

1. INTERPRETATION:

1.1 The definitions and rules of interpretation in this condition apply in these conditions.

Commencement Date: the date on which the Hire Term commences, being the date stipulated in the Company's acknowledgment of order issued pursuant to Condition 3.1.

Company: RPH Hire Services.

Conditions: these Terms and Conditions of Supply.

Contract: any contract between the Company and the Customer for the supply of Products and/or Hire Goods, incorporating these conditions.

Customer: the person, firm or company who purchases Products and/or hires Hire Goods from the Company.

Delivery Point: the place where delivery of the Products and/or Hire Goods is to take place under Condition 5.

Hire Charge: the price for (the hire of) the Hire Goods, as applicable from time to time, calculated on a daily basis and payable throughout the Hire Term.

Hire Goods: Goods (including but not limited to plant, machinery and/or tools) which the Company has agreed in the Contract to hire to the Customer (including any part or parts of them).

Hire Term: the period between the Commencement Date and the Termination Date during which the Hire Goods are to be held by the Customer in return for payment of the Hire Charge to the Company.

Products: any goods agreed in the Contract to be sold to the Customer by the Company (including any part or parts of them).

Termination Date: the date on which the Hire Term terminates, being the date stipulated in the Company's acknowledgment of order issued pursuant to Condition 3.1.

A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.2 Words in the singular include the plural and in the plural include the singular.

1.3 A reference to one gender includes a reference to the other gender.

1.4 Condition headings do not affect the interpretation of these Conditions.

2. APPLICATION OF CONDITIONS:

2.1 These Conditions shall override and exclude any terms or conditions stipulated, incorporated or referred to by the Customer whether in any order or in any correspondence or negotiations occurring prior to an order being placed.

2.2 Without limiting the provisions of Condition 2.1, despatch of the Products and/or Hire Goods by the Company to the Customer shall be deemed conclusive evidence of the Customer's acceptance of these Conditions.

2.3 Should the Customer wish to contract with the Company otherwise than subject to these Conditions, specific arrangements may be made and revised prices may be quoted by the Company but such arrangements shall only apply if recorded in writing and signed by a duly authorized representative of the Company.

2.4 The Company's employees and representatives are not entitled to commit the Company to transactions on terms differing from these Conditions unless they are able to produce to the Customer written authority so to do duly executed by the Company.

2.5 These Conditions and the Contract shall be construed and applied in accordance with English law, and the English Courts shall have non-exclusive jurisdiction in any dispute relating thereto.

3. QUOTATIONS:

3.1 Any quotation is given on the basis that no Contract shall come into existence until the Company despatches an acknowledgment of order to the Customer. Any quotation is valid for a period of 30 days only from its date, provided that the Company has not previously withdrawn it.

3.2 The quantity and description of the Products and/or Hire Goods shall be as stipulated in the Company's acknowledgment of order issued pursuant to Condition 3.1.

3.3 All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Products and/or Hire Goods described in them. They shall not form part of the Contract and this is not a sale by sample.

3.4 The Customer shall ensure that the terms of its order and any applicable specification are complete, accurate and timely submitted.

4. PRICE AND PAYMENT:

4.1 The price for the Products and/or Hire Goods shall be as set out in the Company's acknowledgment of the Customer's order pursuant to Condition 3.1.

4.2 Unless expressly agreed to the contrary by the Company, the price for the Products and/or Hire Goods shall be ex-works. The price shall be exclusive of any value added tax and all costs or charges in relation to packaging, loading, unloading, carriage and insurance.

4.3 Unless expressly agreed in writing by the Company, any alteration in the Products requested by the Customer shall entitle the Company to increase the price.

4.4 Unless expressly agreed in writing by the Company, the price for the Products shall be payable in full upon the Company's acknowledgment of the Customer's order pursuant to Condition 3.1.

4.5 Unless expressly agreed in writing by the Company, the Hire Charge shall be payable in full on or before the Commencement Date.

4.6 Any charges expressly agreed in writing by the Company to be payable other than at the times set forth in Conditions 4.4 and/or 4.5, respectively, shall be payable within 30 days of the relevant invoice therefor.

4.7 If the Company and the Customer agree to extend the Hire Term beyond that confirmed in the Company's acknowledgment of the Customer's order pursuant to Condition 3.1, the Customer shall pay to the Company an additional Hire Charge on or before the commencement of the extension to the Hire Term.

