



**STANDARD TERMS & CONDITIONS
SUPPLY OF HIRE EQUIPMENT**

PLEASE NOTE THAT THESE TERMS ARE USED WITH TRADERS AND WITH CONSUMERS AND IN CERTAIN AREAS DIFFERENT PROVISIONS APPLY TO EACH AS FOLLOWS:

- **Part A:** General Terms
- **Part B:** Terms applying only to Traders.

A "**Trader**" means a person acting for purposes relating to that person's trade, business, craft or profession, whether acting personally or through another person acting in the trader's name or on the trader's behalf.

PART A: GENERAL TERMS APPLYING TO TRADERS

1. **DEFINITIONS**

1.1 In these Terms:

the following words and expressions shall, unless the context or circumstances require otherwise, have the meanings assigned to them below:

"Additional Charges" means charges applicable to the provision of the Equipment which are charged in addition to the Charges including those additional costs and expenses referred to in these Terms;

"Charges" means the charges set out in the Contract or if no charges are detailed in the Contract, Prime standard charges for the relevant Equipment in force on the date Prime issues a written acceptance of the Order to the Hirer;

"Commencement Date" means the date on which the relevant Contract is formed in accordance with clause 3.1;

"Contract" means the contract between Prime and the Hirer formed in accordance with clause 3.2;

"Damage Waiver" means the optional waiver of liability for payment by the Hirer for damage to Equipment as set out in clause 7;

"Damage Waiver Plus" means the optional waiver of liability for payment by the Hirer for loss or damage to Equipment as set out in clause 7;

“Equipment” means the items of equipment to be hired by the Hirer as listed in the Order, all substitutions, replacements or renewals of such equipment and all related accessories, manuals and instructions provided for the equipment;

“Hire Period” means the period of hire of the Equipment as set out in the Contract, unless the Contract is terminated earlier in accordance with these Terms or extended by agreement between Prime and the Hirer;

“Hirer” means the Consumer or Trader set out as such in the Contract;

“Prime” means the relevant Prime company set out in the Contract;

“Order” means the individual orders for the hire of Equipment placed by the Hirer from time to time in accordance with these Terms;

“Replacement Cost” means the cost of replacing any item of Equipment or part of it including but not limited to the cost of the item or part of it, any unpaid Charges that would otherwise have been paid by the Hirer were it not for such replacement, and a reasonable administrative charge to be determined by Prime covering the cost to Prime of administering the replacement, the full amount of such cost will be notified to the Hirer prior to formation of the Contract;

“Site” means any premises or location at which the Equipment is to be delivered to or collected from or is otherwise located;

“Terms” means these terms and conditions.

1.2 References to the singular include the plural and vice versa and references to any gender include every gender;

1.3 References to a “person” include any individual, body corporate, association, partnership, firm, trust, organisation, joint venture, government, local or municipal authority, governmental or supra-governmental agency or department, state or agency of state or any other entity (in each case whether or not having separate legal personality);

1.4 In the event that there is a conflict between Part A and Part B, Part A shall prevail and then Part B in the case of a trader; and

1.5 Any words following the words “include”, “includes”, “including”, “in particular” or any similar words or expressions shall be construed without limitation and accordingly shall not limit the meaning of the words preceding them.

2. INFORMATION ABOUT Prime AND CONTACTING Prime

2.1 Who is Prime. The name, company registration number, registered office address and VAT number of the relevant Prime company from which the Equipment will be hired is set out in the Contract.

2.2 How to contact Prime. If the Hirer has any questions or if the Hirer has any complaints, the Hirer should contact Prime. Prime can be contacted by calling 01923693717, e-mailing your local branch, or by post at Prime Disaster Response, Unit 39 Wenta Business Centre, Watford, WD24 7ND.

2.3 How Prime may contact the Hirer. If Prime has to contact the Hirer, Prime will do so by telephone or by writing to the Hirer at the email address or postal address the Hirer provides to Prime in the Order.

3. FORMATION OF CONTRACT AND ORDERS

3.1 The Hirer's Order is an offer to hire from Prime. Each Order placed by the Hirer will be an offer by the Hirer to hire the Equipment on these Terms. The Hirer will ensure that each Order is accurate and complete and that the Equipment is suitable for the Hirer's requirements.

3.2 How we, Prime, accept the Order. A Contract will be formed between Prime and the Hirer for the provision of the Equipment set out in the Order, when Prime issues a written acceptance of the Order to the Hirer.

3.3 Prime may not accept your Order. If Prime is unable to accept an Order for any reason, Prime will inform the Hirer of this and will not charge for the Equipment.

