

**TERMS AND CONDITIONS FOR THE HIRE OF TRAFFIC LIGHT SYSTEMS AND RELATED PARTS**

**1. DEFINITIONS AND INTERPRETATION**

1.1 In these Conditions the following definitions apply:

<b>"Ancillary Items"</b>	means any of the Equipment deemed necessary to support the main Equipment items and may include trailers, batteries, handles, and locks which shall be charged at the Owner's standard rates for the same from time to time;
<b>"Ancillary Services"</b>	means any services relating to the Equipment that is provided by the Owner and charged at the Owner's standard rates for the same from time to time;
<b>"Business Day"</b>	means a day other than a Saturday, Sunday or bank or other public holiday in England;
<b>"Conditions"</b>	means the Owner's terms and conditions of hire set out in this document;
<b>"Confidential Information"</b>	means any commercial, financial or technical information, information relating to the Equipment, know-how or trade secrets which is obviously confidential or has been identified as such, or which is developed by a party in performing its obligations under, or otherwise pursuant to the Contract;
<b>"Contract Start Date"</b>	means the date the Owner accepts the Hirer's approval in accordance with clause 2.7;
<b>"Contract"</b>	means the agreement between the Owner and the Hirer for the hire of the Equipment incorporating these Conditions and the Quotation;
<b>"Delivery Date"</b>	means the date for delivery of the Equipment as set out in the Quotation;
<b>"Equipment"</b>	means the traffic light systems and related accessories, spare parts and documentation and other physical material set out in the Quotation and to be hired by the Owner to the Hirer in accordance with these Conditions;
<b>"Hire Fee"</b>	means the hire price for the Equipment excluding the Ancillary Items and Ancillary Services, being the weekly hire fee for the Minimum Hire Term and a rate equal to 1/7 of that rate thereafter for each piece of Equipment set out in the Owner's price list from time to time multiplied by the number of days that the Hirer has been in possession of the Equipment;
<b>"Hire Period"</b>	means the period for hire of the Equipment which shall commence on the date notified to the Hirer by the Owner or, if no such date has been provided, the date of delivery of the Equipment at the Location or earlier collection by the Hirer (as applicable) and terminate on the date the Equipment is returned to the Owner in accordance with clause 23.1.1 and subject to these Conditions;
<b>"Hirer"</b>	means the person hiring the Equipment from the Owner and whose details are set out in the Quotation;
<b>"Lender"</b>	means a lender to the Owner from time to time with any right over any or all of the Equipment;

<b>"Location"</b>	means the location specified in the Quotation to which the Owner shall deliver or procure the delivery of Equipment or, in instances where the Hirer is collecting any Equipment, the Hirer's location where the Equipment is to be held at the start of the Hire Period;
<b>"Losses"</b>	means all damages, liabilities, demands, costs and expenses including all legal and other professional fees, costs and expenses, claims, actions and proceedings (including all consequential, direct, indirect, special or incidental loss or punitive damages or loss, fines, penalties, interest and loss of profit or any other form of economic loss (including loss of reputation));
<b>"Minimum Hire Term"</b>	means seven (7) days for each piece of Equipment;
<b>"Month"</b>	means a calendar month;
<b>"Owner"</b>	means SRL Traffic Systems Limited (company number 03466427) whose registered office is at The Light House, Brooks Lane, Middlewich, England, CW10 0JG;
<b>"Pre Hire Report"</b>	means the report setting out the description and specification of the Equipment including its condition at the point of hire;
<b>"Quotation"</b>	means either a quotation for the hire of the Equipment excluding the Ancillary Items and Ancillary Services from the Owner placed by the Hirer or, where a formal quotation has not been entered into, any correspondence between the parties setting out the Equipment to be hired and the Hire Fee, in each case to which these Conditions apply and may be appended;
<b>"Risk Period"</b>	has the meaning given to it in clause 9.4;
<b>"Term"</b>	has the meaning given to it in clause 3.1;
<b>"VAT"</b>	means value added tax under the Value Added Taxes Act 1994 or any other similar sale or fiscal tax applying to the amounts set out these Conditions; and
<b>"week"</b>	means a period of seven (7) consecutive days.

1.2 In these Conditions, unless the context requires otherwise:

- 1.2.1 any clause, schedule or other headings in these Conditions is included for convenience only and shall have no effect on the interpretation of the Conditions;
- 1.2.2 a reference to a party includes that party's personal representatives, successors and permitted assigns;
- 1.2.3 a reference to a "person" includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;
- 1.2.4 a reference to a "company" includes any company, corporation or other body corporate, wherever and however incorporated or established;
- 1.2.5 words in the singular include the plural and vice versa, and reference to a gender includes the other gender;

- 1.2.6 "including" means "including without limitation" and cognate expressions shall be construed accordingly; and
- 1.2.7 a reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time except to the extent that any such amendment, extension or re-enactment would increase or alter the liability of a party under the Contract.

