TERMS AND CONDITIONS OF BUSINESS

Farol Limited

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Parties

(1) Farol Limited incorporated and registered in England and Wales with company number 041573980 whose registered office is at Rycote Lane Farm, Milton Common, Thame, Oxon OX9 2NZ (Supplier) and

(2) The company, business or person named on the Order form, or as detailed here: (Customer and Hirer if applicable)

BACKGROUND

(A) The **Supplier** is in the business of hiring and selling equipment, machinery, tyres, spare parts, licences, finance, consultancy and training and providing repairs and maintenance services.

(B) The **Customer** agrees to obtain and the Supplier agrees to provide the Goods and/or Services as set out in the Order on the terms set out in this agreement.

Agreed terms

1. **Interpretation**

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

1.1 Definitions

Affected Party: has the meaning given in clause 18.2.

Applicable Laws: all applicable laws, statutes, regulations and codes from time to time in force.

Applicable Data Protection Laws: means:

a) To the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data.

b) To the extent the EU GDPR applies, the law of the law of the European Union or any member state of the European Union to which the Supplier is subject, which relates to the protection of personal data.

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

Business Hours: the period from 8.00 am to 5.00 pm on any Business Day.

Charges: the sums payable for the Services, as set out in the Order.

Commencement Date: has the meaning given in clause 2.2.

Conditions: means the terms and conditions of this contract.

Control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of Control** shall be construed accordingly.

Customer's Equipment: any equipment, including tools, systems, provided by the Customer, its agents, subcontractors or consultants which is used directly or indirectly in the supply of the Services including any such items specified in the Order.

Customer Materials: all documents, information, items and materials in any form, whether owned by the Customer or a third party, which are provided by the Customer to the Supplier in connection with the Services, including the items provided pursuant to clause 7.1(e).

Customer Personal Data: any personal data which the Supplier processes in connection with this agreement, in the capacity of a processor on behalf of the Customer.

Deliverables: any output of the Services to be provided by the Supplier to the Customer as specified in the Order and any other documents, products and materials provided by the Supplier to the Customer in relation to the Services (excluding the Supplier's Equipment).

Delivery Location: has the meaning given in clause 6.7.

EU GDPR: means the General Data Protection Regulation (EU) 2016/679), as it has effect in EU law.

Goods: equipment, machinery, tyres, spare parts, licences, finance, consultancy and training supplied or to be supplied by the Supplier

Goods Specification: any specification for the Goods, including relevant plans or drawings that is agreed in writing by the Customer and the Supplier.

Indemnified Party: has the meaning given in clause 12.4.

Indemnifying Party: has the meaning given in clause 12.4.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade-marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Order: the Customer's order for the supply of Goods and/or Services as set out in the Customer's purchase order form.

Services: the services as set out in the Order, any quote or estimate.

Services Specification: the description or specification for the Services provided in writing by the Supplier to the Customer.

Supplier's Equipment: any equipment, including tools, systems, cabling or facilities, provided by the Supplier to the Customer and used directly or indirectly in the supply of the Services including any such items specified in the Order but excluding any such items which are the subject of a separate agreement between the parties under which title passes to the Customer.

Supplier Personal Data: any personal data which the Supplier processes in connection with this agreement, in the capacity of a controller.

UK GDPR: has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

VAT: value added tax chargeable in the UK.

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

1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

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

1.5 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.6 Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include the singular.

1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.8 Unless expressly provided otherwise in this agreement, a reference to legislation or a legislative provision is a reference to it as it is in force as at the date of this agreement.

1.9 Unless expressly provided otherwise in this agreement, a reference to legislation or a legislative provision shall include all subordinate legislation made as at the date of this agreement under that legislation or legislative provision.

1.10 A reference to **writing** or **written** includes fax and email.

1.11 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

1.12 A reference to **this agreement** or to any other agreement or document referred to in this agreement is a reference of this agreement or such other agreement or document, in each case as varied from time to time.

1.13 References to clauses and Schedules are to the clauses and Schedules of this agreement and references to paragraphs are to paragraphs of the relevant Schedule.

1.14 Any words following the terms including, **include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. **Basis of contract**

2.1 The Order constitutes an offer by the Customer to purchase Goods or Services or Goods and Services in accordance with these Conditions.

2.2 The order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order at which point and on which date the Contract shall come into existence (Commencement Date).

2.3 Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Goods or illustrations or descriptions of the Services contained in the Supplier's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods and Services described in them. They shall not form part of the Contract nor have any contractual force.

2.4 These Conditions apply to the Contract to the exclusion of any other terms and conditions that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

2.5 Any quotation given by the Supplier shall not constitute an offer and is only valid for a period of 7 Business Days from its date of issue.

2.6 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

2.7 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.

2.8 The Supplier shall provide the Services to the Customer in accordance with this agreement.

3. **Goods**

3.1 The goods are those which are described in the Order which has been accepted by the Supplier.

3.2 The Supplier reserves the right to amend the Goods if required by any applicable statutory, regulatory requirement or requirement from the manufacturer, and the Supplier shall notify the Customer in any such event.

4. **Quality of Goods**

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

(a) materially conform with their description;

(b) be free from material defects in design, material and workmanship; and

(c) be fit for any purpose held out by the Supplier.

