

## **CHAMPION HIRE LIMITED - CONDITIONS OF HIRE - PLEASE RETAIN FOR YOUR RECORDS.**

### **1. INTERPRETATION**

In all correspondence and documents relating to the Contract and these Conditions of Hire: the “**Company**” means Champion Hire Limited; the “**Customer**” means the company, firm, body or person wanting to hire or hiring Equipment from the Company; the “**Contract**” means the application to open a credit account with the Company, the setting up of the credit account for the Customer by the Company; any and all subsequent orders to hire Equipment made by the Customer; any acknowledgement of an order; and the terms of supply, use and return of the Equipment; the “**Equipment**” means the items of equipment, related accessories, manuals and instructions offered for hire under these Conditions of Hire by the Company.

**THE COMPANY WILL ENTER INTO A CONTRACT WITH THE CUSTOMER FOR THE HIRE OF EQUIPMENT SUBJECT TO THESE CONDITIONS OF HIRE. NO OTHER TERMS AND CONDITIONS CAN BE SUBSTITUTED AND THE CUSTOMER EXPRESSLY ACCEPTS THE INCORPORATION OF THESE CONDITIONS OF HIRE TO ALL PARTS OF THE CONTRACT.**

### **2. COMPANY’S PRICES AND CHARGES**

Unless the Company expressly sets out in the Contract that the Company’s charges shall be fixed or at fixed rates for the duration of the Contract or any part thereof then the Company reserves the right which the Customer expressly acknowledges to charge the appropriate hourly, daily, weekly or periodic charges for Equipment to be provided at the Company’s rate or rates current at the actual date or dates when the Equipment is provided (and not those current at the date of the placement of the order). Where Equipment is hired on a quoted periodic basis (eg daily, weekly, monthly or otherwise) without qualification as to hours, the Customer will be charged the full rate for each day, week or month etc and each part of a day, week or month etc in which the Equipment is provided and unless otherwise agreed Saturdays, Sundays, Bank Holidays and customary holidays will count as normal days for this purpose.

### **3. PAYMENT**

The Customer shall pay the Contract price for the hire of Equipment at the times and in the manner specified in the Contract or if none is specified, on presentation of invoice. All prices and charges are exclusive of VAT. Any sum payable in addition to the Contract price in accordance with these conditions shall be paid on presentation of invoice or on demand. Time shall be of the essence of the Contract in relation to all payments due to the Company. In the event of any failure by the Customer to pay any sum due to the Company on demand then (without prejudice to condition 10) the Company shall be entitled:

3.1 to cancel or suspend the Contract;

3.2 to charge interest on any such overdue sums at the rate of 5% above the base rate from time to time of Royal Bank of Scotland plc;

3.3 to withhold any Equipment to be provided under the Contract and to repossess any Equipment in the Customer's possession;

3.4 to reschedule the times for providing any Equipment; and

3.5 notwithstanding any credit terms previously agreed (either in the Contract or elsewhere) to require all future payments under the Contract or any other Contract between the Company and the Customer to be made in advance.

#### 4. TIME OF PERFORMANCE ETC

The dates and times specified in the Contract for the availability of Equipment to be provided by the Company are approximate only and, unless otherwise expressly stated, time is not of the essence. The Company will not be liable in any circumstances for the consequences of any delay in carrying out, or failure to carry out, the Contract if the duration of the delay is not substantial or if the delay or failure is due to act of God, fire, inclement or exceptional weather conditions, industrial action (whether at the Company's premises or elsewhere), breakdowns, hostilities, shortage of labour, materials, power or other supplies, governmental order or intervention (whether or not having force of law) or any other cause whatever beyond the Company's control or of an unexpected or exceptional nature. No delay shall entitle the Customer to cancel or repudiate the Contract.

#### 5. COMMENCEMENT AND TERMINATION OF EQUIPMENT HIRE

The period of hire of Equipment shall commence from the time when the Equipment leaves the Company's premises and shall terminate upon return of the Equipment to the Company's premises (but in any event shall not be longer than 85 days) and unless otherwise specified in the Contract the Customer shall be responsible for collecting, transporting, loading and unloading the Equipment both at the Company's premises and at any location where the Equipment is to be used. Any driver or other operator provided by the Company for the operation of the Equipment shall not unless otherwise agreed be either responsible or available for loading, unloading or transporting the Equipment. Where the Contract specifies that the Company will be responsible for loading, unloading or transporting the Equipment then unless the Contract price is expressed to include the cost thereof the Customer shall pay all costs in connection therewith.

