



Computer Hire Services
Terms and Conditions for the Hire of IT Equipment

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1 INTERPRETATION

1.1 In these conditions, the following words and expressions have the following meanings unless the context otherwise requires:

Business Day means a day other than a Saturday or Sunday or public holiday in England;

Contract means the Customer's order and the Supplier's acceptance of it in accordance with condition 3.3;

Contract Date means the date of the Supplier's acceptance of the Customer's order in accordance with condition 3.3;

Customer means the person, firm or company who hires the Equipment from the Supplier;

Customer's Guarantee means a guarantee in the form contained in schedule 2 to these conditions;

Delivery means the transfer of the physical possession of the Equipment to the Customer at the Site;

Deposit means the deposit of three months' Rental Payments payable by the Customer as set out in the Order Acknowledgement;

Equipment means the equipment agreed in the Contract to be hired by the Customer from the Supplier (including any part or parts of it) as set out in the Quotation or the Order Acknowledgement;

Intellectual Property Rights means patents, rights to inventions, copyright and related rights, trade marks, trade names, domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including without limitation know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

Minimum Rental Period means the minimum rental period as set out in the Quotation or the Order Acknowledgement;

Order Acknowledgement means the Supplier's acknowledgement of the Customer's order in the form set out in schedule 1 to these conditions;

Payment Schedule means the schedule of Rental Payments as set out in the Quotation or the Order Acknowledgement;

Quotation means any initial quotation made by the Supplier to the Customer for the supply of Equipment in accordance with these conditions;

Rental Payments means the rental payments payable by the Customer as set out in the Quotation or the Order Acknowledgement;

Rental Period means the period set out in condition 5;

Risk Period shall have the meaning attributed to it in condition 9.2;

Site means the Customer's principal place of business or such other site as may be notified to the Supplier;

Software means any software installed on or supplied with the Equipment by the Supplier;

Supplier means Sharpe Group Limited (company number 04510720) trading as "Computer Hire Services", whose registered office is at Westthorpe Innovation Centre, Killamarsh, Derbyshire S23 1TZ;

Termination Payment means the amounts payable by the Customer on termination of the Contract in accordance with condition 17.4;

Total Loss means where the Equipment is, in the Supplier's reasonable opinion, damaged beyond repair, lost, stolen, seized or confiscated; and

VAT means value added tax chargeable under English law for the time being and any similar additional tax.

- 1.2 Condition headings shall not affect the interpretation of these conditions.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

- 1.7 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.8 A reference to **writing** or **written** includes faxes and e-mail.
- 1.9 References to **conditions** and **schedules** are to the conditions and schedules of this agreement.

2 **APPLICATION OF CONDITIONS**

- 2.1 These conditions shall:
- 2.1.1 apply to and be incorporated in the Contract; and
 - 2.1.2 prevail over any inconsistent terms or conditions contained in or referred to in the Customer's purchase order, confirmation of order, or specification, or implied by law, trade custom, practice or course of dealing.
- 2.2 No addition to, variation of, exclusion or attempted exclusion of any term of the Contract shall be binding on the Supplier unless in writing and signed by a duly authorised representative of the Supplier.

3 **BASIS OF HIRE**

- 3.1 Any Quotation is valid for a period of 7 days only, and the Supplier may withdraw it at any time by notice to the Customer.
- 3.2 Each order or acceptance of a Quotation by the Customer shall be deemed to be an offer by the Customer subject to these conditions. The Customer shall ensure that its order is complete and accurate.
- 3.3 A binding contract shall not come into existence between the Supplier and the Customer unless and until the Supplier issues an Order Acknowledgement to the Customer, or the Supplier delivers the Equipment to the Customer (whichever occurs earlier).
- 3.4 Where Delivery takes place in accordance with condition 3.3 prior to the Supplier issuing an Order Acknowledgement, the Supplier shall issue an Order Acknowledgement to the Customer within five (5) Business Days of Delivery.
- 3.5 The Supplier may deliver the Equipment by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with these conditions.

- 3.6 No order which has been acknowledged by the Supplier by way of an Order Acknowledgement may be cancelled by the Customer, except with the agreement in writing of the Supplier and provided that the Customer indemnifies the Supplier in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Supplier as a result of cancellation.

