

STANDARD TERMS AND CONDITIONS FOR THE HIRING OF PLANT

1. INTERPRETATION

1.1 The following definitions and rules of interpretation apply to these Conditions:

'**Conditions**' means the standard terms and conditions of hire set out in this document and (unless the context otherwise requires) and includes any special terms and conditions agreed in writing between the Owner and the Hirer which shall together govern all hire of Plant to the exclusion of any inconsistent term or terms proposed by the Hirer.

'**Contract**' means the contract between the Owner and the Hirer for the hire of Plant and/or the supply of Installation Services as set out in the Order and in accordance with these Conditions.

'**Excess Period**' means a length of time that the Hirer wishes to extend their hire of the Plant which exceeds the Hire Period, as may be agreed in writing between the parties.

'**Hire Period**' means the length of time as stated in the Quotation together with any Excess Period.

'**Hirer**' means the company person or public authority who accepts a Quotation from the Owner for the hire of the Owner's Plant and/or the supply of Installation Services, and includes their successors or personal representatives, and may also be referred to as ("**you**").

'**Installation Services**' means the services supplied by the Owner to the Hirer as set out in the Quotation.

'**Minimum Hire Period**' means the hire of the Plant for a period of time no less than seven (7) consecutive days.

'**Order**' means the Hirer's order for the hire of the Plant and/or the supply of Installation Services in accordance with the Quotation.

'**Order Acknowledgment**' means the Owner's written acceptance and confirmation of the Order.

'**Owner**' means Stuart Plant Limited (t/a Stuart Power) and includes its successors, assigns or personal representatives, and may also be referred to as ("**we**" or "**us**").

'**Plant**' covers all classes of plant, machinery, equipment and accessories which the Owner agrees to hire to the Hirer as set out in the Quotation and in accordance with these Conditions.

'**Quotation**' means a document which the Owner may provide to the Hirer containing details of Plant and/or Installation Services following receipt of an enquiry from the Hirer.

'**Site**' means the property and/or premises as detailed in the Quotation, or as otherwise agreed between the Owner and the Hirer.

1.2 Your rights under these Conditions will vary depending on whether you are a **business** customer hiring Plant and/or Installation Services for use in your business, or an individual **consumer**, hiring Plant and/or Installation Services for your own private use. All rights under these terms and conditions apply to both **business** and **consumer** customers. However, if certain rights only apply to **business** or **consumer** customers, we have specified this in the terms below. If you are a **consumer** customer, you shall not be permitted to hire any Plant for a duration exceeding three (3) months.

1.3 Where you wish to purchase Plant (or any other goods and services), separate terms and conditions for the sale of goods and supply of services (available upon request) shall apply.

1.4 The headings in these Conditions are for convenience only and shall not affect their interpretation.

2. BASIS OF CONTRACT

- 2.1 The Hirer may seek, and the Owner may supply a Quotation which shall contain the quantity, quality and description of the Plant and/or Installation Services which the Hirer requires. Any Quotation is valid for 30 days from the date of issue, after which it may be subject to alteration. The Hirer may then make an Order for the Plant and/or Installation Services. The Order constitutes an offer by the Hirer to hire the Plant from the Owner in accordance with the Quotation and these Conditions.
- 2.2 No Order submitted by the Hirer shall be deemed to be accepted by the Owner unless and until the Owner or the Owner's authorised representative issues the Hirer with an Order Acknowledgment, at which point and on which date the Contract shall come into existence.
- 2.3 The Hirer shall be responsible to the Owner for ensuring the accuracy of the terms of any Order submitted by the Hirer, and for giving the Owner any necessary information relating to the Hirer's requirements for the Plant within a sufficient time to enable the Owner to perform the Contract in accordance with its terms.
- 2.4 The Owner shall not, other than in the exercise of its rights under this Contract or applicable law, interfere with the Hirer's quiet possession of the Plant.