3.4 When will the Contract commence. The Contract shall commence on the Commencement Date and shall continue for the Hire Period unless terminated earlier in accordance with these Terms.

3.5 Prime hires Equipment in the UK and Ireland only. Prime's website is solely for the promotion of Prime's equipment in the UK and Ireland.

4. THE EQUIPMENT

4.1 Prime retains ownership of the Equipment. The Hirer acknowledges that the Equipment remains at all times the property of Prime (or its supplier as applicable). The Hirer has no right, title or interest in the Equipment except that it is hired to the Hirer in accordance with the terms of the Contract.

4.2 The Hirer will have quiet possession of the Equipment. Prime shall not, other than in the exercise of its rights under the Contract or applicable law, interfere with the Hirer's quiet possession of the Equipment during any Hire Period.

4.3 Hirer to notify Prime of issues with or caused by the Equipment. The Hirer shall immediately notify Prime of any loss, accident, damage or defect in the Equipment or if the Hirer considers that the Equipment may cause damage to the Hirer's property.

4.4 Prime may access a Site to inspect and repair the Equipment. The Hirer shall grant (or shall procure that Prime or its authorised representative is granted) access to the Site at all such reasonable times on Prime giving the Hirer reasonable notice to inspect the Equipment and ensure the Hirer's compliance with its obligations under the Contract; and/or carry out any inspections or repairs of the Equipment.

4.5 The Hirer will replace any fuel in the Equipment. Where the Equipment is supplied with fuel, the Hirer shall return the Equipment with the same or a greater amount of fuel. Prime shall be entitled to charge the Hirer for any refuelling costs if the Hirer fails to comply with this clause 4.5, at such rates as may be notified to the Hirer from time to time.

4.6 Use and storage of the Equipment by Hirer. The Hirer:

4.6.1 Shall keep the Equipment in good repair and condition, (fair wear and tear only excepted) but the Hirer shall not repair or allow any third party to repair the Equipment and shall notify Prime immediately if any repair is necessary;

4.6.2 Shall where the Equipment requires fuel, oil and/or electricity, ensure that the proper type of fuel, oil and/or voltage is used;

4.6.3 Not sell, licence or create any security interest or type of preferential arrangement on or over the Equipment;

4.6.4 Shall use the Equipment in compliance with all laws and applicable regulations including any health and safety legislation which relates to the use of the Equipment and in accordance with any operating and/or safety instructions provided to or supplied to the Hirer by Prime;

4.6.5 Shall not make any alteration to the Equipment (including defacing or covering up Prime's name plate or mark);

4.6.6 Shall not without the prior written consent of Prime, attach the Equipment to any land or building so as to cause the Equipment to become a permanent or immovable fixture on such land or building;

4.6.7 Shall not, without the prior written consent of Prime, part with control of the Equipment;

4.6.8 Shall not do or permit to be done anything which could invalidate Prime' insurances;

4.6.9 Is responsible for the security of the Equipment whilst in the Hirer's possession; and

4.6.10 Will take all appropriate measures to secure the Equipment at the Site, including when not in use.

4.7 Damage to or loss of Equipment. Subject to clause 7, the Hirer shall pay Prime:

4.7.1 All costs and expenses in respect of: (i) rectifying any damage to the Equipment (fair wear and tear excepted) which occurred during the period in which the Equipment was at the Hirer's risk; and (ii) cleaning the Equipment following collection of the Equipment, in each case to return the Equipment to a condition fit for rehire. Such costs and expenses shall be confirmed to the Hirer by Prime, subject to supporting documentation. In addition, the Hirer will continue to pay the Charges until any repairs and or cleaning have been completed; and

4.7.2 The Replacement Cost in respect of lost or stolen Equipment and/or Equipment which is beyond economic repair and the Hirer will continue to pay the Charges, until the Replacement Cost has been received by Prime.

4.8 Consequences of expiry or cancellation of the Contract. On expiry or cancellation of the Contract for whatever reason all Equipment at such time in the possession of the Hirer shall immediately become due for return to Prime and unless agreed otherwise in writing, the Hirer will return the Equipment to Prime.

4.9 Prime requires access to recover the Equipment. The Hirer will grant and will ensure that the owner of any third-party premises will grant to Prime, its agents, employees and sub-contractors the right at any time to enter any premises where the Equipment is or may be stored in order to recover the Equipment. The rights granted in this clause 4.9 are without prejudice to any rights and remedies of Prime.

5. **DELIVERY AND COLLECTION**

5.1 When Prime will provide the Equipment. During the order process Prime will let the Hirer know when Prime will provide the Equipment.

