

MINES LEISURE HIRE LTD

TERMS AND CONDITIONS OF HIRE

1. DEFINITIONS

- (a) the 'company' is the company named in the contract
- (b) the 'Hirer' is the firm company person or public authority (and their respective successors) named in the hire contract who hires the equipment from the company
- © the 'Equipment' is the equipment referred to in the hire contract
- (d) the 'Hire Rate' is the rate charged on each calendar day or part of a day during which the Hirer hires the equipment
- (e) 'Hire Charges' means the total amount due to the Company including charges in respect of delivery assembly installation operation or disassembly or collection of the equipment and the deposit
- (f) the 'Hire Period' means the period set out in the hire contract or any other agreed period or extension thereof
- (g) 'Hire Contract' means the information appearing on the front of this document and these terms and conditions

2. PAYMENT

- (a) The Hirer shall pay the Company the Hire Charge at the commencement of the Hire Period or at such times as shall be agreed in writing by the Hire Company
- (b) Payment of any sums due at the commencement of the Hire Period shall be made by the Hirer to the Company within thirty days from the issue of the Company's invoice
- © The Hirer shall pay the Company interest on any monies due to the Company and unpaid after thirty days at the rate of 3% over the base rate of the Bank of England
- (d) The Company reserves the right to vary the Hire Rate in the event of increase in the cost of labour materials or transport
- (e) Special Hire Rates will be payable to the Company for delivery or installation or use of the Equipment on sites which do not conform to the requirements of the Company
- (f) Payment in respect of labour or other service provided by the Company shall be charged on a day-work basis at the appropriate rate

3. NO TITLE TO HIRER

The Equipment is hired by the Company to the Hirer for the Hire Period at the Hire Rate set out in the Hire Contract and the hire shall be a mere Bailee of the Equipment and no interest or title in the equipment shall pass to the Hirer. This agreement personal to the Hirer and is not capable of assignment or Sub-Hire, nor may the Hirer part with the possession of the equipment.

4. DEPOSIT

The Hirer shall pay prior to the commencement of the Hire Period any deposit specified in the Hire Contract. The Company shall retail from such deposit the cost to the Company of making any loss or damage for which the Hirer is responsible for under these terms and conditions together with any interest to which the Company becomes entitled under Condition (2) above

5. THESE TERMS AND CONDITIONS PREVAIL

If these terms and Conditions shall be a variance or inconsistent with any printed conditions attached to the Hirers order then these Terms and Conditions shall prevail

6. COMMENCEMENT OF HIRE PERIOD

The Hire Period shall commence from the time when the Equipment leaves the depot of the Company for delivery to the Hirer

7. TERMINATION OF HIRE PERIOD

The Hire Period shall determine and the Company shall be entitled to immediate recovery of the Equipment in the following events:

- (a) Expiry of the Hire Period specified in the Hire Contract, or
- (b) immediately upon breach by the Hirer of these terms and conditions of Hire, or

© pursuant to Condition (9) or Condition (10) hereof, or

(d) by agreement to be confirmed in writing, or

(e) in the event of loss or damage of the Equipment, upon such a date as the Company agrees to accept from the Hirer the Equipment in its then state and condition and compensation in accordance with the Terms and Conditions of Hire

8. CANCELLATION BY HIRER

In the event the Hirer shall cancel the Hire Contract before the commencement of the Hire Period the Hirer shall pay the Company immediately upon such cancellation by way of liquidated or agreed damages a sum to 25% of the Hire Charges. In the event the Hirer shall terminate or cancel 3-13 days prior to the Hire Period the Hirer shall pay the Company 50% of the Hire Charge. In the event the Hirer shall terminate or cancel less than 3 days prior to the Hire Period then the Hirer shall pay the Company the Hire Charge in full.

9. DELIVERY OF EQUIPMENT

The Company shall not be liable to the Hirer for any delay in the delivery of the Equipment. If the Equipment is not delivered within 24 hours of the date specified in the Hire Contract the Hirer may be able to rescind the Hire Contract and recover all monies paid thereunder. The Company will need notice in writing.

10. FORCE MAJEURE

The performance of the Company's obligations hereunder is subject to variation or cancellation consequent upon Act of God war strikes riots lock-outs or other labour disturbances fire flood restrictions on the use of transport fuel or power or any cause beyond the control of the Company. In the event of frustration of the Agreement due to any of the above causes the Contract shall be deemed to be complete and upon written notice by the Company to the Hirer to that effect the Company shall refund to the Hirer any monies received in respect of the Hire Contract less 10% which shall be retained by the Company in respect of its costs and expenses.