## 2. APPLICATION OF THESE CONDITIONS

- 2.1 These Conditions apply to and form part of the Contract between the Owner and the Hirer. They supersede any previously issued terms and conditions of hire of any equipment.
- 2.2 No terms or conditions endorsed on, delivered with, or contained in the Hirer's hire terms, order, confirmation of order, specification or other document shall form part of the Contract except to the extent that the Owner otherwise agrees in writing.
- 2.3 No variation of these Conditions or to a Quotation or to the Contract shall be binding unless expressly agreed in writing and executed by a duly authorised signatory on behalf of the Hirer and the Owner.
- 2.4 Each Quotation by the Owner shall be an invitation to treat relating to the hire of the Equipment to the Hirer subject to these Conditions. A Quotation is not an offer to hire the Equipment and is incapable of being accepted by the Hirer. Any such quotations, promotional material, or otherwise is subject to the Equipment being available to the Owner at the time required by the Hirer.
- 2.5 A Quotation shall remain in effect and capable of being approved by the Hirer unless withdrawn or amended by the Owner. The Hirer's approval of a Quotation shall constitute an offer by the Hirer to contract on the terms of the Quotation, which offer shall only be binding on the Owner once the Owner confirms the same in accordance with clause 2.7 following the Hirer's approval of the Quotation.
- 2.6 A Quotation may be withdrawn or amended by the Owner at any time before such confirmation by the Owner. If the Owner is unable to accept a Quotation that the Hirer has approved, it shall notify the Hirer as soon as reasonably practicable.
- 2.7 The Owner may accept or reject a Quotation at its discretion. A Quotation shall not be accepted, and no binding obligation to supply any Equipment shall arise, until the earlier of:
  - 2.7.1 the Owner's written acceptance of the Quotation; or
  - 2.7.2 the Owner dispatching the Equipment or notifying the Hirer that it is available for collection (as the case may be).
- 2.8 Rejection by the Owner of a Quotation, including any communication that may accompany such rejection, shall not constitute a counter offer capable of acceptance by the Hirer.
- 2.9 The Owner may issue quotations to the Hirer from time to time. Quotations are invitations to treat only. They are not an offer to hire the Equipment and are incapable of being accepted by the Hirer. Any such quotations, promotional material, or otherwise is subject to the Equipment being available to the Owner at the time required by the Hirer.
- 2.10 Marketing and other promotional material relating to the Equipment are illustrative only and do not form part of the Contract.
- 2.11 The Owner may at its discretion provide to the Hirer a copy of the sign off sheet signed at the Location if the Owner is provided with an email address in respect of the same.

### 3. **TERM AND PURPOSE**

- 3.1 The Contract commences on the Contract Start Date and shall continue in force until terminated by either party pursuant to clause 22 in which case it shall terminate on such date provided that all Equipment has been returned to the Owner in accordance with clause 23.1.1 or the Owner's confirmation in writing if the Owner is to collect ("**Term**").
- 3.2 The Hirer must sign and provide to the Owner the Contract and all contractual documentation and a purchase order number for the Term to ensure the Hire Fees are charged. It is the responsibility of the Hirer to ensure the Owner has a purchase order number for the Hire Fees for the entirety of the Term. Failure to provide a purchase order number and/or an up to date purchase order number shall not affect the validity of these Conditions and the Owner shall be permitted to use any purchase order number received from the Hirer where a more up to date number, if required, has not been supplied.
- 3.3 On and subject to these Conditions the Owner agrees to hire the Equipment to the Hirer for the Hire Period.
- 3.4 The Owner does not guarantee the continuing availability for hire of any of the Equipment for any period after the start of the Hire Period.

### 4. **DELIVERY OF THE EQUIPMENT**

- 4.1 The Owner shall endeavour to deliver the Equipment to the Location or otherwise make the Equipment available for collection by the Hirer on the date agreed between the parties. Time of delivery or of making the Equipment available for Collection is not of the essence. Where the Owner delivers the Equipment, the Owner may deliver the Equipment in instalments.
- 4.2 Unless the Owner otherwise requires, packaging material accompanying the Equipment shall be disposed of by the Hirer at its cost.
- 4.3 The Hirer shall provide the Owner with all the assistance it requires to deliver the Equipment and shall be responsible for the unloading and reloading of Equipment at the Location. For the avoidance of doubt, any driver, operator, or otherwise supplied by the Owner for the purpose of delivering the Equipment shall be under the Hirer's control for any period of unloading and/or reloading of the Equipment.
- 4.4 The Hirer shall ensure that site conditions at the Location allow easy and safe delivery of the Equipment.
- 4.5 If the Hirer does not take delivery of the Equipment on time for any reason, the Owner may store and insure it pending delivery, and the Hirer shall pay the Owner's storage and insurance charges.
- 4.6 The Owner shall ensure that on delivery the Equipment conforms to the Pre Hire Report in all material respects.
- 4.7 Unless the Hirer notifies the Owner in writing to the contrary within one (1) day of delivery of the Equipment, the Equipment shall be deemed to be in good order, in accordance with the terms of the Contract including the Pre Hire Report, and to the Hirer's satisfaction.
- 4.8 The Hirer will be required to sign documentation to confirm receipt of the Equipment and that it is in good condition on delivery.

## 5. OWNER DUTIES

- 5.1 The Owner warrants the proper functionality of the Equipment during the Hire Period for the purpose held out by the Owner except where failure to provide such functionality results from the acts or omissions of the Hirer and events, circumstances, or causes beyond the Owner's reasonable control including radio interference from other equipment.
- 5.2 Except as set out in these Conditions to the contrary and subject to the Hirer's duties in clause 7, the good working order of the parts of the Equipment is the responsibility of the Owner including in respect of repair or replacement of any failed parts.
- 5.3 The Owner shall use reasonable care in the performance of its obligations under this Contract.

## 6. CONSTRUCTION

- 6.1 The parties acknowledge and agree that this Contract falls outside the scope of any specific construction requirements or obligations including the Housing Grants, Construction and Regeneration Act 1996.