5.2 Prime is not responsible for delays outside of Prime' control. If Prime' supply of the Equipment is delayed by an event outside Prime' control then Prime will contact the Hirer as soon as possible to let the Hirer know and Prime will take steps to minimise the effect of the delay. Prime will not be liable for delays caused by any event outside Prime' control, but if there is a risk of substantial delay the Hirer may contact Prime to end the Contract and receive a refund for any Equipment paid for but not received.

5.3 If the Hirer does not allow Prime access to provide the Equipment. If the Hirer does not allow or procure Prime access to its property to provide the Equipment as arranged Prime may

charge the Hirer additional costs incurred by Prime as a result. If, despite Prime' reasonable efforts, Prime is unable to contact the Hirer or re-arrange access to the Hirer's property Prime may end the contract. It is the Hirer's responsibility to ensure that the Site has been inspected by the Hirer and that the Site is prepared to allow Prime to access it to effect Delivery in a safe manner without causing damage. The Hirer acknowledges that Prime may effect deliveries or collections in large, heavy commercial vehicles and will hold Prime harmless in the event of any damage caused by lack of Site preparation by the Hirer, to include poor access routes and/or ground conditions. If the Hirer has any concerns around access and safe delivery, this should be raised with Prime staff prior to completing an Order and noted on the Order, failing which Prime shall have no liability for damage to Site or delayed or failed delivery and the Hirer shall be liable for any related charges, including redelivery charges.

5.4 When the Hirer becomes responsible for the Equipment. Delivery will occur when the Equipment is made available to the Hirer at the delivery address (whether at Prime' premises or a Site). Unless otherwise agreed by the parties in writing, risk of loss, theft, damage or destruction of the Equipment shall pass to the Hirer on delivery in accordance with this clause and will return to Prime once the Equipment is loaded onto the collection vehicle by the Hirer.

5.5 What will happen if the Hirer does not give required information to Prime. Prime may need certain information from the Hirer so that Prime can supply the Equipment, for example, delivery details. Prime will contact the Hirer to ask for this information. If the Hirer does not give Prime this information within a reasonable time of Prime asking for it, or if the Hirer gives Prime incomplete or incorrect information, Prime may either end the Contract or make an additional charge of a reasonable sum to compensate Prime for any extra work that is required as a result. Prime will not be responsible for supplying the Equipment late or not supplying any part of it if this is caused by the Hirer not giving Prime the information Prime needs within a reasonable time of Prime asking for it.

5.6 If the Hirer does not allow Prime access to collect the Equipment. The Hirer shall grant or procure the grant of access to the Site to Prime to allow the collection of the Equipment and make the Equipment available for collection by Prime on the date and time agreed between the parties. If Prime is unable to collect the Equipment as arranged Prime may charge the Hirer any additional costs incurred by Prime as a result.

5.7 Branch collections and returns. When a Hirer wishes to collect or return Equipment from or to a Prime branch or place of business, it shall be the Hirer's responsibility to prepare its vehicle so that the collection/return can be carried out without damage being caused to such vehicle or injuries being sustained by the Hirer or by Prime staff and the Hirer shall hold Prime harmless in the event of contravention of this. Should the Hirer have any doubt as to whether this can be complied with, it should ask Prime to arrange a collection/delivery, subject to Charges (as applicable).

6. **CHARGES AND PAYMENT**

6.1 Where to find the Charges. The Charges (which includes VAT) will be the price indicated on the order pages (or otherwise notified to the Hirer) when the Hirer places the Order.

6.2 Variation of the Charges. Prime will be entitled to vary the Charges and any Additional Charges at any time by giving written notice to the Hirer to reflect any variation in the cost of supplying the Equipment which arises as a consequence of:

6.2.1 Any variation in the Hirer's requirements for the Equipment;

6.2.2 Any information provided by the Hirer being inaccurate or incomplete; or

6.2.3 Any failure or delay by the Hirer in providing information.

6.3 A deposit or other payment information may be required. At the time the Equipment is ordered, Prime may require the Hirer to pay a deposit and/or require the Hirer to provide details of a valid credit or debit card and allow Prime to take a deposit ("Deposit").

6.4 Status of the Deposit. The Deposit shall be a deposit against default by the Hirer of payment of any Charges or any loss of or damage caused to the Equipment.

6.5 Prime may off-set the Deposit against amounts owed by the Hirer to Prime. If Damage Waiver Plus is not purchased by the Hirer and the Hirer fails without due cause to make any payment of the Charges or any Replacement Cost or causes any loss or damage to the Equipment (in whole or in part), Prime shall be entitled to apply the Deposit against such default, loss, Replacement Cost or damage.

