

HIRE TERMS AND CONDITIONS

The Customer's attention is particularly drawn to the provisions of clause 8.

1. INTERPRETATION

1.1 Definitions. In these Conditions, the following definitions apply:

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Charges: the charges payable by the Customer for the supply of the Services in accordance with clause 5.

Commencement Date: has the meaning set out in clause 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with clause 12.9.

Contract: the contract between the Supplier and the Customer for the supply of Services in accordance with these Conditions.

Customer: the person or firm who purchases Services from the Supplier.

Delivery: the transfer of physical possession of the Equipment to the Customer at the Site

Deposit: the deposit amount set out in the Order in accordance with clause 5.8 of these Conditions

Equipment: the equipment set out in the Order supplied by the Supplier for the Customer and all substitutions, replacements or renewals of such equipment and all related accessories, manuals and instructions provided for it

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Order: the Customer's order for Services set out in the Customer's purchase order form, or the Customer's written acceptance of a quotation by the Supplier, as the case may be.

Rental Payments: the payments made by or on behalf of the Customer to the Supplier for hire of the Equipment

Rental Period: the period of hire as set out in the Order or extended in accordance with clause 11.7 of these Conditions

Services: the services, including the Equipment supplied by the Supplier to the Customer as set out in the Specification.

Site: the Customer's premises or such other premises as the Customer may specify for Delivery

Specification: the description or specification of the Services provided in writing by the Supplier to the Customer.

Supplier: Edwards Recycling Materials registered and incorporated in England and Wales with company number 06662182 of Second Floor, Kestrel House Falconry Court, Bakers Lane, Epping, Essex CM16 5BD.

Supplier Materials: has the meaning set out in clause 4.1(g).

Total Loss: the Equipment is, in the reasonable opinion of the Supplier (or in the opinion of its insurers) damaged beyond repair, lost, stolen, seized or confiscated

Construction. In these Conditions, the following rules apply:

- (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) a reference to a party includes its personal representatives, successors or permitted assigns;
- (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (d) any phrase introduced by the terms **including, include, in particular** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- (e) a reference to **writing** or **written** includes faxes and e-mails.

2. BASIS OF CONTRACT

- 2.1 The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order at which point and on which date the Contract shall come into existence (**Commencement Date**) and shall continue subject to the termination provisions of these Conditions for the period stated in the Order ("the Term")
- 2.3 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Supplier which is not set out in the Contract.
- 2.4 Any samples, drawings, descriptive matter or advertising issued by the Supplier, and any descriptions or illustrations contained in the Supplier's catalogues or brochures,

are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.

- 2.5 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.6 Any quotation given by the Supplier shall not constitute an offer. The Customer acknowledges that this is a business to business transaction which both parties are freely entering into.

3. SUPPLY OF SERVICES, DELIVERY AND INSTALLATION

- 3.1 The Supplier shall supply the Services to the Customer in accordance with the Specification in all material respects.
- 3.2 The Supplier shall (where applicable) use all reasonable endeavours to meet any performance dates specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 3.3 The Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.
- 3.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill the Supplier shall not guarantee that the Customer will achieve its intended result by the use of any Equipment or other facilities.
- 3.5 The Supplier does not warrant that the Equipment shall be fit for any special purpose. The Customer shall satisfy itself as to the type and condition of the Equipment supplied at the time of delivery of the Equipment. The Supplier is not liable to the Customer if the Equipment supplied is different from the one ordered, as regards type, condition, capacity or size.
- 3.6 The Supplier shall not, other than in exercise of its rights and obligations under this agreement or applicable law, interfere with the Customer's quiet possession of the Equipment
- 3.7 Delivery of the Equipment shall be made by the Supplier. The Supplier shall use all reasonable endeavours to effect Delivery by the date and time agreed between the parties. Title and risk shall transfer in accordance with clause 11 of these Conditions.
- 3.8 The Customer shall procure that a duly authorised representative of the Customer shall be present at the Delivery of the Equipment Acceptance of Delivery by such representative shall constitute conclusive evidence that the Customer has examined

the Equipment and has found it/them 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 Seller, the Customer's duly authorised representative shall sign a receipt confirming such acceptance.