## 7. HIRER DUTIES

- 7.1 The Hirer shall:
- 7.1.1 ensure that the conditions, premises and general environment in which the Equipment is kept and/or used do not adversely affect its condition or functionality or otherwise place it or any part of it at risk;
  - 7.1.2 ensure the safety of all staff and others who have access to the Equipment is maintained at all times;
  - 7.1.3 operate and use the Equipment in a workmanlike manner and only for the purposes for which it was designed including in relation to any manufacturer's rated capacity;
  - 7.1.4 regularly clean the Equipment during the Term;
  - 7.1.5 make good to the Owner all loss or damage to the Equipment from whatever cause (excluding fair wear and tear); and
  - 7.1.6 ensure that all users of the Equipment are suitably trained and skilled staff in accordance with any operating instructions.
- 7.2 The Hirer shall maintain the Equipment in good working condition and repair and shall keep itself aware of the state and condition of the Equipment at all times during the Term.
- 7.3 Where there has been a breakdown of any Equipment, any Equipment is unsatisfactory in its working in whole or in part, or where parts have become damaged, broken, or have been lost the Hirer:
- 7.3.1 shall notify the Owner immediately of the same; and
  - 7.3.2 subject to prior written authorisation from the Owner, it may repair the same and the Owner, at its discretion, may make allowances in the Hire Fee for the costs of such repairs. For the avoidance of doubt, no such allowances shall be made where the Owner's prior written authorisation has not been obtained and the Hirer is not permitted to modify the Equipment.

- 7.4 Where any breakdown, unsatisfactory performance, and/or damage, break or loss of parts is due to the misuse by the Hirer or any other party following delivery of the Equipment during the Term, the Hirer shall be responsible for any expenses incurred by the Owner arising from the same and, if additional, the cost of such repair.
- 7.5 Subject to the terms of this Contract, the Hirer shall:
- 7.5.1 keep the Owner fully informed about all work it carries out on the Equipment;
  - 7.5.2 ensure that it complies with the Owner's requirements as to the source and type of any replacement parts; and
  - 7.5.3 maintain records showing clearly all maintenance and work carried out by it on the Equipment and provide copies of them to the Owner on request.
- 7.6 If the Hirer continues to use the Equipment in an unsafe and/or unsatisfactory state and/or in contravention of clause 7.2, the Hirer shall be solely responsible for any damage, loss, or accidents in respect of the same whether directly or indirectly arising from such state and/or contravention.
- 7.7 The Hirer must immediately notify the Owner in writing:
- 7.7.1 if the Equipment is involved in any accident resulting in injury to persons or damage to property. No admission, offer, promise of payment, or indemnity shall be made by the Hirer without the Owner's prior written consent.
  - 7.7.2 in the event of any loss, accident, or damage to the Equipment or arising out of or in connection with the Hirer's possession or use of the same. In such instance the Hirer must quote to the Owner its fleet number(s) of the relevant Equipment.
- 7.8 The Hirer will indemnify and keep fully and effectively indemnified on demand and hold harmless the Owner from and against all Losses suffered or incurred by it arising out of or in connection with any injury to property or person caused by or in connection with the Equipment however arising.
- 8. LOSS OR DAMAGE TO EQUIPMENT**
- 8.1 When the Equipment is:
- 8.1.1 reported damaged, lost or stolen; or
  - 8.1.2 is not returned on termination of the Hire Period in accordance with clause 23.1.1,
- the Hire Period will be deemed to continue until the Hirer provides a purchase order to the Owner for an amount including all costs incurred by the Owner in rectifying the same at the Owner's then current price list, and the Hirer agrees to pay such amount indicated by the Owner.
- 8.2 Where the Owner deems any Equipment beyond economic repair, the amount detailed in clause 8.1 shall include the full replacement cost of the entire Equipment and will be applied to reduce the Hirers liability. Salvage will not be provided to the Hirer.
- 8.3 The Owner reserves the right to re-instate hire charges (whether an ad hoc hire fee or the Hire Fee) at its discretion if the invoice relating to the amount detailed in clause 8.1 remains unpaid past its due date in accordance with clause 14.6.
- 8.4 In addition to the rights set out in clause 8.1, in the event an Ancillary Item is lost, stolen, or damaged and replacement or repair is required to maintain the hire of the main Equipment,

the replacement Ancillary Item shall be charged to the Hirer at the Owner's standard rates from time to time and in addition to the Hire Fee.

## 9. POSSESSION AND OWNERSHIP OF THE EQUIPMENT

- 9.1 Except as set out in clause 21, the Owner shall at all times retain the ownership of the Equipment and the Hirer shall not do or allow to occur anything which might adversely affect its right, title or interest in the Equipment. Ownership of any replacements parts shall vest in the Owner on their installation. The Owner may affix its plate or mark on the Equipment indicating that it is its property.
- 9.2 The Hirer shall have the right to possess and use the Equipment in accordance with these Conditions.
- 9.3 The Hirer may affix a plate or mark on the Equipment during the Hire Period but must remove the same prior to the return of the Equipment to the Owner in accordance with clause 23.1.1 provided the same is removed before the end of the Hire Period. Failure to remove such plate or mark will incur a removal and cleaning charge which the Hirer shall pay to the Owner.
- 9.4 Risk in the Equipment shall pass to the Hirer on delivery or collection by the Hirer if earlier. The Equipment shall remain the sole risk of the Hirer during the Hire Period and any further time during which the Equipment is in the possession, custody, or control of the Hirer until such time as the Equipment is returned to the Owner in accordance with clause 23.1.1 ("**Risk Period**").
- 9.5 The Hirer is responsible for the safekeeping of the Equipment and shall ensure that the Equipment and the premises in which it is housed is kept safe and secure and that a level of security is provided in respect of it as is commensurate with best industry practice.
- 9.6 The Owner shall not be responsible for any cost and/or expense relating to the recovery of any Equipment from soft ground. The Owner shall have no liability for any breakdown, claim, or stoppage outside its control including in relation to bad weather or ground conditions.
- 9.7 The Hirer is permitted to move the Equipment from the Location during the Hire Period provided that:
- 9.7.1 if the Owner requests details of the location of any Equipment and/or Ancillary Items the Hirer must provide details of the Equipment's location immediately; and
  - 9.7.2 such location is not outside the United Kingdom. Where the Hirer proposes to move the Equipment outside the United Kingdom it must first obtain the Owner's written consent.
- 9.8 Subject to clause 9.9, the Hirer shall not:
- 9.8.1 create, or allow to be created over the Equipment any lien, charge or other security;
  - 9.8.2 lease, sell or otherwise part with possession of the Equipment or represent it may do any of those things;
  - 9.8.3 connect or attach the Equipment to any land or buildings; or
  - 9.8.4 do anything that causes the insurance of the Equipment to become void or voidable.