4.8 If any payment is not made by the due date, the Company may, without prejudice to any other right or remedy, cancel the Contract or suspend the delivery of any Hire Goods and/or Products.

4.9 Time for payment shall be of the essence.

4.10 No payment shall be deemed to have been received until the Company has received cleared funds. In the event that the Customer tenders payment by cheque and said cheque is returned unpaid to the Company, the Customer shall reimburse the Company for any bank charges incurred by the Company.

- 4.11 All payments payable to the Company under the Contract shall become due immediately on its termination despite any other provision.
- 4.12 The Customer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, abatement or otherwise unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Customer. Invoices may only be discounted if they are paid within the time period prescribed by the Company.
- 4.13 The Company reserves the right to charge interest at the rate of 4% per annum above Barclays Bank plc's base lending rate from time to time on all amounts remaining unpaid after the due date for payment and such interest will accrue on a daily basis from the due date for payment until the date when payment is actually made and shall accrue after as well as before any judgment.
- 4.14 The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998 together with late payment charges as set out in the Act. Without limitation, the Customer shall reimburse the Company for any and all costs incurred by the Company in recovering payment pursuant to this Condition 4.
- 5. DELIVERY:**
- 5.1 The Company only delivers Products and Hire Goods within the United Kingdom.
- 5.2 Unless otherwise agreed in writing by the Company, and without prejudice to Condition 5.1, the Products and/or Hire Goods shall be delivered ex works the Company's place of business. All carriage charges shall be borne by the Customer.
- 5.3 Any dates specified by the Company for delivery of the Products and/or Hire Goods are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time. Should expedited delivery be agreed, the Company reserves the right to levy an extra delivery charge. The Products and/or Hire Goods may be delivered by the Company in advance of any quoted delivery date upon giving reasonable notice to the Customer.
- 5.4 Subject to the other provisions of these Conditions the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Products and/or Hire Goods or in the performance of the (even if caused by the Company's negligence), nor shall any delay entitle the Customer to terminate or rescind the Contract unless such delay exceeds 180 days.
- 5.5 If for any reason the Customer fails to accept delivery of any of the Products and/or Hire Goods, or the Company is unable to deliver the Products and/or Hire Goods on time because the Customer has not provided appropriate instructions, documents, licences or authorisations:
- risk in the Products and/or Hire Goods shall pass to the Customer (including for loss or damage caused by the Company's negligence);
 - the Products and/or Hire Goods shall be deemed to have been delivered; and
 - the Company may store the Products and/or Hire Goods until delivery, whereupon the Customer shall be liable for all related costs and expenses (including, without limitation, storage and insurance); or
 - sell and/or hire the Products and/or Hire Goods at the best price readily obtainable and (after deducting any reasonable costs and expenses in connection with the storage and expedited sale/hire of the Products and/or Hire Goods), charge the Customer for any shortfall below the price for the Products and/or Hire Goods.
- 5.6 The Customer shall provide at the Delivery Point and at its expense adequate and appropriate equipment and manual labour for loading the Products and/or Hire Goods.
- 5.7 If delivery involves difficult access to or at the Delivery Point and/or the Delivery Point is located at an unreasonable distance from any feasible vehicular access point, the Company reserves the right to levy an extra delivery charge.
- 5.8 If the Company delivers to the Customer a quantity of Products and/or Hire Goods of up to 10% more or less than the quantity accepted by the Company, the Customer shall not be entitled to object to or reject the Products and/or Hire Goods or any of them by reason of the surplus or shortfall and shall pay for such Products and/or Hire Goods at the pro rata Contract rate.
- 5.9 The Company may deliver the Products and/or Hire Goods by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract.
- 5.10 Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Customer to repudiate or cancel any other Contract or instalment.
- 5.11 Unless otherwise specifically agreed in writing by the Company the Customer is responsible for collecting the Hire Goods from the Company's depot and for returning the Hire Goods at the end of the Hire Term.
- 5.12 If the Company agrees to deliver the Hire Goods to and/or collect the Hire Goods from the Customer's premises or some other site specified by the Customer, the Customer shall pay to the Company in addition to the Hire Charge the cost of such delivery and/or collection at the Company's standard rates applicable from time to time.
- 5.13 The quantity of any consignment of Products and/or Hire Goods as recorded by the Company on despatch from the Company's place of business shall be conclusive evidence of the quantity received by the Customer on delivery unless the Customer can provide conclusive evidence proving the contrary.
- 5.14 The Company shall not be liable for any non-delivery of Products and/or Hire Goods (even if caused by the Company's negligence) unless the Customer gives written notice to the Company of the non-delivery within 3 days of the date when the Products and/or Hire Goods would in the ordinary course of events have been received.
- 5.15 Any liability of the Company for non-delivery of the Products and/or Hire Goods shall be limited to replacing the Products and/or Hire Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Products and/or Hire Goods.
- 6. CARE OF THE HIRE GOODS:**
- 6.1 The Customer hereby agrees that with respect to any Hire Goods, it shall:
- take reasonable care of the Hire Goods and use them only for their intended purpose; and
 - comply with all directions given by the Company or in any accompanying instructions as to the use, storage, lubrication and maintenance of the Hire Goods and the Customer shall be liable for any damage or deterioration (fair wear and tear excepted) resulting from any failure so to comply;
 - insure the Hire Goods on such terms as the Company may require, the proceeds of such insurance to be held by the Customer in trust for the Company and to be paid to the Company on demand; and

