



SPECIALIST EQUIPMENT SOLUTIONS GENERAL CONDITIONS OF HIRE

1. DEFINITIONS

"Hirer" shall mean the Company, firm, Corporation, Public Authority or person taking the 'Owner's' Plant on hire and includes their successor or personal representatives.

"Hire Agreement" means the agreement between the Owner and the Hirer for the hire of Plant which incorporates the Quote supplied by the Owner, any Purchase Order issued by the Hirer all which is governed by these General Conditions of Hire.

"Owner" shall mean Specialist Equipment Solutions Limited (a company having its registered office at 27 Great West Road, Brentford, England, TW8 9BW) and includes its successors or assigns.

"Quote" shall be the written quote or estimate issued by the Owner setting out the Plant under hire, period of hire and relevant hire charges and any supplementary conditions to be incorporated into the Hire Agreement.

"Purchase Order" shall be the instruction, acknowledgement or order issued by the Hirer in acceptance of the Quote and which the Owner shall invoice against.

"Plant" shall mean all items of machinery, equipment and accessories on hire from Owner to Hirer.

"Site" shall mean the places at which the Plant is to be used by the Hirer.

2. PERIOD OF HIRE

The period of hire shall be deemed to commence at the time the Plant is delivered to the Hirer or uplifted by the Hirer from the Owner and, subject to Clause 5, shall continue until the time it is returned to the Owner or uplifted from the Hirer by the Owner's transport.

In accordance with the Consumer Credit Act, if the Hirer is a partnership, sole trader or other unincorporated body, then the period of hire will not be more than 3 consecutive calendar months; and the Hirer shall return the Plant to the Owner on or before the last day of the aforementioned 3 calendar month period.

3. DELIVERY AND ACCEPTANCE

Except as otherwise agreed, the Hirer shall at the Hirer's expense and risk, collect the Plant from the Owner and return them to the Owner's specified location at the end of the period of hire. Where it has been agreed that the Owner shall deliver or collect the Plant to and/or from the Hirer, the Owner shall do so at its standard delivery/collection cost which shall be recoverable from the Hirer.

Where the Owner provides delivery/collection services to the Hirer, the Hirer shall be solely responsible for any instruction given by the Hirer to the Owner's personnel and for any damage which occurs as a result of the Owner's personnel following the Hirer's instruction except to the extent that the Owner's personnel performing the services are negligent.

The Hirer shall be responsible for the unloading and loading of the Plant at the point of delivery or uplifting and/or at the Site and the provision of lifting facilities as may be necessary.

If any period of hire is delayed, or postponed due to the Hirer failing to comply with its obligations or any other reason by Hirer, the Hirer shall be liable to pay the Owner's additional standard charges for such delay/ postponement. If after the issue of the Purchase Order, the hire is cancelled by the Hirer, then Hirer shall be liable to pay the Owner a 10% cancellation fee.

Acceptance of the Plant by the Hirer or his representative signifies that the Plant is accepted by the Hirer as being in good working order and entirely free from damage at the time of receipt.

Acceptance of the Plant implies acceptance of all terms and conditions herein unless previously agreed in writing.

4. RESPONSIBILITY OF HIRER

The Hirer shall be responsible for the Plant during the whole of the period of hire as defined in Clause 2. During the period of hire the Hirer shall accept full responsibility for loss of or damage to the Plant or parts thereof (fair wear and tear excepted) and shall fully and completely indemnify the Owner against all claims by any person whatsoever in respect of injury to persons or damage to property in connection with or arising out of use of the Plant and in respect of all costs and charges in connection therewith, whether arising under statute or under common law and notwithstanding the negligence or breach of duty (statutory or otherwise) of the Owner or any other entity or party.

5. LOST, DAMAGED OR NON-RETURNED PLANT

When the Plant is not returned on expiry of the period of hire or owing to a reported loss or for other reasons when the Hirer wishes to terminate the hire, the hire will continue until the Hirer returns the Plant or pays to the Owner the replacement cost of the Plant as determined by reference to the Manufacturer's current list price for replacement. When Plant is returned damaged the Hirer will indemnify the Owner against all costs and expenses incurred by the Owner in rectifying the damage or, if the rectification of the Plant would, in the opinion of the Owner be uneconomic, against all costs and expenses incurred by the Owner in providing a replacement for the Plant. The hire charges will continue until the Hirer has fully settled their dues in respect of the rectification or replacement costs and expenses as applicable.

