

TERMS & CONDITIONS OF HIRE



1. INTERPRETATION:

1.1 The following definitions and rules of interpretation apply in these Conditions.

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

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 or delivery of the Hire Goods to the Delivery Site whichever is the earlier.

Company: RPH THE HOIST PEOPLE LIMITED a company registered in England Wales with company number 10084490 with registered office address at 18 Brook Road, Redhill, Surrey, RH1 6DW.

Conditions: these Terms and Conditions of Hire.

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

Customer: the person, firm or company who hires Hire Goods from the Company.

Delivery Site: the place where delivery of the Hire Goods is to take place including where relevant to precise location for installation of the Hire Goods.

Hire Contract means the contract document for the hire of the Hire Goods, subject to the terms and conditions set out herein

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, equipment 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 or equipment agreed to be sold to the Customer by the Company (including any part or parts of them).

Site: means the Delivery Site, or any specific part of the Delivery Site to which the Hire Goods are to be delivered and used by the Customer including any part of those premises, including but not limited to, any Access Point.

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 the plural includes 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, delivery of the 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 exclusive jurisdiction in any dispute relating thereto.

2.6 These terms and conditions apply to the hire of Hire Goods. Where the Customer wishes to purchase any Hire Goods from the Company or to purchase Hire Goods the additional terms set out at the end of these Conditions shall apply.

2.7 These terms and conditions apply to the hire of Hire Goods for business purposes only. The Company does not hire Hire Goods for consumer use.

3. QUOTATIONS:

- 3.1 Any quotation is given on the basis that no Contract shall come into existence until the Company delivers an Hire Contract (or other Company documentation) to the Customer confirming the Contract. 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 Hire Goods shall be as stipulated in the Company's Hire Contract (or other Company documentation) 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 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 the acknowledgment of order and any applicable specification are complete, accurate and timely submitted.

4. PRICE AND PAYMENT:

- 4.1 The price for the hire of the 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 of any Hire Goods shall be for delivery 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. VAT shall be added as a separate item on the invoice as required at law.
- 4.3 Unless expressly agreed in writing by the Company, any alteration in the Hire Goods requested by the Customer may entitle the Company to increase the price.
- 4.4 Unless expressly agreed in writing by the Company, the price for the hire shall be payable in full upon the Company's acknowledgment of the Customer's order pursuant to Condition 3.1. Where the Customer has an account with the Company, payment shall be made in accordance with the account provisions agreed with the Company.
- 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.
- 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. Where the Hire Goods are in the possession of the Customer the Company reserves the right to recover the Hire Goods from the Delivery Site.
- 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 be liable to reimburse the Company for any bank charges incurred by the Company. The Company reserves the right at its discretion not to accept payment other than by way of bank transfer to the Company's account.
- 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 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.

5. DELIVERY:

- 5.1 The Company only delivers Hire Goods within the United Kingdom.
- 5.2 Unless otherwise agreed in writing by the Company, and without prejudice to Condition 5.1, the Hire Goods shall be delivered to the Delivery Site.
- 5.3 Any dates specified by the Company for delivery of the 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 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 costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Hire Goods or in the performance of the Contract 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 Hire Goods, or the Company is unable to deliver the Hire Goods on time because, for example, the Customer has not provided access to the Delivery Site, the Delivery site is not appropriate for delivery of the Hire Goods, the Company is unable to install the Hire Goods at the Delivery Site in a safe manner, the Customer has not provided, documents, licences or authorisations regarding delivery:
 - (a) Where the Hire Goods are in the Customer's control or remain at the Delivery Site, risk in the Hire Goods shall pass to the Customer ;