3. HIRE PERIOD

- 3.1 The Hire Period shall commence upon unloading of the Plant as set out in clause 4, and shall continue until either:
 - 3.1.1 the date as set out in the Quotation; or
 - 3.1.2 as otherwise agreed between the parties.
- 3.2 The Hirer may request to end the Hire Period earlier than as set out in clause 3.1 by:
 - 3.2.1 notifying the Owner via telephone or in writing (which shall include email) that the Hirer wishes to terminate the Hire Period early; and
 - 3.2.2 ceasing use of the Plant and either making the Plant available for collection, or returning the Plant to the Owner as set out in clause 5.2 and 5.3 respectively.
- 3.3 Upon receipt of such request in accordance with 3.2, the Owner shall provide the Hirer with confirmation that the Hire Period has been terminated, the date of such termination and the outstanding charges which are due. For the avoidance of doubt the Hire Period shall not end until the date set out in the Owner's confirmation under this clause 3.3. If, on collection by the Owner, the Plant is not ready to be collected, or the Plant was operated after the date of termination, the Owner reserves the right to amend the charges by the amount that would have been payable had the Hire Period continued until the Plant has been returned to or collected by the Owner.
- 3.4 The Hirer may not hire the Plant for any duration shorter than the Minimum Hire Period.
- 3.5 The Owner shall not hire any Plant to the Hirer who is a **consumer** customer for any period exceeding 3 months under any circumstances.
- 3.6 On the final day of hire, the Owner shall permit the Plant to be used, provided that the Plant is returned to the Owner by 5pm. If the Hirer shall take more than one day to transport the Plant, an extra hire charge shall be payable by the Hirer for such extra time as set out in the Quotation or notified in writing thereafter.

4. UNLOADING AND LOADING

The Hirer shall be responsible for providing the Owner (and their personnel) with safe access to the Site for unloading and loading the Plant and the Owner (and their personnel) shall comply with all reasonable and lawful directions of the Hirer. The charges for loading and unloading services shall be contained in the costs of collection and/or delivery as set out in the Quotation.

5. DELIVERY, COLLECTION, INSTALLATION AND RETURN

- 5.1 Responsibility for delivery and/or collection or return of the Plant from and to the Site shall be as set out in the Quotation.
- 5.2 Where the Owner is responsible for the delivery and/or the return of the Plant from and to the Site, the Owner shall use all reasonable endeavours to effect delivery and collection by the dates as set out in the Quotation. The cost of collection and delivery shall be charged to the Hirer at the rates as set out in the Quotation. The Hirer shall notify the Owner when the Plant is ready for return. The Hirer shall ensure that the Plant is ready for return on the last day of the Hire Period.
- 5.3 Where the Hirer is responsible for the collection and/or return of the Plant from and to the Owner's depot or other location as set out in the Quotation, the costs associated shall be borne by the Hirer. The Owner shall notify the Hirer when the Plant is ready for collection. The Hirer shall return the Plant on the final date of the Hire Period, or as otherwise agreed between the parties. Where you are a **business** customer and you fail to return the Plant to the Owner, you shall indemnify the Owner against all loss, damages, costs and expenses arising out of in connection with the Owner collecting, or arranging for collection, of the Plant.
- 5.4 The Hirer may request that the Owner installs the Plant at the Site. Where the Owner agrees to provide Installation Services, the cost of the Installation Services shall be borne by the Hirer. The Hirer, or such duly authorised representative of the Hirer as the Hirer shall procure, shall be present at the installation of the Plant. Acceptance by the Hirer or such representative of the Hirer of the Installation Services shall constitute conclusive evidence that the Hirer has examined the Plant and has found it to be in good condition, complete and fit in every way for the purpose for which it is intended (save as regards any latent defects not reasonably apparent on inspection). If required by the Owner, the Hirer or the Hirer's duly authorised representative shall sign a receipt confirming such acceptance.
- 5.5 Where the Owner provides Installation Services, the Hirer shall:
- 5.5.1 co-operate with the Owner in all matters relating to the Installation Services;
 - 5.5.2 provide the Owner, its employees, agents, consultants and subcontractors, with access to the Site and other facilities, including suitable working conditions as reasonably required by the Owner to provide the Installation Services;
 - 5.5.3 provide the Owner with such information and materials as the Owner may reasonably require in order to supply the Installation Services, and ensure that such information is complete and accurate in all material respects.
- 5.6 If the Hirer fails to accept delivery of the Plant, then, except where such failure is caused by the Owner's failure to comply with its obligations under the Contract:
- 5.6.1 the Plant shall be deemed to have been delivered at 9.00 am on the date the Owner tendered delivery and the Hire Period shall commence as set out in clause 3.1; and
 - 5.6.2 the Owner shall store the Plant until the Hirer takes possession of the Plant, and charge the Hirer for all related costs and expenses of storage and re-delivery (including insurance).
- 5.7 Where the Hirer does not take possession of the Plant, or co-operate with the Owner to arrange for re-delivery within 48 hours of attempted delivery within clause 5.6, the Owner reserves the right to cancel the Contract and re-hire the Plant to another party and the Hirer shall be responsible for all irrecoverable costs incurred by the Owner in connection with such cancellation.
- 5.8 Where the Hirer does not request Installation Services, the Hirer shall be responsible for installing, connecting, testing, using and operating of the Plant in accordance with the BS7671 Electrical Wiring regulations (or any other regulations which the Owner may direct and provide to the Hirer from time to time). Where the Owner reasonably requires installation, testing or connection to be carried out by a suitably qualified or competent person, the Hirer shall comply with such requirement at their own cost. The Owner shall not be liable for any loss, damage or defect to the Plant where the Hirer fails to follow any installation, operating or safety instructions provided by the Owner. Nothing in this clause shall exclude or restrict any liability of the Owner arising from defective Plant.
- 5.9 Where the Owner does not carry out any Installation Services, unless the Hirer notifies the Owner of any fault or issue with the Plant within 5 days of delivery, the Plant shall be deemed to be in good order and to the Hirer's satisfaction upon delivery, save for either an inherent fault or a fault not ascertainable by reasonable examination.