- 3.9 If it has been agreed as part of the Order, the Supplier shall at the Customer's expense install the Equipment at the Site. The Customer shall procure that a duly authorised representative of the Customer shall be present at the installation of the Equipment. Acceptance by such representative of installation shall constitute conclusive evidence that the Customer has examined the Equipment and has found it to be in good condition, complete and fit in every way for the purpose for which it is intended (save as regards any latent defects not reasonably apparent on inspection). If required by the Supplier, the Customer's duly authorised representative shall sign a receipt confirming such acceptance.
- 3.10 To facilitate Delivery and (if applicable) installation, the Customer shall at its sole expense provide all requisite materials, facilities, access and suitable working conditions to enable Delivery and (if applicable) installation to be carried out safely and expeditiously.
- 3.11 Any person supplied by the Customer to supervise the loading and unloading of the Equipment by the Supplier at the Site, shall be deemed to be under the Customer's control who alone shall be responsible for any damage caused to the Equipment or Site as a result of the supervision of such loading and unloading. In particular if the delivery and unloading of the Equipment is directed to be off the public highway, the Customer shall be responsible for damage to property caused during such delivery unloading and during loading and collection.

4. CUSTOMER'S OBLIGATIONS

- 4.1 The Customer shall:
- (a) ensure that the terms of the Order and any information it provides in the Specification are complete and accurate;
 - (b) co-operate with the Supplier in all matters relating to the Services;
 - (c) provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier;
 - (d) provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects;
 - (e) prepare the Customer's premises for the supply of the Services in accordance with clause 3.9 of these Conditions;
 - (f) obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start;

- (g) keep and maintain all materials, equipment, documents and other property of the Supplier (**Supplier Materials**) at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation;
- (h) ensure that the Equipment is kept and operated in a suitable environment used only for the purposes for which it is designed, and operated in a proper manner by trained competent staff in accordance with any operating instructions;
- (i) ensure that no dangerous, corrosive, harmful, poisonous or toxic substances or any other contaminated material, gas cylinders, or tyres are placed in or near the Equipment;
- (j) take such steps (including compliance with all safety and usage instructions (if any) provided by -the Supplier) as may be necessary to ensure, so far as is reasonably practicable, that the Equipment is at all times safe and without risk to health when it is being set, used, cleaned or maintained by a person at work;
- (k) maintain at its own expense the Equipment in good and substantial repair in order to keep it in as good an operating condition as it was on the Commencement Date (fair wear and tear only excepted) including replacement of worn, damaged and lost parts, and shall make good any damage to the Equipment;
- (l) make no alteration to the Equipment and shall not remove any existing component(s) from the Equipment without the prior written consent of the Supplier. Any consent given by the Supplier in accordance with this clause shall be strictly subject to such component/s being replaced immediately by the same component or by one of a similar make and model or an improved/advanced version of it. Title and property in all substitutions, replacements, renewals made in or to the Equipment shall vest in the Supplier immediately upon installation;
- (m) keep the Supplier fully informed of all material matters relating to the Equipment;
- (n) permit the Supplier or its duly authorised representative to inspect the Equipment at all reasonable times and for such purpose to enter upon the Site or any premises at which the Equipment may be located, and shall grant reasonable access and facilities for such inspection;
- (o) maintain operating and maintenance records of the Equipment and make copies of such records readily available to the Supplier, together with such additional information as the Supplier may reasonably require;
- (p) not, without the prior written consent of the Supplier, part with control of (including for the purposes of repair or maintenance), sell or offer for sale;

underlet or lend the Equipment or allow the creation of any mortgage, charge, lien or other security interest in respect of it;

- (q) not without the prior written consent of the Supplier, attach the Equipment to any land or building so as to cause the Equipment to become a permanent or immovable fixture on such land or building. If the Equipment does become affixed to any land or building then the Equipment must be capable of being removed without material injury to such land or building and the Customer shall repair and make good any damage caused by the affixation or removal of the Equipment from any land or building and indemnify the Supplier against all losses, costs or expenses incurred as a result of such affixation or removal;
- (r) not do or permit to be done any act or thing which will or may jeopardise the right, title and/or interest of the Supplier in the Equipment and, where the Equipment has become affixed to any land or building, the Customer must take all necessary steps to ensure that the Supplier may enter such land or building and recover the Equipment both during the term of this agreement and for a reasonable period thereafter, including by procuring from any person having an interest in such land or building, a waiver in writing and in favour of the Supplier of any rights such person may have or acquire in the Equipment and a right for the Supplier to enter onto such land or building to remove the Equipment;
- (s) not suffer or permit the Equipment to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if the Equipment is so confiscated, seized or taken, the Customer shall notify the Supplier and the Customer shall at its sole expense use its best endeavours to procure an immediate release of the Equipment and shall indemnify the Supplier on demand against all losses, costs, charges, damages and expenses incurred as a result of such confiscation;
- (t) not use the Equipment for any unlawful purpose;
- (u) ensure that at all times the Equipment remains identifiable as being the Supplier's property and wherever possible shall ensure that a visible sign to that effect is attached to the Equipment;
- (v) deliver up in good condition (fair wear and tear excepted) the Equipment at the end of the Rental Period or on earlier termination of this agreement at such address as the Supplier requires, or if necessary allow the Supplier or its representatives access to the Site or any premises where the Equipment is located for the purpose of removing the Equipment;
- (w) not do or permit to be done anything which could invalidate the insurances referred to in clause 11; and
- (x) indemnify the Supplier 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, possession or delivery or collection of the Equipment, and in respect of all costs and charges in connection therewith.