6. LIABILITIES

a) Consequential losses of Hirer : The Owner shall not be liable for any loss of profit, loss of production, loss of product, loss of use, loss of revenue (whether direct or indirect) or any indirect or consequential loss or damage whatsoever suffered by the Hirer



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arising out of or in connection with the Plant, whether caused by late delivery, non-delivery, unsuitability, deficiency or repossession of the Plant or any part thereof or any breakdown or stoppage of same or otherwise. The provisions of this Clause 6(a) shall apply notwithstanding the negligence or breach of duty (statutory or otherwise) of the Owner or any other entity or party.

b) Third Parties : The Hirer shall fully and completely indemnify the Owner in respect of all claims by any person whatsoever for injury to person, loss or damage to property or consequential or indirect losses howsoever caused including all costs and charges in connection therewith and arising from or in connection with the use of the Plant and whether or not arising under statute or common law or from the negligence or breach of duty or other wrongful act or omission of the Owner or any of the Owner's personnel.

c) The Hirer shall be responsible for compliance with all laws and regulations pertaining to the Plant and the use thereof.

In order to comply with the requirements of legislation, which includes the Management of Health and Safety at Work Regulations and the Provision and Use of Work Equipment Regulations, the Hirer has overall responsibility for the management and use of Plant.

The Hirer shall indemnify the Owner against any charges or fines that the Owner may become liable for as a result of the operation of the Plant during the period of hire.

7. MAINTENANCE OF PLANT

The Hirer shall allow the Plant to be operated only by persons competent to do so and only within its rated limits. The Hirer shall comply with all maintenance requirements in respect of the Plant which are specified by the Owner, or, where no such maintenance requirements are specified, the Owner shall maintain the Plant in accordance with the conventional maintenance requirements for Plant of the type in question. The Hirer shall return the Plant at the end of the hire in the same condition as received (fair wear and tear excepted).

8. RECERTIFICATION DOCUMENTS

Test certificates for Plant are supplied at the commencement of the period of hire, recertification where applicable or at the request of the Hirer shall be at the cost of the Hirer.

9. HIRE CHARGES

Plant is hired on a daily rate, unless otherwise agreed. Hire charges will be invoiced at the end of each calendar month and at the termination of the hire. The hire period includes the days of delivery to and return from the Hirer.

10. OWNERSHIP OF PLANT

The Plant remains at all times the property of the Owner and the Owner shall be entitled at any time to terminate the hire and repossess the Plant or any part thereof.

Risk in the Plant shall pass immediately to the Hirer when they leave the physical possession or control of the Owner. Risk in the Plant shall not pass back to the Owner from Hirer until the Plant are returned back to the possession of the Owner with off hire documentation being issued to/obtained by the Hirer and retained as evidence of end of hire.

The Hirer must not deal with the ownership or any interest in the Plant including but not limited to selling, assigning, mortgaging, pledging, charging, hiring, withholding, exerting any right to withhold, disposing of and/or lending without the prior written agreement of the Owner.

11. PAYMENT

The Hirer shall make payment to the Owner's designated bank account within 15 days following receipt of invoice. The Owner's prices are, unless otherwise stated, exclusive of any applicable VAT for which the Hirer shall additionally be liable.

Payment by the Hirer on time is an essential condition of the Hire Agreement. If the Hirer fails to make payment in full on the due date, the Owner shall be entitled to charge, and the Hirer shall be liable to pay interest on the unpaid amount at the rate of 3% (three per cent) per annum above the then Bank of England Base Rate, calculated pro rata on a daily basis.

Should Hirer wish to extend the period of hire, then they must notify Owner no later than 14 days prior to the end of the original period of hire to request such extension. Owner will then re-issue their Quote for Hirer's acceptance. Hirer shall issue a revised or new Purchase Order which captures the resulting increase in the hire price. Unless this is received by the Owner prior to the end of the original period of hire, then the period of hire is deemed to have expired and the Plant must be returned to Owner.

Hirer shall pay all sums due to the Owner under this hire term without any-set off, deduction and/or any other withholding of monies.

12. POLLUTION

The Hirer shall indemnify, defend and hold harmless the Owner in respect of any claim made against the Owner by any party whomsoever in respect of pollution of any nature whatsoever emanating from the Plant and in respect of all costs and charges in connection therewith. The provisions of this Clause 13 shall apply notwithstanding the negligence or breach of duty (statutory or otherwise) of the Owner or any other entity or party.