4 QUANTITY AND DESCRIPTION

- 4.1 The quantity and description of the Equipment shall be as set out in the Supplier's Order Acknowledgement or (if there is no Order Acknowledgement), in the Quotation.
- 4.2 All samples, drawings, descriptive matter, specifications and advertising issued by the Supplier, and any descriptions or illustrations contained in the Supplier's catalogues or brochures are issued or published for illustrative purposes only and they do not form part of the Contract.
- 4.3 Any typographical, clerical or other error or omission in any sales literature, Quotation, price list, acceptance of offer, invoice or other document or information issued by the Supplier shall be subject to correction without any liability on the part of the Supplier.
- 4.4 The Supplier reserves the right (but does not assume the obligation) to make any changes in the specification of the Equipment which are required to conform with any applicable legislation or, where the Equipment is to be supplied to the Customer's specification, which do not materially affect their quality or performance.
- 4.5 The Supplier's employees, contractors and agents are not authorised to make any representations or contractually binding statements concerning the Equipment.

5 RENTAL PERIOD

The Rental Period shall begin on the Contract Date and shall continue until such time as the Contract is terminated in accordance with these conditions.

6 RENTAL PAYMENTS AND DEPOSIT

- 6.1 The Customer shall pay the Deposit and the Rental Payments to the Supplier in accordance with the Payment Schedule.
- 6.2 The Deposit and the Rental Payments are exclusive of VAT and any other applicable taxes and duties or similar charges which shall be payable by the Supplier at the rate and in the manner from time to time prescribed by law.

- 6.3 The Supplier reserves the right to increase the Rental Payments at any time following the expiry of the Minimum Rental Period.
- 6.4 Unless otherwise agreed by the Supplier, the Rental Payments shall be made by Standing Order and shall be payable monthly in advance.
- 6.5 Any Customer failing to make any Rental Payments by Standing Order without the prior agreement of the Supplier shall pay a payment charge of three per cent (3%) on each such Rental Payment.
- 6.6 All payments to be made by Customer under this agreement shall be made without withholding or set-off on account of disputes, counterclaims or for any other reason whatsoever.

THE CUSTOMER'S ATTENTION IS IN PARTICULAR DRAWN TO THE PROVISIONS OF CONDITIONS 6.7 AND 6.8 BELOW

- 6.7 If the Customer fails to pay any Rental Payments or any other sums payable under the Contract by the due date for payment then, without limitation to any other rights of the Supplier:
- 6.7.1 the Customer shall pay interest on such sums for the period from and including the due date of payment up to the actual date of payment, whether before or after judgment. The interest shall be paid at the rate of two and a half per cent (2.5%) per annum above the base lending rate from time to time of Barclays Bank Plc; and
- 6.7.2 if the Supplier has to contact the Customer to pursue payment of the Rental Payments, the Supplier shall be entitled to charge an administration fee of £20 plus VAT per telephone call made, or letter or email sent, to the Customer for that particular purpose.
- 6.8 The Deposit is a deposit against default by the Customer of payment of any Rental Payments or any loss of or damage caused to the Equipment. If the Customer fails to make any Rental Payments in accordance with the Payment Schedule, or causes any loss or damage to the Equipment (in whole or in part), the Supplier shall be entitled to apply the Deposit against such default, loss or damage. The Customer shall pay to the Supplier any sums deducted from the Deposit within ten (10) Business Days of a demand for the same. The Deposit (or balance thereof) shall, subject to conditions 17.6 and 17.7, be refundable within ten (10) Business Days of the end of the Rental Period.

