Goods and/ or monies for Sale Goods and/ or any Advance Payment and/or any other sums payable under the Contract to the Supplier at the time and in the manner agreed in the Commercial Terms Schedule. The Supplier's prices are, unless otherwise stated, exclusive of any applicable VAT for which the Customer shall additionally be liable.
- 13.3 The Supplier may, at its absolute discretion, require the Customer to pay an additional Deposit for the Hire Goods at any time during the Hire Period in the event that the amount of the Rental for the Hire Period may exceed the amount of any Deposit already received from the Customer.
- 13.4 The Supplier shall refund the Deposit to the Customer if, following inspection of the Hire Goods by the Supplier at the end of the Hire Period, the Supplier is satisfied that the Customer has complied with the terms of this Contract in respect of those Hire Goods.
- 13.5 Payment by the Customer on time under the Contract is an essential condition and is of the essence of the Contract. Payment shall not be deemed to be made until the Supplier has received either cash or cleared funds in respect of the full amount outstanding.
- 13.6 If the Customer is a business and the Customer fails to make any payment in full on the due date the Supplier may charge the Customer interest (both before and after judgement/decree) on the amount unpaid at the rate implied by law under the Late Payment of Commercial Debts (Interest) Act 1998 (where applicable) or at the rate of 4% above the base rate from time to time of the Supplier's bank whichever is higher.
- 13.7 If the Customer is a business the Customer shall pay all sums due to the Supplier under the Contract without any set-off, deduction, counterclaim and/or any other withholding of monies.
- 13.8 The Supplier reserves the right to store the Customer's credit card details on its password protected customer account system and further reserves the right to use such details against future Rentals made by the Customer.

13.9 The Customer shall be solely responsible for any instruction, guidance and/or advice given by the Customer to any such person and for any damage which occurs as a result of such persons following the Customer's instructions, guidance and/or advice.

### 14 STATUTORY CANCELLATION RIGHT FOR CONSUMERS

- 14.1 The provisions of this clause 14 only apply to Customers who are a Consumer for the purpose of any hire or purchase of Goods from the Supplier.
- 14.2 Subject to the remainder of this clause 14, if the Consumer is based in the UK or EU and entered into the Contract using methods of distance communications only (i.e. online, phone or email) the Consumer will have the right to change its mind within 14 days after the Goods come into its physical possession, and receive a refund.
- 14.3 If the Consumer wishes to change its mind in accordance with clause 14.2 the Consumer can contact the Supplier using the contact details set out at the end of these terms. When writing to the Supplier, the Consumer can also send a cancellation form as set out in Schedule 1 below.
- 14.4 Where a Consumer exercises its right to cancel under clause 14 and has made payments in advance for Goods that have not been provided to it, then the Supplier will refund these amounts to the Consumer:
- 14.4.1 within 14 days of receipt of the Goods which have been returned by the Consumer; or 14.4.2 (if earlier) within 14 days after the day the Consumer provides evidence that they have returned the Goods; or
- $14.4.3 \ \ \text{if no Goods have been provided by the Supplier, within 14 days after the day on which the Supplier is informed of the Consumer's decision to cancel the Contract.}$
- 14.5 If the Consumer exercises the right to cancel under clause 14:
- 14.5.1 The Supplier may reduce the refund of the Goods (excluding delivery costs) to reflect any reduction in the value of the Goods, if this has been caused by the Consumer's handling of the Goods which would not be permitted in a shop. If the Supplier refunds the Consumer the price paid before the Supplier is able to inspect the Goods and later discovers that the Consumer has handled the Goods in an unacceptable way, the Consumer will be obligated to pay an appropriate amount specified by the Supplier.
- 14.5.2 If applicable, the maximum refund for delivery costs which will be paid by the Supplier will be the costs of delivery by the least expensive delivery method offered by the Supplier.
- 14.6 Where the Contract is with a Consumer and:
- 14.6.1 is for the supply of accommodation, transport of goods, vehicle rental services, catering or services related to leisure activities: and
- 14.6.2 provides for a specific date or period of performance,
- the Consumer will not have a right to cancel the Contract without incurring any charge or Liability to the Supplier.
- 14.7 Where the Contract is with a Consumer and is for the supply of digital content, the Consumer will not have a right to cancel the Contract after the Consumer has started to download or stream the digital content.
- 14.8 Where a Consumer cancels the Contract under this clause 14, it shall return any Goods which the Supplier has provided to it at its own cost, unless otherwise expressly agreed in writing.
- 14.9 If the Consumer has another legal or contractual right to terminate the Contract, usually if the Supplier has done something wrong, then the Supplier will refund the Consumer the cost of the Goods (where applicable).

### 15 TERMINATION

- 15.1 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer.
- 15.1.1 fails to make any payment to the Supplier when due without just cause;
- 15.1.2 breaches the terms of the Contract and, where the breach is capable of remedy, has not remedied the breach within 14 days of receiving notice requiring the breach to be remedied; 15.1.3 persistently breaches the terms of the Contract;
- 15.1.4 provides incomplete, materially inaccurate or misleading facts and/or information in connection with the Contract;
- 15.1.5 pledges, charges or creates any form of security over any Hire Goods or proposes to compound with its creditors, creates a trust deed for its creditors, applies for an interim moratorium in respect of claims and/or proceedings, any distress/diligence, execution or other legal process is levied on any property of the Customer, has a bankruptcy petition/petition for sequestration presented against it or the Customer takes or suffers any similar action in any jurisdiction:
- 15.1.6 being a company, ceases or threatens to cease to carry on business, enters into voluntary or compulsory liquidation, has a receiver, administrator or administrative receiver or in the Republic of Ireland an examiner appointed over all or any of its assets, any attachment order/arrestment is made against the Customer, any distress/diligence, execution or other legal process is levied on any property of the Customer or the Customer takes or suffers any similar action in any jurisdiction;
- 15.1.7 appears to the Supplier (acting reasonably) due to the Customer's credit rating, to be financially incapable of meeting its obligations under the Contract; and/or
- 15.1.8 appears to the Supplier (acting reasonably) to be about to suffer any of the above events.
- 15.2 The Supplier can stop providing an ongoing subscription for digital content at any time provided that the Supplier notifies the Customer in writing at least (one month) in advance and it refunds any sums that the Customer paid in advance for digital content that won't be provided.
- 16 Termination or expiry of the Contract 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 Contract which existed at or before the date of termination or expiry.

### 7 CONSEQUENCES OF TERMINATION

- 17.1 On expiry or termination of the Contract, however caused, the Supplier's consent to the Customer's possession of the Hire Goods shall terminate immediately.
- 17.2 Upon termination of the Contract the Customer shall immediately return the Goods to the Supplier or, as requested by the Supplier, make the Goods available for collection by the Supplier or its authorised representatives. The Supplier may enter, without prior notice, the site where the Goods are held and repossess them. The Customer hereby grants or shall procure the right for the Supplier or its authorised representative to enter the site where the



# CONDITIONS FOR HIRE AND SALE OF GOODS TO CONSUMERS AND BUSINESSES

Goods are held in order to collect them.

17.3 On termination or expiry of the Contract, for any reason:

17.3.1 all monies owed by the Customer to the Supplier shall immediately become due and payable by the Customer;

17.3.2 The Customer shall pay all costs and expenses incurred by the Customer in recovering the Hire Goods or in collecting any sums due under the Contract (including any storage, insurance, repair, transport, legal and remarketing costs).