6.6 Return of Deposit. Unless Prime is entitled to make a deduction from the Deposit in accordance with clause 6.5, the full amount of the Deposit will be returned to the Hirer at the end of the Hire Period.

6.7 When the Hirer must pay and how. The Hirer must pay the Charges at the time agreed in the Contact. Unless otherwise agreed by the parties in writing or in the Contract, any invoices submitted by Prime shall be paid by the Hirer within a period of thirty (30) days from the end of the month in which the relevant invoice is issued.

6.8 Prime will pass on changes in the rate of VAT. If the rate of VAT changes between the Order date and the date Prime supplies the Equipment, Prime will adjust the rate of VAT that the Hirer pays, unless the Hirer has already paid for the Equipment in full before the change in the rate of VAT takes effect.

6.9 Prime can charge interest if the Hirer pays late. If the Hirer is a Consumer, the provisions of clause B 17 shall apply. If the Hirer is a Trader, the provisions of clause C 22.5 shall apply.

6.10 Other remedies of Prime for late payment. Should any portion of an account fall overdue then the total account will become due on demand. The Hirer will be responsible for reasonable legal charges incurred by Prime in the recovery of amounts due or the recovery of the Equipment. In addition Prime is entitled to suspend further services to the Hirer.

7. DAMAGE WAIVER AND DAMAGE WAIVER PLUS

Damage Waiver or Damage Waiver Plus may be offered to the Hirer or, in some cases, may be a requirement by Prime of its Contract with the Hirer. The provisions of clauses 7.1 to 7.5 shall apply if Damage Waiver or Damage Waiver Plus (as applicable) has been taken up by the Hirer.

7.1 Damage Waiver: Subject to the remainder of this clause 7, if the Hirer contracts to pay the Damage Waiver charge, being a sum equal to 10% of the Charges (where available as an option) Prime will waive any further charge for rectifying accidentally damaged Equipment.

7.2 Damage Waiver Plus: Subject to the remainder of this clause 7, if the Hirer contracts to pay the Damage Waiver Plus charge being a sum equal to 15% of the Charges (where available as an option) Prime will waive any further charges for (i) rectifying accidentally damaged Equipment; and/or (ii) loss or theft of the Equipment.

7.3 Conditions of Damage Waiver Plus applying: The waiver provided by Damage Waiver Plus is subject to the following conditions:

7.3.1 The Hirer must be able to demonstrate that reasonable care has been taken to prevent loss;

7.3.2 Theft of Equipment must be reported to the Police and a crime reference number obtained;

7.3.3 The Hirer must notify Prime within forty eight (48) hours of the theft and obtain a Prime theft report form. The completed form must be returned to: Claims Department, Prime Disaster Response Hire, Unit 39 Wenta Business Centre, Colne Way, Watford, WD24 7ND. Tel: 01923 693717

7.3.4 The maximum value of loss waived for any single Contract will be five thousand pounds (£5,000). Any loss above this value will be charged to the Hirer by Prime.

7.4 When Damage Waiver Plus will not apply. Damage Waiver Plus shall not apply and the Hirer shall be responsible for any damage to, or loss of, the Equipment in the following circumstances:

7.4.1 Theft of consumable goods;

7.4.2 Loss due to the dishonesty, wilful defect or negligence of any Hirer's employee, sub-contractor or agent of the Hirer;

7.4.3 Theft from a vehicle where the Equipment was left visible and unattended;

7.4.4 Loss of Equipment revealed only when an inventory is made or at collection;

7.4.5 Loss arising from civil disturbance; and/or

7.4.6 Loss occurring outside the UK and the Republic of Ireland.

7.5 Limitations and exclusions for Damage Waiver and Damage Waiver Plus: Damage Waiver or Damage Waiver Plus does not cover the following and the Hirer shall remain responsible to Prime for:

7.5.1 The first £50 or 20% of the Replacement Cost (whichever is the greater amount) of any Equipment loss claim;

7.5.2 50% of the Replacement Cost for theft of Equipment left unattended overnight outside a secure compound or building or stored overnight in a secured vehicle;

7.5.3 Tyre punctures and/or Replacement Costs due to irreparable tyre damage;

7.5.4 Damage or loss caused by the Hirer's negligence, damage or breach of the Contract including damage or loss connected to the Hirer's obligations set out in clause 4.6; and

7.5.5 Damage or loss caused by or contributed to as a result of the misuse, neglect, alteration, mishandling or unauthorised manipulation of the Equipment by the Hirer.

8. **VARIATION**

8.1 Which version of our Terms apply to your order. Prime amends these Terms from time to time. Every time a Hirer orders Equipment from us, the terms in force at the time of the Order will apply to the Contract between the Hirer and Prime.