- 5.10 The Owner shall, if requested, provide, on delivery a pre-delivery inspection report (**PDI**) which shall record the condition of the Plant, detail the operational checks undertaken and any accessories, manuals, and certificates included (the "**PDI Inspection Report**").
- 5.11 If the Owner's performance of any of its obligations under the Contract is prevented or delayed by any act or omission of the Hirer or failure by the Hirer to perform any relevant obligation, the Owner, without limiting or affecting any other right or remedy available to it, may suspend performance of delivery and the Installation Services (as applicable) until the Hirer remedies the default and the Hirer shall reimburse the Owner on written demand for any costs or losses sustained or incurred by the Owner arising directly or indirectly from the Hirer's default.
- 5.12 The Owner shall not be liable for any costs or losses sustained or incurred by the Hirer arising directly or indirectly from the Hirer's failure or delay in performing any of its obligations as set out in clause 5.11.
- 5.13 On return or collection of the Plant the Owner shall conduct a return inspection report which shall record the condition of the Plant on return, the running hours or usage hours (where applicable), the fuel level and any maintenance or repairs needs where identified ("**Return Inspection Report**"). Once completed, the Return Inspection Report shall be sent to the Hirer for their own records.
- 5.14 The Hirer shall be liable to the Owner for the costs and expenses incurred for the cleaning, repairing, re-fuelling and restoration of the Plant to the same levels and condition as set out in the PDI Inspection Report (fair wear and tear is excepted). The applicable charges are set out in the Quotation, or as otherwise notified to the Hirer in writing. The Owner reserves the right to implement fuel price adjustments to reflect fluctuations in market rates, taxes, duties, or other applicable regulatory changes affecting fuel costs. Any fuel prices set out in the Quotation are valid only on the date of the Quotation.
- 5.15 If upon return of the Plant, the Owner discovers that the Plant has been re-fuelled with red/dyed diesel, the Owner shall be liable to the Owner for the costs and expenses of the removal, cleaning and disposal of such fuel, and for a new fuel filter (if necessary).

6. OPERATORS OF THE PLANT

- 6.1 The Hirer may request for the Owner to provide person(s) to operate the Plant during the Hire Period on the Hirer's behalf. Where agreed between the parties, the Owner shall supply person(s) competent in operating the plant and such person(s) shall be under the direction and control of the Hirer.
- 6.2 All costs associated with the Owner supplying an operator of the Plant (including travel time and expenses) shall be charged at the rates as set out in the Quotation. The Owner reserves the right to increase these charges to reflect any increase in the national minimum wage and/or from increases in the Owner's statutory contributions with no less than 4 weeks' prior written notice. Where you are a **consumer** customer and the Owner provides notice to increase these charges, the Hirer shall have the right to terminate the Contract in accordance with clause 15.2.2 before the changes take effect and you shall be entitled to a refund for any charges you have paid in advance, but not received the benefit of.
- 6.3 Any person(s) provided to the Hirer shall remain the employee (or subcontractor) of the Owner at all times. Without prejudice to clause 6.1, the Owner shall at all times ensure that such persons(s) is in compliance with the requirements of the Health and Safety at Work Act 1974 and any other acts, orders, regulations and codes of practice pertaining to the health and safety of employees (and subcontractors), and the Hirer shall ensure that the Site is and remains a safe working environment as set out in clause 9.1.5.
- 6.4 The Owner makes no warranties or representations in relation to the suitability of any person(s) offered to the Hirer for these purposes of this clause and the Hirer shall (except as otherwise provided by law) be responsible for any and all claims arising in connection with the operation of the Plant. Where the person(s) provided is a subcontractor of the Owner, the Owner shall (upon request) make available any relevant certificates or other documents confirming the competency of such subcontractor to the Hirer.