- 9.9 The Hirer may sub-let or lend the Equipment during its Hire Period provided that:
- 9.9.1 it notifies the Owner of any such sub-let or lending during the Term; and
  - 9.9.2 it remains responsible to the Owner for the same in accordance with these Conditions as if no such sub-let or period of lending had occurred.
- Any party that the Hirer may sub-let or lend any items to may not part possession with any of the Equipment without prior written consent of the Owner.
- 9.10 The Hirer will indemnify and keep fully and effectively indemnified on demand and hold harmless the Owner from and against all Losses suffered or incurred by it arising out of or in connection with the Hirer's breach of its obligations set out in clause 9.8 or as a result, directly or indirectly, of the Hirer's sub-let or lending of the Equipment in accordance with clause 9.9.
- 9.11 The Hirer shall:
- 9.11.1 store the Equipment separately from all other material in the Hirer's possession;
  - 9.11.2 ensure that the Equipment is clearly identifiable as belonging to the Owner;
  - 9.11.3 not remove or alter any identifying mark on the Equipment; and
  - 9.11.4 inform the Owner immediately if it becomes or is reasonably likely to become subject to any of the events or circumstances set out in clause 22.4.4.

## 10. DOCUMENTATION

- 10.1 **On Hire:** The Hirer will be required to sign documentation accepting the Equipment on hire in good condition with all Ancillary Items.
- 10.2 **Pre Hire Report:** The Hirer will be presented with a report detailing the condition of the Equipment at the point of hire.
- 10.3 **Off Hire:** The Hirer will be required to sign documentation returning the Equipment off hire in good condition with all Ancillary Items. The Owner reserves the right to charge for missing, lost or damaged parts notified at that time. The Owner reserves the right to charge for missing, lost or damaged parts notified to the Hirer after workshop inspection.
- 10.4 **Worksheet:** The Hirer will be presented with documentation when the Owner conducts amendments, alterations, replacements or repairs to the original Equipment on hire during the course of the hire.
- 10.5 **Inspection Note:** The Owner, or its agents, shall provide, periodically and in accordance with clause 11.3, inspection of and maintenance to the Equipment. A completed inspection note will be submitted to the Hirer detailing any damage or otherwise to the Equipment and subsequent repairs.

## 11. INSPECTIONS

- 11.1 The Owner may inspect, test, adjust, repair or replace the Equipment at all reasonable times and the Hirer shall permit it access to its premises and to the Equipment to do so. So far as reasonably possible, such work will be carried out at times to suit the convenience of the Hirer.



- 11.2 Where the Owner conducts amendments, alterations, replacements or repairs to the Equipment on hire during the Hire Period, it may provide the Hirer with a worksheet setting out the same.
- 11.3 The Owner may complete specific inspections:
- 11.3.1 to review the Equipment for service/maintenance purposes, which shall be no later than every fifty two (52) weeks (or twenty six (26) weeks in respect of trailers), and the Hirer shall provide access to the Equipment and/or the Ancillary Items to the Owner on any time and date the Owner requests in order to complete any such inspection;
  - 11.3.2 in the event of a failure or fault with the Equipment at the Hirer's request and only once a purchase order number has been provided to the Owner by the Hirer. Where the Hirer fails to provide a purchase order number, the Owner reserves the right to use an existing order number provided by the Hirer to the Owner.
- 11.4 During any inspection made by the Owner, it may replace or repair any Equipment lost or damaged at its discretion. In such instances the Hirer will be charged accordingly. Unless otherwise directed, the on-hire order number will be used by the Owner.
- 11.5 Following any inspection under this clause 11, the Owner may provide to the Hirer a completed inspection note detailing any damage or otherwise to the Equipment and subsequent repairs required.

## **12. HIRER'S SITE**

- 12.1 Where the Owner (or any of its representatives) attends the Location or any other location the Equipment is in situ, the Owner shall use reasonable endeavours to comply with health and safety legislation and health and safety procedures of the Hirer to the extent the same are notified to the Owner in advance of such attendance and the Owner shall use reasonable endeavours to ensure that all of its personnel, subcontractors, and others associated with it involved in carrying out the Owner's obligations under this Contract shall comply with such legislation and procedures.