7 DELIVERY OF EQUIPMENT AND INSTALLATION

- 7.1 Nothing in these conditions shall oblige the Supplier to deliver any Equipment to the Customer until the Supplier is in receipt of a Customer's Guarantee duly executed by a director of the Customer.
- 7.2 The Supplier shall use its reasonable endeavours to deliver the Equipment on the date or dates specified in the Supplier's Order Acknowledgement, but any such date is approximate only. If no dates are so specified, delivery shall be within a reasonable time of acceptance of the order. Time is not of the essence as to the delivery of the Equipment and the Supplier is not liable for any delay in delivery, however caused. Title and risk shall transfer in accordance with condition 9.
- 7.3 The Equipment may be delivered by the Supplier in advance of the quoted delivery date on giving reasonable notice to the Customer.
- 7.4 Delivery shall be made during normal business hours (excluding bank or public holidays). The Supplier may levy additional charges for any deliveries made outside such hours at the Customer's request. The Customer shall procure that a duly authorised representative of the Customer shall be present at the delivery of the Equipment at the Site. Acceptance by such representative of delivery shall constitute conclusive evidence that the Customer has examined the Equipment and has found it to be in good condition, complete and fit in every way for the purpose for which it was intended. If requested by the Supplier, the Customer's duly authorised representative shall sign a receipt confirming such acceptance.
- 7.5 Subject to condition 7.6, and if so requested by the Customer, the Supplier shall install the Equipment at the Site. The Customer shall procure that a duly authorised representative of the Customer shall be present at the installation of the Equipment. Acceptance by such representative of installation shall constitute conclusive evidence that the Customer has examined the Equipment and has found it to be in good condition, complete and fit in every way for the purpose for which it is intended. If requested by the Supplier, the Customer's duly authorised representative shall sign a receipt confirming such acceptance.
- 7.6 Any installation of Equipment by the Supplier shall be agreed with the Supplier prior to delivery of the Equipment and shall be at the Customer's expense. The Supplier shall be entitled to invoice the Customer separately for such installation (such invoice to be payable within 10 Business Days of receipt by the Customer) or to add the cost of the installation to the Rental Payments.
- 7.7 Unless otherwise agreed between the Supplier and the Customer, the Supplier shall not be responsible for the connection of the Equipment to any network or other facility at the Site.

7.8 The Customer shall be responsible (at the Customer's cost) for preparing the delivery location for the delivery of the Equipment and for the provision of all necessary access and facilities reasonably required to deliver and install the Equipment (as the case may be). If the Supplier is prevented from carrying out Delivery or installation on the specified date because no such preparation has been carried out, the Supplier may levy additional charges to recover its loss arising from this event.

8 MAINTENANCE

Subject to condition 14, the Supplier will service and maintain the Equipment.

9 TITLE, RISK AND INSURANCE

9.1 The Equipment shall at all times remain the property of the Supplier, and the Customer shall have no right, title or interest in or to the Equipment (save the right to possession and use of the Equipment subject to these conditions).

9.2 The risk of loss, theft, damage or destruction of the Equipment shall pass to the Customer on Delivery. The Equipment shall remain at the sole risk of the Customer during the Rental Period and any further term during which the Equipment is in the possession, custody or control of the Customer (**Risk Period**) until such time as the Equipment is redelivered to the Supplier. During the Rental Period and the Risk Period, the Customer shall, at its own expense, obtain and maintain the following insurances:

9.2.1 insurance of the Equipment to a value not less than its full replacement value comprehensively against all usual risks of loss, damage or destruction by fire, theft or accident, and such other risks as the Supplier may from time to time nominate in writing;

9.2.2 insurance for such amounts as a prudent owner or operator of the Equipment would insure for, or such amount as the Supplier 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 Equipment; and

9.2.3 insurance against such other or further risks relating to the Equipment as may be required by law, together with such other insurance as the Supplier may from time to time consider reasonably necessary and advise to the Customer.

- 9.3 All insurance policies procured by the Customer shall be endorsed to provide the Supplier with at least twenty (20) Business Days' prior written notice of cancellation or material change (including any reduction in coverage or policy amount) and shall name the Supplier on the policies as a loss payee in relation to any claim relating to the Equipment. The Customer shall be responsible for paying any deductibles due on any claims under such insurance policies.
- 9.4 The Customer shall give immediate written notice to the Supplier in the event of any loss, accident or damage to the Equipment or arising out of or in connection with the Customer's possession or use of the Equipment.
- 9.5 If the Customer fails to effect or maintain any of the insurances required under these conditions, the Supplier 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.
- 9.6 The Customer shall, on demand, supply copies of the relevant insurance policies or other insurance confirmation acceptable to the Supplier and proof of premium payment to the Supplier to confirm the insurance arrangements.

10 **CUSTOMER'S RESPONSIBILITIES**

- 10.1 The Customer shall during the term of this agreement:
- 10.1.1 ensure that the Equipment is kept and operated in a suitable environment used only for the purposes for which it is designed, and operated in a proper manner by competent staff in accordance with any operating instructions;
- 10.1.2 take such steps (including compliance with all safety and usage instructions provided by the Supplier) as may be necessary to ensure, so far as is reasonably practicable, that the Equipment is at all times safe and without risk to health when it is being set, used, cleaned or maintained by a person at work;
- 10.1.3 make no alteration to the Equipment and shall not remove any existing component(s) from the Equipment without the prior written consent of the Supplier;
- 10.1.4 keep the Supplier fully informed of all material matters relating to the Equipment;