4.2 Subject to clause 4.3, if:

(a) 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 4.1;

(b) the Supplier is given a reasonable opportunity of examining such Goods; and

(c) the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Supplier's cost,

the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

4.3 The Supplier shall not be liable for the Goods' failure to comply with the warranty set out in clause 4.1 if:

(a) the Customer makes any further use of such Goods after giving a notice in accordance with clause 4.2;

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

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

(d) the Customer alters or repairs such Goods without the written consent of the Supplier;

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

(f) the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

4.4 Except as provided in this clause 4, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 4.1.

4.5 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

4.6. In respect of Goods which are sold as "second hand" (**Second-Hand Goods**):

(a) The Customer acknowledges that all Second-Hand Goods are sold on an "as seen" or on a "spares or repairs" basis as specified on the Order by the Supplier;

(b) The Customer confirms they have inspected, or have had the opportunity to inspect, the Second-Hand Goods prior to purchase and accepts them in the condition in which they are found at the time of sale, including any defects apparent on inspection. The Customer confirms that they have not relied on any description statement or representation made by the Supplier that is not expressly set out in writing;

(c) It is the Customer's strict responsibility to ensure that the Second-Hand Goods are safe to use and are used in accordance with any instructions provided by the Supplier; and

(d) Except to the extent prohibited by law, the Supplier gives no warranty (express or implied) as to the quality, condition, durability or fitness of the Second-Hand Goods for any particular purpose. To the fullest extent permitted by law, the Supplier shall not be liable to the Customer for any loss, damage or expense arising out of the condition or use of the Second-Hand Goods, whether in contract, tort or otherwise, save that nothing in this clause shall limit or exclude liability for: (a) death or personal injury caused by the Supplier's negligence; (b) fraud or fraudulent misrepresentation; or (c) any other liability which cannot lawfully be excluded.

5. **Title and risk (excluding hire agreements)**

5.1 The risk in the Goods shall pass to the Customer on completion of delivery.

5.2 Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds);-

(a) for the Goods and/or Services; and

(b) any other goods or services that the Supplier has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums.

5.3 Until title to the Goods has passed to the Customer, the Customer shall:

a) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;

b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;

d) notify the Supplier immediately if it becomes subject to any of the events listed in clause 16.1;

e) give the Supplier such information as the Supplier may reasonably require from time to time relating to:

i. the Goods; and

ii. the ongoing financial position of the Customer.

5.4. Even though title has not passed to the Customer as per the provisions of clause 5.2, the Supplier shall be entitled to sue for their price once payment has become due. The Supplier shall be entitled in the absence of payment, and is hereby authorised by the Customer (on behalf of him/her/itself and all successors in title and assigns as well any insolvency practitioner appointed to manage the affairs of the Customer), to enter onto the Customer's land and/or buildings or any location where the goods are from time to time located to retrieve and uplift all goods delivered and unpaid for. The Customer shall not pledge or charge howsoever nor allow any distraint to be exercised over any and all goods supplied under the Order, and which have not been paid for. The Customer hereby fully and

effectively indemnifies and shall keep indemnified the Supplier in respect of any costs, claims, demands and expenses and any disbursements and legal fees caused by the Customer's breach of these Conditions.

6. Supplier's responsibilities

6.1 The Supplier shall use reasonable endeavours to supply the Goods and/or Services, and deliver the Deliverables to the Customer, in accordance with this agreement and/or the Order in all material respects.

6.2 The Supplier shall use reasonable endeavours to meet any performance dates specified in the Order, but any such dates shall be estimates only and time for performance by the Supplier shall not be of the essence of this agreement.

6.3 The Supplier reserves the right to amend the Service Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

6.4 The Supplier reserves the right to amend the Goods Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Goods, and the Supplier shall notify the Customer in any such event.

6.5 The Supplier shall provide the Services using reasonable care and skill.

6.6 The Supplier shall appoint a manager for the Services. That person shall have authority to contractually bind the Supplier on all matters relating to the Services. The Supplier may replace that person from time to time where reasonably necessary in the interests of the Supplier's business.

6.7 The Supplier shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (Delivery Location) at any time after the Supplier notifies the Customer that the Goods are ready.

6.8 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.

6.9 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

6.10 If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods.

6.11 If the Customer fails to take delivery of the Goods within three Business Days of the Supplier notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Goods:

(a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which the Supplier notified the Customer that the Goods were ready; and

(b) the Supplier shall store the Goods until actual delivery takes place, and charge the Customer for all related costs and expenses (including insurance).

6.12 If ten Business Days after the day on which the Supplier notified the Customer that the Goods were ready for delivery the Customer has not taken actual delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, charge the Customer for any shortfall below the price of the Goods.

6.13 The Supplier shall use reasonable endeavours to observe all health and safety and security requirements that apply at the Customer's premises and that have been communicated to it under clause 7.1(g), provided that it shall not be liable under this agreement if, as a result of such observation, it is in breach of any of its obligations under this agreement.