## **13. TRACKERS, CCTV AND LOST EQUIPMENT**

- 13.1 The Owner reserves the right to attach discrete tracker units and/or CCTV devices with remote access and recording to the Equipment at the Owner's own cost. Any such devices will be subject to the Owner's "Tracker Terms & Conditions" as amended from time to time. This equipment is in addition to any tracking equipment and services provided by the Owner in accordance with the Quotation.
- 13.2 The Owner may, at its sole discretion, provide tracking information and/or CCTV footage to the Hirer if requested. The Owner has no obligation to provide any such information and no liability in respect of any information so provided.
- 13.3 Where the Quotation includes an itemised cost for CCTV or tracking, the Owner shall provide the Hirer with log in details for any CCTV or tracking system to which the cost relates. The Owner has no liability to the Hirer other than to provide such log in details. For the avoidance of doubt, the Owner shall not be responsible for any delay, inaccuracies, availability (or not) of the CCTV and/or tracking system and the site on which the Hirer is provided log in details to.
- 13.4 The Hirer shall be responsible for any data protection legislation compliance related to the use of CCTV equipment at the Location and notifying its personnel and/or any third parties in respect of the same.

## 14. CHARGES AND PAYMENT

- 14.1 The Hire Fee and other amounts set out in these Conditions (including in respect of Ancillary Items and/or Ancillary Services whether or not known to the parties at the Contract Start Date) are payable by the Hirer within thirty (30) days from the end of the month in which an invoice is issued by the Owner, regardless of whether the Equipment is in use or not by the Hirer during the Term.
- 14.2 The Hire Fee shall be calculated from installation of the Equipment in accordance with clause 4. Where the Equipment is installed at different dates, the Hirer shall pay for each of the Equipment from the date it is installed respectively. All Equipment is subject to a Minimum Hire Period and shall be charged at the rate specified by the Owner for such Minimum Hire Period and upon expiry of such Minimum Hire Period will be charged at a daily rate equivalent to 1/7 of the Minimum Hire Period rate for that Equipment for each additional day until returned to the Owner.
- 14.3 The Hire Fee is exclusive of: packaging, delivery, and collection fees; any decommissioning fees; import and export tariffs; any amounts due in respect of the hire of Ancillary Items including replacement of the same; and charges in respect of Ancillary Services, each to the extent applicable and which shall be charged in addition at the Owner's standard rates from time to time.
- 14.4 The Hire Fee and other amounts due under this Contract are exclusive of VAT and any other taxes and duties, which the Hirer shall pay to the Owner on receipt of a valid invoice.
- 14.5 Where the Equipment has been lost, stolen, or damaged during the Hire Period the Hirer shall continue to be responsible for the Hire Fee. In such instances the Owner reserves the right to charge the Hirer an invoice for the cost of replacement, repair, or otherwise such Equipment and any additional costs to the Owner and the Hire Fee will continue to be payable until such time the Owner receives payment of its additional invoice in full or as otherwise agreed between the parties in accordance with clause 8.
- 14.6 The Hirer shall pay all invoices raised under this Contract in full without withholding, deduction, or set-off including on account of disputes, counterclaims, or otherwise, in cleared funds within thirty (30) days of receipt of an invoice raised by the Owner under this Contract and to the bank account nominated by the Owner.
- 14.7 The Owner may increase the Hire Fee at any time by giving the Hirer not less than seven (7) days' notice in writing.
- 14.8 Where undisputed sums due under these Conditions are not paid in full by the due date:
- 14.8.1 the payment of all amounts under the Contract will become due and payable immediately;
  - 14.8.2 the Owner reserves the right to charge the Hirer a minimum late payment charge of twenty five pounds sterling (£25) plus VAT;
  - 14.8.3 the Owner may, without limiting its other rights, charge interest on such sums at eight percent (8%) a year above the base rate of Barclays Bank Plc from time to time in force and interest shall accrue on a daily basis, and apply from the due date for payment until actual payment in full, whether before or after judgment;
  - 14.8.4 the Owner may charge the Hirer all costs including legal costs, expenses, or any other losses (whether consequential or otherwise) incurred by the Owner in connection with such overdue sums, the Equipment, or any other breach by the Hirer of these Conditions; and

- 14.8.5 and continue to be due three (3) Business Days after such date, the Owner may charge supplementary hire charges to the Hirer at the Owner's rates from time to time.
- 14.9 If, acting in good faith, the Hirer disputes any item within an invoice, it shall raise such dispute by written notice to the Owner within fourteen (14) days from the date of receipt of such invoice and the parties shall negotiate in good faith to attempt to resolve the dispute promptly. Any amounts not disputed in accordance with this clause shall be deemed accepted and must be paid by the Hirer in accordance with clause 14.1. In relation to payments disputed in good faith, interest under clause 14.8.3 is payable after the dispute is resolved, on sums found or agreed to be due, from the due date until payment is made.

## **15. MOBILISATION FEES AND CANCELLED HIRES**

- 15.1 In respect of any Equipment the Owner considers either a special system (being non-standard configurations of Equipment made at the request of the Hirer) or a semi-permanent system the Owner reserves the right to charge the Hirer:
- 15.1.1 a fee of twenty five percent (25%) of one (1) week's quoted hire rate in the event that the Hirer cancels the hire up to no less than twenty four (24) hours prior to the agreed Delivery Date or date for installation, which shall be payable by the Hirer in accordance with clause 14.6;
- 15.1.2 a fee of fifty percent (50%) of one (1) week's quoted hire rate in the event that the Hirer cancels within the twenty four (24) hour period prior to the agreed Delivery Date or date for installation, which shall be payable by the Hirer in accordance with clause 14.6;
- 15.1.3 a fee of fifty percent (50%) of one (1) week's quoted hire rate and the agreed delivery/installation fee and the decommissioning/collection fee in the event that the Hirer cancels a hire at any time between the Equipment leaving the Owner's depot for delivery to the Hirer and the Equipment arriving at the Location prior to commencement of the system being fully commissioned, which shall be payable by the Hirer in accordance with clause 14.6.
- 15.2 In respect of those systems set out in clause 15.1, the Hirer shall pay the Owner in accordance with clause 14.6:
- 15.2.1 a commissioning fee for the delivery, installation, and commissioning of the system, following an invoice from the Owner at its standard rates from time to time to be sent on or around the Contract Start Date; and
- 15.2.2 a decommissioning fee for the removal, collection, and decommissioning of the system following an invoice from the Owner at its standard rates from time to time to be sent on or around the end of the Hire Period relevant to such Equipment.