- 10.1.5 except for any Equipment which is designed to be portable, keep the Equipment at all times at the Site and not move or attempt to move any part of the Equipment to any other location without the Supplier's prior written consent;
- 10.1.6 for the purposes of allowing the Supplier to perform its obligations under condition 8.1, permit the Supplier or its duly authorised representative to inspect the Equipment at all reasonable times and for such purpose to enter upon the Site or any premises at which the Equipment may be located, and grant reasonable access and facilities for such inspection;
- 10.1.7 not, without the prior written consent of the Supplier, part with control of, sell or offer for sale, underlet or lend the Equipment or allow the creation of any mortgage, charge, lien or other security interest in respect of it;
- 10.1.8 not do or permit to be done any act or thing which will or may jeopardise the right, title and/or interest of the Supplier in the Equipment;
- 10.1.9 not suffer or permit the Equipment to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if the Equipment is so confiscated, seized or taken, the Customer shall immediately notify the Supplier and the Customer shall at its sole expense use its best endeavours to procure an immediate release of the Equipment and shall indemnify the Supplier on demand against all losses, costs, charges, damages and expenses incurred as a result of such confiscation;
- 10.1.10 not use the Equipment for any unlawful purpose;
- 10.1.11 ensure that at all times the Equipment remains identifiable as being the Supplier's property and wherever possible shall ensure that a visible sign to that effect is attached to the Equipment;
- 10.1.12 deliver up the Equipment at the end of the Rental Period or on earlier termination of these conditions at such address as the Supplier requires, or if necessary allow the Supplier or its representatives access to the Site or any premises where the Equipment is located for the purpose of removing the Equipment; and
- 10.1.13 not do or permit to be done anything which could invalidate the insurances referred to in condition 9.

- 10.2 The Customer acknowledges that it shall be responsible for any loss of or damage to the Equipment arising out of or in connection with any negligence, misuse, mishandling of the Equipment or otherwise caused by the Customer or its officers, employees, agents and contractors and other third parties, and the Customer undertakes to indemnify the Supplier on demand against the same, and against all losses, liabilities, claims, damages, costs or expenses of whatever nature otherwise arising out of or in connection with any failure by the Customer to comply with the terms of this agreement.

11 SOFTWARE LICENCE

- 11.1 If the Supplier refers to a software licence in the Order Acknowledgement, the Rental Payments payable in respect of the Equipment include a fee for the Customer's right to use the Software.
- 11.2 If the Customer is provided with any operating system software licence in respect of the Software, the Customer shall sign and return it to the Supplier within seven days of installation of the software, unless the licence has been supplied on a "shrink-wrap" or "click-wrap" basis.
- 11.3 If no software licence has been provided to the Customer, the Customer hereby accepts a non-exclusive, non-transferable licence to use the Software on the following conditions:
- 11.3.1 the Customer shall not copy (except to the extent permissible under applicable law or for normal operation of the Equipment), reproduce, translate, adapt, vary or modify the software, nor communicate it to any third party, without the Supplier's prior written consent;
 - 11.3.2 the Customer shall not use the Software on any equipment other than the Equipment, and shall not remove, adapt or otherwise tamper with any copyright notice, legend or logo which appears in or on the Software on the medium on which it resides;
 - 11.3.3 such licence shall be terminable by either party 28 days' written notice, provided that the Supplier terminates only if the continued use or possession of the Software by the Customer infringes the developer's or a third party's rights, or the Supplier is compelled to do so by law, or if the Customer has failed to comply with any term of the Contract; and
 - 11.3.4 on or before the expiry of this licence, which shall, for the avoidance of doubt, expire automatically upon the termination of the Contract, the Customer shall return to the Supplier all copies of the Software in its possession.

12 REMEDIES

If the Supplier's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer (other than by reason of a Force Majeure Event under condition 18), the Customer shall be liable to pay to the Supplier all reasonable costs, charges or losses sustained by it as a result, subject to the Supplier notifying the Customer in writing of any such claim it might have against the Customer in this respect.

13 LIMITATION OF LIABILITY

13.1 The following provisions set out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:

13.1.1 any breach of the Contract; and

13.1.2 any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including negligence) arising out of or in connection with the Contract.

13.2 All warranties, conditions and other terms implied by statute or common law are excluded from the Contract to the fullest extent permitted by law.

13.3 Nothing in these conditions excludes or limits the liability of the Supplier for:

13.3.1 death or personal injury caused by the Supplier's negligence; or

13.3.2 fraud or fraudulent misrepresentation.