7. Customer's obligations

7.1 The Customer shall:

(a) ensure that the terms of the Order are complete and accurate;

(b) co-operate with the Supplier in all matters relating to the Goods and Services;

(c) appoint a manager for the Services. That person shall have the authority to contractually bind the Customer on matters relating to the Services;

(d) provide for the Supplier, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Customer's premises, office accommodation, data and other facilities as required by the Supplier;

(e) provide to the Supplier in a timely manner all documents, information, items and materials in any form (whether owned by the Customer or third party or otherwise) reasonably required by the Supplier in connection with the Services and ensure that they are accurate and complete in all material respects;

(f) prepare the Customer’s premises for the supply of the Services and/or delivery of the Goods;

(g) inform the Supplier a reasonable time in advance in writing of all health and safety and security requirements that apply at the Customer's premises;

(h) bring the Customer’s Equipment and/or Goods to the Supplier’s premises in a timely manner as required for receiving the Services;

(i) notify the Supplier of any faults or defects with the Customer’s Equipment that may cause issues during the provision of the Services by the Supplier;

(j) ensure that all the Customer's Equipment is in good working order and suitable for the purposes for which it is used and conforms to all relevant United Kingdom standards or requirements;

(k) obtain and maintain all necessary licences and consents and comply with all relevant legislation as required to enable the Supplier to provide the Services, including in relation to the installation of the Goods, the use of all Customer Materials and the use of the Customer's Equipment, in all cases before the date on which the Services are to start;

(l) only allow trained, competent operators to use the Goods and/or Supplier's Equipment;

(m) keep, maintain and insure the Goods and/or Supplier's Equipment in good condition (including but not limited to bringing any Goods to the Supplier for servicing as required) and shall not dispose of, use, or make modifications to the Goods or the Supplier's Equipment other than in accordance with the Supplier's oral and written instructions or authorisation; and

(n) comply and conform with all applicable laws and regulations relating to possession, use and maintenance of the Goods and/or Supplier's Equipment (where applicable) and with any additional obligations as set out in the Service Specification or the Goods Specification or both.

7.2 If the Supplier's performance of its obligations under this agreement is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, then, without prejudice to any other right or remedy it may have, the Supplier shall be allowed an extension of time to perform its obligations equal to the delay caused by the Customer.

8. **No Agency**

The Customer acknowledges that no person not actually in the employ of the Supplier is or is deemed to be the agent or entitled to act on behalf of or make any representation or warranty binding on the Supplier.

9. **Non-solicitation**

9.1 Except in respect of any transfer of employees of the Supplier to the Customer pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246), the Customer shall not, without the prior written consent of the Supplier, at any time from the date of this agreement to the expiry of 12 months after the termination or expiry of this agreement, solicit or entice away from the Supplier or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant or subcontractor of the Supplier in the provision of the Services.

9.2 Any consent given by the Supplier in accordance with clause 9.1 shall be subject to the Customer paying to the Supplier a sum equivalent to 20% of the then current annual remuneration of the Supplier's employee, consultant or subcontractor or, if higher, 20% of the annual remuneration to be paid by the Customer to that employee, consultant or subcontractor.

10. **Change of specification**

10.1 If the Customer wishes to make a modification to the Goods Specification after the Order has been provided to the Supplier:

(a) it shall notify the Supplier and provide as much detail as the Supplier reasonably requires of the proposed changes; and

(b) upon approval of such modification make payment in advance to the Supplier in full at the price stipulated by the Supplier.

11. **Charges and payment**

11.1 In consideration of the provision of the Goods and Services by the Supplier, the Customer shall pay the price set out and agreed upon in the Order. Where modifications are made at the request of the Customer or where the Supplier makes a large order on the Customer's behalf, the Supplier may require payment of a non-refundable deposit in which case such deposit shall be paid on placing of the Order.

11.2 If we accept and process your Order where a pricing error is obvious and unmistakeable and could reasonably have been recognised by the Customer as a mispricing, both parties agree to negotiate a solution in good faith. If the parties are unable to reach agreement the Supplier may end the Contract and refund you any sums you have paid without any further obligation to the Customer.

11.3 Where the Charges are calculated on a time and materials basis:

(a) the Supplier's daily fee rates for each individual person as set out in the Order are calculated based on an eight-hour day, worked during Business Hours;

(b) the Supplier shall be entitled to charge an overtime rate of 150% of the daily fee rate set out in the Order on a pro rata basis for any time worked by individuals whom it engages on the Services outside Business Hours.

11.4 Where the Services are provided other than at the Supplier's premises:

a) The contract Order price is calculated on the basis that the Supplier's workmen or contractors have free access to the site at the agreed date and time and are able to work continuously on the site until the work is completed. In the event of any interruption or delay caused otherwise than by the Supplier, the additional expense incurred shall be paid by the Customer to the Supplier in accordance with these Conditions.

b) The Customer warrants to the Supplier that he/she/it has public liability insurance and employer's liability insurance all which provides appropriate cover for these Services.

c) The Customer undertakes to allow the Supplier's workmen or contractors the use free of charge to services of water, data / wifi, electricity and/or gas and toilet facilities, which may be available on site.

d) The Customer must provide a safe working environment for Supplier's workmen or contractors (HSWA 1974). The Customer must inform the Supplier in advance in writing of any site hazards (e.g., slopes, unstable ground, overhead lines, livestock).

11.5 The Charges exclude the following which shall be payable by the Customer monthly in arrears, following submission of an appropriate invoice:

(a) the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services; and

(b) the cost to the Supplier of any materials or services procured by the Supplier from third parties for the provision of the Services as such items and their cost are approved by the Customer in advance from time to time.

11.6 The Supplier may increase the Charges on an annual basis with effect from each anniversary of the date of this agreement in line with the percentage increase in the Retail Prices Index in the preceding 12-month period, and the first such increase shall take effect on the first anniversary of the date of this agreement and shall be based on the latest available figure for the percentage increase in the Retail Prices Index.

11.7 The Supplier shall invoice the Customer for the Charges at the intervals specified in the Order. If no intervals are so specified, the Supplier shall invoice the Customer at the end of each month for Services performed during that month.