## **16. INSTALLATION, MAINTENANCE, AND OTHER FEES**

- 16.1 The Hirer shall be responsible for:
- 16.1.1 battery exchanges. The Hirer may request that the Owner attends to the same. In such instances it shall incur fees in accordance with clause 16.2. The Owner shall not complete any battery exchanges during the Term more than once every seven (7) days. For clarity, where the Equipment is installed on a Friday, Saturday or Monday, the first battery exchange may take place the following Friday.
- 16.1.2 all system programming and installation carried out by the Owner at the Hirer's request. A representative of the Hirer shall be required to sign off all installations

and programming. The Owner accepts no liability whatsoever as a result of the Hirer providing incorrect instructions to the Owner regarding the installation or programming of the Equipment. The Hirer shall incur call-out charges in the event that the Owner is required to attend on site to re-program or re-install the Equipment as a result of any changes to the Hirer's requirements from the original installation.

16.2 Where the Hirer or any third party including any Local Authority or member of the public requests that the Owner attends the Equipment on behalf of the Hirer including as part of a larger system, the Hirer shall pay all call-out charges and battery exchange fees applicable at the Owner's standard rates from time to time.

16.3 The Owner reserves the right to charge for waiting time at such rates as may be notified to the Hirer by the Owner from time to time in the event that the Hirer has requested the Owner attend the Equipment for installation or otherwise and the Hirer has failed to make a representative available at the agreed time.

16.4 The Owner reserves the right to charge the Hirer for any costs or expenses it incurs in respect of any call-out including any charges for Ancillary Services, Ancillary Items, and/or parking charges or otherwise.

#### 17. **CREDIT LIMIT**

17.1 The Owner may set and vary credit limits from time to time and suspend performance of this Agreement supplies if the Hirer exceeds such credit limit.

17.2 The Owner reserves the right to run credit checks on the Hirer and/or request up front payments of a proportion of the Hire Fee as a condition of Hire.

17.3 The Owner may, at its sole discretion, require the Hirer to enter into a guarantee in a form acceptable to the Owner prior to the commencement of the Hire Period and for the Term.

#### 18. **INDEMNITY AND INSURANCE**

18.1 The Hirer will indemnify and keep fully and effectively indemnified on demand and hold harmless the Owner from and against all Losses suffered or incurred by it arising out of or in connection with any breach of the Contract by the Hirer.

18.2 During the Hire Period and the Risk Period (to the extent the latter is longer), the Hirer shall, at its own expense, have in place contracts of insurance with reputable insurers incorporated in the United Kingdom to cover its obligations under the Contract. Such insurance must also cover the full replacement value of the Equipment against all usual risks of loss, damage or destruction by fire, theft, or accident on an indemnity (rather than depreciated value) basis. The Hirer shall be responsible for paying any deductibles due on any claims under such insurance policies.

18.3 At the Owner's request, the Hirer must provide to the Owner sufficient evidence of the existence and details of the insurance cover that it is obliged to have and maintain under clause 18.2, including copies of the insurance policy certificates and proof of payment of the premiums for that insurance.

18.4 The insurance policies set out in clause 18.2 shall, at the Owner's request, name the Owner on the policies as a loss payee in relation to any claim relating to the Equipment. The Hirer shall ensure that such policies provide the Owner with at least twenty eight (28) days' prior written notice of cancellation or material change (including any reduction in coverage or policy amount).

18.5 To the extent the Hirer fails to comply with its obligations under this clause 18 in respect of obtaining or maintaining insurance, the Owner is entitled to effect and maintain any such insurance required in respect of the Equipment or otherwise, pay any such amounts required in respect of the same, and recover such amounts as a debt from the Hirer.

18.6 The Hirer agrees that the Owner may contact the Hirer's insurers direct in the event that the Hirer fails to notify their insurers of any loss or damage to the Equipment or any of the events set out in clause 22.4.4 apply to the Hirer, in which case the Owner shall be entitled to claim against the Hirer's policy as a third party.

## 19. **LIMITATION OF LIABILITY**

19.1 Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following:

19.1.1 death or personal injury caused by negligence;

19.1.2 fraud or fraudulent misrepresentation; or

19.1.3 any other losses which cannot be excluded or limited by applicable law.

19.2 Subject to clauses 19.1, the Owner shall not be liable for any of the following (whether direct or indirect): loss of profit; loss of or corruption to data; loss of use; loss of production; loss of contract; loss of opportunity, revenue, or business; loss of savings discount or rebate (whether actual or anticipated); harm to reputation or loss of goodwill; or indirect, consequential or special losses or damages including in relation to breakdown or stoppage of Equipment for any reason, non-arrival of Equipment resulting from accident or breakdown, during loading, unloading, or transport of the Equipment.

19.3 Subject to clause 19.1, the Owner's total liability regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation shall not exceed the greater of: (i) an amount equal to one hundred percent (100%) of the Hire Fee of the Equipment paid in the preceding twelve (12) Month period; and (ii) an amount equal to the Hire Fees for the Equipment for the Minimum Hire Term.