13.4 Subject to condition 13.2 and condition 13.3:

13.4.1 the Supplier shall not be liable, whether in tort (including for breach of statutory duty), contract, misrepresentation (whether innocent or negligent) or otherwise for:

13.4.1.1 loss of profits; or

13.4.1.2 loss of business; or

13.4.1.3 depletion of goodwill or similar losses; or

13.4.1.4 loss of anticipated savings; or

13.4.1.5 loss of goods; or

13.4.1.6 loss of contract; or

13.4.1.7 loss of use; or

13.4.1.8 loss or corruption of data or information; or

13.4.1.9 any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses; and

13.4.2 the Supplier's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the price payable for the Equipment under condition 6.

14 TOTAL LOSS

14.1 Notwithstanding any other provision of these Conditions, if a Total Loss occurs in relation to the Equipment then:

14.1.1 the Contract shall immediately terminate and condition 17.3 shall apply;

14.1.2 the Customer shall within twenty (20) Business Days pay to the Supplier as agreed compensation for loss, a sum equal to the whole of the Rental Payments that would (but for the termination) have been payable if the Contract had continued from the date of such Total Loss to the end of the Rental Period, less a discount for accelerated payment at the percentage rate set out in the Payment Schedule. Such compensation may be partly or wholly recovered from any Deposit;

14.1.3 any insurance monies received by the Supplier pursuant to condition 9.3 following a Total Loss shall be applied as follows:

14.1.3.1 to settle any outstanding sums owed to the Supplier pursuant to this condition 14;

14.1.3.2 to refund to the Customer any sums paid to the Supplier pursuant to this condition 14; and

14.1.3.3 any remaining balance shall be retained by the Supplier.

15 INTELLECTUAL PROPERTY RIGHTS

15.1 The Customer acknowledges that all Intellectual Property Rights used by or subsisting in the Equipment are and shall remain the sole property of the Supplier or (as the case may be) third party rights, owner.

- 15.2 The Supplier shall retain the property and copyright in all documents supplied to the Customer in connection with the Contract and it shall be a condition of such supply that the contents of such documents shall not be communicated either directly or indirectly to any other person, firm or company without the prior written consent of the Supplier.
- 15.3 The Supplier's Intellectual Property Rights in and relating to the Equipment shall remain the exclusive property of the Supplier, and the Customer shall not at any time make any unauthorised use of such Intellectual Property Rights, nor authorise or permit any of its agents or contractors or any other person to do so.
- 15.4 In relation to the Software:
- 15.4.1 the Customer acknowledges that it is hiring only the media on which the Software is recorded and the accompanying user manuals;
- 15.4.2 nothing contained in these conditions shall be construed as an assignment of any Intellectual Property Rights in the Software or user manuals; and
- 15.4.3 the Customer shall be subject to the rights and restrictions imposed by the owner of the Intellectual Property Rights in the Software and user manuals, and shall comply with all licence agreements, terms of use and registration requirements relating to them.

16 **CONFIDENTIALITY**

- 16.1 Neither party shall, during and after termination of the Contract, without the prior written consent of the other party, use or disclose to any other person any information of the other party which is identified as confidential or which is confidential by its nature. The Customer shall restrict disclosure of such confidential material to such of its employees, agents or sub-contractors as need to know the same for the purpose of discharging the Customer's obligations to the Supplier, and shall ensure that such employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which bind the Customer.
- 16.2 This condition 16 shall survive termination of the Contract, however arising.

17 **TERMINATION**

- 17.1 Subject to condition 17.2, either party may terminate the Contract on the expiry of the Minimum Rental Period, or at any time thereafter upon giving three month's written notice to the other party.

- 17.2 Without prejudice to any other right or remedy available to the Supplier, at any time the Supplier may terminate the Contract or suspend any further deliveries under the Contract without liability to the Customer and the Termination Payment shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary if:
- 17.2.1 the Customer defaults in any of its payment obligations;
 - 17.2.2 the Customer commits a material breach of the Contract which breach is irremediable, or which breach (if remediable) is not remedied within ten (10) Business Days after the service of written notice from the Supplier requiring it to do so;
 - 17.2.3 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 is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
 - 17.2.4 an order is made or a resolution is passed for the winding up of the Customer, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order in relation to the Customer; or
 - 17.2.5 an order is made for the appointment of an administrator to manage the affairs, business and property of the Customer, or documents are filed with a court of competent jurisdiction 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
 - 17.2.6 a receiver is appointed of any of the Customer's assets or undertaking, or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the Customer, or if any other person takes possession of or sells the Customer's assets; or
 - 17.2.7 the Customer makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way, or becomes bankrupt; or
 - 17.2.8 the Customer ceases, or threatens to cease, to trade; or
 - 17.2.9 the Customer takes or suffers any similar or analogous action to any of the foregoing in any jurisdiction in consequence of debt.