8.2 Amending the Terms applicable to your Order. Prime may revise these Terms as they apply to an Order from time to time to reflect the following circumstances:

8.2.1 Changes in relevant laws and regulatory requirement; and

8.2.2 Changes to Prime' processes and procedures.

If Prime have to revise these Terms as they apply to an Order, Prime will contact the Hirer to give the Hirer reasonable advance notice of the changes and let the Hirer know how to cancel the Contract if the Hirer is not happy with the changes. The Hirer may cancel either in respect of all the affected Equipment or just any Equipment the Hirer has yet to receive. If the Hirer opts to cancel, Prime will have to return (at Prime' cost) any relevant Equipment already received and Prime will arrange a full refund of the price paid by the Hirer.

9. **HOW Prime MAY USE A HIRER'S PERSONAL INFORMATION**

How Prime will use a Hirer's personal information.

Prime is the data controller of any personal information a Hirer provides to us. Prime will collect and process such information in order to process and fulfil an Order.

If the Hirer is an individual providing Prime with its own personal information, please see Prime 's privacy policy which is available on our website (<https://www.primedr.co.uk>) for further information on how personal information is used and rights in relation to that information.

If the Hirer is providing personal data of another individual to Prime, the Hirer must tell that individual that the Hirer is providing their information to Prime and show them a copy of this notice.

10. **GENERAL**

10.1 Even if Prime delays in enforcing a Contract, Prime can still enforce it later. If Prime fails to insist that the Hirer performs any of its obligations under a Contract or if Prime does not enforce its rights against the Hirer, or if Prime delays doing so, that will not mean that Prime has agreed not to enforce its rights against the Hirer and will not mean that the Hirer does not have to comply with those obligations. If Prime does waive a default by the Hirer, Prime will only do so in writing, and that will not mean that Prime will automatically waive any later default by the Hirer.

10.2 If a court finds part of the Terms illegal, the rest will continue in force. Each of the paragraphs of these Terms operates separately. If any court or relevant authority decides that any term is unlawful or unenforceable, the remaining paragraphs will remain in full force and effect.

10.3 Nobody else has any rights under a Contract. The parties do not intend that any term of a Contract shall be enforceable by any person other than the parties.

10.4 The Hirer needs the consent of Prime to transfer its rights to someone else. The Contract is personal to the Hirer and the Hirer shall not assign, delegate, sub-contract, transfer, charge or

otherwise dispose of all or any of its rights and responsibilities under the Contract without the prior written consent of Prime.

11. **GOVERNING LAW AND JURISDICTION**

11.1 Which laws apply. These Terms and any and all Contracts and any non-contractual obligations arising out of or in connection with them will be governed by English law.

11.2 Where you may bring legal proceedings. Prime and the Hirer both agree that the courts of England and Wales have exclusive jurisdiction to determine any dispute arising out of or in connection with these Terms and any and all Contracts (including in relation to any non-contractual obligations), except if the Hirer is a Consumer and a resident of Northern Ireland the Hirer may also bring proceedings in Northern Ireland, and if the Hirer is a Consumer and a resident of Scotland, the Hirer may also bring proceedings in Scotland.

PART B: TERMS APPLYING ONLY TO TRADERS

12. **FORMATION OF CONTRACTS**

No Hirer Terms will apply to any Contracts. Each Contract will be subject to these Terms to the exclusion of all other terms and conditions, including any terms or conditions which the Hirer purports to apply under any purchase order, confirmation of order or similar document, whether or not such document is referred to in the Contract.

13. **THE EQUIPMENT**

13.1 Liability for damage to Hirer's property. Prime shall have no liability to the Hirer for damage to the Hirer's property if the Hirer fails to comply with clause 4.3.

13.2 Consequences of parting with control of the Equipment. If the Hirer without the prior written consent of Prime, parts with control of the Equipment, the Hirer shall, immediately upon Prime' request procure the return of the Equipment to the Hirer. If the Equipment is not returned to the Hirer within 5 days of Prime' request, the Equipment shall be deemed to be lost and the Hirer shall be responsible for the replacement of the Equipment and the Charges and any Additional Charges will continue to apply until settlement is made to the satisfaction of Prime.

13.3 Equipment will comply with the Contract. Prime shall:

13.3.1 During each Hire Period, ensure that the Equipment shall be of satisfactory quality, comply with any description provided by the Hirer and shall be fit for its intended purpose; and

13.3.2 On the Commencement Date, ensure that the Equipment shall comply with all applicable laws and statutory regulations and any reasonable instructions and guidelines issued by the Hirer at the time of hire, including health, safety and security standards.