17.4 [In the event that the Customer is a business and Contract is terminated by the Supplier

17.4 [In the event that the Customer is a business and Contract is terminated by the Supplier in accordance with Clause [17.1], without prejudice to any other rights or remedies of the Supplier, the Customer shall pay to the Supplier on demand a sum equal to the whole of the Rental that would (but for the termination) have been payable if the Contract had continued from the date of such demand to the end of the Hire Period.]

17.5 Any repossession of the Goods shall not affect the Supplier's right to recover from the Customer any monies due under the Contract and/or any damages in respect of any breach of the Contract

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

### 18 WARRANTIES

18.1 This clause 18 shall only apply if the Customer is a business.

18.2 Except as set out in this clause 18 all warranties, representations, terms, conditions and duties implied by law relating to fitness, quality and/or adequacy (including the terms implied by sections 13 to 15 of the Sale of Goods Act 1979) are excluded to the fullest extent permitted by law.

18.3 The Supplier warrants that, on delivery, the Goods shall:

18.3.1 Conform in all material respects with the Specification;

18.3.2 Be free from material defects in design, material and workmanship; and

18.3.3 Be of satisfactory quality (within the meaning of the Sale of Goods Act 1979. 18.4 Subject to Clause 18.6, if:

18.4.1 the Customer gives notice in writing to the Supplier within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 18.3; 18.4.2 the Supplier is given a reasonable opportunity of examining such Goods; and

 $18.4.3 \qquad \qquad \text{the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the [Customer's] cost,}$ 

18.5 the Supplier shall, at its option, repair or replace the defective Goods, and/ or refund the price of the defective Goods or in respect of Hire Goods, refund the Rental (as applicable) in full or for the period that the Hire Goods were not available to the Customer, as applicable.

 $18.6\ \text{The Supplier}$  shall have no Liability for the Goods' failure to comply with the warranty set out in clause  $18.3\ \text{if}$ :

18.6.1 the Customer makes any further use of such Goods after giving notice in accordance with clause 18.4

18.6.2 the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;

18.6.3 the defect arises as a result of the Supplier following any drawing, design or specification supplied by the Customer;

18.6.4 the Customer alters or repairs such Goods without the written consent of the Supplier;

18.6.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or

18.6.6 the Goods differ from [the Specification] as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

18.7 Except as provided in this Clause 18, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in Clause 18.3.
18.8 These conditions shall apply to any repaired or replacement Goods supplied by the

### 19 LIMITATIONS OF LIABILITY

19.1 If the Customer is a business, and the Supplier is found to be liable in respect of any loss or damage to the Customer's property the extent of the Supplier's Liability will be limited to the retail cost of replacement of the damaged property.

19.2 If the Customer is a business, the Supplier shall have no Liability to the Customer if, without just cause, any monies due in respect of the Goods have not been paid in full by the due date for payment.

19.3 If the Customer is a business, the Supplier shall have no Liability for additional damage, loss, liability, claims, costs or expenses caused or contributed to by the Customer's continued use of defective Goods after a defect has become apparent or suspected or should reasonably have become apparent to the Customer.

19.4 If the Customer is a business, the Customer shall give the Supplier a reasonable opportunity to remedy any matter for which the Supplier is liable before the Customer incurs any costs and/or expenses in remedying the matter itself. If the Customer does not do so the Supplier shall have no Liability to the Customer.

19.5 If the Customer is a business the Supplier shall have no Liability to the Customer for any of the following losses (whether direct or indirect):-

19.5.1 consequential losses;

19.5.2 economic and/or other similar losses;

 $19.5.3\ \ business\ interruption,\ loss\ of\ business,\ contracts\ and/or\ opportunity\ including\ loss\ of\ profits\ and/or\ damage\ to\ goodwill;\ and/or\$ 

19.5.4 special damages and indirect losses however so arising.

19.6 If the Customer is a business, subject to clause 19.2 to 19.5, the Supplier's total Liability to the Customer under and/or arising in relation to any Contract, whether in contract, tort (including negligence) and any statutory and/or common law duty shall not exceed 5 times the amount of the Rental or monies payable for Sale Goods (as applicable) under that Contract or the sum of £1.000 (or Euro equivalent) whichever is the higher.

19.7 If the Customer is a Consumer and the Supplier fails to comply with these terms, the Supplier is responsible for loss or damage suffered by the Consumer that is a foreseeable result of the Supplier breaching the Contract or failing to use reasonable care and skill, but the Supplier is not responsible for any loss or damage that is not foreseeable. Loss or damage is

### HIRE ASSOCIATION EUROPE LIMITED

2450 REGENTS COURT, THE CRESCENT, BIRMINGHAM, B37 7YE TEL: 0121 380 4600 www.hae.org.uk or www.eha.org.uk

foreseeable if either it is obvious that it will happen or if, at the time the Contract was made, both the Supplier and the Consumer knew it might happen.

19.8 If the Customer is a Consumer, the Supplier only supplies the Goods for domestic and private use. If the Consumer uses the Goods for any commercial, business or re-sale purpose the Supplier will have no liability to the Consumer for any loss of profit, loss of business, business interruption, or loss of business opportunity.

19.9 Nothing in the Contract shall exclude or limit the Liability of either party for fraud, death or personal injury due to that party's negligence, nor exclude or limit any other type of Liability which it is not permitted to exclude or limit as a matter of law.

### 20 GENERAL

20.1 Each hire of an item of Hire Goods or purchase of an item of Sale Goods shall form a distinct Contract which shall be separate to any other Contract relating to other Hire Goods or the purchase of other Sale Goods.

20.2 The Customer shall be liable for the acts and/or omissions of its employees, agents, servants and/or subcontractors as though they were its own acts and/or omissions under the Contract.

20.3 When dealing as a Consumer, if the Customer has any questions or complaints it may contact the Supplier by telephoning its customer service team on 0845 505 7070 or by e-mail it at info@cphire.co.uk

20.4 If the Customer is a business the Customer agrees to indemnify and keep indemnified the Supplier against any and all losses, lost profits, damages, claims, costs (including legal costs on a full indemnity basis), actions and any other losses and/or liabilities suffered by the Supplier and arising from or due to any breach of contract, any tortious act and/or omission and/or any breach of statutory duty by the Customer.

20.5 If the Customer is a business no waiver by the Supplier of any breach of the Contract shall be considered as a waiver of any subsequent breach of the same provision or any other provision. If any provision is held by any competent authority to be unenforceable in whole or in part the validity of the other provisions of the Contract and the remainder of the affected provision shall be unaffected and shall remain in full force and effect.

20.6 If the Customer is a business the Supplier shall have no Liability to the Customer for any delay and/or non-performance of a Contract to the extent that such delay is due to any Force Majeure events. If the Supplier is affected by any such event then time for performance shall be extended for a period equal to the period that such event or events delayed such performance.

20.7 All third party rights are excluded and no third parties shall have any rights to enforce the Contract by virtue of the Contracts (Rights of Third Parties) Act 1999. This shall not apply to any finance company with whom the Supplier has an outstanding finance agreement relating to the Hire Goods. Such finance company shall, subject to the Supplier's consent, have the right to enforce the Contract as if they were the Supplier.