- 6.5 Where you are a **business** customer, you shall indemnify the Owner against all loss, damages, costs and expenses arising out of or in connection with any claims made against the Owner for the acts or omissions of the persons(s) supplied by the Owner to the Hirer for the purposes of clause 6.1.
- 6.6 Where you are a **consumer** customer, you shall be responsible for any direct losses we reasonably incur to the extent such losses arise from unlawful or negligent directions and controls given by you to the person(s) provided by us for the purposes of operating the Plant under clause 6.1, provided that you shall not be liable for any loss arising from our or the operator's own negligence, default, or failure to exercise reasonable skill and care.
- 6.7 When the Plant is hired and the Hirer does not require the Owner's driver or operator as set out in clause 6.1, the Hirer shall ensure that, and only permit that, any person operating the Plant has the necessary skills, knowledge and competence to do so safely and in accordance with any instructions provided. Any breakdown or the unsatisfactory working of any part of the Plant must be notified immediately to the Owner. Any claim for breakdown time will only be considered from the time and date of notification and following a full investigation by the Owner.

7. BREAKDOWN, REPAIRS AND ADJUSTMENT OF PLANT

7.1 Where the Owner concludes that the breakdown of any Plant was caused by:

- 7.1.1 an inherent fault; or
- 7.1.2 a fault which was not ascertainable by reasonable examination or detailed in the PDI Inspection Report; or
- 7.1.3 fair wear and tear

the Owner shall, in its sole discretion, either conduct the necessary repairs to the Plant subject to clause 12, or shall provide the Hirer with a refund pro-rata for the duration of time where the Plant is hired, but is unusable.

7.2 The Hirer shall not attempt to repair the Plant without the prior written authority of the Owner. Where the Owner permits the Hirer to conduct repairs to the Plant, the parties shall pre-agree in writing the relevant cost consequences. Where the Hirer undertakes repairs without the authority, the Owner shall not be liable or responsible for such repairs nor the cost of the same.

7.3 The Hirer shall be responsible for:

- 7.3.1 subject to clause 7.1 and clause 12.4, all costs and expenses incurred by the Owner arising from any breakdown of the Plant, and
- 7.3.2 the full replacement cost of the Plant if the Plant is damaged beyond economic repair or lost, and
- 7.3.3 all loss or damage incurred by the Owner due to the Hirer's negligence, misdirection or misuse of the plant, whether by the Hirer or his servants, and
- 7.3.4 for the payment of hire at the appropriate idle time rate as set out in the Quotation during the period that the Plant is necessarily idle due to such breakdown or damage.

where you are a **business** customer, you shall indemnify the Owner against all loss, damages, costs and expenses that the Owner incurs arising out of or in connection with the replacement of, breakdown, loss or damage to the Plant as set out in this clause 7.3.

7.4 Each item of Plant specified in the Quotation is hired by the Hirer as a separate unit. The breakdown or stoppage of one or more units of Plant supplied under the Contract (whether such other Plant was hired from the Owner or otherwise) through any cause whatsoever, shall not entitle the Hirer to compensation or allowance for the loss of working time by any other unit or units of Plant working in conjunction therewith, provided that, where two or more components of Plant are hired together as a single unit, such components shall be deemed a single unit of Plant for the purpose of this clause 7.

8. TITLE, RISK AND INSURANCE

8.1 The Plant shall at all times remain the property of the Owner, and the Hirer shall have no right, title or interest in or to the Plant (save the right to possession and use of the Plant subject to these Conditions).

- 8.2 The risk of loss, theft, damage or destruction of the Plant shall pass to the Hirer on delivery as set out in clause 5. The Plant shall remain at the sole risk of the Hirer during the Hire Period, and until such time as the Owner retakes possession of the Plant.
- 8.3 The Hirer shall at its own expense obtain and maintain adequate insurance cover for the Plant supplied throughout the Hire Period against loss, theft, and damage for its full replacement value and shall provide evidence of such insurance to the Owner upon request. The Hirer shall pay all premiums payable under such policies when due and shall not do anything which may invalidate or cancel such policy. Nothing in this clause affects the Hirer's liability for loss of or damage to the Plant where such loss or damage is not recoverable under any insurance policy.