13. LIMITATION OF LIABILITY

Notwithstanding any other provision contained in the hire contract, the maximum cumulative liability of the Owner to the Hirer arising out of or in connection with



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the Hire Agreement in respect of the Plant, whether in contract, tort or otherwise at law shall in no event exceed 20% (twenty percent) of the amount paid by the Hirer to the Owner under the hire contract or £10,000.00 (Ten Thousand Pounds Sterling), whichever is the lesser amount.

14. INSURANCE

The Hirer shall, during the entire period of hire and for as long as the Hirer has possession of the Plant, take out, maintain and pay for insurance against loss of and damage to the Plant for the full replacement value of the Plant and shall name the Owner as the loss Payee.

The Hirer shall during the entire period of hire and for as long as the Hirer has possession of the Plant, at Hirer's cost, take out and maintain a General Liability Insurance against claims for bodily harm, including death and property damage or loss arising from use of the Plant. The Insurance will have limits of at least £5,000,000.00.

Such Insurance policy shall not be modified or cancelled unless the insurer provides the Owner with 30 days written notice stating when the modification or cancellation will be effective.

Upon written demand by the Owner, the Hirer shall provide the Owner with an original policy or certificate evidencing such insurance.

If the Hirer fails to maintain and pay for such insurance, the Owner may, but is not obligated to obtain such insurance and recover the cost from the Hirer.

15. DEFAULT

15.1 The following shall be considered default under the Agreement;

- a) Failure by the Hirer to make payment to the Owner within the stipulated time;
- b) Hirer being a company, ceases or threatens to cease to carry on business, enters into voluntary or compulsory liquidation, has a receiver or administrator appointed over its assets;
- c) Hirer in the reasonable opinion of the Owner is financially inadequate to meet its obligations under the Hire Agreement.

15.2 If any of the events set out in 15.1 above occurs;

- a) Except where the Hirer is acting as a consumer, the Owner may enter, without prior notice, any premises of the Hirer where the Plant, which is the subject of this Agreement, may be and repossess the Plant. Such repossession shall not affect the Owner's right to recover from the Hirer any monies due to the Owner under the Hire Agreement and/or any damages in respect of any breach which occurred prior to repossession of the Plant.
- b) the Owner may terminate and /or suspend the Agreement without liability to the Hirer;
- c) all monies owed by the Hirer to the Owner shall immediately become due;

15.3 Upon termination of the Hire Agreement the Hirer shall immediately;

- a) return the Plant to the Owner or make the Plant available for collection by the Owner as requested by the Owner; and
- b) pay to the Owner all monies payable under the Hire Agreement.

16. GENERAL

a) Governing Law- This Agreement shall be construed in accordance with and governed by the laws of England and Wales and the Parties submit to the exclusive jurisdiction of the English Courts.

b) Dispute resolution – In the event of any dispute or disagreement arising out of or in connection with this Hire Agreement, either party may serve notice upon the other setting out brief details of the dispute that has arisen and the Parties shall use their best endeavours to settle such dispute by good faith negotiation. If the dispute cannot be resolved within 28 days from service of the notice by the Parties, the Courts of England shall have exclusive jurisdiction to hear and determine the dispute or any other claim, dispute or matter of difference which may arise out of or in connection with this Hire Agreement.

c) Survival – Upon expiry or earlier termination of this Agreement Clauses 6, 11, 12, 13, 15 and 16 shall continue in full force and effect.

d) Extent of Hire Agreement – No terms, conditions or warranties other than as specifically set forth in the Quote shall be deemed to be incorporated or to form part of the Hire Agreement or shall otherwise govern the relationship between the Owner and the Hirer in relation to the hire of any particular Plant pursuant to the Quote. This excludes all other terms or conditions which the Hirer may seek to apply under any Purchase Order and supersedes all prior negotiations, representations or agreements, whether written or oral unless and to the extent that they are expressly accepted in writing and signed by the Owner. The Owner and the Hirer do not intend that any of the terms of the Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to the Contract, except that a person who is a successor to or an assignee of the rights of the Owner is deemed to become a party to the Contract after the date of succession or assignment (as the case may be).

e) Advice - If the Owner or any of the Owner's personnel give any advice it is provided strictly on the basis that it is for guidance only, and without any responsibility being accepted. The onus is on the Hirer to verify the accuracy and/or appropriateness of such advice and to accept or reject accordingly. If any such Advice is given it is given on the basis that no legal liability shall attach to the Owner or any of the Owner's personnel.