4.2 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

- (a) the Supplier shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
- (b) The Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 4.2; and
- (c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

5. CHARGES AND PAYMENT

5.1 The Charges for the Services shall be on a time and materials basis:

- (a) the Charges shall be calculated in accordance with the Supplier's standard daily fee rates, as set out in the Order and shall include (where applicable) payments payable in accordance with the payment schedule set out in the Order ("the Rental Payments"); and
- (b) the Supplier shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Supplier for the performance of the Services, and for the cost of any materials.

5.2 the Supplier reserves the right to increase its standard daily fee rates, provided that such charges cannot be increased more than once in any 12 month period. The Supplier will give the Customer written notice of any such increase. If such increase is not acceptable to the Customer, it shall notify the Supplier in writing within two weeks of the date of the Supplier's notice and the Supplier shall have the right without limiting its other rights or remedies to terminate the Contract by giving two weeks' written notice to the Customer.

5.3 The Supplier shall invoice the Customer monthly in arrears or as regularly as the Order requires.

5.4 The Customer shall pay each invoice submitted by the Supplier:

- (a) within 14 days of the date of the invoice; and

- (b) in full and in cleared funds to a bank account nominated in writing by the Supplier, and

time for payment shall be of the essence of the Contract.

- 5.5 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 5.6 Without limiting any other right or remedy of the Supplier, if the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment (**Due Date**), the Supplier shall have the right to charge interest on the overdue amount at the rate of 4 per cent per annum above the then current Barclays Bank Plc's base rate accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment, and compounding quarterly.
- 5.7 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against the Supplier in order to justify withholding payment of any such amount in whole or in part. The Supplier may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.
- 5.8 The Deposit is a deposit against default by the Customer of payment of any Rental Payments or any loss of or damage caused to the Equipment. If required to do so by the Supplier, the Customer shall, prior to Delivery, pay a deposit in such sum as the Supplier may require. If the Customer fails to make any Rental Payments in accordance with the payment schedule, or causes any loss or damages to the Equipment (in whole or in part), the Supplier shall be entitled to apply the Deposit against such default, loss or damage. The Customer shall pay to the Supplier any sums deducted from the Deposit within ten (10) Business Days of a demand for the same. The Deposit (or balance thereof) shall be refundable within ten (10) Business Days of the end of the Rental Period.

6. INTELLECTUAL PROPERTY RIGHTS

- 6.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by the Supplier.
- 6.2 The Customer acknowledges that, in respect of any third party Intellectual Property Rights, the Customer's use of any such Intellectual Property Rights is conditional on the Supplier obtaining a written licence from the relevant licensor on such terms as will entitle the Supplier to license such rights to the Customer.

- 6.3 All Supplier Materials are the exclusive property of the Supplier.
- 6.4 The Customer shall indemnify the Supplier on a full indemnity basis for any loss or damage suffered resulting from a breach by the Customer of this clause or any of its obligations in this agreement.
- 6.5 The Customer shall compensate the Supplier for any loss which the Supplier may suffer as a result of variation of any Order or failure to return any Equipment to the Supplier at the end of the Rental Period.

7. CONFIDENTIALITY

A party (**Receiving Party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (**Disclosing Party**), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party. This clause 7 shall survive termination of the Contract.

8. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

- 8.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
 - (b) fraud or fraudulent misrepresentation; or
 - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 8.2 Subject to clause 8.1:
- (a) the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
 - (b) the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed ONE MILLION POUNDS (£1,000,000.00).

8.3 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

8.4 This clause 8 shall survive termination of the Contract.

9. TERMINATION

9.1 Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of the Contract and (if such a breach is remediable) fails to remedy that breach within 10 days of that party being notified in writing of the breach;
- (b) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- (c) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (e) the other party (being an individual) is the subject of a bankruptcy petition or order;
- (f) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);

- (h) a floating charge holder over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (j) any event occurs or proceeding is taken with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 9.1(b) to clause 9.1(i) (inclusive);
- (k) the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
- (l) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

9.2 Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment.

9.3 Without limiting its other rights or remedies, the Customer shall have the right to terminate the Contract by giving the Supplier one month's written notice. Any discount of the Charges previously agreed by the Supplier in respect of the Contract shall not apply in the event the Contract is terminated by the Customer.

9.4 Without limiting its other rights or remedies, the Supplier shall have the right to terminate the Contract at any time without reason.