- (d) permit the Company upon reasonable notice to inspect the Hire Goods; and
- (e) notify the Company immediately, following any loss of, damage or deterioration to, and/or breakdown of, the Hire Goods; and
- (f) be responsible for and shall fully reimburse the Company for any and all expenses, costs, losses (including loss of Hire Charges) and/or damage incurred by or against the Company arising from any loss of, damage or deterioration to, and/or breakdown of the Hire Goods attributable to any act or omission of the Customer; and
- (g) indemnify and keep indemnified the Company against any and all losses, lost profits, damages, claims, costs, actions and any other losses and/or liabilities suffered by the Company and arising from or due to any breach of contract, tortious act and/or omission and/or any breach of statutory duty by the Customer.
- 6.2 The Customer hereby agrees that with respect to any Hire Goods, it shall not:
- (a) (subject to Condition 6.1 (b)) attempt to repair or maintain the Hire Goods without the prior written consent of the Company; or
- (b) attempt to sell, hire, assign, charge, pledge, or otherwise lend or dispose of the Hire Goods or any interest therein; or
- (c) remove the Hire Goods from any site originally specified by the Customer, or from any subsequently authorised site, without the authority of the Company; or
- (d) without limitation, do or omit to do anything which the Customer has been notified may invalidate any policy of insurance related to the Hire Goods.
- 6.3 Without limiting any of the provisions of this Condition 6, the Customer will incur additional costs and charges for any Hire Goods which are lost or damaged beyond economic repair, up to and including the replacement cost of new Hire Goods at current market rates.
- 7. RISK AND TITLE:**
- 7.1 Risk of damage to or loss of the Products and/or Hire Goods shall pass to the Customer:
- (a) in the case of Products and/or Hire Goods to be delivered at the Company's premises, at the time when the Company notifies the Customer that the Products and/or Hire Goods are available for collection; or
- (b) in the case of Products and/or Hire Goods to be delivered otherwise than at the Company's premises, at the time of delivery or, if the Customer wrongfully fails to take delivery of the Products and/or Hire Goods, the time when the Company has tendered delivery of the Products and/or Hire Goods.
- 7.2 Ownership of the Products shall not pass to the Customer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:
- (a) the Products; and
- (b) all other sums which are or which become due to the Company from the Customer on any account.
- 7.3 Ownership of the Hire Goods shall remain at all times with the Company. Risk of damage to or loss of the Hire Goods shall pass back from the Customer to the Company:
- (a) in the case of Hire Goods to be returned to the Company's premises by the Customer, at the time of delivery to the Company's premises; or
- (b) in the case of Hire Goods to be collected by the Company, on delivery to the Company's carrier at the Customer's premises or some other site specified by the Customer.
- 7.4 Until ownership of the Products has passed to the Customer, the Customer shall:
- (a) hold the Products on a fiduciary basis as the Company's bailee;
- (b) store the Products (at no cost to the Company) separately from all other goods of the Customer or any third party in such a way that they remain readily identifiable as the Company's property;
- (c) not destroy, deface or obscure any identifying mark or packaging on or relating to the Products; and
- (d) maintain the Products in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Customer shall produce the policy of insurance to the Company.
- 7.5 The Customer's right to possession of the Products and/or Hire Goods shall terminate immediately if:
- (a) the Customer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Customer or notice of intention to appoint an administrator is given by the Customer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer; or
- (b) the Customer suffers or allows any execution distress or diligence, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between the Company and the Customer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or a secured lender to the Customer takes any steps to obtain possession of the secured property or otherwise enforce its security or the Customer ceases to trade; or
- (c) the Customer ceases, or threatens to cease, to carry on business; or
- (d) the Customer encumbers or in any way charges any of the Products and/or Hire Goods.
- 7.6 The Company shall be entitled to recover payment for the Products notwithstanding that ownership of any of the Products has not passed from the Company.
- 7.7 The Customer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Products and/or Hire Goods are or may be stored or otherwise located, but in any event, and without limitation, hereby undertakes to secure access at any time to any such premises for the Company, its agents and employees in order to inspect the Products and/or Hire Goods, or, where the Customer's right to possession has terminated, to recover them.
- 7.8 On termination of the Contract, howsoever caused, the Company's (but not the Customer's) rights contained in this Condition 7 shall remain in effect.