11. NOTICE OF ACCIDENTS

If the Equipment is involved in any accident resulting in injury to persons or damage to property the Hirer will give to the Company immediate notice by telephone to be confirmed in writing by the Hirer

12. REPAIRS

i. The Hirer shall not interfere with or adjust the Equipment in any way whatsoever other than in accordance with the Company's written service instruction and will not under any circumstances give any instructions of any repair to the Equipment or for the replacement of any parts unless such spares have been provided to it by the Company for that purpose and the Hirer shall immediately inform the Company in writing which so far as it is able shall repair or replace the Equipment.

ii. If during the Hire Period the Company decides that urgent repairs to the Equipment are unnecessary it may arrange for such repairs to be carried out on site or at any location of its nomination. In the event that the Company removes the Equipment for such purpose the Company shall replace the Equipment with similar Equipment if available.

If the Company shall in its opinion be unable to repair or replace the Equipment in accordance with sub-clause i. or ii. of this Condition, then provided the Company returns to the Hirer any monies paid by the Hirer to the Company in respect of the unexpired part of the Hire Period the Company shall be under no further obligation or liability to the Hirer whatsoever. PROVIDED THAT nothing in this Agreement shall oblige the Company to repair or make good any loss or damage to the Equipment caused by any act or default of the Hirer or its invitees (fair wear and tear accepted).

13. COMPLIANCE WITH STATURE AND COMPETENT OPERATION

During the Hire Period the Hirer shall be responsible for and shall indemnify the Company against liability for:-

(a) Ensuring that the Equipment and ancillary items used therewith are operated handled used and serviced only by competent operators and personnel and in accordance with the requirements of Statutory or other competent Authorities and instruction manual or operating guide supplied by the Company and the Hirer shall have on claim against the Company for the failure of defective or deficient performance of the Equipment which arises either directly or indirectly from lack of competence of those operating the Equipment or from any lack of proper instruction or the contents of any instruction manual or operating guide.

(b) Obtaining and thereafter maintaining all consents licenses or permits required in connection with the use of Equipment under Stature By-Law or regulation from time to time in force shall produce to the Company on demand all such consents licenses or permits.

© Supplying and maintaining any warning lamps and warning notices that may be required.

14. NO PARTING WITH POSSESSION

The Hirer shall not sell or offer for sale pledge underlet encumber or otherwise deal or part with possession of the Equipment

15. INSPECTION

The Hirer shall permit any person authorised by the Company at all reasonable times to enter upon the premises upon which the Equipment is for the time being placed or kept for the purpose of inspecting and examining the condition of the Equipment

16. ADDRESS AT WHICH THE EQUIPMENT WILL BE KEPT

The Hirer shall prior to the commencement of the Hire Period inform the Company in writing of the address or addresses at which the Equipment is to be stored and used and shall not without written consent of the Company transfer the Equipment or any part thereof to any other address nor allow it to be used for any abnormal or hazardous purpose and the Hirer will keep a notice showing ownership of the Equipment uncovered and visible

17. EXCLUSION/INDEMNITIES

i. Subject only to the provisions of these Conditions no statement undertaking warranty of condition express or implied by law trade custom or otherwise shall apply to this Agreement

ii. The Company shall not be liable for any loss injury or damage of whatsoever kind arising directly or indirectly from the hire of the Equipment (except in respect of loss damage or injury which is incapable of exclusion under the terms of the Unfair Contract Terms Act 1977) whether consequential or otherwise and whether or not caused by the negligence of the Company or its servants or agents

iii. The Hirer shall use the Equipment in a careful and proper manner and shall indemnify the Company:

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(a) Against all loss suffered by the Company in consequence of the destruction loss theft or damage of or to the Equipment prior to the Equipment being returned to the Company and it is hereby agreed that if the Equipment or any part thereof is in the opinion of the Company lost or damaged beyond repair the loss to the Company shall be the cost of buying new the same or a comparable item of equipment irrespective of the age of the Equipment lost or damaged

(b) In respect of all actions costs charges claims demands proceedings or penalties made or brought against the Company by any third party in respect of alleged injury loss or damage or expense arising out of or in connection with the use by the hirer or any person authorised by the Hirer of the Equipment.