20.8 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

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

20.10 If the Customer is a Consumer, these terms are governed by English law and wherever the Consumer lives the Consumer can bring a claim against the Supplier in the English courts. If the Consumer lives in Wales, Scotland or Northern Ireland, the Consumer can also bring claims against the Supplier in the courts of the country the Consumer lives in. The Supplier can also claim against the Consumer in the court of the country the Consumer lives in. Nothing in these terms affects the Consumer's rights to rely on such mandatory provisions of local law.

20.11 Advice about Customers' legal rights where they deal as a Consumer is available from their local Citizens' Advice Bureau or Trading Standards office or if based in the Republic of Ireland your local office of the Director of Consumer Affairs or Citizens Information Centre. Nothing in these conditions will affect these legal rights.

20.12 If the Customer is a Consumer, the Consumer should be aware that alternative dispute resolution is a process where an independent body considers the facts of a dispute and seeks to resolve it, without a Consumer having to go to court. If the Consumer is not happy with how the Supplier has handled any complaint, the Consumer may want to contact the alternative dispute resolution provider the Supplier uses. The Consumer can submit a complaint to the Citizens Advice Bureau via their website at https://www.citizensadvice.org.uk/. The Citizens Advice Bureau will not charge the Consumer for making a complaint and if the Consumer is not satisfied with the outcome the Consumer can still bring legal proceedings.

20.13 If the Customer is a business, the Contract, and any dispute or claim (including non-contractual disputes or claims) 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]. Each party irrevocably agrees that the courts of [England and Wales] shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this contract or its subject matter or formation.

CP Hire (GB) Ltd

2 Village Way, Greenmeadow Springs Business Park, Tongwynlais, Cardiff, CF15 7NE

Tel: 0845 505 7070

Company registration: 07900784

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Website: www.cphire.com/gb



### TERMS AND CONDITIONS OF HIRE - OPERATED PLANT



- These Terms and Conditions are the only Terms and Conditions under which CP HIRE (GB) LTD hire out operated plant and conduct all other trading concerning these hires, and these shall apply under all circumstances to all Hirers.
- 2. Definitions relevant to these Terms and Conditions
- a. "CP HIRE" shall mean CP HIRE (GB) LTD.b. The "Hirer" is a firm person, corporation, company or public authority including their representatives or successors who hire plant from or carry out business with
- c. "Plant" covers all types of equipment, vehicles, accessories, machinery and plant which CP HIRE agrees to hire out to the Hirer
- d. A "day" is unless otherwise stated in the Contract, 8 (eight) consecutive hours in any working day.
- IL only WOLKING Udy.

  e. A "week" is classed as seven consecutive days.
  f. A "working week" is from the time started on Monday through to the finishing time on Friday.
- g. "Sale" is the sale of accessories, spare parts and consumables. The sale of either new or used equipment is subject to CP HIRE separate Terms and Conditions of Sale, copies of which are available on request and displayed on our
- website.

  h. The headings in this document are for conversions only and shall not affetheir interpretation.

  i. These Terms and Conditions shall be hereafter referred to as "CP HIRE TERMS AND CONDITIONS"

 Contract Extent
 No conditions other than these shall be considered to form or to be incorporated into any Operated Contract for hire or sale. CP HIRE TERMS AND CONDITIONS will at times be deemed to prevail over any condition(s) that the Hirer seeks to impose by whatever method unless otherwise agreed in writing by a Director of CP HIRE. Where these Terms and Conditions conflict with any others these ns and Conditions shall prevail under all circumstances.

4. <u>Placement of an order/acceptance of Plant on Site</u>
When the Hirer orders or the site accepts a piece of plant unless otherwise agreed in writing by a Director of CP HIRE the Hirer is deemed to accept the plant on hire subject to CP HIRE TERMS AND CONDITIONS.

on hire subject to CP HIRE TERMS AND CONDITIONS.

5. Responsibility for Personnel

Any personnel that CP HIRE supplies to the Hirer are deemed to be under the control of the Hirer and should comply with all of his instructions. The Hirer is responsible for their compliance with all statutory rules and regulations, with regard to any personnel supplied on the site as he is with his employees.

6. Loading and Unloading

CP HIRE shall not be responsible for any damage to any plant, equipment, surface or property whatsoever during the loading or unloading of the plant upon delivery or collection whether by CP HIRE employees, the Hirer or any other third party.

- party.

  7. Condition on delivery and maintenance inspection reports

  a. All plant will be deemed to be in good order at the point of on-hire save for any fault not noticeable by reasonable examination or marked on the on-hire advice note unless the Hirer notifies CP HIRE to the contrary by telephone on the day of on-hire and confirms in writing within three working days. The Hirer is responsible for the following large transfer and confirms or the same transfer and the same trans for the safekeeping, use in accordance with the manufacturer's recommendations and the safe return on the completion of the hire of any item of plant or accessory
- b. The Hirer when hiring self-drive must take all reasonable precautions to ensure they are aware of the continuing condition of the plant and the Hirer will be totally responsible for the safe use of the plant and the and the reporting of and payment for rectification of all damage (except for fair wear and tear) to the plant whilst the plant is no either the point. plant is on site. c. Pre-Hire inspection reports will be supplied to the Hirer upon request to CP

- HIRE.

  d. When plant is delivered to site or collected from site and for whatever reason CP HIRE driver is unable to obtain a signature on the delivery/collection ticket the following shall apply:

  i On delivery a copy of the unsigned delivery ticket will be left with the plant.

  ii On collection a copy of the collection ticket signed by the CP HIRE driver will be posted to the address last advised by the Hirer as their invoice address.

  iii Any claim for damages/shortages on deliveries (excepting those noted on the delivery ticket) must be advised to the CP HIRE depot of hire by phone or email within 24 hours of delivery AND confirmed in writing by the Hirer within three days in the case of those notification.
- in the case of phone notification. iv Completion of (i) above will be deemed as acceptance of the plant on site by

- in Completion of (i) above will be deemed as acceptance of the plant on site by the Hirer at the time of delivery.

  e. Although every possible precaution has been taken to ensure that the equipment is in good serviceable condition no liability whatsoever can be accepted by CP HIRE for the consequences of any failure or inaccuracies of the equipment. The Hirer is expected to satisfy themselves that the equipment is functional before attempting to use it on site.

  8. Inspections and Servicing
  The Hirer shall allow access to CP HIRE, their agents and their insurer's at all reasonable times to inspect, repair, test or adjust the plant. Such work will be carried out at times convenient to Hirer wherever practical.

  9. Unsuitable Ground and Operating Conditions
  a. The Hirer will be totally responsible for the ground condition upon which the equipment is to work and must provide mats/timbers or equivalent wherever unsuitable ground conditions could threaten the security of the plant. The Hirer will be responsible for any costs of recovery of plant from unsuitable ground.

  b. The Hirer is responsible for the protection of any and all services? utilities on the site whether they be underground, surface or above ground, and is liable for any damage caused to same. any damage caused to same.
- c. Where the Hirer seeks to use CP HIRE plant in arduous conditions which include but are not limited to sea water, chemicals, fertiliser, abrasive products, contaminated waste and radioactive materials the Hirer must:
- Advise CP HIRE at the time of hire or in advance by phone or email ii. Indemnify CP HIRE against any loss or damage in connection with the conditions or occasioned by the materials that the plant is in contact with, either noticed at the time of hire or subsequently if affecting electric, hydraulics or
- unexpected components.

  iii. Clean the plant thoroughly before collection from site.
- in. Clean the plant involvingly device collection in site.