8. WARRANTIES AND LIABILITY:

- 8.1 The Company shall, at the Company's option, repair, replace or refund the price paid for Products and/or Hire Goods which are proved to the reasonable satisfaction of the Company to be damaged or defective due to faulty materials or workmanship. This obligation shall apply for a period of 6 months from the date of delivery of the Products and/or Hire Goods, but shall not apply:
- (a) if the defect arises because the Customer has altered or repaired any Products without the written consent of the Company; or
 - (b) if the Customer did not follow the instructions for storage, installation, use or maintenance of any Products; or
 - (c) if the Customer is in breach of any of its obligations in Conditions 6 or 9, with respect to any Hire Goods.
- 8.2 Except as set out in Condition 8.3 below, the provisions in Condition 8.1 constitute the Company's sole obligation to the Customer and are accepted by the Customer in substitution for all express or implied representations, conditions or warranties, statutory or otherwise, as to the satisfactory quality, fitness for purpose or performance of any Products and/or Hire Goods and all such representations, conditions and warranties are excluded.
- 8.3 The Company does not exclude its liability to the Customer:
- (a) For breach of the Company's obligations under section 12 of the Sale of Goods Act 1979;
 - (b) For personal injury or death arising as a result of the Company's negligence;
 - (c) Under section 2(3) of the Consumer Protection Act 1987;
 - (d) For any matter which it would be illegal for the Company to exclude or to attempt to exclude its liability; or;
 - (e) For fraud or fraudulent misrepresentation.
- 8.4 Except as provided in Conditions 8.1 and 8.3, the Company shall be under no liability to the Customer whatsoever (whether in contract, tort, (including negligence), breach of statutory duty, restitution or otherwise) for any damage or direct or indirect or consequential loss (all of which terms include, without limitation, pure economic loss, loss of profits, loss of business, loss of use, loss of data, depletion of goodwill, business interruption, increased purchasing or manufacturing costs, loss of opportunity, or loss of contracts and like loss) howsoever caused.
- 8.5 The Company hereby excludes to the fullest extent permissible at law all conditions, warranties and stipulations, express (other than those set out in these Conditions) or implied, statutory, customary or otherwise which but for such exclusion, would or might subsist in favour of the Customer.
- 8.6 Save as set out in Condition 8.3, the Company's total liability in contract, tort, (including negligence), breach of statutory duty, misrepresentation or otherwise shall be limited to repairing, replacing or refunding the price paid for the Products and/or Hire Goods.

9. USE OF THE HIRE GOODS:

- 9.1 The Customer shall operate the Hire Goods safely and in full compliance with all relevant Government, Health and Safety at Work and Factory Inspectorate safety directions and shall cease to operate the Hire Goods forthwith at the first indication that any danger may result from its continued use.
- 9.2 The Customer shall be responsible (with respect to the Hire Goods during the Hire Term), for compliance with all site testing and inspection requirements, howsoever imposed, on the users and operators of such Hire Goods.
- 9.3 The Customer shall forthwith notify the Company of any accident in which the Hire Goods are involved, howsoever occurring and the Customer shall be liable for and shall keep the Company

indemnified from and against all claims, demands, proceedings, costs and expenses of whatsoever nature resulting from any such accident or from the use of the Hire Goods during the Hire Term, howsoever occurring and the Customer shall be responsible for insuring against such liability.