11.8 Where it is agreed by the Supplier that the Customer will be permitted to provide a piece of equipment in part settlement of the Order, the Supplier will carry out an inspection and valuation in respect of the Customer's equipment's condition, specification and appearance. Once this valuation has taken place, the Customer shall keep the equipment in substantially the same condition until delivery to the Supplier and ensure that servicing is carried out at the required intervals stipulated by the manufacturer. Any material deterioration, damage, accident damage, missing components, excessive wear, mechanical defect, undisclosed fault or increase in operating hours (beyond what has been agreed) may result in the value of the equipment being reduced. The Customer shall be responsible for the cost of rectifying such deterioration or damage or otherwise paying the additional fee required to satisfy the Order price.

11.9 **Payment**: Unless we have agreed other payment terms with you in writing (whether in the Order, in these Conditions or otherwise):

a) for whole Goods and parts, payment must be made in full, before delivery or collection; and

b) for Services:

(i) payment must be made in full on completion of the Services or receipt of the Supplier's Invoice; or

(ii) for Credit Account Customers, within 30 days from the date of the Supplier's Invoice.

11.10 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay the Supplier any sum due under this agreement on the due date:

(a) the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 11.9(a) will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%;

(b) the Supplier may suspend all or part of the Services until payment has been made in full.

11.11 All sums payable to the Supplier under this agreement:

(a) are exclusive of VAT, and the Customer shall in addition pay an amount equal to any VAT chargeable on those sums on delivery of a VAT invoice; and

(b) shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law) to our Bank account as stated on our Invoice – or to such other account specified or agreed by us in writing.

12. Intellectual property rights

12.1 In relation to the Deliverables:

(a) the Supplier and its licensors shall retain ownership of all Intellectual Property Rights in the Deliverables, excluding the Customer Materials;

(b) the Customer shall not sub-license, assign or otherwise transfer the rights granted to its customers.

12.2 In relation to the Customer Materials, the Customer:

(a) and its licensors shall retain ownership of all Intellectual Property Rights in the Customer Materials; and

(b) grants the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify the Customer Materials for the term of this agreement for the purpose of providing the Services to the Customer.

12.3 The Customer:

(a) warrants that the receipt and use of the Customer Materials in the performance of this agreement by the Supplier, its agents, subcontractors or consultants shall not infringe the rights, including any Intellectual Property Rights, of any third party; and

(b) shall indemnify the Supplier in full against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with any claim brought against the Supplier, its agents, subcontractors or consultants for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt or use in the performance of this agreement of the Customer Materials.

12.4 If either party (the Indemnifying Party) is required to indemnify the other party (the Indemnified Party) under this clause 12, the Indemnified Party shall:

(a) notify the Indemnifying Party in writing of any claim against it in respect of which it wishes to rely on the indemnity at clause 12.3(b) (as applicable) (IPRs Claim);

(b) allow the Indemnifying Party, at its own cost, to conduct all negotiations and proceedings and to settle the IPRs Claim, always provided that the Indemnifying Party shall obtain the Indemnified Party's prior approval of any settlement terms, such approval not to be unreasonably withheld;

(c) provide the Indemnifying Party with such reasonable assistance regarding the IPRs Claim as is required by the Indemnifying Party, subject to reimbursement by the Indemnifying Party of the Indemnified Party's costs so incurred; and

(d) not, without prior consultation with the Indemnifying Party, make any admission relating to the IPRs Claim or attempt to settle it, provided that the Indemnifying Party considers and defends any IPRs Claim diligently, using competent counsel and in such a way as not to bring the reputation of the Indemnified Party into disrepute.

13. **Data protection**

13.1 For the purposes of this clause 13, the terms controller, processor, data subject, personal data, personal data breach and processing shall have the meaning given to them in the UK GDPR.

13.2 Both parties will comply with all applicable requirements of the Applicable Data Protection Laws. This clause 13 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under Applicable Data Protection Laws.

13.3 Without prejudice to clause 13.2, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Supplier Personal Data and Customer Personal Data to the Supplier and lawful collection of the same by the Supplier for the duration and purposes of this agreement.

13.4 Without prejudice to clause 13.2, the Supplier shall, in relation to Customer Personal data:

(a) process that Customer Personal Data only on the documented instructions of the Customer, which shall be to process the Customer Personal Data for the purposes set out in Schedule 3 (Processing, personal data and data subjects);

(b) implement the technical and organisational measures set out in Schedule 3 (Processing, personal data and data subjects) to protect against unauthorised or unlawful processing of Customer Personal Data and against accidental loss or destruction of, or damage to, Customer Personal Data, which the Customer has reviewed and confirms are appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;

(c) ensure that any personnel engaged and authorised by the Supplier to process Customer Personal Data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;

(d) assist the Customer insofar as this is possible (taking into account the nature of the processing and the information available to the Supplier), and at the Customer's cost and written request, in responding to any request from a data subject and in ensuring the Customer's compliance with its obligations under Applicable Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

(e) notify the Customer without undue delay on becoming aware of a personal data breach involving the Customer Personal Data;

(f) at the written direction of the Customer, delete or return Customer Personal Data and copies thereof to the Customer on termination of the agreement unless the Supplier is required by Applicable Law to continue to process that Customer Personal Data. For the purposes of this clause 13.4(f), Customer Personal Data shall be considered deleted where it is put beyond further use by the Supplier; and

(g) maintain records to demonstrate its compliance with this clause 13.