  It is fining operated plant the Hirer must provide CP HIRE in advance with a full risk assessment and provide the operator with all necessary protective equipmer and information required to guarantee their safety.

- and information required to guarantee their safety.

  10. <u>Operators for Plant</u>
  a. For plant hired together with an operator, CP HIRE will supply a person
  competent to operate the plant. The Hirer will be responsible for agreeing the
  levels of or proof of competency of the operator supplied by CP Hire prior to the
  Hire contract commencement. The operator will be deemed to be under the
  control of the Hirer for all purposes and the Hirer shall be responsible for all
  claims arising from the operation of the plant as if the operator was an employee
  of the Hirer.
- of the Hirer.

  b. The Hirer will not permit any other person to operate, attempt to operate or move any item of plant hired with an operator without the previous written consent of CP HIRE.
- c. The operator supplied by CP HIRE shall hold any appropriate mandatory licence for the driving of the plant in question as laid down by statute, and shall not operate any other plant or machinery or undertake any work other than the Operation of their contracted CP HIRE machine unless previously agreed in
- Operation of their confracted CP HIRE machine unless previously agreed in writing by CP HIRE and the Hirer. Any decision on the competence or otherwise of the operator shall be made by a Director of CP HIRE and shall be final. d. For plant hired without a CP HIRE operator the Hirer shall ensure that the plant is only operated by a competent operator. e. The Hirer nor any connected body shall not without prior written consent of CP HIRE at any time during the period of the hire within 6 months after the date of termination of the hire solicit or endeavour to entice away from or discourage from being employed by CP HIRE or other employment or subcontract work to any person who is or shall at any time during the hire be one of CP HIRE employees or agents engaged in providing the hire or other services. A charge will be levied against any Hirer in full and final settlement in the case of a breach of this condition.

### 11. Repairs and Breakdowns

- 11. Repairs and breakdowns
  a. Any breakdown or loss of performance of the whole or any part of the plant
  must be notified to CP HIRE immediately. Any claim for breakdown time
  allowance will only be considered from the time of this report.
- b. Allowance will be made to the Hirer for breakdowns caused by inherent faults or a fault (but not damage howsoever caused) not noticeable by reasonable examination or arising from fair wear and tear subject to clause 7 above

- c. The Hirer shall not, except for punctures, repair or cause to be repaired any item of plant without the written authority of CP HIRE.
  d. Puncture repairs will remain the responsibility of the Hirer:
  i. On all plant hired without an operator from the day of delivery (or collection from a CP HIRE depot).
  ii. On all plant hired with a CP HIRE operator from the time of entry onto the site or area of work until the exit from the same. Punctures may be repaired by the Hirer or his agent at his expense provided such repairs are of the recommended specification and cause no damage to the plant of tyre. specification and cause no damage to the plant or tyre. The Hirer is responsible for all costs and losses incurred by CP HIRE resulting from any breakdown and/or damage arising from the misuse or misdirection of the
- plant or in the negligence of the Hirer, their agents, servants or any other party. The Hirer shall be responsible for payment to CP HIRE for the relevant standing / hire rated during the period of such repairs or replacement. CP HIRE will be responsible for the cost of repairs and spares due to breakdown for reasons detailed in clause 11/b above.

detailed in clause 11/b above.

I, In the case of any repair to plant or equipment owned by the Hirer, carried out by CP HIRE, CP HIRE reserve the right to exercise a lien over the item, until the bill is paid in full, including any storage costs / charges.

12. Other Stoppages
CP HIRE will not accept claims nor can CP HIRE give any allowance in hire time for stoppages through causes outside their control such as bad ground conditions, bad weather, the failure of another item of plant (whether owned by CP HIRE or not), punctures or tyre repairs and the lack of an operator (when not supplied by CP HIRE).

Is. Loss of use of other plant
Each item of plant hired by CP HIRE to the Hirer is hired as a separate unit and
stoppage or breakdown of one unit or vehicle (whether the property of CP HIRE
or not) through whatsoever cause shall not entitle the Hirer to allowance or compensation for the loss of working time of any other hired item under any circumstances.

14. Consequential Loss
CP HIRE accept no responsibility or liability for any consequential loss or damage arising, or due to the failure or unsuitability of our defects in the plant or for any other cause whatsoever.

- 15. <u>Loss and Damage</u>
  a. To avoid doubt this clause does not affect the operation of clauses 7, 9 and 11. a. To avoid doubt this clause does not affect the operation of clauses 7, 9 and 11 b. Throughout the hire period and until the plant is safely returned to CP HIRE depot of hire, the Hirer shall make good to CP HIRE all damages to or loss of the plant howsoever that damage may be caused, except fair wear and tear. The Hirer, except as provided in clause 11 above shall fully indemnify CP HIRE in respect of all claims by any person for injury to persons or damage to property caused by or in connection with or arising out of the use of the plant and indemnify CP HIRE against any charges or costs under statue or common law. c. CP HIRE will only accept responsibility for loss damage or injury due to or arising during:
- arising during: ansing during.

  i. prior to delivery of any plant to the Hirer's site where the plant is in transit or transport owned by or under the control of CP HIRE.
- ii. After the plant has been collected and removed from the site and is in transit on transport owned by or under the control of CP HIRE.
- iii. Where plant is travelling under its own power to and from site under the control of a driver supplied by CP HIRE. The Hirer must insure at full value all items of plant hired from CP HIRE from
- the moment the plant is delivered / collected at the start of the hire, until such time as the plant is safely collected or returned to the CP HIRE designated depot. Off-hiring the plant shall not determine the responsibility for the safekeeping of the
- hiring the plant shall not determine the responsibility for the safekeeping of the plant, and the Hirer is responsible for the safe keeping / insuring of the plant until its removal from site by CP HIRE.

  e. In the event of full or partial loss or theft of the plant and payment of any compensation by the Hirer (or their insurers) to CP HIRE the title to the machine will remain with CP HIRE under all circumstances.

  f. In the event of full or partial loss or theft of the plant or in the event of damage to the plant and until full compensation has been paid the Hirer shall pay to CP HIRE the sum of 2/3rds of the current CP HIRE self-drive hire rate of the item of plant from the time that the loss/theft/damage is reported to CP HIRE, until such time as a settlement has been made in full. Until such report of loss/theft/damage the hire charge will continue at the contracted rate.

  g. In the event of full or partial loss or theft or damage of the plant payment is to be made by the Hirer (or their Insurance Company) as follows:- Plant up to 2 years old the incident date at replacement as new price, plant over 2 years old at
- years old the incident date at replacement as new price, plant over 2 years old at the incident date at replacement value. h. To assist negotiation and to speed any settlement the Hirer shall at all times
- allow CP HIRE to liaise direct with the Hirer's Insurance Company and/or Agents. In addition the Hirer will instruct their Insurers to settle any claim by payment direct to CP HIRE and acceptance of these conditions shall deem this permission to have been given. This does not affect the Hirer's liability in the event of any damage. If any payment of Insurance monies is made to the Hirer either direct damage. If any payment of Insurance monies is made to the Hirer either direct from their Insurers or via their Brokers such monies must be held in trust for CP HIRE (GB) LTD and the Directors/Shareholders/Partners/Proprietor will remain personally responsible for ensuring that such monies are paid in full to CP HIRE. I, CP HIRE accept no responsibility for any damage or liability for damages caused (whether above, on or below ground) which may be occasioned due to the travelling, positioning or working, at any time by plant and operator supplied by CP Hire whist under the supervision of the Hirer. k. Where practicable upon collection of plant from site the CP HIRE driver and the representative of the Hirer shall examine the plant and record details of any damage/deficiencies. Upon return of the plant to CP HIRE home depot, the plant shall be subject to a thorough examination and any further damages/deficiencies will be notified by telephone or email to the Hirer with the option to view the plant prior to invoicing such damages/deficiencies to the Hirer.