#### 6. ADDITIONAL SERVICES ETC

If the Customer requires any Equipment beyond or in addition to that specified in the Contract (including but not limited to additional Equipment and/or an extension of any period of hire) then the Company will use reasonable endeavours to meet the Customer's requirements but will have no obligation to do so. Where the Company agrees to an extension of the period of hire of any Equipment such extension shall be without prejudice to the right of the

Company to terminate such hire when the Equipment is required for any other purpose. (No extension will be agreed which takes the total period of hire above 85 days).

## 7. CONDITION, MAINTENANCE AND USE OF EQUIPMENT

Unless the Company receives written notification to the contrary within 24 hours of the Equipment leaving the Company's premises all Equipment will be deemed to have been delivered to the Customer in good condition and to the Customer's satisfaction.

7.1 The Customer will be responsible for any loss of or damage to the Equipment from whatever cause (other than negligence on the part of the Company or its employees) during the period of hire and if any such loss or damage renders the Equipment unsuitable or unavailable for hire the Customer will continue to pay the hire charges for the remainder of the period of hire specified in the Contract and thereafter for a maximum period of six weeks following termination of the period of hire specified in the Contract or until the Equipment is again available or suitable for hire whichever is shorter.

7.2 The Customer will be responsible for all routine maintenance, servicing and inspection of the Equipment as stipulated by the Company and/or recommended by the manufacturer and/or required by the Factories Acts or any other legislation, regulations or code of practice and shall surrender the Equipment at the termination of the period of hiring in good order and condition and clean.

7.3 The Customer shall use the Equipment only for the purpose for which it was designed and manufactured and shall observe all restrictions on loading or use and shall undertake all proper safeguards and precautions against accidents and shall comply with the Factories Acts, the obligations under the Health and Safety at Work etc Act 1974 and any other legislation, regulations or code of practice relating to the use of the Equipment.

7.4 The Customer undertakes and agrees to ensure that any instructions or manuals supplied by the manufacturer for use of the Equipment are or will prior to the Equipment being brought into use be fully understood and will be observed by the Customer and any person who will be responsible for the use of the same and only to operate the Equipment and to permit the Equipment to be operated in a skillful and proper manner and by persons who are competent to operate the Equipment.

7.5 The customer agrees not to make or cause or permit to be made any alteration, amendment, modifications or addition to the Equipment without the company's prior consent in writing.

7.6 The customer hereby warrants and represents to the company that the

customer has entered into the Contract in the course of and for the purpose of the business or profession carried out by the customer and that the customer is accordingly not to be treated as a “consumer” within the meaning of s12 of the Unfair Contract terms Act 1977.

## 8. INSPECTION

Without prejudice to any of the obligations of the Customer under condition 7 the Company shall be permitted at all reasonable times to inspect, test, replace or maintain the Equipment wherever located. The cost of any repairs, replacement or maintenance necessitated by failure on the part of the Customer to carry out its obligations under condition 7 hereof shall be payable by the Customer.

## 9. BREAKDOWN/DAMAGE/LOSS/THEFT OF EQUIPMENT

In the event of breakdown or unsatisfactory working of any Equipment or any accident or damage thereto the Customer shall notify the Company and confirm details in writing within 24 hours. The Customer shall not without the Company's authority repair or attempt to repair the Equipment. The Company will carry out any necessary repairs as quickly as reasonably practicable but shall not be responsible for any unavoidable delay.

9.1 In the event that during the period of hire any item of the Equipment shall become a total loss or a constructive total loss, whether as a result of it being lost, destroyed, stolen, damaged beyond repair, confiscated or otherwise, the customer, and or the Customer's insurer, shall reimburse the company for the full replacement market value of the Equipment. The Customer, or the Customer's insurer, will remain liable for the hire charges for the item until settlement is paid in full. If the insurer only covers a certain number of weeks loss of hire, then the Customer will remain liable for the remaining weeks loss of hire not covered by the Customer's insurer.