- (b) where delivery does not take place to the Delivery Site or to the Customer, the Company may store the Hire Goods until delivery, whereupon the Customer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).
- 5.6 The Customer shall provide at the Delivery Site at its expense
 - (a) adequate and appropriate access to the site to enable the Hire Goods to be delivered
 - (b) adequate and appropriate, stable and even space for the Hire Goods to be unloaded and installed for operation, to enable safe operation of the Hire Goods
 - (c) adequate access to power for operation of the Hire Goods according to the contract
 - (d) personnel with authority to accept the Hire Goods.
- 5.7 If delivery involves difficult access to or at the Delivery Site and/or the Delivery Site 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 reasonably considers that the Company is unable to deliver the Hire Goods or to install them for safe operation, including as set out in clauses 5.5 or 5.6, it shall so notify the Customer and shall be entitled either (i) to remove the Hire Goods from the Delivery Site (and charge the Customer for costs incurred) or (ii) treat the Contract as having commenced, but without having given the necessary instruction on the operation of the Hire Goods. In such circumstances use of the Hire Goods is at the Customer's risk.
- 5.9 The Company may deliver the Hire Goods by separate instalments.
- 5.10 Where 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 other than the Delivery Site, the Customer shall pay the cost of such delivery and/or collection (as specified in the acknowledgment of order).
- 5.11 The Company shall not be liable for any non-delivery of the Hire Goods unless the Customer gives written notice to the Company of the non-delivery within 7 days of the date when the Hire Goods would in the ordinary course of events have been received.
- 5.12 Any liability of the Company for non-delivery of the Hire Goods shall be limited to redelivering the Hire Goods within a reasonable time or issuing a credit note against any invoice raised for such Hire Goods.
- 5.13 The Customer shall procure that a duly authorised representative shall be present at the delivery of the Hire Goods. Acceptance of delivery by such representative of the Customer shall constitute conclusive evidence that the Customer has examined the Hire Goods and has found them to be in good condition, complete and fit in every way for the purpose intended (save as regards latent defects not reasonably apparent on inspection).
- 5.14 In all cases the Customer shall provide unobstructed access and suitable working conditions to enable delivery and installation of the Hire Goods at the site and, unless otherwise agreed in writing, shall provide all requisite materials and facilities to enable delivery and installation to be carried out safely and expeditiously.
- 5.15 Delivery will take place between 07.00 – 17.00 on the date for delivery. If the Delivery Site is not open for delivery during these times, the Company reserves the right to take the Hire Goods away and redeliver during these hours and charge the Customer for additional costs of redelivery.

6. CARE OF THE HIRE GOODS:

- 6.1 The Customer hereby agrees that with respect to any Hire Goods, it shall:
 - (a) take reasonable care of the Hire Goods and use them only for their intended purpose; and
 - (b) operate the Hire Goods in accordance with instructions given by the Company; such operation to be only by employees or contractors of the Customer who are experienced and competent in the operation of the Hire Goods;
 - (c) 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.
 - (d) insure the Hire Goods (in accordance with clause 7) on such terms as the Company may require, including
 - against physical loss or destruction, theft or damage
 - against any public or employee liability for any death or personal injury or damage arising out of the use or misuse of the Hire Goods, 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
 - (e) permit the Company upon reasonable notice to inspect the Hire Goods; and
 - (f) notify the Company immediately, following any loss of, damage or deterioration to, and/or breakdown of, the Hire Goods; and
 - (g) be responsible for and shall fully reimburse the Company for any 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
 - (h) 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 this 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) move the Hire Goods from the Delivery Site (originally specified by the Customer and where the Hire Goods were installed), or from any subsequently authorised site, without the written 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 Hire Goods shall pass to the Customer at the time of delivery or, if the Customer fails to take delivery of the Hire Goods, the time when the Company has tendered delivery of the Hire Goods.
- (a) 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 upon collection of the Hire Goods by the Company from the Delivery Point
- 7.2 The Customer's right to possession of the 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), 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 or attempts to charge any of the Hire Goods.
- 7.3 The Customer shall not re-hire, sell, mortgage, charge, pledge, part with possession of or otherwise deal with the Hire Goods and shall protect the same against distress, execution or seizure and shall indemnify the Company against all losses, damage, costs, charges and expenses arising as a result of any failure to observe and perform this condition.
- 7.4 The Customer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Hire Goods are or may be 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 Hire Goods, or, where the Customer's right to possession has terminated, to recover them. On termination of the Contract, howsoever caused, the Company's rights contained in this Condition 7 shall remain in effect.
- 7.5 Unless otherwise agreed in writing by the Company, during the Hire Period the Customer shall, at its own expense, obtain and maintain the following insurances:
- (a) insurance of the Hire Goods to a value not less than its full replacement value comprehensively against: all risks of loss; damage or destruction by fire, theft or accident; and such other risks as the Company may from time to time nominate in writing;
- (b) insurance for such amounts as a prudent owner or operator would insure for, or such amount as the Company may from time to time reasonably require, to cover any third party or public liability risks of whatever nature and however arising in connection with the Hire Goods; and
- (c) insurance against such other or further risks as may be required by law, together with such insurance as the Company may from time to time consider reasonably necessary and advise to the Customer.
- (d) All insurance policies procured by the Customer shall be endorsed to provide the Company with at least 20 working days' prior written notice of cancellation or material change (including any reduction in coverage or policy amount) and shall upon the Company's request name the Company on the policies as a loss payee in relation to any claim relating to the Hire Goods. The Customer shall be responsible for paying any deductibles due on any claims under such insurance policies.
- (e) If the Customer fails to effect or maintain any of the insurances required by these terms and conditions, the Company shall be entitled to effect and maintain the same, pay such premiums as may be necessary for that purpose and recover the same as a debt due from the Customer.
- (f) The Customer shall, on demand, supply copies of the relevant insurance policies or other insurance confirmation acceptable to the Company and proof of premium payment to the Company to confirm the insurance arrangements.