  1. The Hirer will be offered the opportunity to view any plant for which damage
- I. The Hirer will be offered the opportunity to view any plant for which damage charges are to be made within 4 days of notification of these damages. Failure by the Hirer to inspect the plant within this 4 day period shall signify the Hirers acceptance that the Hirer is responsible for and will settle CP HIRE invoice for
- m. Under no circumstances shall CP HIRE liability to the Hirer for any breach or rovision (whether expressed or implied) of this contract exceed the total amount aid by the Hirer to CP HIRE under the individual hire.

- paid by the Hirer to CP HIRE under the individual hire.

  16. Notification of Accidents
  a. It is the duty of the Hirer to notify CP HIRE immediately by telephone if the plant is involved in an accident resulting in damage to property or injury to any person and confirm this in writing giving full details within 24 hours. In respect of any claim not within the liability of the Hirer, the Hirer shall make no promise or offer of payment or admission without CP HIRE written permission.
  b. In addition, the Hirer is responsible for reporting to the Health & Safety Executive any incident which comes within the scope of The Reporting of Injuries Diseases and Dangerous Occurrences Regulations 1985 whilst the machine is under their control.

- under their control.

  17. Re-hiring/Selling to third parties
  a. All plant, equipment or any part thereof shall not be re-hired, sub-let or lent to
  any third party without the written permission of CP HIRE and at all times the
  ownership shall remain with CP HIRE.
- b. At all times and in all cases items on hire will always remain the property of CP HIRE. HIRE. Goods supplied on sale will remain the property of CP HIRE until full payment has been made by cleared funds and CP HIRE reserves the right to reclaim goods not paid for in full.

reclaim goods not paid for in full.

18. Moving from site of contract.

The Hirer must not remove plant to any other site location without prior notification to the CP HIRE depot of supply. Plant must not be moved outside the United Kingdom without advance permission in writing from a Director of CP HIRE.

19. Plant Repairs During Hire If CP HIRE decides that urgent repairs (not caused by damage or misuse) are necessary to the plant during the hire period they may arrange for repairs to be carried out upon site or at any other site they choose. In such event requiring removal of plant from site CP HIRE will provide replacement plant if available and all transport charges will be paid by CP HIRE. If CP HIRE are unable to supply replacement plant within 24 hours they are entitled to terminate the contract by giving written notice to the Hirer, if the contract is terminated in this way CP HIRE shall be liable for any collection charge. shall be liable for any collection charge.

### 20. Calculation of Hire Charges

 a. Plant will be hired out on the following bases only:
 i. Operated plant hired with a CP HIRE operator is hired out per hour with a minimum 8 hours chargeable in any working day (regardless of the number of hours worked if any) Monday to Friday. All other hours worked at weekends on bank/public holidays and over 12 hours in any one shift shall be agreed in

advance and confirmed by CP HIRE in writing.

ii. Self-drive plant is hired out on a "per week" basis. Hires of less than one week in duration will be charged by percentage as follows: 1 day = 60% of the weekly charge, 2 days = 100% of the weekly charge, and 3 – 5 days = 100% of the weekly charge. All self-drive hires exceeding one week shall be charged at the weekly pro-rata throughout the term of hire based on a five day working week Monday to Friday, these are chargeable days @ 20% of the weekly rate each.

b. Where plant is supplied with a CP HIRE operator, the Hirer or their authorised representative shall sign the operator's timesheet daily / weekly. The Hirer or their or their proresentative shall sign the operator's timesheet daily / weekly. The Hirer or their

representative shall sign the operator's timesheet daily / weekly. The Hirer or their representative's signature on the timesheet shall bind the Hirer to accept the hours shown thereon and the hours signed for will form the basis of the charging and in the event of any dispute cannot be amended except by mutual agreement c. Allowance shall be considered for periods of breakdown resulting from any electrical or mechanical fault provided that the Hirer informs CP HIRE at the time of the breakdown except where the breakdown is due the Hirer's negligence misuse or misdirection. Every break down call is recorded by CP HIRE and allowances will only be made from the time the breakdown is reported until the plant is repaired unless there was no time lost due to the fault.

d. No allowance will be made on self-drive plant for breakdowns outside of the normal working week Monday to Friday 8.00 am to 5.00 pm.

e. Stoppages due to changing tyres and puncture repairs shall be chargeable as working time up to a maximum of 2 hours for any one stoppage provided that CP HIRE is asked to effect the repair by the Hirer. If the Hirer repairs or arranges the repair by anyone other than CP HIRE all stoppages due to punctures and their repair will be chargeable as working time.

f. The maximum machine clock hours to be worked in the case of self-drive plant are 10 hours per day or 50 hours per working week. In the event of hours being worked in excess of these excess hours will be charged pro-rata. electrical or mechanical fault provided that the Hirer informs CP HIRE at the time

worked in excess of these excess hours will be charged pro-rata.

g. The "Minimum Hire Period" is:
i. On a self-drive hire 60% of the weekly hire rate (as laid out in clause 20 a ii).
ii. On a hire with CP HIRE operator – 8 hours per day regardless of any circumstances if less hours are worked excepting breakdowns. Machine travelling time (if any) for the plant is counted as working time and charged at the same

h. Where plant is returned to the appropriate CP HIRE depot or collected from site h. Where plant is returned to the appropriate CP HIRE depot or collected from site in a condition that requires more than a basic power clean CP HIRE reserves the right to clean the plant and charge the Hirer at cost. Hirers are required to dig out tracks sufficiently to enable the plant to be safely transported in accordance with Road Traffic Law. The appropriate CP HIRE depot manager will be the sole judge of condition of cleanliness of the plant.
k. Time is not of the essence with regard to delivery times/collection times. Whilst CP HIRE endeavour to ensure that requested times are met, they cannot be held responsible for any costs/losses due to late/early delivery or collection.
21. Daily & Weekly Rate Charges

responsible for any costs/losses due to latereary 2000.

21. <u>Daily & Weekly Rate Charges</u>

Not withstanding the maximum working hours set down in clause 20(g) relating to self-drive plant, the daily rate shall be the minimum charge regardless of hours worked. No hire charges shall be made for Saturdays and Sundays if the plant is set working.