## 10. DETERMINATION OF EQUIPMENT HIRE

Without prejudice to any other provision of the Contract or these conditions and any other right or remedy which the Company may have in law, the Company may by notice in writing terminate the Contract without further liability on the part of the Company and to determine the hiring of any Equipment and demand the immediate return of any Equipment or repossess any Equipment and for that purpose enter into any premises where the Equipment is located or believed to be located in any of the following circumstances:

10.1 if the Customer fails to make any payment due to the Company within seven days after the due date

10.2 if the Customer commits any serious breach or persistent breaches of the

## Contract

10.3 if the Customer being an individual or partnership becomes bankrupt or commits any act of bankruptcy or if the Customer being a limited company is wound up whether voluntary or compulsorily or if in either case the Customer makes any composition with its creditors generally or

10.4 if a receiving order be made against the Customer or any distress, seizure or execution is levied against the Customer. All costs, charges and expenses sustained or incurred by the Company in exercising all or any of the rights aforesaid shall be payable by the Customer and the Customer shall indemnify the Company against all expenses incurred in exercising such rights including (but not limited to) any liability arising as a result of the entry onto any premises in exercise of the right to repossess the Equipment. Without prejudice to the Company's rights to claim damages, the Customer shall upon termination in any of the above circumstances immediately pay to the Company:

10.5 all arrears of payments under condition 3 and all other sums accrued due and unpaid at the date of termination, together with interest in accordance with condition 3.2

10.6 the cost of all repairs required as at the date of termination (other than those for which the Company has assumed responsibility under these conditions).

## 11. DEALING WITH EQUIPMENT

The Customer has no authority to sub-lease, sub-hire, sell, mortgage, charge, pledge or otherwise deal with any Equipment nor to permit any lien to arise over any Equipment nor to part with possession of the Equipment and in particular shall not deliver the Equipment to any repairer or any other person unless expressly authorised in writing by the Company so to do. The Customer shall indemnify the Company against all losses, damages, costs, charges and expenses which the Company may sustain or incur by reason of any failure on the part of the Customer to observe its obligations under this condition or arising out of any distress, seizure or execution of judgment against the Equipment or any threatened or attempted distress, seizure or execution.

## 12. LOCATION OF EQUIPMENT

The Customer shall keep any Equipment only at the location or locations specified

in the Contract or agreed to in writing by the Company and the Customer shall procure that the Company shall have the right to enter onto any such premises in exercise of all or any of the Company's rights hereunder and if the Company is unable to procure such rights for the Company in relation to any premises then the Customer shall not permit the Equipment to be taken into or onto those premises.

### 13. LIMIT OF COMPANY'S RESPONSIBILITY

If the Company fails to carry out the Contract in accordance with its obligations whether expressed or implied then the Customer will be entitled to a reduction in the Contract price appropriate to the circumstances. Any liability of the Company in respect of any loss or damage to the property of the Customer and any third party arising out of any occurrence (whether resulting from negligence on the part of the Company or its agents, employees or subcontractors or from any other cause whatsoever and whether in Contract or in tort) will be limited to the payment of compensation for such loss or damage not exceeding the Contract price. The Customer's remedies in respect of any claim under the Contract or under any condition, warranty or other term implied by law or any other claim in relation to the performance of the Contract (whether or not involving negligence on the part of the Company) or otherwise howsoever arising shall in all cases be limited to a reduction of the Contract price as aforesaid and compensation for loss or damage to property within the limit stated above and the Company shall not in any circumstances be liable for any damages, compensation, costs, expenses, losses or other liabilities whether direct or consequential and any other remedy which could otherwise be available in law is hereby excluded except to the extent that such exclusion is prohibited by rule of law.

### 14. OWNERSHIP

The Equipment shall at all times remain the property of the Company and the Customer shall have no rights to the Equipment other than as hirer and the Customer shall not do or permit or cause to be done any matter or thing as a result of which the rights of the Company in respect of the Equipment are or may be prejudicially affected.

### 15. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

A person who is not party to the Contract shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract. This condition does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

### 16. APPLICABLE LAW

The Contract shall in all respects be governed by and construed in accordance with English law and the Customer hereby submits to the exclusive jurisdiction of the English courts.