- 17.3 Upon termination of the Contract, however caused:
- 17.3.1 the Supplier's consent to the Customer's possession of the Equipment shall terminate and the Supplier may, by its authorised representatives, without notice (subject to condition 17.5) and at the Customer's expense, retake possession of the Equipment and for this purpose may enter the Site or any premises at which the Equipment is located; and
 - 17.3.2 without prejudice to any other rights or remedies of the Supplier, the Customer shall pay to the Supplier on demand:
 - 17.3.2.1 all Rental Payments and other sums due but unpaid at the date of such demand together with any interest accrued pursuant to condition 6.7;
 - 17.3.2.2 any costs and expenses incurred by the Supplier in recovering the Equipment and/or in collecting any sums due under this agreement (including any storage, insurance, repair, transport, legal and remarketing costs).
- 17.4 Upon termination of the Contract pursuant to condition 17.2, or any other repudiation of this agreement by the Customer which is accepted by the Supplier, the Customer shall pay to the Supplier on demand and in addition to any sums payable pursuant to condition 17.3, as agreed compensation for the Supplier's loss, a sum equal to the whole of the Rental Payments that would (but for the termination) have been payable if the agreement had continued from the date of such demand to the end of the Minimum Rental Period which compensation may be partly or wholly recovered from any Deposit.
- 17.5 If the Contract is terminated in the circumstances set out in condition 17.1, the Supplier may exercise its right to collect the Equipment as set out in condition 17.3.1 on three (3) Business Days' notice to the Customer and shall inspect the Equipment within five (5) Business Days of such collection.
- 17.6 Upon performing the inspection referred to in condition 17.5 if, in the reasonable opinion of the Supplier, the Equipment is in good condition and working order and is not in need of any repairs, replacement parts or maintenance, the Deposit shall be refunded by the Supplier to the Customer within five (5) Business Days of notice being served on the Customer that the Equipment is in such condition.

- 17.7 Upon performing the inspection referred to in condition 17.5 if, in the reasonable opinion of the Supplier, any repairs, replacement parts or maintenance work of any kind needs to be performed or purchased by the Supplier in respect of the Equipment, the Deposit shall be applied against such repairs and maintenance and the balance of the Deposit shall be refunded within (5) Business Days of the cost of such repair and maintenance being determined by the Supplier.
- 17.8 Termination of the Contract, however arising, shall not affect or prejudice the accrued rights of the parties as at termination or the continuation of any provision expressly stated to survive or implicitly surviving termination.

18 **FORCE MAJEURE**

The Supplier reserves the right to defer the date of delivery, or to cancel the Contract or reduce the amount of Equipment ordered, if it is prevented from or delayed in 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 Supplier or any other party), failure of a utility service or transport or telecommunications 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 suppliers or sub-contractors (**Force Majeure Event**).

19 **WAIVER**

- 19.1 A waiver of any right under the Contract is only effective if it is in writing and signed by or on behalf of the waiving party, and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.
- 19.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

20 **SEVERANCE**

If any of these conditions (or part of a condition) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other conditions shall remain in force.

21 **ENTIRE AGREEMENT**

- 21.1 Each party acknowledges that, in entering into the Contract, it does not rely on any statement, representation, assurance or warranty (**Representation**) of any person (whether a party to this agreement or not) other than as expressly set out in the Contract.

21.2 Each party agrees that the only rights and remedies available to it arising out of or in connection with a Representation shall be for breach of contract.

21.3 Nothing in this condition shall limit or exclude any liability for fraud.

22 **ASSIGNMENT**

22.1 The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

22.2 The Supplier may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

23 **THIRD PARTY RIGHTS**

The Contract is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns, and is not intended to benefit, or be enforceable by, anyone else.

24 **NOTICES**

Any notice required to be given pursuant to these conditions shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the address of the party as set out in these conditions, or such other address as may be notified by one party to the other. A notice delivered by hand is deemed to have been received when delivered (or, if delivery is not in business hours, 9.00 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post.

25 **GOVERNING LAW AND JURISDICTION**

25.1 The Contract and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the law of England.

25.2 The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).