13.5 The Customer provides its prior, general authorisation for the Supplier to:

(a) appoint processors to process the Customer Personal Data, provided that the Supplier:

(i) shall ensure that the terms on which it appoints such processors comply with Applicable Data Protection Laws, and are consistent with the obligations imposed on the Supplier in this clause 13;

(ii) shall remain responsible for the acts and omission of any such processor as if they were the acts and omissions of the Supplier; and

(iii) shall inform the Customer of any intended changes concerning the addition or replacement of the processors, thereby giving the Customer the opportunity to object to such changes provided that if the Customer objects to the changes and cannot demonstrate, to the Supplier's reasonable satisfaction, that the objection is due to an actual or likely breach of Applicable Data Protection Law, the Customer shall indemnify the Supplier for any losses, damages, costs (including legal fees) and expenses suffered by the Supplier in accommodating the objection.

(b) transfer Customer Personal Data outside of the UK as required for the Purpose, provided that the Supplier shall ensure that all such transfers are affected in accordance with Applicable Data Protection Laws. For these purposes, the Customer shall promptly comply with any reasonable request of the Supplier, including any request to enter into standard data protection clauses adopted by the EU Commission from time to time (where the EU GDPR applies to the transfer) or adopted by the Commissioner from time to time (where the UK GDPR applies to the transfer).

13.6 Either party may, at any time on not less than 30 days' notice, revise this clause 13 (Data protection) by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).

13.7 The Supplier's liability for losses arising from breaches of this clause 13 is as set out in clause 15.7(b)

14. Confidentiality

14.1 Each party undertakes that it shall not at any time during this agreement, and for a period of one years after termination or expiry of this agreement, disclose to any person any confidential information

concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 14.2.

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

(a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 14; and

(b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

14.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

15. Limitation of liability

15.1 The Supplier has obtained insurance cover in respect of its own legal liability for individual claims not exceeding £10,000,000 per claim. The limits and exclusions in this clause reflect the insurance cover the Supplier has been able to arrange, and the Customer is responsible for making its own arrangements for the insurance of any excess loss.

15.2 References to liability in this clause 15 include every kind of liability arising under or in connection with this agreement including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

15.3 Neither party may benefit from the limitations and exclusions set out in this clause in respect of any liability arising from its deliberate default.

15.4 Nothing in this this clause 15 shall limit the Customer's payment obligations under this agreement.

15.5 Nothing in this agreement shall limit the Customer's liability under clause 12.3 (IPR indemnities);

15.6 Nothing in this agreement limits any liability which cannot legally be limited, including but not limited to liability for:

(a) death or personal injury caused by negligence;

(b) fraud or fraudulent misrepresentation; and

(c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

15.7 Subject to clause 15.3 (no limitations in respect of deliberate default) and clause 15.6 (liabilities which cannot legally be limited), the Supplier's total liability to the Customer:

(a) for damage to property caused by the negligence of its employees and agents in connection with this agreement shall not exceed £1,000,000 for any one event or series of connected events;

(b) for loss arising from the Supplier's failure to comply with its data processing obligations under clause 13 (Data protection) shall not exceed £500,000; and

(c) for all other loss or damage which does not fall within subclause (a) or (b) shall not exceed £1,000,000.

15.8 Subject to clause 15.3 (no limitations in respect of deliberate default), clause 15.5 (liability under identified clauses) and clause 15.6 (liabilities which cannot legally be limited), the Customer's total liability to the Supplier:

(a) for damage to property caused by the negligence of its employees and agents in connection with this agreement shall not exceed £10,000,000 for any one event or series of connected events;

(b) for loss arising from the Supplier's failure to comply with its data processing obligations under clause 15 (Data protection) shall not exceed £10,000,000; and

(c) for all other loss or damage which does not fall within subclause (a) or (b) shall not exceed £10,000,000.

15.9 The caps on the Customer's liabilities shall not be reduced by:

(a) amounts awarded or agreed to be paid under clause 12 (IPR indemnities);

(b) amounts awarded by a court or arbitrator, using their procedural or statutory powers in respect of costs of proceedings or interest for late payment.

15.10 Subject to clause 15.3 (No limitations in respect of deliberate default), clause 15.4 (No limitation on the customer's payment obligations), clause 15.5 (liability under identified clauses) and clause 15.6 (Liabilities which cannot legally be limited), this clause 15.10 specifies the types of losses that are excluded:

(a) loss of profits;

(b) loss of sales or business;

(c) loss of agreements or contracts;

(d) loss of anticipated savings;

(e) loss of use or corruption of software, data or information;

(f) loss of or damage to goodwill; and

(g) indirect or consequential loss.

15.11 The Supplier has given commitments as to compliance of the Services with relevant specifications in clause 7 (Supplier's responsibilities). In view of these commitments, the terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this agreement.

15.12 Unless the Customer notifies the Supplier that it intends to make a claim in respect of an event within the notice period, the Supplier shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of the event having occurred and shall expire 6 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

15.13 The Customer shall indemnify and shall keep indemnified the Supplier in full against all claims, liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with or brought against the Supplier, its agents, subcontractors or consultants relating to (without limitation):

(a) the Customer:

(i) failing to follow the Supplier or manufacturer's instructions on how to use the Goods, including the carrying out of manufacturer checks, services and maintenance requirements;

(ii) failing to adequately train the user on how to use the Goods;

(iii) failing to follow the relevant applicable laws and guidance including (but not limited to) HSE agricultural guidance, PUWER, LOLER, and relevant British Standards;

(iv) failing to maintain guards, warning labels, and safety devices as stipulated by the Supplier or manufacturer;

(v) any damage to property arising out of or in connection with the acts or omissions of the Customer;

(vi) any claim by a third party arising out of or in connection with defective Goods to the extent that the defect is attributable to the acts or omissions of the Customer; or

(vii) any action (including any investigation) by a regulator or governmental authority arising out of or in connection with the Customer's acts or omissions.