8. WARRANTIES AND LIABILITY:

- 8.1 The Company shall, at the Company's option, repair, replace or refund the price paid for Hire Goods which are damaged or defective due to faulty materials or workmanship. This obligation shall apply for the period of hire of the Hire Goods, but shall not apply:
- (a) if the defect arises because the Customer has altered or repaired the Hire Goods without the written consent of the Company; or
- (b) if the Customer did not follow the instructions for storage, installation, use or maintenance of the Hire Goods; or
- (c) if the Customer is in breach of any of its obligations 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 the 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 personal injury or death arising as a result of the Company's negligence;
- (b) Under section 2(3) of the Consumer Protection Act 1987;
- (c) For any matter which it would be illegal for the Company to exclude or to attempt to exclude its liability; or

- (d) 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 indirect or consequential loss nor for any 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 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 in accordance with and relevant Government and HSE regulations, and industry accepted good practice. 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 only operate the Hire Goods in compliance with the operators instructions provided . The Customer shall ensure that only competent and experienced employees or contractors of the Customer who have either been through the Company familiarization process for the Hire Goods or who are experienced in operation of the Hire Goods shall operate the Hire Goods.
- 9.3 The Customer shall be responsible (with respect to the Hire Goods during the Hire Term), for compliance with all site testing and inspection requirements of the Company.
- 9.4 The Customer shall inspect the Hire Goods each day prior to use and shall go through the Company's checklist each day prior to use.
- 9.5 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) save in respect of any liability for death or personal injury arising out of the Company's negligent acts or omissions. Where any accident or damage to the Hire Goods occurs, any use of the Hire Goods shall be at the Customer's sole risk.
- 9.6 The Company reserves the right to inspect the Customer's use of the Hire Goods meets the provisions of this clause.
- 9.7 The Customer shall not re-hire, sell, mortgage, charge, pledge, part with possession of or otherwise deal with the Hire Goods and shall protect the same against distress, execution or seizure and shall indemnify the Company against all losses, damage, costs, charges and expenses arising as a result of any failure to observe and perform this condition.

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) the Customer makes default in punctual payment of any sum due to the Company for hire of Hire Goods or other charges;
 - (d) the Customer fails to observe and perform the terms and conditions of this Contract;
 - (e) the Customer suffers any distress or execution to be levied against him or makes or propose to makes any arrangement with creditors or becomes insolvent the Customer 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 (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply; the Customer 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 its creditors; 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 the Customer; an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Customer; the holder of a qualifying floating charge over the assets of the Customer has become entitled to appoint or has appointed an administrative receiver; a person becomes entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the Customer; the Customer (being an individual) is the subject of a bankruptcy petition or order; a creditor or encumbrancer of the Customer 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 Customer's assets and such attachment or process is not discharged within 14 days; any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above (inclusive); the Customer suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or the Customer causes to be done or permits or suffers any act or thing whereby the Company's rights in the Hire Goods may be prejudiced or put into jeopardy
 - (f) to the extent not covered above, any one or more of the events set forth in Condition 7.2 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.
- 10.3 If the Hire Goods are not made available by for collection as agreed between the parties, the Hire Goods shall be deemed with immediate effect to be placed back on hire. The Customer shall continue to be responsible for the safekeeping of the Hire Goods in accordance with these terms and conditions and for all reasonable costs and expenses incurred in seeking to collect such Hire Goods.
- 10.4 Unless otherwise agreed in writing by the Company, upon the completion of the Hire Period the Customer shall clean and where necessary decontaminate the Hire Goods. The Customer shall be liable for any costs, liabilities and expenses incurred by the Company should the

- Customer fail to comply with this Clause.
- 10.5 In the event of termination under this clause, the Customer must give the Company, its agents or sub-contractors, immediate unobstructed access to recover the Hire Goods; and the Company shall be entitled to claim the hire charges outstanding as at the date of termination of the hire under this Clause and return transport charges under these terms and conditions.
- The Company's rights under this Clause may be exercised notwithstanding that the Company may have waived some previous default or matter of the same or like nature; and shall not affect any other rights or remedies available to the Company including without limitation its rights to claim damages for breach of contract or recover any sums due under the Contract. If the Customer does not make payment of a sum by the final date on which payment is due to be made, the Company has the right to suspend performance of its obligations under the Contract.