10. TERMINATION OF THE CONTRACT FOR THE SUPPLY OF HIRE GOODS:

- 10.1 The Company may, (without prejudice to any other rights or remedies it may have against the Customer) exercise any remedy available to it up to and including the immediate termination of the Contract upon sending written notice of termination to the Customer at any time, if:
- (a) the Customer is in breach of any Condition which is incapable of remedy; or
 - (b) the Customer is in breach of any Condition which is capable of remedy, but fails to remedy such breach within 14 days of receipt of a written notice giving full particulars of the breach and requiring it to be remedied; or
 - (c) any one or more of the events set forth in Condition 7.5 occurs.
- 10.2 Notwithstanding the exercise of any remedy by the Company in accordance with Condition 10.1 above, the Customer shall remain liable to pay and shall pay the Company at the Contract rate, any and all payments subsisting at the relevant time. The Company shall be entitled to recover possession of the Hire Goods forthwith and the Customer shall permit the Company to have full access to the Customer's premises for that purpose.

11. ADDITIONAL TERMS FOR THE HIRE OF SCAFFOLDING:

- 11.1 The Company will not be liable to the Customer for damage to slates or tiles on any roof caused by or arising out of the installation or removal of scaffolding, and the Customer shall indemnify the Company against all claims, demands, proceedings, costs and expenses in respect of such damage or arising in connection therewith.
- 11.2 Whenever any scaffold will encroach on or be suspended over a highway, the Customer shall produce the requisite consent of the Highway Authority before the Company commences work pursuant to this Condition 11, and the Company reserves the right to revise its estimated charges if such consent imposes conditions which involve, or which might involve, additional expense. All lighting (if necessary) is to be provided by the Customer at the Customer's expense, unless otherwise agreed in writing by the Company.
- 11.3 Whenever any scaffold will encroach on, or the Company's staff require access over, a neighbouring property, the Customer must obtain permission from the owner of the neighbouring property prior to the arrival of the Company's staff at the Customer's premises or some other site specified by the Customer. If the Company needs to construct a scaffold in order to keep the scaffold within the confines of the Customer's premises or some other site specified by the Customer, additional expense may be incurred for which the Customer will be liable at the Company's standard hourly rates, as applicable from time to time.
- 11.4 Any alterations required by the Customer after initial installation will be charged at the Company's standard hourly rates, as applicable from time to time.
- 11.5 The Company's quotation allows for installation and/or removal work to be carried out during normal daytime working hours only.

12. NOTICES:

- 12.1 Any notice which must be given under the Contract may either be delivered personally or posted.
- 12.2 Notice given by post must be pre-paid and correctly addressed:

- (a) in the case of a limited company to its registered office; and
 - (b) in any other case to the recipient whose address is set out in the Contract (unless the recipient has notified another address to the other party to the Contract in accordance with this paragraph, in which case to such other address).
- 12.3 A notice delivered personally is deemed served upon delivery.
- 12.4 A posted notice which complies with Condition 12.2 is deemed served on the second business day after the date of posting.
- 13. GENERAL:**
- 13.1 The Company, but not the Customer, may assign the Contract or any part of it to any person, firm or company and shall also be entitled to subcontract any or all of its obligations under all or any part of the Contract.
- 13.2 Any waiver by the Company of any provision of the Contract shall not be considered as a waiver of any subsequent breach of the same or any other provision of the Contract.
- 13.3 The headings in these Conditions are for convenience only and shall not be used to interpret these Conditions.
- 13.4 The Company will not be liable for any delay or failure to perform the Contract arising from circumstances outside the Company's control including (without prejudice to the generality of the foregoing) lockout or strike, act of God, war, riots, explosions, abnormal weather conditions, fire, flood, government action, delay by suppliers, accidents and shortages of materials, labour or manufacturing facilities.

FURNITURE HOISTING SERVICES TERMS & CONDITIONS OF SUPPLY

1. INTERPRETATION

1.1 In these conditions:

Acceptance of order form means the Company's formal written acknowledgment of the Customer's order for the supply of the Services, which shall incorporate these Conditions.