16. Termination and Cancellation

16.1 Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:

(a) the other party commits a material breach of any other term of this agreement and (if such breach is remediable) fails to remedy that breach within a period of 5 days after being notified in writing to do so;

(b) the other party repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;

(c) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 as if the words "it is proved to

the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986;

(d) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors;

(e) the other party applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986;

(f) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company);

(g) an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party (being a company, partnership or limited liability partnership);

(h) the holder of a qualifying floating charge over the assets of that other party (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver;

(i) a person becomes entitled to appoint a receiver over all or any of the assets of the other party or a receiver is appointed over all or any of the assets of the other party;

(j) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;

(k) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 16.1(c) to clause 16.1(j) (inclusive);

(l) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or

(m) the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this agreement is in jeopardy.

16.2 Without affecting any other right or remedy available to it, the Supplier may terminate this agreement with immediate effect by giving written notice to the Customer if:

(a) the Customer fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment; or

(b) there is a change of Control of the Customer.

16.3 Where the Customer is a consumer, the Customer may terminate the agreement within 14 days without giving any reason in line with clause 16.3.

(a) The Cancellation Period will expire after 14 days from the day that on which the Customer acquires, or a third party other than the carrier and indicated by you acquires, physical possession of the goods (the Cancellation Period).

(b) To exercise this right to cancel, the Customer must tell the Supplier within the Cancellation Period by contacting the Supplier or sending the Supplier a completed cancellation form.

(c) If the Customer decides that they want the Supplier to begin the Services before the end of the Cancellation Period, the Customer must tell the Supplier by completing and sending the Supplier an express request form.

16.4 Where the Customer sends to the Supplier a completed Express Request Form and then later decides to cancel the Contract within the Cancellation Period, they can do so. In this situation:

(a) If the Supplier has not begun the Installation before the Customer tells the Supplier they want to cancel the Contract, the Supplier will reimburse the Customer for any payments that the Customer has already made. Refunds will be made within 14 days of the Customer telling the Supplier they want to cancel and will be made by the same means that payment was received from the Customer.

(b) If the Supplier has begun the supply of the Goods and/or Services before the Customer tells the Supplier they want to cancel the Contract, but the Supplier has not completed the supply, the Supplier will remove all parts of the Goods that were delivered at the time of cancellation and the Customer must pay the Supplier for the costs the Supplier has incurred, including the costs of removal and any reduction in the value of the Goods.

17. Obligations on termination and survival

17.1 Obligations on termination or expiry

On termination or expiry of this agreement:

(a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of the Services supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt;

(b) the Customer shall, return all of the Supplier's Equipment. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of the Supplier's Equipment. Until they have been returned or repossessed, the Customer shall be solely responsible for their safe keeping; and

(c) the Supplier shall on request return any of the Customer Materials not used up in the provision of the Services.

17.2 Survival

(a) On termination or expiry of this agreement, the following clauses shall continue in force: clause 1 (Interpretation), clause 9 (Non-solicitation), clause 12 (Intellectual property rights), clause 14 (Confidentiality), clause 15 (Limitation of liability), clause 16 (Consequences of

termination), clause 22 (Waiver), clause 24 (Severance), clause 26 (Conflict), clause 31 (Governing law) and clause 32 (Jurisdiction).

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

18. Force majeure

18.1 **Force Majeure Event** means any circumstance not within a party's reasonable control including, without limitation:

(a) acts of God, flood, drought, earthquake or other natural disaster;

(b) epidemic or pandemic;

(c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;

(d) nuclear, chemical or biological contamination or sonic boom / wave;

(e) any law or any action taken by a government or public authority, including imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;

(f) collapse of buildings, fire, explosion or accident;

(g) any labour or trade dispute, strikes, industrial action or lockouts (other than in each case by the party seeking to rely on this clause, or companies in the same group as that party);

(h) non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this clause); and (i) interruption or failure of utility service.

18.2 Provided it has complied with clause 18.4, if a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event (Affected Party), the Affected Party shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

18.3 The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.

18.4 The Affected Party shall:

(a) as soon as reasonably practicable after the start of the Force Majeure Event but no later than 7 days from its start, notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement; and

(b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

18.5 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 2 weeks, the party not affected by the Force Majeure Event may terminate this agreement by giving 2 weeks' written notice to the Affected Party.

19. **Complaints procedure**

19.1 This clause will apply where the order is classed as a consumer transaction as per the Order.

19.2 If we fail to deliver the standard of service you expect, please contact us so that we can put it right.

19.3 We train our team to be able to sort most things out straight away. We try to resolve complaints in 3 working days or less. If you're not satisfied with how we respond, you can ask us to review your case. We'll look into how we've handled it and decide if we should do anything differently.

20. **Assignment and other dealings**

20.1 This agreement is personal to the Customer, and the Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement.

20.2 The Supplier may at any time sub-contract, assign, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights under this agreement.

21. **Variation**

Subject to clause 10 (Change control), no variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

22. **Waiver**

22.1 A waiver of any right or remedy under this agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

22.2 A failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

23. **Rights and remedies**

The rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

24. **Severance**

24.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement.

24.2 If any provision or part-provision of this agreement is deemed deleted under clause 24.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

25. **Entire agreement**

25.1 This agreement and the Order (or Corporate Hire Agreement as the case may be) constitute 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.