9. HIRER RESPONSIBILITIES

9.1 The Hirer shall, during the term of the Contract:

- 9.1.1 be responsible for the proper safekeeping of the Plant (including secure overnight storage as required), and the use of the Plant in a safe and proper manner within the manufacturer's rated capacity (provided via Plant labels, datasheets, the PDI Inspection Report or other documentation provided upon delivery/collection of the Plant or as otherwise provided by the Owner);
 - 9.1.2 return the Plant in equal good order (with the exception of fair wear and tear);
 - 9.1.3 only use the Plant on the Site designated under the Contract, which is set out in the Quotation, unless otherwise agreed in writing by the Owner;
 - 9.1.4 ensure that the Plant is kept and operated in a suitable environment and used only for the purposes for which it is designed and (where the Hirer is operating the Plant itself) shall ensure the Plant is operated in a proper manner by trained competent staff in accordance with any operating instructions;
 - 9.1.5 ensure that the Site is a safe and proper working environment and where the Hirer intends to use the Plant in conditions resulting in the ground being soft or unsuitable for the Plant to work on or travel over without undue risk or damage to the Plant, the Hirer shall supply and lay suitable timbers or equivalent materials in a suitable position to enable the Plant to operate properly.
 - 9.1.6 take such steps (including compliance with all safety and usage instructions provided by the Owner or the manufacturer) as may be necessary to ensure, so far as is reasonably practicable, that the Plant is at all times safe and without risk to health when it is being used or maintained by a person at work;
 - 9.1.7 maintain at its own expense the Plant in good and substantial repair in order to keep it in as good an operating condition as it was on delivery (fair wear and tear only excepted) including replacement of worn, damaged and lost parts, and shall notify the Owner of and make good any damage to the Plant;
 - 9.1.8 make no alteration to the Plant and shall not remove any existing component (or components) from the Plant without the prior written consent of the Owner;
 - 9.1.9 continually monitor and check the oil, grease or other fluid levels of the Plant, and for any Plant which is categorised as "Stage V", the Hirer shall top up such Plant with AdBlue as necessary at its own cost (the Owner may supply the Hirer with deliveries of AdBlue upon request);
 - 9.1.10 not sell, or offer for sale, underlet or sub-let the Plant or allow the creation of any mortgage, charge, lien or other security interest in respect of it;
 - 9.1.11 obtain and maintain in full force all licences, permits, consents, approvals or other authorisations required by any applicable law, regulation or competent authority (including the Environment Agency) in connection with the use, operation and storage of the Plant; and
 - 9.1.12 keep the Owner fully informed of all material matters relating to the Plant.
- 9.2 The Hirer shall allow the Owner, its agents or its insurers to have access to the Site to inspect, test, adjust, repair or replace the Plant as set out in the Quotation or otherwise scheduled between the parties. Where the Hirer requests inspection or testing beyond the Owner's standard inspection and testing procedures (and save for any inspection required as a result of any mechanical issues), the Owner retains the right to charge for these services and shall notify the Hirer of these costs prior to undertaking such inspection or testing. So far as reasonably possible, such works will be carried out at times to suit the convenience of the Hirer.
- 9.3 The Hirer shall be responsible for compliance with relevant laws and regulations including the Health and Safety at Work etc. Act 1974 and observance of the Road Traffic Acts and the Highway Code.
- 9.4 The Hirer shall be responsible for any loss, leakage, spillage or discharge of fuel, oil or any other contaminating substance arising from or in connection with the use, operation, storage or transportation of the Plant, including carrying out all remediation, clean-up and restorations works. If necessary, the Hirer shall

notify all relevant regulatory or environmental authorities of any contaminating event and shall comply with any reasonable and lawful direction or obligation placed upon them. Where you are a **business** customer, you shall indemnify and keep indemnified the Owner against any and all losses, liabilities, costs, expenses (including legal and remediation costs), damages, or claims arising out of or in connection with any such contamination or failure to comply with this clause.

9.5 Where the Plant is capable of being driven on public roads, the Hirer shall be responsible for, and shall promptly pay, all fines, penalties, charges and fees incurred during the Hire Period in connection with the use, parking, or presence of the Plant on any road or public highway. Such charges may include, but not be limited to:

- 9.5.1 parking fines and penalty charge notices;
- 9.5.2 congestion zone charges;
- 9.5.3 Ultra Low Emission Zone (ULEZ) and Clean Air Zone (CAZ) or similar emissions-relates charges;
- 9.5.4 tolls and road user charges; and
- 9.5.5 any administrative or enforcement fees arising from the same.

9.6 Where any such fine or penalty arises as set out in clause 9.5, the Owner reserves the right to (i) pay the charge and recover the full amount from the Hirer, or (ii) provide the Hirer's details to the relevant authority to transfer liability to the Hirer so far as is as permitted by law.

9.7 The Hirer shall indemnify the Owner against any such charges and penalties incurred during the Hire Period as set out in clause 9.5

9.8 Where the Hirer is responsible for collecting and returning the Plant as set out in clause 5.3, the Hirer shall be responsible for arranging, effecting and paying for all necessary insurances, including the cost of any required Road Fund Licences.

9.9 The Hirer shall comply at all times with the terms of any applicable Road Fund Licence.

9.10 The Hirer shall not remove, deface or cover up the Owner's name plate, mark or logo situated on the Plant for the duration of the Hire Period.

9.11 Where the Plant is lost or stolen during the Hire Period or whilst the Plant is in the Hirer's possession as set out in clause 15.4.3, the Hirer must:

- 9.11.1 promptly notify the Owner and the relevant police authority as soon as reasonably practicable upon becoming aware of such loss or theft;
- 9.11.2 provide all reasonable assistance to the Owner and to any investigating authority; and
- 9.11.3 not do or omit to do anything that may prejudice any investigation or the Owner's ability to recover the Plant or claim under any applicable insurance policy.