11. AFFIXING TO BUILDINGS AND USE WITH 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 the Hire Goods, 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 The Customer shall be responsible for the building or the scaffolding to which the Hire Goods are to be attached. This shall include ensuring the stability of the building or scaffolding and for ensuring that the building or scaffolding is fit for use in connection with the Hire Goods, in particular the affixing of the Hire Goods and the design of structures suitable for the weight and dimensions of the Hire Goods (and the use for which the Hire Goods are to be put).
- 11.3 Whenever any scaffold (or the Hire Goods) will encroach on or be suspended over a highway, the Customer shall produce the requisite consent of the Highway Authority before the installation of the Hire Goods, 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.
- 11.4 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. LOADING AND INSTALLATION AND FURTHER TERMS

- 12.1 The Company will provide the Hire Goods to the Customer with instruction to the Customer's trained and experienced employees or contractors who will operate the Hire Goods. The Customer shall only use the Hire Goods as instructed and in accordance with the documentation supplied in connection with the hire and in accordance with these Conditions.
- 12.2 The Customer shall be solely responsible for loading and unloading the elevator on the Hire Goods in accordance with the manufacturer's specification for the maximum load (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 as set out in the instructions for the Hire Goods or as advised by the Company
- 12.3 . For the avoidance of doubt, the Company or the Customer shall only be obliged to operate the Hire Goods at the Delivery 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, 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 that the loss or damage is for death or personal injury arising from the Company's employees having acted negligently.
- 12.4 The Company shall be responsible for ensuring that the elevator is installed correctly and can operate safely within the safe working load limits. 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 use of the Hire Goods. Without limiting the generality of the foregoing, the Company (a) reserves the right to refrain from installing the elevator if the Company 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.
- 12.5 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 elevator, on which the elevator can stand and be installed; and (c) measuring 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.
- 12.6 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 in any instance where the Customer is uncertain as to conditions at the Delivery 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 Hire Goods can be installed to the extent that other factors 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.
- 12.7 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 delivery and for ensuring that 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 all costs, charges and expenses in relation thereto.

Customers should note that the Company will require the use of sufficient parking at the Access Point, 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.

- 12.8 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.
- 12.9 The Customer shall not remove any name plates or marks from the Hire Goods
- 12.10 The Customer shall be responsible for all damages, losses, costs and expenses suffered or incurred by the Company if the Customer uses the wrong fuel, oil or grease, other than that supplied by the Company.

13. CONFIDENTIALITY

- 13.1 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.

14. DATA PROTECTION

- 14.1 In performance of the services contemplated under this Contract, the Customer may provide the Company with personal data which may be subject to Data Protection legislation.
- 14.2 To the extent that the Customer provides such information to the Company, the Customer warrants that it has the right to provide the data to the Company for the purposes envisaged by the Contract.
- 14.3 The Company shall use the data only for the purposes of performing the Contract, save that where the Customer has specifically agreed to permit the use of the data for marketing purposes.

15. NOTICES:

- 15.1 Any notice which must be given under the Contract may either be delivered personally or posted.
- (a) Notice given by post must be pre-paid and correctly addressed: 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).
- 15.2 A notice delivered personally is deemed served upon delivery.
- 15.3 A posted notice which complies with Condition 15.1 is deemed served on the second business day after the date of posting.

16. GENERAL:

- 16.1 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.
- 16.2 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.
- 16.3 The headings in these Conditions are for convenience only and shall not be used to interpret these Conditions.
- 16.4 No variation of this Contract shall be effective unless agreed in writing and signed by both parties.
- 16.5 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.

CONDITIONS OF PURCHASE

1. Where during any period of hire or after the termination of the period of hire, the Customer wishes to purchase any Hire Goods, the Customer shall advise the Company in writing of its wish to purchase such Hire Goods.
2. The Company shall advise the Customer of the price for the Hire Goods. If the Customer agrees to purchase the Hire Goods, upon payment in full of the purchase price, title in the Hire Goods shall pass to the Customer.
3. Any purchase of Hire Goods by the Customer is on the basis that;
 - a. the Customer has had access to and physical possession of the Hire Goods;
 - b. the Customer purchases the Hire Goods as they are, without any warranty as to condition, fitness for purpose, save as to the warranty on title.
4. The Company shall have no liability in respect of the sale of the Hire Goods.