25.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this agreement.

26. **Conflict**

If there is an inconsistency between any of the provisions of this agreement and the provisions of the Order, the provisions of this agreement shall prevail.

27. **No partnership or agency**

27.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

27.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

28. **Third party rights**

28.1 This agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

29. **Notices**

29.1 Any notice or other communication given to a party under or in connection with this agreement shall be in writing and shall be:

(a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case), or email.

29.2 Any notice or communication shall be deemed to have been received:

(a) if delivered by hand, at the time the notice is left at the proper address;

(b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or

(c) if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.

29.3 In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, it will be sufficient to prove in the case of an email, that such email was sent to the specified email address of the addressee.

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

30. **Counterparts**

30.1 This agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

31. **Governing law**

This agreement 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.

32. **Jurisdiction**

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 agreement or its subject matter or formation.

Corporate Hire Agreement

In addition to the Conditions above, the following additional clauses shall apply solely to the Hire of Goods. In the event of a conflict between the terms set out in this Corporate Hire Agreement section and the remainder of these Conditions the terms set out in this Corporate Hire Agreement section shall prevail.

1. **Disclaimers and Exclusions:** Since the Goods have been selected by Hirer it is expressly agreed and acknowledged that no term, condition, warranty or representation (express or implied) is or has been given by or on behalf of the Supplier in respect of the Goods. All terms, conditions, warranties and representations (express or implied and whether statutory, collateral hereto or otherwise) relating to the Goods, its specification, age, quality (satisfactory or otherwise), description or as to its fitness for any purpose are hereby expressly excluded.

   The Supplier shall not, other than in the exercise of its rights under this agreement or applicable law, interfere with the Hire's quiet possession of the Goods.

2. **Interests of the Supplier:**

2.1 Hirer shall not do or permit to be done anything which would prejudice or jeopardise the rights of the Supplier in respect of the Goods.

2.2 The Hirer shall not:
2.2.1 hold itself out as owner of the Goods nor pledge the credit of the Supplier for the repair of the Goods or otherwise; or

2.2.2 sell, charge, pledge or mortgage, or permit or cause any lien, encumbrance or other security interest to arise over, or otherwise dispose of, the Goods, or any interest therein or in the insurances thereon, or purport to do any of them;

2.2.3 part with possession of the Goods (save for complying with its obligations as to repairs and maintenance) or sub-hire (other than with the prior written consent of the Supplier), or

2.2.4 remove the Goods (or any part of it) from the UK.

2.3 Hirer shall keep the Goods free of all claims by other persons (including by way of confiscation, seizure, distress, execution, diligence, or other legal process) and in the event of any such claims, shall procure the immediate release of the Goods therefrom and shall keep the Supplier immediately informed of the happening of any event which might affect the rights of the Supplier or involve them in any proceedings, loss or liability.

3. **Addition of Accessories:** Hirer will not, without the written consent of the Supplier, install any accessories or devices on the Goods if such installation will impair the originally intended function or use of the Goods. All accessories or devices fixed to the Goods shall automatically become the property of the Supplier unless such part or device can be removed without in any way affecting the originally intended function or use of the Goods. Any damage to the Goods caused by the removal of such accessories or devices shall be repaired at the Hirer's expense.

4. **Hire Charges:**

4.1 Payment must be made in full in advance before delivery or collection of the Goods.

4.2. No hire charges payable in advance shall be returnable in the event of the termination of the hiring of the Goods for whatever reason, save in the events described in Clause 11 below. Subject to the Supplier's written approval in advance, an extension of the initial hire period for the Goods may be permitted by the Supplier where additional payment is received by the Supplier in advance of the end of the initial hire period.

4.3 If any payment due from Hirer hereunder is not paid on the due date Hirer shall, without prejudice to the Supplier's other rights and remedies, pay on demand interest thereon at the rate of 4% above the Bank of England base rate for lending from time to time (as well after as before judgment) from and including such due date to the date of actual payment. Such interest shall accrue on a daily basis and be compounded monthly.

4.4 All payments of hire charges and any other payments due to the Supplier under this Hire Agreement shall be made without any set-off or counterclaim and free and clear of all deductions or withholdings whatsoever.

4.5 All payments due to the Supplier under this Hire Agreement are calculated excluding Value Added Tax. Hirer shall pay to the Supplier all hire charges and other sums due under this Hire Agreement together with Value Added Tax thereon (if any) at the applicable rate.

4.6 Subject to the express periods of grace in Clause 8.1 below, punctual payment of amounts and hire charges payable by Hirer and timely performance by Hirer of each of its obligations hereunder shall be of the essence and conditions of this Corporate Hire Agreement.

5. **Use:**

The Hirer shall:

5.1 comply and conform to all laws and regulations relating to possession, use and maintenance of the Goods;
5.2 only use the Goods for the purpose(s) intended by the Supplier, and in accordance with the manufacturer's instructions;
5.3 only allow trained, competent operators to use the Goods;
5.4 check the Goods in accordance with any operation manual provided by the manufacturer or any instructions provided by the Supplier (including as to the frequency of inspection);
5.5. immediately report any defects of the Goods to the Supplier;
5.6 keep and maintain the Goods in good working order and condition (including but not limited to bringing the Goods to the Supplier for servicing as required);
5.7 not dispose of or carry out modifications to the Goods without written approval in advance by the Supplier; and
5.8. comply with any additional obligations of the Supplier as set out in the Goods Specification.