13.4 What to do if the Equipment fails to comply with the Contract. If, at any time during the Hire Period, the Hirer becomes aware of a breach of clause 13.3 the Hirer shall give written notice of the breach to Prime as soon as reasonably possible once the Hirer has become aware of the breach.

13.5 Remedies if the Equipment fails to comply with the Contract. Following receipt of written notice under clause 13.4 Prime will:

13.5.1 Repair the Equipment;

13.5.2 Replace the Equipment with equipment of an equivalent or similar specification; or

13.5.3 Reduce the Charges of the relevant Equipment by a sum which is fair in the circumstance.

These are the Hirer's only remedy for a breach of clause 13.3.

13.6 Circumstances where Prime will not be liable. Prime shall not be responsible to the Hirer for any breach of clause 13.3 and shall not be required to repair or replace the Equipment in accordance with clause 13.5 if:

13.6.1 The breach arose directly as a result of any act or omission of the Hirer; and/or

13.6.2 The breach was caused by or contributed to as a result of the misuse, neglect, alteration, mishandling or unauthorised manipulation of the Equipment.

In such circumstances, and without prejudice to its other rights including those in clause 4.7, Prime shall be entitled to charge the Hirer for attending Site to repair or replace Equipment.

14. **DELIVERY**

14.1 The Hirer shall procure that a duly authorised representative of the Hirer shall be present at the Site where the Equipment is to be delivered. Acceptance of delivery of the Equipment by such representative shall constitute conclusive evidence that the Hirer has accepted such delivery.

14.2 Time of delivery of the Equipment and/or performance of the Contract will not be of the essence.

14.3 If the Equipment is unavailable for inspection or collection within 5 days of the scheduled date for inspection or collection as agreed between Prime and the Hirer, the Equipment shall be deemed to be lost and the Hirer shall be responsible for the replacement of the Equipment as set out in clause 4.7 and the Charges and any Additional Charges will continue to apply until settlement is made to the satisfaction of Prime.

14.4 If Prime delivers a quantity of the Equipment less than the quantity specified in the Order, the Hirer shall agree the shortages with Prime and note the same on the delivery document. The Hirer may elect to:

14.4.1 Refuse to take delivery of or reject the Equipment and the Hirer shall have liability for the cost of delivery only; or

14.4.2 Take delivery of and keep the lesser quantity of Equipment or any part thereof and pay for them at the rate specified in the Order subject to a pro-rata reduction in the relevant Charges.

14.5 If Prime delivers a quantity of Equipment greater than the quantity specified in the Order, the Hirer may elect to:

14.5.1 Accept and pay for all the Equipment delivered at the Charges; or

14.5.2 Accept and pay for the quantity specified in the Order and reject the excess.

15. **CHARGES AND PAYMENT**

15.1 Withholding tax. If the Hirer is required in accordance with the relevant tax laws to make any withholding in respect of taxes from payments made or due to Prime, it shall provide Prime with a certificate evidencing that withholding has been made and properly accounted for to the relevant tax authorities and shall provide Prime with such assistance as may reasonably be required to enable Prime to reclaim such taxes.

15.2 Hirer's with Credit Accounts. If Prime has granted a credit account to the Hirer:

15.2.1 Then payment of any Charges or any other sums due under the Contract, including VAT, shall be made in full cleared funds by the end of the month following the date of the invoice; and

15.2.2 Prime may set a reasonable credit limit.

15.3 Prime may terminate if the credit limit is exceeded. Prime reserves the right to terminate or suspend the Contract if allowing it to continue would result in the Hirer exceeding its credit limit or the Hirer has already exceeded its credit limit.

15.4 Invoice queries. The Hirer should notify Prime in writing of any queries concerning invoices within 7 days of the invoice date. Prime will not grant an extension to credit account payment terms for unresolved invoice queries that have been notified after such date.

15.5 Late payment. If the Hirer does not make any payment to Prime in full by the due date, without prejudice to any other rights of Prime, Prime may charge you interest (both before and after judgment) on the amount unpaid in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 as amended and supplemented by the Late Payment of Commercial Debts Regulations 2002 and/or to suspend further Services to you or any of your associated companies.

16. **Prime' LIABILITY**

16.1 Non-excludable liability. Neither party excludes or limits its liability, if any, to the other party for:

16.1.1 Death or personal injury resulting from its negligence or by the negligence of a person for whom it is vicariously liable;

16.1.2 Any breach of its obligations implied by section 2 of the Supply of Goods and Services Act 1982;

16.1.3 For its fraud or fraudulent misrepresentation or the fraud or fraudulent misrepresentation by a person for whom it is vicariously liable; or

16.1.4 Any matter which it would be illegal for it to exclude or to attempt to exclude its liability.

16.2 Tangible property liability. Subject to clauses 16.1 and 16.4, Prime' maximum aggregate liability to the Hirer for loss of or damage to tangible property caused by its negligence or act or omission shall be limited to five million pounds (£5,000,000).