9.12 Where the Plant is categorised as "Stage V", the Hirer must ensure that the electrical power supply is in accordance with the instructions provided. The Owner may, upon request, supply a loadbank test device. Where "Stage V" Plant is subjected to an improper load requiring repairs, clause 7.2 and 7.3 shall apply.

9.13 The Hirer is responsible for ensuring that:

- 9.13.1 the Plant is properly earthed and connected to a suitable earthing system;
- 9.13.2 the Plant is connected to an electrical power supply which is of sufficient capacity, rating and stability to meet the Hirer's requirements and intended use, which is in accordance with all applicable laws and regulations;
- 9.13.3 all cabling, connectors and other ancillary electrical equipment used are suitable and adequately rated; and
- 9.13.4 the electrical supply and associated electrical infrastructure is suitable for the Hirer's requirements and the intended operation of the Plant.
- 9.13.5

10. LIABILITY

- 10.1 References to liability in this clause 10 include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence) or otherwise.
- 10.2 Nothing in this Contract limits any liability for death or personal injury caused by negligence, fraud or fraudulent misrepresentation or any liability that legally cannot be limited.
- 10.3 Subject to clause 10.2, the Owner's total liability shall not exceed 100% of the charges paid by the Hirer under this Contract.
- 10.4 The Owner accepts no liability nor responsibility in any circumstances for any loss of profits, loss of business, loss of or damage to goodwill or any indirect or consequential loss or damage.
- 10.5 Subject to clause 10.2, all implied terms and conditions as to the quality or performance of the Plant and any other goods or services provided under this Contract are, to the fullest extent permitted by law, excluded from this Contract.
- 10.6 Where you are a business customer, during the Hire Period the Hirer shall fully and completely indemnify the Owner in respect of all claims by any person whatsoever for injury to person or property caused by or in connection with or arising out of the use of the Plant and in respect of all costs and charges in connection therewith whether arising under statute or common law. In the event of loss of or damage to the Plant, hire charges shall continue at the idle time rates as set out in clause 14, until settlement has been effected.
- 10.7 Notwithstanding the above, the Owner's liability for damage, loss or injury shall be limited to damage, loss or injury arising:
- 10.7.1 prior to the delivery of any Plant to the Site where the Plant is in transit at the responsibility and control of the Owner, or as otherwise arranged by the Owner;
 - 10.7.2 during the erection of the Plant, where such Plant requires to be completely erected on the Site, always provided that such erection is under the exclusive control of the Owner or his agent;
 - 10.7.3 during the dismantling of any Plant, where the Plant is required to be dismantled after use prior to removal from Site, always provided that such dismantling is under the exclusive control of the Owner or his agent;
 - 10.7.4 after the Plant has been removed from the Site and is in transit at the responsibility of the Owner or as otherwise arranged by the Owner; and
 - 10.7.5 where Plant is travelling to or from the Site under its own power with a driver supplied by the Owner in accordance with clause 6.1.
- 10.8 Where you are a consumer customer, we will be responsible for losses you suffer should we breach this Contract, unless the loss is:
- 10.8.1 **Unexpected.** It was not obvious that it would happen and nothing you said to us before we accepted your order meant we should have expected it (so, in the law, the loss was unforeseeable).
 - 10.8.2 **Caused by a delaying event outside our control.** As long as we have taken the steps to notify you of the delay as required by these terms.
 - 10.8.3 **Avoidable.** Something you could have avoided by taking reasonable action.
 - 10.8.4 **A business loss.** Our liability for any loss you suffer in connection with your trade, business, craft or profession is limited, as described in the terms below.

11. NOTICE OF ACCIDENTS

- 11.1 If the Plant is involved in any accident resulting in injury to persons or damage to property, the Hirer must give immediate notice to the Owner by telephone and confirmed as soon as reasonably practicable thereafter in writing to the Owner's office to the details as set out below:

FAO: Stuart Power Rental Department
Email: enquiries@stuartpower.co.uk
Phone: Head Office 01953 454540

- 11.2 Where the Hirer receives any claim from a third party alleging any act or default of the Owner the Hirer shall make no admission, offer, promise of payment, or settlement without the Owner's consent in writing and the Owner is given full control of any proceeding or negotiations in connection with any such claim and, the Hirer shall give the Owner all reasonable assistance for the purposes of any such proceedings or negotiations and without prejudice to any duty of the Hirer at common law. The Owner shall be entitled to require the Hirer to take such steps as the Owner may reasonably require to mitigate or reduce any such loss, damages, costs or expenses.