19.4 The Owner shall not be liable to the Hirer, nor in breach of the Contract, for failing to perform its obligations to the Hirer under this Contract as a result of any matters outside its reasonable control.

## 20. **SUSPENSION**

20.1 The Hirer may suspend the Hire Period at the Owner's discretion. To suspend the Hire Period for any Equipment the Hirer shall request a suspension in writing to the Owner prior to the proposed suspension period and await a response in respect of the same.

20.2 If a Hire Period is suspended, the Hirer remains responsible for the Equipment in accordance with these Conditions including in respect of all loss or damage to the Equipment.

20.3 Where a suspension period is approved by the Owner, if the Hirer intends to use the Equipment prior to expiry of the suspension period it shall notify the Owner in writing prior to such use and any Hire Fees and other amounts suspended shall recommence from such date.

20.4 If the Hirer uses any of the suspended Equipment prior to expiry of the suspension period and without notifying the Owner in accordance with clause 20.3, the entirety of the Hirer's suspended Equipment will be deemed as in use and suspension of the entire Equipment for

the entire period of suspension will be cancelled. The Owner may also charge the Hirer the Hire Fee and other charges under this Contract for the entire suspension period at its discretion.

## 21. **LENDER RIGHTS**

- 21.1 The parties agree and acknowledge that:
- 21.1.1 the Owner may enter into separate agreements with Lenders from time to time under which such Lenders may have rights in respect of the Equipment; and
  - 21.1.2 in certain circumstances a Lender may exercise its rights including any step in rights granted under such agreements.
- 21.2 On written notification by the Owner, the Hirer agrees that the Contract may be assigned, novated, or otherwise operated by a Lender.

## 22. **TERMINATION**

- 22.1 The Contract may be terminated in accordance with this clause 22. For the avoidance of doubt, return of the Equipment prior to expiry or earlier termination of the Hire Period does not constitute early termination or cancellation of the same except in accordance with this clause.
- 22.2 The Contract, or the hire of any or all of the Equipment, may be terminated by the Owner at any time on notice in writing to the Hirer whereupon the Hirer shall return the Equipment to the Owner without delay or where agreed with the Owner, allow the Owner to collect the Equipment.
- 22.3 Without prejudice to its obligation to pay for the Minimum Hire Period, the Hirer may terminate the Contract at any time by return of the Equipment or making the Equipment available for collection by the Owner (as applicable) in accordance with clause 23.1.
- 22.4 The Owner may terminate the Contract or any other contract which it has with the Hirer at any time by giving notice in writing to the Hirer if:
- 22.4.1 if the Hirer is in material breach of any of its obligations under the Contract and fails to remedy that breach (if capable of remedy) within ten (10) Business Days after receiving written notice of the breach; or
  - 22.4.2 the Hirer has failed to pay any amount due under the Contract on the due date for any reason; or
  - 22.4.3 any consent, licence or authorisation held by the Hirer is revoked or modified such that the Hirer is no longer able to comply with its obligations under this Contract or receive any benefit to which it is entitled; or
  - 22.4.4 if any encumbrancer takes possession of or a receiver, administrative receiver or similar officer is appointed over any of the property or assets of the Hirer or if the Hirer makes any voluntary arrangement with its creditors or becomes subject to an administration order or has an administrator appointed or goes into liquidation or has a resolution for its winding-up passed (except for the purpose of amalgamation or reconstruction not involving insolvency where the resulting entity agrees to be bound by or assumes the obligations imposed on the Hirer) or anything analogous to any of these events under the law of any jurisdiction occurs in relation to the Hirer or if the Hirer ceases or threatens to cease to carry on business.

22.5 If the Hirer becomes aware that any event has occurred, or circumstances exist, which may entitle the Owner to terminate the Contract under this clause 22, it shall immediately notify the Owner in writing.

22.6 Termination or expiry of the Contract shall not affect any accrued rights and liabilities of the Owner at any time up to the date of termination.

### 23. **CONSEQUENCES OF TERMINATION**

23.1 At the end of the Hire Period or any earlier termination of the Contract the Hirer shall:

23.1.1 at its own cost promptly (and as the Owner may specify) either:

- (a) deliver the Equipment to the Owner or its nominees at such other location as it may notify to the Hirer perfectly clean and in the condition it was delivered to the Hirer under clause 4 (excluding any fair wear and tear accepted by the Owner); or
- (b) where agreed with the Owner, make it available for collection by the Owner or its nominees; and

23.1.2 immediately pay:

- (a) all amounts payable by way of the Hire Fee regardless of whether due including any interest or other amounts payable under the Conditions. Where the Minimum Hire Term has not expired the Hirer shall also pay for the lesser of: the Hire Fee for the remainder of the Minimum Hire Term; and the ad hoc hire fees for the same at the Owner's standard rates from time to time; and
- (b) where the Hirer has returned any Equipment in contravention of clause 23.1.1(a), any amount required by the Owner to improve the condition and/or the cleanliness of the Equipment to the standards required by that clause (including where applicable sticker removal). The Owner may, at its discretion, charge the entire Hire Fee for the remainder of the Hire Period; and

23.1.3 sign any documentation required by the Owner of the Hirer when returning the Equipment including without limitation any off hire note detailing damages, if any. Termination of hire requested by the Hirer will not be accepted without an off hire note signed by both parties.

23.2 If any Equipment is not returned to the Owner or made available for collection by the Owner (as applicable) at expiry of the Hire Period or earlier termination of the Contract in accordance with clause 23.1, the Hirer shall pay the Owner an ad hoc hire fee for such Equipment at its standard rates in force from time to time and any other amounts incurred by the Owner in recovering the Equipment. The Owner reserves the right to charge the Hirer for missing, lost, or damaged Equipment or parts in becomes aware of following an inspection of the Equipment. The Equipment shall only be deemed off-hired when it is no longer subject to the Hire Fee or any ad hoc hire fee.