16.3 Prime' aggregate liability. Subject to clause 16.1 and 16.4, Prime' maximum aggregate liability to the Hirer arising out of or in connection with the Contract, whether in contract, tort, misrepresentation, under statute or otherwise, howsoever caused including by negligence and/or arising from a breach of, or a failure to perform or defect or delay in performance of, any of Prime' obligations under the Contract but excluding any liability which falls within clause 16.1, shall be limited in respect of each Contract, to the Charges and other sums paid or payable in respect of that Contract as specified in the Order.

16.4 Excluded types of liability. Subject to clause 16.1, neither party shall have any liability to the other party for any:

16.4.1 Loss of profit (direct or indirect);

16.4.2 Loss of revenue, loss of production or loss of business (in each case whether direct or indirect);

16.4.3 Loss of goodwill, loss of reputation, loss of opportunity and/or loss of operation (in each case whether direct or indirect);

16.4.4 Loss of anticipated saving or loss of margin (in each case whether direct or indirect);

16.4.5 Liability of the other party to third parties (whether direct or indirect); or

16.4.6 Indirect, consequential or special loss, arising out of or in connection with the Contract, whether in contract, tort, misrepresentation, under statute or otherwise, howsoever caused including by negligence and/or arising from a breach of, or a failure to perform or defect or delay in performance of, any of that party's obligations under the Contract and/or any defect in or breakdown of the Equipment or the Equipment's unsuitability for the Hirer's intended purpose.

16.5 The Effect of clause 16.4 on the Hirer's liability. Clause 16.4 shall not limit or exclude Prime' ability to claim against the Hirer in respect of:

16.5.1 Any loss of or damage to Equipment subject to any Damage Waiver or Damage Waiver Plus applying;

16.5.2 The ability to recover the Charges applicable for any remaining Hire Period on early termination of any Contract as set out in these Terms; and/or

16.5.3 Costs and expenses in respect of recovery of the Equipment as set out in these Terms.

16.6 Prime' entire liability. The Contract set out the full extent of Prime' obligations and liabilities in respect of the Equipment including the hire of Equipment to the Hirer. There are no conditions, warranties or other terms, express or implied, including as to quality, fitness for a particular purpose or any other kind whatsoever, that are binding on the Hirer except as specifically stated in the Contract. Any condition, warranty or other term concerning the Equipment which might otherwise be implied into or incorporated within the Contract, whether by statute, common law or otherwise, is expressly excluded.

17. **CANCELLATION**

17.1 The Hire Period will not exceed 88 days. Where the hire is to a Hirer who is an "individual" (which includes without limitation a sole trader or partnership) under the Consumer Credit Act 1974, the Hire Period shall not exceed 88 days, after which time the relevant Contract shall be deemed to have automatically terminated.

17.2 Grounds for mutual termination. Either party may, immediately on giving written notice to the other party, terminate the Contract and/or the relevant Contract without payment of compensation if the other party:

17.2.1 Commits a material breach of the Contract which is incapable of remedy;

17.2.2 Commits a material breach of the Contract which can be remedied but fails to remedy that breach within seven (7) days of a written notice setting out the breach and requiring it to be remedied being given by the other party; and/or

17.2.3 Becomes Insolvent and each party shall notify the other party immediately upon becoming Insolvent.

17.3 Termination on Notice. Either party may terminate the Contract on giving the other party not less than five (5) days' notice in writing.

17.4 Prime' rights to terminate. Prime may terminate the Contract immediately on giving written notice to the other party if:

17.4.1 The Equipment is lost, stolen, seized, confiscated or in Prime' reasonable opinion or the opinion of its insurer(s), damaged beyond repair;

17.4.2 The Hirer fails to pay any of Prime' invoices within thirty (30) days from the due date for payment; or

17.4.3 The Hirer (or its associated persons, agents or subcontractors) is shown not to be running its business in accordance with applicable law and regulations and with high levels of governance and ethical standards or cannot evidence such standards by way of appropriate policies and controls (or otherwise) to Prime's reasonable satisfaction, including but not limited to compliance with the Bribery Act 2010, the Modern Slavery Act 2015, the Criminal Finances Act 2017 (anti-facilitation of tax evasion) and the General Data Protection Regulation.