22. Commencement and Termination of Hire
a. If the plant is collected the hire shall commence from the time that the plant
leaves the CP HIRE depot or is signed for (whichever is the earlier) and shall
continue until the plant is received back at the CP HIRE depot and a returns note given to the Hirer, excepting in the case of damage where standing charges will apply after collection/return

apply after collection/return.

b. If delivered by CP HIRE the hire shall commence from the time of arrival on site and shall continue until the plant is collected from site (or returned to the CP HIRE depot of origin) excepting in the case of damage where standing charges will apply after collection/return. Operated hire where the plant travels to site under its own power shall be on hire from the time the plant leaves CP HIRE depot until its

return.

c. CP HIRE may immediately terminate any hire having given prior notice where the Hirer has exceeded his credit limit or where payment is overdue.

d. The Hirer hereby confers the irrevocable right upon CP HIRE to enter sites and remove plant hired to them by CP HIRE without any notice if the Hirer voluntarily or otherwise goes into liquidation or receivership.

g. If a bankruptcy order is issued against any Director/Partner/Proprietor of the Hirer

- ii. If any account is not paid within 60 days of invoice date.
  iii. If the Hirers credit limit with CP HIRE is exceeded.
- iv. If CP HIRE believes that the Hirer will be unable to pay the hire monies.
   v. If CP HIRE believes that their plant is/are an immediate target for theft.
- vi. If CP HIRE believes that the plant is to be or is likely to be used for unlawful
- vii. If given 48 hours' notice in writing by CP HIRE by email/post to the registered trading address of the Hirer.
- office/frading address of the Hirer.

  23. Use of plant on the highway and responsibility for fines charges etc.
  a. It is the responsibility of the Hirer to advise CP HIRE if the plant they wish to hire is to be used on the public highway. The Hirer must satisfy themselves that the plant is licenced for the use on the road. Insurance for use on the public highway is the sole responsibility of the Hirer.
  b. The Hirer shall be solely responsible for and indemnify CP HIRE against any fines levied, tolls charged or offenses committed whilst the plant is on hire to them. The Hirer hereby agrees that CP HIRE may supply their name, address and telephone number to the authorities if requested to do so.
  c. The Hirer shall be responsible and indemnify CP HIRE for any parking fines incurred by CP HIRE drivers due to access problems on site. CP HIRE reserves the right to pass on all such charges to the Hirer.

24. Notice of Termination of Hire

a. When a fixed period of hire is agreed at the time of hire no notice of termination is necessary and the plant will be collected automatically (or the return of it expected). Should this period be extended so that the off-hire date is no longer agreed and it is therefore an "open" open period of hire the following shall then apply as an open period of hire:-

b. Where the period of hire is determinate at the outset. i.e. it is an "open" hire (or having been fixed becomes indeterminate) the hire may only be determined by having been fixed becomes indeterminate) the hire may only be determined by the Hirer giving 24 hours' notice of df-hire to the CP HIRE depot of hire except as in clauses 22c above and 24c below and confirming such in writing (preferably by email) immediately. An off-hire reference from CP HIRE and the name of the CP HIRE employee accepting the off-hire shall be the only proof of df-hire in the event of any dispute.

c. In respect of machines of over 22 tomes in weight or over 3m in width which are notifiable loads if transport is provided by CP HIRE, the notice required to off-hire is 72 working hours.

d. Notice of termination by the Hirer to CP HIRE operators/service engineers/delivery shall not be deemed to be acceptable as any notice of off-hire.
e. If plant is not collected by CP HIRE within the agreed time the Hirer shall advise CP HIRE in writing of that fact.

advise CF first in strong of the St. Idle Time.

a. In respect of plant hire from CP HIRE by the Hirer on a self-drive basis idle time shall not be allowed under any circumstances except in the case of complete theft, damage to or loss of the plant as outlined in Clause 15.

b. In respect of plant hire from CP HIRE by the Hirer to include an operator

supplied by CP HIRE idle time will be allowed and charged at the current self-drive hire rate in minimum units of one day chargeable at 1/5th of the weekly rate per day where the CP HIRE Depot of hire is notified prior to the day in which idle time is required.

If this notification is not received by at least the previous day or an operator attends the site for work the minimum of 8 hours will be charged at the contracted hire rate regardless of the hours worked (if any).

hine rate regardless of the hours worked (if any).

26. Fares and Travelling Time

CP HIRE operators' travelling time, daily fares and similar expenses will be
chargeable to the Hirer at cost as/if agreed during the placement of the hire. NO
charge shall be made for any CP HIRE employee for the purpose of maintenance
repair or servicing of plant save if this is necessary due to the Hirer's misuse
negligence or misdirection of the plant.

27. Consumables and Fuel Supplies

all consumables such as oil presses and fuel will be paid for by the Hirer on

27. <u>Consumables and ruer Supplies</u>
a. All consumables such as oil, grease and fuel will be paid for by the Hirer on self-drive hires and is the responsibility of the Hirer to carry out the required daily checks and to supply the required consumables in any case. Fuel supplied by CP HIRE will be charged at the rate published in their current price list.

b. When hired "Self-Drive" or "Operated fuelled by site" machines will be delivered/available for collection with a full tank of fuel. Deficiencies will be charged for on the hire termination invoice. Refuelling shall be the responsibility of the hirer. No credit can be given at a later date for the supply of fuel by the Hirer to CP HIRE to compensate for any fuel deficiency with operated plant.

### TERMS AND CONDITIONS OF HIRE - OPERATED PLANT



c. Fuel will be charged by the litre, calculated on the percentage of a tank full recorded at the time of hire/off hire. Tank capacities are generally available upor

request.

28. CP HIRE Signs and/or Name Plates

a. The Hirer shall not cover up or remove or deface in any way the signs, stickers signwriting or nameplates of CP HIRE nor shall they fix to the plant any signs, stickers nor paint in any way any part of the plant.

b. The Hirer will be responsible for the cost of repairing any damage to CP HIRE.

signs, stickers, signwriting or nameplates sustained during the hire period and

any preparation work necessary to replace them.

29. <u>Transport of Plant and Ancillary Items</u>
a. The Hirer will be responsible for payment for transport to and from their site or will be entitled to arrange and pay for their own transport if they wish.

b. Transport carried out by CP HIRE will be charged at the rates agreed on each

b. Transport carried out by CP HIRE will be charged at the rates agreed on each, and every item of plant and for each and every on-hire and off-hire. These charges will apply regardless of where the machine is moved to, when off-hire (if anywhere) and regardless of where it comes from when originally hired.

c. No discount in transport rate will be given regardless of the number of items of plant on a delivery vehicle as rates already take into account the size of each item of plant.

d. Any road, bridge or tunnel toll incurred by CP HIRE in the course of deliver/ collection will be charged to the Hirer in addition to normal transport charges.

e. Where buckets, attachments, ancillary items or breakers are on hired or off-hired separately from the plant, and have to be transported separately from the plant, and have to be transported separately from the plant, to or from site as a separate journey a charge for transport for each journey will be made by CP HIRE to the Hirer.

30. Change of Ownership/Directorship and change of name.

a. CP HIRE reserves the right to continue or determine any contract at their sole

a. CP HIRE reserves the right to continue or determine any contract at their sole discretion in the event of any change of ownership/directorship of the Hirer. The Hirer is hereby bound to notify CP HIRE of any such change in writing within 24 hours of such an occurrence during the period of hire or within 14 days if not

during a period of hire.

The original Directors/Partners/Proprietors of the Hirer shall remain responsible for all future hires if they are unable to conclusively prove that CP HIRE were notified in writing of such changes.

not all rutuler littles in livey are unable to conclusively prove that CP HIXE were notified in writing of such changes.

b. The Hirer is hereby bound to advise CP HIRE in writing within seven days of any change of name of the Hirers' company. Accounts are allocated to a company by Registered Number and any change of name shall not change responsibility of the company with the registered number for the debts hereafter. In the event of an un-notified 'name swap' between companies both companies shall be liable jointly and severally for all debts. Any Guarantees signed on behalf of the initial account holder will remain in force and retain full liability.