23.3 On termination of this Agreement for any reason:

23.3.1 the Hirer shall within five (5) Business Days return any materials of the Owner then in its possession or control; if it fails to do so, the Owner may enter any premises owned by or under the control of the Hirer and take possession of them; and

- 23.3.2 the accrued rights and liabilities of the parties (including any rights in relation to breaches of contract) shall not be affected nor shall the coming into force or continuation in force of any clauses and provisions of this Contract which are expressly or by implication intended to come into force or continue in force on or after termination or expiry.
- 23.4 The provisions of this Contract shall continue to bind each party insofar as and for so long as may be necessary to give effect to their respective rights and obligations hereunder.
24. **CONFIDENTIALITY AND ANNOUNCEMENTS**
- 24.1 The Hirer shall keep confidential all Confidential Information of the Owner and shall only use the same as required to perform the Contract. The provisions of this clause shall not apply to:
- 24.1.1 any information which was in the public domain at the date of the Contract;
- 24.1.2 any information which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement;
- 24.1.3 any information which is independently developed by the Hirer without using information supplied by the Owner; or
- 24.1.4 any disclosure required by law or a regulatory authority or otherwise by the provisions of the Contract.
- 24.2 This clause 24 shall remain in force indefinitely, notwithstanding the termination of this Contract for any reason.
25. **FORCE MAJEURE**
- 25.1 In these Conditions, "**Force Majeure**" means an event or sequence of events beyond a party's reasonable control preventing or delaying it from performing its obligations under the Contract. Inability to pay is not Force Majeure.
- 25.2 Neither party shall have any liability under or be deemed to be in breach of the Contract for any delays or failures in performance of the Contract which result from a Force Majeure event. The party subject to the Force Majeure event shall promptly notify the other party in writing when such the event causes a delay or failure in performance and when it ceases to do so. If the Force Majeure event continues for a continuous period of more than three (3) Months, either party may terminate the Contract by giving ten (10) Business Days' written notice to the other party.
26. **GENERAL**
- 26.1 Any notice given by a party under this Contract shall be in writing, be signed by, or on behalf of, the party giving it and be sent to the relevant party at the address set out in the Contract or such other address as notified to the other party from time to time.
- 26.2 The Hirer shall at the request of the Owner, and at the Hirer's own cost, do all acts and execute all documents which are necessary to give full effect to the Contract.
- 26.3 The parties agree that the Contract constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.
- 26.4 Each party acknowledges that it has not entered into the Contract in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out



in the Contract. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.

- 26.5 Other than as set out in these Conditions, all warranties, conditions, terms, undertakings or obligations whether express or implied and including any implied terms relating to quality, fitness for any particular purpose, reasonable skill and care or ability to achieve a particular result are excluded to the fullest extent allowed by applicable law.
- 26.6 Nothing in these Conditions purports to limit or exclude any liability for fraud.
- 26.7 No variation of the Contract shall be valid or effective unless it is in writing, refers to the Contract and is duly signed or executed by, or on behalf of, the Owner. The Owner may amend the Contract at any time by giving the Hirer not less than seven (7) days' notice.
- 26.8 The Hirer may not assign, subcontract or encumber any right or obligation under the Contract, in whole or in part, without the Owner's prior written consent, such consent not to be unreasonably withheld or delayed. For the avoidance of doubt, the Owner reserved the right to assign, sub-contract, or otherwise deal with any or all of its rights and obligations under the Contract.
- 26.9 The Owner shall be entitled to set-off under the Contract any liability which it has or any sums which it owes to the Hirer under the Contract or under any other contract which the Owner has with the Hirer.
- 26.10 The Hirer shall pay all sums that it owes to the Owner under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.
- 26.11 Nothing in this Contract constitutes, or shall be deemed to constitute, a partnership between the parties, nor make any party the agent of another party.
- 26.12 The Hirer recognises that any breach or threatened breach of the Contract may cause the Owner irreparable harm for which damages may not be an adequate remedy. Accordingly, in addition to any other remedies and damages available to the Owner, the Hirer acknowledges and agrees that the Owner is entitled to the remedies of specific performance, injunction and other equitable relief without proof of special damages.
- 26.13 If any provision of these Conditions (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of these Conditions shall not be affected.
- 26.14 No failure, delay or omission by the Owner in exercising any right, power, or remedy provided by law under the Contract shall operate as a waiver of that right, power, or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy. No single or partial exercise of any right, power or remedy provided by law or under this Agreement shall prevent any future exercise of it or the exercise of any other right, power or remedy.
- 26.15 The Hirer shall comply with all laws, enactments, regulations (including those issued by local authorities, under the Factories Acts, and Road Traffic Acts), regulatory policies, guidelines and industry codes applicable to it including in respect of anti-bribery, modern slavery, data protection, and the facilitation of tax evasion and shall maintain such authorisations and all other approvals, permits and authorities as are required from time to time to perform its obligations under or in connection with the Contract.
- 26.16 If there is a conflict between the terms contained in the Conditions and the terms of the Quotation, schedules, appendices or annexes to the Contract, the provisions of the Conditions will prevail.

26.17 The Hirer shall pay its own costs and expenses incurred in connection with the negotiation, preparation, signature, and performance of the Contract (and any documents referred to in it).

26.18 A person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract.

27. **GOVERNING LAW AND JURISDICTION**

27.1 The Contract and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales.

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