9.5 Without limiting its other rights or remedies, the Supplier shall have the right to suspend provision of the Services under the Contract or any other contract between the Customer and the Supplier if the Customer becomes subject to any of the events listed in clause 9.1(b) to clause 9.1(l), or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment..

9.6 This agreement shall automatically terminate if a Total Loss occurs in relation to the Equipment.

10. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;

- (b) the Customer shall return all of the Supplier Materials and any Equipment which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
- (c) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall not be affected, 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;
- (d) clauses which expressly or by implication have effect after termination shall continue in full force and effect; and
- (e) the Customer shall continue to be liable for the Charges payable to the Supplier throughout the Term unless an early termination fee is agreed with the Supplier at the Supplier's discretion.

11. TITLE, RISK AND INSURANCE

- 11.1 The Equipment shall at all times remain the property of the Supplier, and the Customer shall have no right, title or interest in or to the Equipment (save the right to possession and use of the Equipment subject to the terms and conditions of this agreement).
- 11.2 The risk of loss, theft, damage or destruction of the Equipment shall pass to the Customer on Delivery. The Equipment shall remain at the sole risk of the Customer during the Rental Period and any further term during which the Equipment is in the possession, custody or control of the Customer (**Risk Period**) until such time as the Equipment is redelivered to the Supplier. During the Rental Period and the Risk Period, the Customer shall, at its own expense, obtain and maintain the following insurances (unless otherwise agreed with the Supplier in the Supplier's absolute discretion):
 - (a) insurance of the Equipment to a value not less than its full replacement value comprehensively against all usual risks of loss, damage or destruction by fire, theft or accident, and such other risks as the Supplier may from time to time nominate in writing;
 - (b) insurance for such amounts as a prudent owner or operator of the Equipment would insure for, or such amount as the Supplier may from time to time reasonably require, to cover any third party or public liability risks of whatever nature and however arising in connection with the Equipment and
 - (c) insurance against such other or further risks relating to the Equipment as may be required by law, together with such other insurance as the Supplier may from time to time consider reasonably necessary and advise to the Customer.

- 11.3 All insurance policies procured by the Customer shall be endorsed to provide the Supplier with at least twenty (20) Business Days' prior written notice of cancellation or material change (including any reduction in coverage or policy amount) and shall upon the Supplier's request name the Supplier on the policies as a loss payee in relation to any claim relating to the Equipment. The Customer shall be responsible for paying any deductibles due on any claims under such insurance policies.
- 11.4 The Customer shall give immediate written notice to the Supplier in the event of any loss, accident or damage to the Equipment or arising out of or in connection with the Customer's possession or use of the Equipment.
- 11.5 If the Customer fails to effect or maintain any of the insurances required under this agreement, the Supplier shall be entitled to effect and maintain the same, pay such premiums as may be necessary for that purpose and recover the same as a debt due from the Customer.
- 11.6 The Customer shall, on demand, supply copies of the relevant insurance policies or other insurance confirmation acceptable to the Supplier and proof of premium payment to the Supplier to confirm the insurance arrangements.
- 11.7 The Rental Period shall be deemed to continue until such time as any damaged Equipment is repaired to the satisfaction of the Supplier or any Equipment that is lost, stolen or damaged beyond repair is replaced with suitable replacements to the satisfaction of the Supplier and Rental Payments shall continue to be payable throughout the Rental Period as extended in accordance with this clause subject to a maximum extension of 13 weeks whereupon the Rental Period shall determine.

12. GENERAL

- 12.1 Force majeure:
- (a) For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.
 - (b) The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.
 - (c) If the Force Majeure Event prevents the Supplier from providing any of the Services for more than one week, the Customer shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Supplier.

12.2 Assignment and subcontracting:

- (a) The Supplier may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.
- (b) The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

12.3 Both parties will comply with the requirements of all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) ("Data Protection Legislation"). This clause 12.3 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

12.4 Notices:

- (a) Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number.
- (b) Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax, on the next Business Day after transmission.
- (c) This clause 12.44 shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of this clause, "writing" shall not include e-mails and for the avoidance of doubt notice given under this Contract shall not be validly served if sent by e-mail.

12.5 Waiver:

- (a) A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

- (b) Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.
- (c) For the avoidance of doubt, no acceptance of the return or re-possession of the Equipment by the Supplier shall constitute a waiver by the Supplier of any of its rights under these Conditions.

12.6 Severance:

- (a) If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- (b) If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

12.7 No partnership: Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

12.8 Third parties: A person who is not a party to the Contract shall not have any rights under or in connection with it.

12.9 Variation: Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract, shall only be binding when agreed in writing and signed by the Supplier.

12.10 Governing law and jurisdiction: This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.