31. Government Regulations
The Hirer shall be responsible for compliance with all Local and National Government regulations relating to the use of the plant including but not limited to all Health and Safety at Work Legislation, The Factories Act, Mines & Quarries Act, Road Traffic Act Legislation, Construction (Lifting Operations) Regulations 1991.

1981. Lifting Operations, and Lifting Equipment Regulations 1998.

32. Protection of Rights of CP HIRE
The plant shall remain the property of CP HIRE at all times, and the Hirer shall not sell, loan, pledge, mortgage, charge re-hire or part with the plant except in the case of accidental loss or damage referred to in clause 15. The Hirer shall further protect the plant against seizure, distress or execution and shall indemnify CP HIRE against all damage charges, costs, losses or expenses arising from failure to perform the requirements of this protection.

33. Payment Terms
a. All accounts shall be paid within 30 days of invoice date or earlier if agreed by

both parties

both parties.

b. Punctual payment of hire charges shall be the essence of this Hire Agreement and the Hirer shall be deemed to have repudiated this Agreement if any part of shall remain unpaid for more than seven days after becoming due.

c. Any accounts or invoices remaining unpaid outside of our credit terms may be liable to interest charged at the rate current at the time of charging of interest, prescribed under the late payment of Commercial Debts (interest). Act 1998 (where applicable) or at the rate of 8% above the base rate, whichever is the

d. If any account remains outstanding after a period of 60 days from invoice date or any account is over its credit limit, or credit facilities have been withdrawn, this matter may be referred for debt collection action and reserve the right to pass the cost of any such service both internal and external including that of Solicitors both before and after the issue of court proceeding or other action under The insolvency Act 1986 (if any) on to the Hirer's account which amount will be due and payable immediately

e. Where the Hirer has a grievance for which he believes he is due a credit, the undisputed sum whether part of an invoice or a number of invoices must be paid within standard credit terms. CP HIRE accepts that part payment of an invoice in these circumstances shall not be considered proof that the entire invoice is accepted as payable by the Hirer. Interest will accrue on the undisputed sum if payment is not received to terms in accordance with Clause 32b. If the disputed sum is proved to be owing to CP HIRE or is paid by the Hirer to CP HIRE then CP HIRE reserve the right to charge interest on this originally disputed sum as well. Interest will be charged at the rate shown in clause 32c above.

If discount is negotiated from CP HIRE list prices, these discounts are conditional upon payment being made to CP HIRE terms. CP HIRE reserves the right to disallow such discounts where payment is overdue and invoice the discount amount which will be immediately payable.

9. Where the Hirer is also a supplier to CP Hire, CP HIRE reserves the right to deduct all monies outstanding due to any Group/Associated Company from purchase ledger payments to the Hirer from any Group/Associated Company.

34. Additional Statutory Taxation e. Where the Hirer has a grievance for which he believes he is due a credit, the

34. Additional Statutory Taxation

CP HIRE shall be entitled to charge additionally any statutory taxation to The Hirer. (For Example Value Added Tax).

35. Bank Holidavs and Industry Holidavs.

All Bank Holidays and Construction Holidavs will be charged as normal hire days
(Monday to Friday only) unless the Hirer notifies CP HIRE depot of hire in writing giving SEVEN DAY'S NOTICE of the day(s) that the site will be closed down. Full allowance against the hire will then be allowed subject to the following:

a. If the Hirer wishes CP HIRE to leave the plant on site over the holiday period,

a. It the Hirer wishes CP HIRE to leave the plant on site over the holiday period, the Hirer accepts full responsibility for and agrees to maintain full insurance cover on the plant at all times.
b. If the Hirer wishes the plant to be removed from site over the holiday period the Hirer agrees to pay CP HIRE the cost of transport to and from the nearest CP HIRE secure depot
c. The Hirer hereby agrees that should the plant be found to be working on any day during the pre-notified period the Hirer will pay the whole holiday period as working.

oay during the previoused period the finet will pay the winder holiolary period as working.

d. The maximum allowance (in working days) for Bank/Industry holidays will be 1 DAY for each Bank Holiday 6 DAYS at Easter (to include the 2 Bank Holidays) and 10 DAYS at Christmas (to include the 3 Bank Holidays)

Should the Hirer request the plant to be left on site as in section (a) but CP HIRE prefer to remove the plant to their depot for any reason CP HIRE shall beer the cost of transport from site and back to site after the period of holiday.

So Machine Hired with Produces as Seciolist Attaches and Parkers as Seciolists.

preter to remove the plant to their depot for any reason CP HIRE shall beer the cost of transport from site and back to site after the period of holiday.

36. Machine Hired with Breakers or Specialist Attachments

a. All machines supplied with breakers (or special attachments) and buckets will be charged at breaker (or special attachment) rate irrespective of their use or otherwise until the breaker (or special attachment) returned to the CP HIRE depot of supply. "Split rates" are not available under any circumstances.

b. On machines hired with Hydraulic breakers, point wear which is "fair wear and tear" will be the responsibility of CP HIRE. Broken points, excessive wear and damage will be chargeable to the Hirer (self-drive hires only).

c. The Hirer is responsible for carrying out all required daily and weekly statutory inspections of equipment (self-drive hires only).

37. Fitting of Non-CP HIRE Attachments

If the Hirer wishes to fit their own attachments or attachments hired by them from a company other than CP HIRE to a CP HIRE it and the premission is granted the Hirer will become responsible for:

a. Any damage howsoever caused to CP HIRE plant due to the litting removal or operation of the attachment.

b. Any damage howsoever caused to the attachment.

 b. Any damage howsoever caused to the attachment.
 c. The cost of fitting, removal and making good any additions to the plant necessary for the operation of the attachment if carried out by CP HIRE. nt of the full hire rate for the plant during any modification fitting or oval of the attachment or any necessary repair

38. Notification of Queries
a. Any query regarding a CP HIRE invoice must be taken up in writing within FOURTEEN DAYS of invoice date and addressed to CP HIRE Head Office. Any query not notified in writing within this period will not be entertained.
b. Any query regarding any Delivery ticket/Collection ticket/time Sheet or other documents/correspondence from CP HIRE must be taken up in writing as above within seven days (or sooner if so stated). Any query not notified within this period will not be created and the second of the control of the second of the

### 39. Plant Working Close to Building or Structures etc.

In general, plant should not be worked close to buildings, structures, kerbs, cables, pipes, vehicles and the like. On hires where CP HIRE have supplied the Cables, pipes, verifices and the line. On lines where CF filtr. have suppried the operator CP HIRE drivers may upon instruction work close to such as the above CP HIRE drivers will always operate using their best skill and endeavour not to cause damage but the cost of repair of any damage or the responsibility for any injury to the Hirer's employees or property CP HIRE employees or property or a third party or its property howsoever caused will be the sole responsibility of the

Hirer.

40. <u>Dancers of Plant and its Operation</u>
a. Ordering and/or accepting CP HIRE plant on site implies that the Hirer is fully conversant with the item of plant or equipment and the dangers associated with it as well as its safe operation and storage. The Hirer hereby confirms that they will not allow any person who is not competent and fully trained to operate or use the plant. If the Hirer has any doubts in respect of the safety or other regulations governing the use of the plant or equipment they must immediately contact CP HIRE for advice.

b. If the Hirer has any doubt as to the capability of any CP HIRE driver or has any reason to believe that all or any part of the plant or equipment hired may be

reason to believe that all or any part of the plant or equipment hired may be defective or dangerous they must cease use of the item immediately and contact the Depot Manager at the depot of hire. Hire time chargeable at the contracted rate will be charged up to this time under all circumstances

rate will be charged up to this time unuer an oreal state.

