

The customer's attention is drawn in particular to the provisions of clause 8.

**1. Interpretation**

**1.1 Definitions:**

**Business Day:** a day other than a Saturday, Sunday or public holiday in Northern Ireland, when banks in Belfast are open for business.

**Business Hours:** the period from 9.00 am to 5.00 pm on any Business Day.

**Buyer:** the individual or legal person who purchases the Equipment from the Seller.

**Collection Location:** has the meaning set out in clause 4.2.

**Conditions:** the terms and conditions set out in this document as amended from time to time in accordance with clause 11.4.

**Contract:** the contract between the Seller and the Buyer for the sale and purchase of the Equipment in accordance with these Conditions.

**Delivery Date:** has the meaning set out in the Order.

**Delivery Location:** has the meaning set out in the Order.

**Deposit:** means the deposit amount, set out in the Order, either in terms of cash or credit.

**Equipment:** means the vehicle, trailer or other equipment which is set out in the Order.

**Force Majeure Event:** an event, circumstance or cause beyond a party's reasonable control.

**Order:** the Buyer's order for the Equipment, as set out in the Buyer's written acceptance of the Quotation.

**Payment Schedule:** means the payment schedule agreed in the Order which sets out the sums payable under the Agreement and the means by which such sums are to be paid.

**Price:** the price for the Equipment as set out in the Order.

**Quotation:** the quotation for goods issued to Buyer by the Seller.

**Seller:** means A.T. & T. Rentals Ltd, a company registered in Northern Ireland with company number NI021466, whose registered address is at Drumcain, Loughgall Road, Armagh, BT61 7NN.

**1.2 Interpretation:**

- (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 and permitted assigns.
- (c) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
- (d) Any words following the terms **including, include, in particular, for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.
- (e) A reference to **writing** or **written** excludes fax and email.

**2. Basis of contract**

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.2 The Order constitutes an offer by the Buyer to purchase the Equipment in accordance with these Conditions. The Buyer is responsible for ensuring that the terms of the Order are complete and accurate.
- 2.3 The Order shall only be deemed to be accepted when the Seller issues a written acceptance of the Order, at which point the Contract shall come into existence.
- 2.4 The Buyer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Buyer that is inconsistent with these Conditions.
- 2.5 Any samples, drawings, descriptive matter or advertising produced by the Seller and any descriptions or illustrations contained in the Seller's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Equipment referred to in them. They shall not form part of the Contract nor have any contractual force.
- 2.6 A Quotation shall not constitute an offer. A Quotation shall only be valid for a period of 20 Business Days from its date of issue.

**3. Equipment**

- 3.1 The Seller sells and the Buyer buys the Equipment free from all liens, charges and encumbrances, unless otherwise specified in the Order.
- 3.2 The details of the Equipment in the Quotation are given only for the purposes of identifying the Equipment and do not make this agreement a sale by description.

- 3.3 The Equipment is sold "as seen". The Buyer acknowledges that the Equipment is sold to the Buyer subject to such wear and tear as is reasonable for a vehicle of its age, type, usage and mileage; and subject to paintwork and/or bodywork repairs that may have been carried out to it.
- 3.4 The Buyer acknowledges that, where reasonably possible, before the date of this agreement:
  - (a) the Seller has given the Buyer a reasonable opportunity to inspect the Equipment; and
  - (b) the Buyer has satisfied itself as to the quality and condition of the Equipment.
- 4. Delivery**
- 4.1 Where delivery of the Equipment is agreed in the Order, the Seller shall use commercially reasonable endeavours to deliver the Equipment to the Buyer at the Delivery Location on the Delivery Date during Business Hours. Notwithstanding the foregoing, any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Seller shall not be liable for any delay in delivery of the Equipment that is caused by a Force Majeure Event or the Buyer's failure to provide the Seller with adequate delivery instructions or any other instructions that are relevant to the supply of the Equipment.
- 4.2 Where collection of the Agreement is agreed in the Order, the Buyer shall collect the Equipment from the Seller's premises or such other location as may be specified in the Order or advised by the Seller prior to delivery (**Collection Location**) within 5 (five) Business Days of the Seller notifying the Buyer that the Equipment is ready (**Collection Date**).
- 4.3 Delivery is completed on either completion of unloading of the Equipment at the Delivery Location or on completion of loading of the Equipment at the Collection Location (as applicable).
- 4.4 Upon delivery of the Equipment to the Buyer or collection by Buyer of the same, the Buyer shall sign an acknowledgement of receipt in the agreed form.
- 4.5 If the Buyer fails to take delivery of the Equipment when due the Seller may charge reasonable costs of storage from the Delivery Date or Collection Date (as applicable) until delivery is completed.
- 4.6 If 10 Business Days after the day on which the Seller attempted to make delivery of Goods or notified the Buyer that Equipment is ready for collection (as applicable) the Buyer has not taken delivery of or collected that Equipment, the Seller may resell or otherwise dispose of part or all of the Equipment and, after deducting reasonable storage and selling costs, account to the Buyer for any excess over the price of the Equipment, or charge the Buyer for any shortfall below the price of the Equipment.
- 5. Warranty**
- 5.1 Where agreed in the Order, the Seller shall provide a third-party warranty in respect of the Equipment, which will be subject to the terms and conditions referred to therein.
- 5.2 Except where expressly stated in these Conditions, the Seller makes no representations and gives no warranties as to the quality, condition, state or description of the Equipment, or the Equipment's fitness or suitability for any purpose. All implied statutory or common law terms, conditions, representations, duties and warranties as to the Equipment are excluded to the fullest extent permitted by law.
- 5.3 To the extent that the benefit of any warranties made by the manufacturer or previous seller of the Equipment to the Seller can be assigned to the Buyer, the Seller shall, if requested by the Buyer and at cost of the Buyer, use commercially reasonable endeavours to assign them to the Buyer.
- 6. Title and risk**
- 6.1 The risk in the Equipment shall pass to the Buyer on completion of delivery or collection (as applicable).
- 6.2 The title to the Equipment shall pass to the Buyer only on payment in full (in cash or cleared funds) of the Price.
- 6.3 Until title to the Equipment has passed to the Buyer, the Buyer shall: (a) store the Equipment separately from all other goods held by the Buyer so that they remain readily identifiable as the Seller's property; (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Equipment; (c) maintain the Equipment in satisfactory condition and keep them insured against all risks for their full price from the date of delivery; and (d) provide the Seller promptly with such information and records as the Seller may reasonably request concerning the Buyer's ongoing financial position.
- 6.4 The Seller may recover Equipment in which title has not passed to the Buyer. The Buyer irrevocably licenses the Seller, its officers, employees and agents, to enter any premises of the Buyer (including with vehicles), in order to satisfy itself that the Buyer is complying with the obligations in