© In respect of loss caused to the Company by the cancellation of the Hire Contract by the Hirer whether before or after the commencement of the Hire Period. In particular Hire Charges shall be continued at the Hire Rate until settlement has been effected.

24. Where two or more persons constitute the Hirer then all obligations entered into by such persons under the Hire Contract shall be joint and several and all importing the singular shall include the plural.

18. COMPANY'S RIGHT TO DETERMINE

(a) If the Hirer shall fail to observe or perform any of the Terms and Condition of Hire hereof whether express or implied the Company may without prejudice to its rights and remedies hereunder by notice in writing to the Hirer sent to his address set out in the Hire Contract determine this Agreement and upon such notice being so sent this Agreement and the hiring thereby constituted shall for all purposes determine and thereafter the Hirer shall no longer be in possession of the Equipment with the Company's consent

(b) If the Hirer shall commit an act of bankruptcy or have a receiver appointed or shall make any arrangement or assignment with or for the benefit of his creditors or if any resolution is passed for the winding up of the Hirer (if a Company) save for the purposes of reconstruction or amalgamation this Agreement shall automatically and without notice determine and thereupon the Hirer shall cease to be in possession of the Equipment with the Company's consent.

19. COMPANY'S RIGHTS ON TERMINATION

(a) Upon termination of this Agreement pursuant to Clause (18) hereof the Company shall be entitled without notice to take possession of the Equipment and without prejudice to its other rights and remedies hereunder and for that purpose by itself its servants or agents enter upon any land or premises on which or in which the Equipment is believed by the Company to be situated and the Hirer hereby authorises the Company to enter upon its said land for this purpose and the Hirer shall upon such termination return to the Company all instructions manuals and operating guides relating to the Equipment

(b) No relaxation forbearance delay waiver or breach or indulgence by the Company in enforcing any of the Terms and Conditions of this agreement of this Agreement whether express or implied shall prejudice affect or restrict the rights and powers of the Company hereunder.

20. INSURANCE

Unless otherwise agreed in writing by the Company the Hirer shall prior to taking possession of the Equipment enter into a contract of insurance with respect to the same for the full replacement of the Equipment under an all risk policy subject only to normal market restrictions and excuses with the name of the Company endorsed thereon as the owners and joint insured in full respect of the Hire Period. The Hirer shall do everything necessary to maintain the said policy in full effect and do not do anything whereby the policy may be violated.

21. CHEMICAL TOILETS

When chemical toilets are comprised in the Equipment an initial supply of fluid is included in the Hire Charge but the Company shall not be responsible for the provision of further supplies nor for emptying and cleaning the toilets after use which must be carried out by the Hirer

22. PROVISION OF LABOUR SERVICES BY THE COMPANY

(a) if the Company is required to provide supervision labour or staff in connection with installation delivery or use of the Equipment the Hire Charges are calculated on the basis that all relevant information has been supplied by the Hirer and that nothing unforeseen becomes apparent on delivery or installation or use of the Equipment and the Hirer confirms the following as may be appropriate to the particular Equipment the subject of the Hire Contract:

(i) that the site is of firm level ground with access for motor transport and that no drains pipes cables or other services are concealed

(ii) that (if appropriate) the Hirer shall provide to the Company a plan showing the position for installation of the Equipment or shall have a representative on the site for that purpose but in the absence of such a plan or representative the Company will deliver and install the Equipment where it thinks appropriate and shall be deemed to have completed its obligations in relation to delivery and installation herein contained when it has completed the said plan or instructions of the Hirer's representative or installed the Equipment as it considers appropriate

(iii) The Hire Charge does not include any making good or repair of any damage to the site

23. IF THE EQUIPMENT CONSISTS IN WHOLE OR PART OF SCAFFOLDING

(a) The Company will use its reasonable endeavours to ensure that the Equipment is adequately constructed for the purpose notified by the Hirer to the Company and that when constructed the structure will comply with any Act of Parliament By-Law or regulation from time to time in force which affect the erection or use of scaffolding

(b) Any additions alterations adaptations or variations to the Equipment will be carried out by the Company only upon receipt of written instructions by the Hirer and at the Hirers expense

© In the event that the Hirer has at any time entered into a contract for building of other works in connection with which the Hirer uses the Equipment the Hirer will immediately inform the employer under such contract of the provision of Clause (3) of these Terms and Conditions and shall notify the Company of any such contract to which the Hirer is a party.