Access Point means any point of ingress or egress at the Site, including but not limited to any window or balcony door, through which any item of furniture or any other item is to pass.

Company means RPH Hire Services.

Conditions means these Terms and Conditions of Supply.

Contract means any contract between the Company and the Customer for the Supply of the Services, incorporating these conditions.

Customer means the individual, firm, company or other party with whom the Company contracts.

Equipment means all equipment, tools and materials supplied and/or utilised by the Company in connection with the provision of the Services, including the furniture hoist to be so utilised and any part thereof, including but not limited to the elevator and the platform.

Services means the furniture hoisting services to be provided by the Company pursuant to the Contract.

Site means the premises at which the Services are to be performed and any part of those premises, including but not limited to any Access Point.

1.2 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.3 Words in the singular include the plural and in the plural include the singular.

1.4 A reference to one gender includes a reference to the other gender.

1.5 Condition headings do not affect the interpretation of these Conditions.

1.6 All quotations are made and all orders are accepted by the Company subject only to these Conditions, which shall prevail notwithstanding any other terms and conditions which the Customer may bring to the Company's notice. The placing of an order following any quotation shall not be binding on the Company unless and until accepted by the Company in writing on the Company's Acceptance of order form. Any statement or

representation which is made or given prior to, or contemporaneously with, the date of the Contract is hereby expressly excluded.

2. PERFORMANCE

2.1 The Company will use its reasonable endeavours to comply with any date or time for the commencement and/or completion of the Services if any such date or time is stipulated in the Contract, but any such date or time shall constitute an estimate only and any failure to commence and/or complete the Services by any date or time stipulated in the Contract shall not constitute a breach of the Contract.

2.2 The Company will undertake the Services with reasonable skill and care; however, pursuant to Condition 6.2, the Company reserves the right not to undertake any work if, in its reasonable opinion, prevailing conditions would render it inadvisable to do so.

3. CHARGES

3.1 The Services shall be provided on an hourly basis and shall be subject to any minimum charge which may apply. The Company shall carry out the Services only during such working hours and on such working days as shall be agreed between the Company and the Customer. The hourly rate shall be chargeable from the time of arrival of the Equipment and the Company's Equipment operators on Site until the time of departure from the Site.

3.2 The Customer shall additionally pay the cost of any variation or modification to the Services requested by the Customer and accepted by the Company (including but not limited to postponement of performance of the Services) and shall pay any additional sums which, in the Company's reasonable discretion, are required due to any act, omission, fault or delay of or on behalf of, the Customer.

4. PAYMENT

4.1 Provided that the Customer has produced references which in the Company's opinion are satisfactory, then settlement terms will be net cash in sterling thirty (30) days from date of invoice. In all other cases, cleared payment must be received by the Company two working days in advance of performance of the Services. Time for payment shall be of the essence. All payments shall be made in cleared funds in full without any deduction or right to set-off and irrespective of any claim asserted by the Customer.

4.2 Failure by the Customer to make any payment under the Contract by its due date shall entitle the Company to: (a) at its option, charge interest at the rate of 4% per annum above Barclays Bank PLC's base lending rate from time to time calculated on a daily basis, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest); (b) charge the Customer with any costs incurred by the Company in the course of collecting outstanding monies due to the Company from the Customer; (c) set off any amount owed by the Company to the Customer against any amount owed by the Customer to the Company on any account whatsoever; and (d) suspend performance of the Services until full payment is received, without prejudice to any other remedy available to the Company. The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

5. CANCELLATION

If the Customer wishes to cancel the Services prior to the time agreed for performance of the Services, the Customer shall provide the Company with notification of cancellation by email and shall make the following payments to the Company:

- (i) If cancellation occurs before 12:00 pm on the day before the date agreed for performance of the Services, no charge shall be payable;
- (ii) If cancellation occurs after 12:00 pm on the day before the date agreed for performance of the Services, 25% of the charges payable for the Services shall become immediately due and payable;
- (iii) If cancellation occurs on the date agreed for performance of the Services but prior to the time agreed for performance of the Services, 50% of the charges payable for the Services shall become immediately due and payable.