- clause 6.3 and to recover any Equipment in which property has not passed to the Buyer.
- 6.5 The Seller may at any time after delivery elect to transfer title in the Equipment to the Buyer in which case the Buyer shall immediately pay the Price to the Seller.
- 7. Price and payment**
- 7.1 The Buyer shall pay the Price, and Deposit chargeable by the Seller as specified in the Order and in accordance with the Payment Schedule. The Price and Deposit shall be paid in the currency denominated in the Order.
- 7.2 Time is of the essence in relation to the payment of all sums payable by the Buyer under the Contract and a failure by the Buyer to pay such sums when due will constitute a repudiatory breach of the Contract, for which Seller reserves all of its other rights.
- 7.3 The Price excludes amounts in respect of value added tax (VAT), which the Buyer shall additionally be liable to pay to the Seller at the prevailing rate, subject to the receipt of a valid VAT invoice.
- 7.4 If the Buyer fails to make a payment due to the Seller under the Contract by the due date, then, without limiting the Seller's remedies under clause 9, the Buyer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 7.4 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 7.5 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).
- 8. Limitation of liability**
- 8.1 Nothing in the Contract limits any liability which cannot legally be limited, including liability for: (a) death or personal injury caused by negligence; fraud or fraudulent misrepresentation; (b) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or (c) any other liability which cannot be excluded by law.
- 8.2 Subject to clause 8.1: (a) the Seller shall under no circumstances be liable to the Buyer, whether in contract, tort (including negligence), misrepresentation, restitution or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the agreement; and (b) the Seller's total liability to the Buyer shall in no circumstances exceed an amount equivalent to the Price.
- 8.3 This clause 8 shall survive termination of the Contract.
- 9. Termination**
- 9.1 Without limiting its other rights or remedies, either party may terminate this Contract with immediate effect by giving written notice to the other party if:
- 9.2 the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so;
- 9.3 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- 9.4 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- 9.5 the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.
- 9.6 Without limiting its other rights or remedies, the Seller may terminate the Contract with immediate effect by giving written notice to the Buyer if the Buyer fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment.
- 9.7 Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract which existed at or before the date of termination.
- 9.8 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.
- 10. Force Majeure**
- Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from a Force Majeure Event. The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for six (6) months, the party not affected may terminate the Contract by giving 14 days' written notice to the affected party.
- 11. General**
- 11.1 Assignment and other dealings.**
- (a) The Seller may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.
- (b) The Buyer may not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Seller.
- 11.2 Confidentiality.**
- (a) Each party undertakes that it shall not at any time during the Contract and for a period of five years after termination or expiry of the Contract, disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party, except as permitted by clause 11.2(b).
- (b) Each party may disclose the other party's confidential information:
- (i) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 11.2; and
- (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- (c) Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.
- 11.3 Entire agreement.**
- (a) The Contract constitutes the entire agreement between the parties.
- (b) Each party acknowledges that in entering into the 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 shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
- 11.4 Variation.** No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 11.5 Waiver.**
- (a) A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- (b) A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- 11.6 Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision of the Contract is deemed deleted under this clause 11.6 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 11.7 Counterparts.** This agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.
- 11.8 Notices.**
- (a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
- (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).
- (b) Any notice shall be deemed to have been received:
- (i) if delivered by hand, at the time the notice is left at the proper address;
- (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting.
- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 11.9 Third party rights.**

- (a) The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- (b) The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

**11.10 Governing law.** The 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 and construed in accordance with the law of Northern Ireland.

**11.11 Jurisdiction.** Each party irrevocably agrees that the courts of Northern Ireland shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.