6. **Inspection:** Hirer shall, whenever requested, advise the Supplier of the exact location of the Goods. The Supplier and its representatives may, for the purpose of inspection, at all reasonable

times, enter upon any job, building or place where the Goods are located. The Supplier may remove the Goods without notice to Hirer if, in the opinion of the Supplier, it is being used beyond its capacity or in any other manner improperly cared for or abused.

7. **Assignment:** Hirer agrees that the Supplier may assign this Corporate Hire Agreement including all right, title and interest of the Supplier in and to the Equipment, and all hire charges due or to become due to the Supplier hereunder (to which assignment Hirer hereby waives notice) and Hirer agrees to recognise such assignment. Hirer shall not assign this Corporate Hire Agreement, sub-let the Goods, or allow its use by any persons save for its employees.

8. **Termination:**

8.1 The following event(s) shall constitute Termination Event(s) for the purposes of this Clause 8 namely:

8.1.1 Hirer shall fail to pay any hire charges or other sum due under this Corporate Hire Agreement in full within ten (10) days of its due date;

8.1.2 Hirer shall commit any breach of any term or condition of this Corporate Hire Agreement and Hirer shall fail to remedy such breach within twenty (20) days after receipt of notice thereof;
8.1.3 Hirer shall make a proposal for a composition in satisfaction of Hirer's debts or a scheme of arrangement of its affairs or shall have a voluntary arrangement proposed under Section 1 of the Insolvency Act 1986 in respect of it;

8.1.4 Hirer takes any steps, or has steps taken against it, for its winding up or dissolution (otherwise than for the purposes of a reconstruction or amalgamation while solvent on terms previously approved by Dealer in writing) or for the making of an administration order against it;

8.1.5 Hirer has a receiver, manager, administrative receiver, administrator or similar officer appointed over the whole or any part of its undertaking or assets;

8.1.6 Hirer shall be unable or shall admit in writing its inability to pay its debts as they fall due;

8.1.7 any distress, execution, sequestration or other legal process is levied or enforced upon any of the assets of the Hirer or upon the Goods; or

8.1.8 Hirer mis-uses the Goods or uses the Goods in a way which is unsafe.

8.2 Hirer hereby acknowledges and agrees that the occurrence of any Termination Event specified in Clauses 8.1 shall go to the root of this Corporate Hire Agreement and accordingly shall be a breach of a condition which the Supplier shall be entitled to treat as a repudiation by Hirer of this Corporate Hire Agreement and the Supplier shall be entitled to give notice to Hirer to terminate the hiring of the Goods and the Supplier's consent to Hirer's possession of the Goods.

8.3 If the hiring of the Goods terminates pursuant to Clause 8.2 Hirer shall, on demand, pay to the Supplier an amount equal to the aggregate of:

8.3.1 all arrears of hire charges together with all other amounts which are due (but unpaid) pursuant to this Corporate Hire Agreement together with interest thereon in accordance with Clause 4.2;

8.3.2 as compensation for the Supplier's financial loss, by way of additional hire charges, an amount in respect of the Goods which is equal to all hire charges which would be due and payable from the date of such termination to and including the last day of the term (as extended if applicable) by effluxion of time, each discounted from its due date to the date of actual payment at the rate of 5% per annum; and

8.3.3 any costs and expenses incurred by the Supplier in locating, repossessing, recovering or restoring and keeping safe the Goods.

9. **Return of the Goods:**

9.1 On the termination or expiration of the hiring of the Goods hereunder howsoever occurring Hirer shall, at the risk and expense of Hirer, return the Goods to the Supplier, together with all books, manuals, service records, registration and other documents relating to it, at such address in the United Kingdom as the Supplier may reasonably require, free and clear of all liens and in good working condition (reasonable wear and tear only excepted).

9.2 Upon the termination or expiration of the hiring of the Goods Hirer shall no longer be in possession of the Goods with the consent of the Supplier and the Supplier and its agents shall be entitled to recover possession of the Goods (if not returned forthwith to the Supplier pursuant to Clause 9.1) and for this purpose the Supplier and their respective representatives shall be entitled to enter upon any premises upon which the Goods are believed to be located and at the cost of the Hirer remove the Goods, and Hirer shall indemnify the Supplier against any claim made in respect of any damage caused to such premises by any such entry or by the removal of the Goods.

9.3 Upon return of the Goods the Hirer shall be liable for the costs of any damage to the Goods.

10. **Construction:** This is an agreement for corporate hire only and nothing herein shall be construed as conveying to Hirer any right, title or interest in any item of the Goods hired, except as a hirer.

11. **Guaranteed Rental – return of Goods:** Provided the minimum hire charges shown on the front side have been paid, Hirer may return the Goods and terminate this Corporate Hire Agreement on three days' notice to the Supplier.

12. **Tyre Wear:** This Corporate Hire Agreement will be subject, at the discretion of the Supplier, to any Tyre Wear Agreement attached hereto.

13. **General:**

13.1 The failure of the Supplier at any time to require strict performance by Hirer of any of the provisions of this Corporate Hire Agreement shall not waive or diminish the Supplier's right thereafter to demand strict compliance therewith or any provision. Waiver of any default shall not waive any other default.

13.2 Any alteration or modification of this Corporate Hire Agreement shall be in writing and approved in writing by the Supplier and signed by the parties hereto. Hirer acknowledges receipt of a signed copy hereof.

13.3 This Corporate Hire Agreement shall be construed in accordance with English law and shall be subject to the non-exclusive jurisdiction of the English courts.