41. Cab Removal
Removal of cabs and/or any other safety or protective structural device cannot be carried out by CP HIRE. Where removal of cab is necessary for the environment in which the Hirer is working, the Hirer accepts full responsibility for such removals and agrees that CP HIRE shall not be held liable for any accident, incident, injury or damage that occurs due to such removal and the Hirer understands that the machine may now no longer comply with certain statutory legislation and accepts exclusive and full responsibility in this area.

legislation and accepts exclusive and full responsibility in this area.

42. Credit Limits

a. CP HIRE reserves the right to amend the Hirer's credit limit or close credit accounts at any time without explanation. Any change of credit limit of the closing/opening of accounts will be notified to the Hirer.

b. if a credit limit is exceeded by the Hirer or payment terms not complied with the whole outstanding balance (not only the overdue amount) will become due for immediate payment.

43. <u>Hire Rates</u>
a. All plant shall be hired out at CP HIRE price list rate current at time of booking except as in (b) and (c) below.

 Special discounted rates may be agreed in advance for an agreed minimum term of hire. A confirmation letter of this hire rate agreement will usually be produced by CP HIRE and must be signed by both parties to achieve this discount. This rate will apply for the one hire only and shall be conditional on the hire running for at least the agreed term and payment being made to terms CF HIRE will guarantee to keep the hire rate fixed for the minimum hire period agreed. Should any of these criteria not be met CP HIRE shall be entitled to charge the entire hire at the CP HIRE price list rates current at the time of

DUDANILY.

C. A Partnership Agreement has been signed between the Hirer and CP HIRE whereby specially agreed discounts are offered on all hires from the Hirer subject to agreed conditions.

to agreed conditions.

44. <u>Dishonoured Payments</u>
CP HIRE reserve the right to charge to the account of the Hirer and recover from them the bank charges and subsequent costs (both internal and external) incurred for any cheque returned or refused for payment and/or any standing order or direct debit unpaid refused or cancelled and/or any other type of paymen under these circumstances the whole outstanding balance (not only the payment in question) will become due for immediate payment.

45. <u>Variation of Hire Rates</u>
CP HIRE reserves the right to alter hire and other rates without notice except as in 43 (b) above

### 46. Non-Credit Account Transactions

Transactions with any Hirer not having an approved credit account with CP HIRE will not be accepted, an approved credit account must be in place before transactions can commence

### 47. Weights and Measures

A: Neights and Measures

a. All weights, measures, dimensions and digging depths etc. provided in CP
HIRE literature, electronic media and price lists are approximate and are provided
only for the guidance of the Hirer and are subject to change without notice. No
guarantee is offered regarding their accuracy.
b. Hirers are reminded of their duty to comply with the Hydrocarbon Oil Duties Act
1979 with regard to the use of rebated (red) diesel. CP HIRE will hold the Hirer
fully liable for any penalties incurred.
48. Currency of Prices
All prices in CP HIRE literature are quoted in pounds sterling and apply to hires in
Mainland Britain only unless otherwise stated.
49. Internet and e-mail communications
a. Where correspondence/transactions are carried out by e-mail the e-mail
"signature" shall constitute an authorised signature on behalf of either party and
shall bind both parties to the hire contract.
b. Although CP HIRE will take all reasonable steps to ensure security is of the
highest order no warranty expressed or implied is given that e-commerce

highest order no warranty expressed or implied is given that e-comm solutions that CP HIRE offer are secure.

c. CP HIRE reserves the right to change without notice any item on its Web Site

or literature.

50. <u>Data Protection Act and Consumer Credit Licence</u>
a. CP HIRE uses a number of credit reference agencies and other organisations to protect itself from fraud and bad credit risk as well as taking references from Trade Suppliers and Bankers where appropriate. By applying for an account with CP HIRE the Hirer hereby agrees that CP HIRE may access, store and use such information about their Company and/or Directors and/or Shareholders and/or Partners to allow CP HIRE to decide whether to offer or continue to offer credit. b. Searches of information held by credit reference agencies, including the Electoral Register, may be carried out. This is done in order to assess the application (even if it does not proceed fully), prevent fraud and confirm identity. Searches are logged by the credit reference agencies and other parties who make searches in the future will be able to see this information.

c. For its part CP HIRE agrees that any information accessed as detailed in clause (a) above will be held solely for the purposes detailed in the said Act and that no time shall this information be impaired to a third party except to our legal representative and where we are required to by law. Use and storage of such data shall at all times be in conformity with the Act.

data shall at all times be in conformity with the Act.
d. CP HIRE is registered under the Data Protection Act and holds a current
Consumer Credit Licence. Details are available upon written request to the
Financial Director at CP HIRE Head Office.

adversely affected thereby

Final coal Director at CP FIRE head Office.

51. Right to Communicate
a. By applying to open an account with hiring form or requesting a quotation from CP HIRE the Hirer hereby confers upon CP HIRE the right to contact the Hirer by telephone or e-mail to offer advice or additional services that CP HIRE believe will be of interest to the Hirer.

be of interest to the Hirer.

b. The Hirer has the right to opt out of any of the agreements in clause 51a above by writing to CP HIRE stating which of the above they do not wish to receive. Letters should be addressed to: CP HIRE (GB) LTD, Viaduct Road, Gwaelod y Garth, Cardiff, CP15 9JN.

c. CP HIRE reserves the right to record any incoming or outgoing telephone conversation, for training, monitoring or other purpose.

52. The Contracts (Rights of Third Parties) Act 1999 shall not apply to any contracts or agreements entered into between CP HIRE & The Hirer.

53. General

53. General a. If any provision in these conditions is held by any competent court of law to be invalid or unenforceable in whole or in part the validity of the other provisions of these conditions and the remainder of the provisions in question shall not be

b. CP HIRE shall not be liable to the Hirer nor be deemed to be in breach of any of these conditions by reason of any delay in performing or failure to perform and on of these conditions due to any of the following causes which are

belongation of these controls.

Act of God, explosion, flood, tempest, fire or accident.

War or threat of war, sabotage, instruction, civil disturbance, or requisition or

act of terrorism.

iii. Acts, restrictions, bye-laws, regulations, prohibitions or measures of any kind on the part of any governmental parliamentary or local authority.

iv. Strikes, lock-outs or other trade disputes.

v. Difficulties in obtaining new plant, labour, fuel, spare parts or machinery.

vi. Power failure or breakdown in machinery. c. Whilst CP HIRE will at all times endeavour to deliver and/or collect plant at the

times requested by the Hirer delivery and/or collection times shall not be of the essence on any hire.

d. This contract shall be governed by the laws of the UK and is subject to the jurisdiction of the UK Courts

jurisdiction of the UK Courts.

Not withstanding anything to the contrary in the absence of any specific condition English common law applies.

C P HIRE shall be entitled at any time and from time to time to vary or replace the terms and conditions and exceptions herein contained without notice.

G. To enable to offer constant improvements in our Hirer service and to ensure accuracy by verifying instructions where necessary CP HIRE may monitor and/or record telephone calls.

As a Valid From
These Terms and Conditions of Hire are valid from November 2016 and supersede all previous Terms and Conditions of Hire.