12. RETURN OF PLANT FOR REPAIRS

- 12.1 If during the Hire Period repairs to the Plant are necessary, the Owner may in its sole discretion (i) replace the Plant with similar Plant (where available); or (ii) arrange for such repairs to be carried out on Site or at any location as the Owner may reasonably nominate. Where the Owner replaces the Plant with similar Plant, the Owner is responsible for the cost of all transport charges involved.
- 12.2 The Hirer shall not be entitled to any extension of the Hire Period as a result of any replacement or repair as set out in clause 12.1 unless expressly agreed between the parties.
- 12.3 In the event of the Owner being unable to repair or replace the plant, the Hirer shall be entitled to terminate the Contract by giving written notice to the Owner in accordance with clause 15.
- 12.4 Where repairs to the Plant are necessary due to an inherent fault, a defect or fair wear and tear, the Owner shall be responsible for all transport charges and the costs of repairs. Where the repairs to the Plant are necessary due to an act or omission of the Hirer, the Hirer shall pay for all costs incurred by the Owner (including any transport charges).

13. BASIS OF CHARGING

- 13.1 The price for the hire of the Plant shall be set out in the Quotation, or where no price has been quoted (or a quoted price is no longer valid), the price listed in the Owner's published price list current at the date of the Order (a copy of which is available in digital or hard copy upon request). All Quotations are valid for 30 days only or until earlier acceptance by the Hirer. Any Quotation not accepted within 30 days of issue may be altered by the Owner.
- 13.2 The Owner shall invoice for the hire as per Quotation and, in the case of additional charges payable pursuant to these Conditions, within a reasonable period of the costs to which such charges relate being incurred. The Hirer shall pay each invoice submitted by the Owner within 30 days of the date of the invoice and in full and cleared funds.
- 13.3 Where the Hirer wishes to extend the period of hire for an Excess Period, the charges for such Excess Period shall be calculated on the rates in accordance with the Quotation.
- 13.4 When the Plant is returned to the Owner following any Excess Period the Hirer shall provide the Owner with an accurate statement of the number of hours the Plant has been operated for each day which the Owner shall certify through their own records and/or the Plant's usage meter. Where the Plant is accompanied by the Owner's driver or operator in accordance with clause 6.1, the Hirer shall sign the driver's/operator's time record sheets on a daily or weekly basis, as agreed between the parties. The signature of the Hirer's representative shall bind the Hirer to accept the hours shown on the time record sheets.
- 13.5 Where the Plant is unusable at any time during the Hire Period due to the absence of the driver or operator supplied by the Owner resulting in the Plant being idle, the charges shall be reduced pro-rata in accordance with the idle time rates as set out in the Quotation until the Owner can supply an alternate driver or operator.

- 13.6 Where the Plant is required to be dismantled for the purpose of transportation, the Owner may agree in their absolute discretion to amend the charges for the period required for assembling at the Site and dismantling upon completion of hire, such amendment shall be stated in the Quotation.
- 13.7 The Hirer shall be responsible for all costs associated with the operation of the Plant, including but not limited to the costs of fuel, oil and grease. The Owner may offer to supply fuel, oil and grease to the Hirer, the charges for which shall be notified upon the Hirer's request. For the avoidance of doubt, any servicing and maintenance of the Plant shall only be conducted by the Owner.
- 13.8 The charges are exclusive of VAT and any other applicable taxes and duties or similar charges which shall be payable by the Hirer at the rate and in the manner from time to time prescribed by law.
- 13.9 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 13.10 If the Hirer fails to make any payment of any charge on the due date as set out in clause 13.2 then, without prejudice to any other right or remedy available to the Owner, including those under clause 15, the Owner shall be entitled to charge the Hirer interest (both before and after any judgement) on the amount unpaid, at the rate of 4% per annum above Lloyds Bank PLC base rate or any equivalent rate then current in substitution of the said base rate from time to time, until payment in full is made together with all reasonable and proper recovery costs.

14. IDLE TIME

The charges for the Plant shall be payable regardless of the time the Plant is idle during the Hire Period. Notwithstanding the foregoing, If the Plant is idle for seven (7) consecutive days or more, the Owner may, in its sole discretion, reduce any charges otherwise payable in respect of that period of idleness. Any such reduction shall be entirely at the Owner's discretion and shall not create any obligation to grant the same or similar reduction in the future. No deduction shall be made where the Plant has been hired on a standby hours rate.