17.5 Accrued rights and remedies will not be prejudiced by termination or expiry. The termination of the Contract (or any part of it) shall be without prejudice to the rights and remedies of either party which may have accrued up to the date on which the Contract expires or is cancelled for whatever reason.

17.6 Consequences of termination or expiry. Upon the termination or expiry of the Contract, howsoever caused, without prejudice to any other rights or remedies of Prime:

17.6.1 Prime shall be entitled to invoice all Charges and Additional Charges incurred which have not yet been invoiced;

17.6.2 The Hirer shall pay on demand all Charges and Additional Charges which are due but are unpaid at the date of demand, together with any interest accrued; and

17.6.3 The Hirer shall pay on demand all costs and expenses incurred by Prime in recovering the Equipment and/or in collecting any sum due under the Contract (including any storage, transport, insurance, repair, legal and remarketing costs).

17.7 Hirer's rights to Equipment ends when the Contract ends. Without prejudice to the remainder of these Terms, on the termination or expiry of any Contract Prime' consent to the Hirer's possession of the Equipment shall terminate and Prime may take possession of the Equipment and for this purpose may enter the Site or any premises at which the Equipment is located.

17.8 Definition of Insolvent. "Insolvent" means where a person ceases to trade, is unable to pay its debts as they fall due or where a person becomes, or is likely to become, insolvent or bankrupt including where a person has a receiver, administrative receiver, administrator or provisional liquidator appointed; is subject to a notice of intention to appoint an administrator; passes a resolution for its winding-up has a winding up order made by a court in respect of it; enters into any composition or arrangement with creditors (save in respect of a solvent restructuring) or has any steps or actions taken in connection with any of these procedures in any jurisdiction.

18. **INTELLECTUAL PROPERTY RIGHTS**

No right of licence is granted to the Hirer in respect of any intellectual and industrial property rights whether registered or unregistered (including know how and rights to prevent passing off) in the United Kingdom and all other countries in the world and together with all applications, renewals and extensions of the same of Prime, except the right to use the Equipment in the Hirer's ordinary course of business for the purpose for which they were supplied.

19. **CONFIDENTIALITY**

19.1 Use of Confidential Information. Each party will keep secret and confidential all confidential information concerning the business, affairs, customers, clients or suppliers of the other party which is disclosed or obtained in connection with the Contract and/or any Contract and shall not use nor disclose the same save for the purposes of the Contract or with the prior written consent of the relevant party. Where disclosure is made to any employee, consultant, sub-contractor or agent, who needs to know the confidential information for the purposes of the Contract and/or any Contract it shall be done subject to the obligations set out in the Contract and each party shall procure that any such employee, consultant, sub-contractor or agent complies with such obligations.

19.2 Exceptions to obligations of confidentiality. The obligations of confidentiality in this clause shall not extend to any matter which:

19.2.1 Is in or enters the public domain other than as a result of a breach of the obligations of confidentiality under the Contract; or

19.2.2 Is independently disclosed by a third party entitled to disclose the same; or

19.2.3 Is required to be disclosed under any applicable law, or by order of a court, governmental body or authority of competent jurisdiction.

20. **NOTICES**

20.1 Method and Address for notices. Any notices sent under the Contract must be in writing, delivered by hand or sent by pre-paid first-class post or recorded delivery to the parties at their

registered addresses. Any notice or communication given in accordance with clause 20.1 shall be deemed to have been served:

20.1.1 If delivered by hand, at the time of delivery; or

20.1.2 If sent by pre-paid first-class post or recorded delivery at 9.00 a.m. on the second Business Day after the date of posting.

20.2 Clause not applicable where the Civil Procedure Rules apply. This clause 20 shall not apply to the service of any proceedings or other documents in a legal action to which the Civil Procedure Rules apply.

21. **GENERAL**

21.1 Entire Agreement. The Contract constitutes the entire agreement between the parties and supersedes any prior agreement or arrangement in respect of its subject matter and:

21.1.1 Neither party has entered into the Contract in reliance upon, and it shall have no remedy in respect of, any representation or statement which is not expressly set out in the Contract; and

21.1.2 Nothing in this clause 21.1 shall be interpreted or construed as limiting or excluding the liability of either party for fraud or fraudulent misrepresentation.

21.2 No Partnership. Nothing in the Contract and no action taken by the parties in connection with it or them shall create a partnership or joint venture or relationship of employer and employee between the parties or give either party authority to act as the agent of or in the name of or on behalf of the other party or to bind the other party or to hold itself out as being entitled to do so.

21.3 Independent Contractor. Each party agrees that it is an independent contractor and is entering into the Contract as principal and not as agent for or for the benefit of any other person.