6. THE PARTIES' RESPECTIVE OBLIGATIONS

- 6.1 The Company will provide the Equipment to the Customer with trained operators, who shall be the only individuals authorized to operate the Equipment. The Customer shall be solely responsible for loading and unloading the elevator, which will tolerate a maximum load of either 300kg or 400kg, depending upon the load-bearing capacity of the particular hoist. The maximum load also depends upon the height at which the elevator is being operated; the maximum height at which the elevator may be operated is 35 metres. For the avoidance of doubt, the Company shall only be obliged to supply and operate the Equipment at the Site; notwithstanding that the Company's employees may from time to time and at their discretion assist the Customer with the loading or unloading of items on or from the platform, they are not obliged to do so and the Company shall not be responsible for any damage arising from any such assistance so provided whatsoever, howsoever and to whomsoever occurring. The Company shall not be responsible for any damage occurring to any items placed on the elevator unless such damage has been directly caused by the failure of the elevator itself or by the negligence of the Company's elevator operator. The Customer shall be solely responsible for any loss or damage which occurs as a result of the Company's employees following the Customer's instructions, except to the extent (if any) that the Company's employees have acted negligently.
- 6.2 The Company shall be responsible for ensuring that the elevator is installed correctly and can operate safely within the safe working load of the elevator. The Customer acknowledges that the health and safety of the Company's employees, Customers and the general public are of paramount importance to the Company and if, in the Company's reasonable opinion, the operation of the Equipment would endanger any person or thing, the Company

reserves the right to cancel or postpone the performance of the Services without notice and without any right to any refund or compensation. Without limiting the generality of the foregoing, the Company (a) reserves the right to refrain from installing the elevator if the Company's elevator operator deems it to be unsafe to do so for any reason, including but not limited to the prevalence of adverse weather conditions; and (b) the Company reserves the right to decide that a particular load or item is unsafe for placement on the elevator.

- 6.3 Prior to the performance of the Services, the Customer shall be solely responsible for: (a) ensuring that any balcony, building or other structure which is to support the elevator can do so safely and securely; (b) making certain that there is a clear, stable and freely accessible area directly below and in line with the Access Point, on which the elevator can stand and be installed; and (c) measuring the Access Point and ensuring that any items which are to be placed on the elevator can be safely and securely moved through the Access Point, without the need to remove any windows or door frames. Since the Company's charges shall be payable in full if it is determined upon arrival at the Site that the elevator is not able to be used for the purpose for which it was hired, the Company recommends that the Customer requests the Company to undertake a preliminary Site visit in order to assist the Customer in fulfilling the Customer's obligations under this Condition 6.3 in any instance where the Customer is uncertain as to conditions at the Site. The Site visit will be undertaken free of charge, provided that the visit can be fitted in around the Company's existing work schedule. A clear photograph or sketch may assist the Company in assessing the suitability of the Site. For the avoidance of doubt, the Company shall not be bound by the findings of any Site visit, nor shall the results of a Site visit amount to a guarantee that the Services can be performed on any agreed date or at any agreed time, since other factors may have changed since the date of the Site visit that may adversely affect the performance of the Services, or there may be other adverse factors present which may not have been immediately apparent on the date of the Site visit.

- 6.4 The Customer shall also be responsible for making certain that someone is present at the Site to facilitate access to the Site on the date and at the time agreed for performance of the Services and for ensuring that any and all parking is arranged and authorized prior to that date and time. Without limitation, where the elevator is required to be positioned in any area where there are parking restrictions, the Customer shall be solely responsible for arranging for the relevant permission required to be granted by the relevant authorities, and for paying any and all costs, charges and expenses in relation thereto. The permission may be granted in the form of a dispensation or suspension order, or a partial road closure, depending on the location concerned. Customers should take into account that in some situations, an order granted by the relevant authorities can apply to both sides of a public highway to allow the traffic to flow freely and to enable the operation to be carried out safely. Customers should note that the Company will require the use of two parking bays directly below the Access Point, which will each accommodate a small transit size truck (rather than a crane) and that any penalties, costs, charges or expenses incurred by the Company as a result of any parking arrangements being neglected shall be passed onto the Customer in their entirety.