15. TERMINATION OF CONTRACT

- 15.1 Without affecting any other right or remedy available to it, the Owner may terminate the Contract with immediate effect by giving written notice to the Hirer if:
- 15.1.1 the Hirer commits a material breach of any term of the Contract and (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified to do so;
 - 15.1.2 the Hirer fails to pay any amount due under the Contract on the due date for payment;
 - 15.1.3 Where the Hirer is a business customer, and ceases, or threatens to cease, to carry on business or makes any voluntary arrangement with its creditors or becomes subject to an administration order or goes into liquidation, or where the Hirer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this Contract is in jeopardy.
- 15.2 Where you are a **consumer** customer, you will be entitled to cancel your Contract with us early if:
- 15.2.1 **You change your mind within 14 days of us accepting your Order** – in these circumstances you will be entitled to a refund of any amounts you've paid us in advance less any charges for the Plant we have provided or for unrecoverable costs for the Plant we have committed to before you cancelled. However, you will not be entitled to a refund for any Installation Services completed prior to you cancelling.
 - 15.2.2 **You are unhappy with a proposed change we have suggested** - in these circumstances you will be entitled to a refund of any amounts you've paid us in advance less any charges for the Plant and/or Installation Services we have provided or for unrecoverable costs for your Plant and/or Installation Services we have committed to before you cancelled; or
 - 15.2.3 **You have a legal right to cancel because we have failed to comply with your legal obligations in respect of the Plant and/or Installation Services** – in these circumstances you may be entitled to a refund depending on the specific issue and when it was notified to us.

15.3 Where you are a **business** customer and the period of hire is indeterminate or having been defined becomes indeterminate, either party may terminate the Contract by providing the other party with seven (7) days' notice (except in cases where the Plant has been lost or damaged). Any notice given by the Hirer to the Owner's driver or operator under this clause 15 shall not be deemed effective.

15.4 On expiry or terminate of this Contract, however caused:

15.4.1 the Owner's consent to the Hirer's possession of the Plant shall terminate;

15.4.2 the Owner may, by its authorised representatives, without notice and at the Hirer's expense, retake possession of the Plant and for this purpose may enter the Site or any premises at which the Plant is located; and

15.4.3 the Hirer shall ensure the safe and proper storage of the Plant until it has been collected by the Owner.

15.5 Termination or expiry of this Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

16. **ANTI-BRIBERY AND ANTI-SLAVERY**

The Hirer shall during the term of a Contract comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption (including the Bribery Act 2010) and to anti-slavery and human trafficking (including Modern Slavery Act 2015).

17. **EQUALITY AND ANTI-HARASSMENT**

17.1 The Hirer shall perform its obligations under this Contract in accordance with:

17.1.1 all applicable equality and anti-harassment legislation (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy, maternity or otherwise); and

17.1.2 any other requirements and instructions which the Owner reasonably imposes in connection with any equality and anti-harassment legislation.

18. **GENERAL**

18.1 **Force Majeure:** Neither party shall be liable for any delay or failure in the performance of its obligations for so long as and to the extent that such delay or failure results from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for 14 days, the party not affected may terminate this Contract by giving not less than 14 days' written notice to the affected party.

18.2 **Entire Agreement:** This Contract constitutes the entire agreement between the parties. Each party acknowledges that in entering into this Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it has no claim for innocent or negligent misrepresentation based on any statement in this Contract.

18.3 **Third Party Rights:** These Conditions do not give rise to any rights of any third party under the Contracts (Rights of Third Parties) Act 1999 or otherwise to enforce any provision of the Contract.

18.4 **Assignment and other dealings:** The Hirer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Owner. The Owner may transfer the Contract, but where you are a **consumer** customer we'll ensure that the transfer won't affect your rights under the Contract.

18.5 **Data Protection:** Each party shall, in relation to any personal data processed by it in connection with the Contract, comply with all laws applicable to it concerning data protection.

18.6 **Notices:** Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or

such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice. Letters sent by first class post shall be deemed to have been received two clear days following postage and in the case of facsimile and email communications these shall be deemed to have been received immediately following transmission subject to a positive receipt of sending.

- 18.7 **Waiver:** No waiver by the Owner of any breach of the Contract by the Hirer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 18.8 **Severance:** If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.
- 18.9 **Arbitration:** Where any dispute arises between the Owner and the Hirer in regard to the Contract or the interpretation of these Conditions, such dispute shall be referred pursuant to the Arbitration Act 1996, or the Arbitration (Scotland) Act 2010 as the case may be or any statutory modification thereof, to a Sole Arbitrator who shall be appointed upon agreement by the Owner and the Hirer. Where the Owner and the Hirer cannot agree, a Sole Arbitrator shall be appointed by the President for the time being of the Institution of Mechanical Engineers.
- 18.10 **Governing Law and Jurisdiction:** This Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by the laws of England and Wales and the parties agree to the Contract shall be subject to the exclusive jurisdiction of the courts of England and Wales, except if you are a **consumer** customer in which case claims may be brought in the country where you live.