- 6.5 Without prejudice to any of the provisions of Condition 6.4, the Customer shall be solely responsible (at its own cost) for (a) obtaining and maintaining any and all necessary third party consents and approvals to enable the Services to be performed (b) preparing and maintaining a Site free of obstacles for the performance of the Services (including arranging for the removal of any vehicle parked under or adjacent to any Access Point where this is necessary to facilitate ingress or egress through

- such Access Point) and for reinstating the Site thereafter and (c) ensuring the safety of any person present on the Site during the performance of the Services.
- 6.6 If the Company's performance of its obligations under the Contract is prevented, delayed, suspended or otherwise adversely affected by any act or omission of the Customer (or by anything otherwise beyond the control of the Company), the Company shall not be liable for any costs, charges or losses sustained or incurred by the Customer arising directly or indirectly from such prevention or delay and the Customer shall be solely liable for any additional costs incurred by the Company arising therefrom.
- 6.7 The Customer shall hold the Company harmless and keep the Company indemnified in full against all direct, indirect or consequential liabilities (all three of which terms include, without limitation, loss of profit, loss of business, depletion of goodwill and like loss), loss, damages, injury, costs and expenses (including legal and other professional fees and expenses) awarded against or incurred or paid by the Company as a result of or in connection with any claim made against the Company in respect of any liability, loss, damage, injury, cost or expense sustained by any third party to the extent that such liability, loss, damage, injury, cost or expense arises directly or indirectly from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the Contract, subject to the Company confirming such costs, charges and losses to the Customer in writing.
- 7. WARRANTIES AND LIMITATION OF LIABILITY**
- 7.1 Other than where expressly accepted by the Company in these Conditions, all conditions, warranties and liabilities whatsoever, whether express or implied, statutory or otherwise, (save for the conditions implied by section 2 of the Supply of Goods and Services Act 1982) are hereby expressly excluded to the fullest extent permitted by law and the Company shall be under no liability whatsoever for any loss or damage of whatsoever kind, howsoever caused or arising, including but without being limited to any direct, indirect or consequential loss or damage, lost profits, loss of use or other economic loss, damages for failure to meet any deadline or performance date, provided that nothing herein contained shall be construed so as to exclude or limit the liability of the Company for fraudulent misrepresentation, nor for the negligence or wilful default of the Company or its servants or agents insofar as the same results in death or personal injury. For the avoidance of doubt, the exclusion of liability in this Condition 7.1 shall apply to any damage to any tiles at the Site, including any hanging building tiles.
- 7.2 Subject to Condition 7.1, the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the amount of the charges paid by the Customer for the Services.
- 8. CONFIDENTIALITY**
- The Customer shall keep in strict confidence all technical or commercial know-how, specifications, processes or initiatives which are of a confidential nature and have been disclosed to the Customer by the Company and any other confidential information concerning the Services or the Company's business which the Customer may obtain and the Customer shall not use any such information for any purpose other than to perform its obligations under the Contract.

9. TERMINATION

If at any time the Customer shall commit a breach of any obligation arising hereunder, or default in making any payment within 7 days of the due date, or become insolvent, be subject to a petition in bankruptcy filed by or against him or be placed under the control of a receiver, liquidator or committee of creditors, then the Company may terminate the Contract by written notice. The Customer shall have thirty (30) days to correct the default (if the default is capable of remedy), failing which termination shall take effect at the end of the thirty (30) day period. All sums payable to the Company under the Contract shall become due immediately on its termination, despite any other provision. No forbearance or indulgence granted by the Company to the Customer shall in any way limit the rights of the Company under these Conditions.

10. VARIATION

No variation of the Contract or these Conditions shall be valid unless it is in writing and signed by or on behalf of each of the parties.

11. FORCE MAJEURE

The Company shall have no liability to the Customer under the Contract if it is prevented from, or delayed in performing, its obligations under the Contract or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including (without limitation) strikes, lock-outs or other industrial disputes (whether involving the workforce of the Company or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of any suppliers or subcontractors.

12. GENERAL

The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company. These Conditions shall be subject to and construed under English Law and the parties hereby submit to the exclusive jurisdiction of the English courts for that purpose. If any provision of these Conditions is declared void or unenforceable by a court of competent jurisdiction with respect to particular circumstances, such provision shall remain in force and effect in all other circumstances. If any provision is declared entirely void and unenforceable by a court of competent jurisdiction, all other provisions in these Conditions shall remain in full force and effect. If the Customer is contracting as a consumer, nothing in these Conditions shall affect the Customer's statutory rights. All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax or sent electronically via email, in each case to such person at such address as shall be notified by the parties to each other.