

1 Interpretation

1.1 The following definitions apply in these Conditions.

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

Business Hours: the period from 9.00 am to 5.30 pm on any Business Day.

Conditions: these terms and conditions as amended, from time to time, in accordance with clause 13.9.

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

Customer: **SUNBELT RENTALS LIMITED** registered in England and Wales with company number 00444569 of 100 Cheapside, London, England, EC2V 6DT.

Customer Materials: has the meaning set out in clause 5.3.8.

Deliverables: all documents, products, materials and other deliverables developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services (in any form or media), including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

Delivery Location: has the meaning given in clause 4.2.2.

Goods: the goods or products (or any part of them), as set out in the Order.

Goods Specification: any specification for the Goods; including any related plans and drawings that is agreed in writing by the Customer and Supplier.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, moral rights, trade marks, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Mandatory Policies: the Customer's policies listed in the Schedule.

Order: the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form, or in the Customer's written acceptance of the Supplier's quotation, or overleaf (as the case may be).

Services: the services (including any Deliverables) to be supplied by the Supplier under the Contract, as set out in the Order.

Supplier: the person or firm from whom the Customer purchases the Goods and/or Services.

1.2 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality). A reference to a party includes its permitted assigns.

1.3 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.

1.4 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.

1.5 A reference to writing or written excludes fax but not email. Albeit any legal notices shall not be valid if sent via email.

2 Basis of contract

2.1 The Order constitutes an offer by the Customer to purchase Goods or Services or Goods and Services from the Supplier in accordance with these Conditions.

2.2 The Order shall be deemed to be accepted on the earlier of:

2.2.1 the Supplier issuing written acceptance of the Order; or

2.2.2 any act by the Supplier, at the direction of the Customer, consistent with fulfilling the Order;

at which point and on which date the Contract shall come into existence.

2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

2.4 All of these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.

3 Supply of Goods

3.1 The Supplier shall ensure, warrants and represents that the Goods shall:

3.1.1 correspond with their description and any applicable Goods Specification;

3.1.2 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer, expressly or by implication, and in this respect the Customer relies on the Supplier's skill and judgement;

3.1.3 where they are manufactured products, be free from defects in design, materials and workmanship and remain so for 12 months after delivery;

3.1.4 comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods; and

3.2 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods.

4 Delivery of Goods

4.1 Title and risk in the Goods shall pass to the Customer on completion of delivery.

4.2 The Supplier shall ensure, warrants and represents that:

4.2.1 the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition; title and property in the Goods shall pass to the Buyer on completion of delivery and, following delivery, neither the Supplier nor any third party shall retain any interest in the Goods by way of lien, charge, mortgage, trust or otherwise; and

4.2.3 each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the type and quantity of the Goods, and special storage instructions (if any).

4.3 The Supplier shall deliver the Goods:

4.3.1 on the date specified in the Order or, if no such date is specified, then within 7 days of the date of the Order;

4.3.2 to the location as is set out in the Order or as instructed by the Customer from time to time (**Delivery Location**); and

4.3.3 during Business Hours or as instructed by the Customer from time to time.

4.4 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.

- 4.5 The Customer shall not be deemed to have accepted any part of the Goods until the Customer has physically inspected the Goods and confirmed, in writing, to the Supplier that they are in accordance with the Contract. The Customer may (at its absolute discretion) reject any Goods which are not in accordance with the Contract, at any time, after such inspection. Unless, within 2 Business Days of receipt of notice of the Customer's rejection, the Supplier collects such Goods, the Customer may dispose of them as the Customer deems appropriate (at the Supplier's cost and expense).
- 4.6 The Supplier shall not deliver the Goods in instalments without the Customer's prior written consent (such consent may be given at the Customer's absolute discretion). Where it is agreed in writing the Goods are delivered by instalments they may be invoiced and paid for separately.
- 5 Supply of Services**
- 5.1 The Supplier shall from the date set out in the Order and for the duration of the Contract supply the Services to the Customer in accordance with the terms of the Contract.
- 5.2 The Supplier shall meet any performance or delivery dates for the Services specified in the Order or that the Customer notifies to the Supplier, from time to time, and time is of the essence in relation to any of such performance dates.
- 5.3 In providing the Services, the Supplier shall:
- 5.3.1 co-operate with the Customer in all matters relating to the Services, and comply with all instructions of the Customer;
- 5.3.2 perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
- 5.3.3 use personnel who are suitably skilled and experienced to perform tasks allocated to them;
- 5.3.4 provide all equipment, tools, materials, goods, vehicles and such other items as are required to provide the Services;
- 5.3.5 use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Customer, will be free from defects in workmanship, installation and design;
- 5.3.6 obtain and at all times maintain all licences, permissions, authorisations, consents and permits which may be required for the provision of the Services;
- 5.3.7 observe all health and safety laws, rules and regulations and any other security requirements that apply at any of the Customer's premises, or as may be notified to the Supplier by the Customer from time to time;
- 5.3.8 hold all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier (**Customer Materials**) in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose of or use the Customer Materials (without the Customer's prior written consent).
- 6 Charges and payment**
- 6.1 The price for the Goods:
- 6.1.1 shall be the price set out in the Order, or if no price is quoted, the price agreed in writing by the Customer (at the Customer's absolute discretion); and
- 6.1.2 shall be inclusive of the costs of packaging, insurance, transportation, shipping and carriage of the Goods. No extra charges shall be effective unless agreed in writing by the Customer.
- 6.2 Unless otherwise agreed in writing by the Customer; the charges for the Services shall:
- 6.2.1 be set out in the Order;
- 6.2.2 be the full and exclusive remuneration of the Supplier in respect of the performance of the Services; and
- 6.2.3 include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 6.3 In respect of the Goods, the Supplier shall invoice the Customer on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice the Customer on completion of the Services. Each invoice shall include such supporting information reasonably required by the Customer to verify the accuracy of the invoice.
- 6.4 In consideration of the supply of Goods and/or Services by the Supplier, the Customer shall pay the invoiced amounts within 40 Business Days of receipt of each invoice of the date of receipt by the Customer of a correctly rendered invoice to a bank account nominated in writing by the Supplier. Time of payment is not of the essence.
- 6.5 The Supplier shall ensure that all invoices are sent to:
The Purchase Ledger Department, Sunbelt Rentals Limited, 102 Dalton Avenue, Birchwood Park, Birchwood, Warrington, WA3 6YE; or
- 6.5.1 such other address as the Customer may notify, from time to time, in writing to the Supplier, for such purpose.
- 6.6 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**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 Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.
- 6.7 If a party fails to make any payment due to the other party under the Contract by the due date for payment, then the defaulting party 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 will accrue each date at 2% a year above the Bank of England's base rate from time to time, but at 2% a year for any period when the base rate is below 0%.
- 6.8 The Customer may at any time, without notice to the Supplier, set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. Any exercise by the Customer of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.
- 6.9 The Supplier has no right of set-off, counterclaim, discount or abatement unless the Supplier is expressly ordered to do so by a court. The Supplier cannot suspend the any supply of the Deliverables for late payment or non-payment.
- 7 Intellectual property rights**
- 7.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any Customer Materials) shall be owned by the Supplier.
- 7.2 The Supplier grants to the Customer (or shall procure the direct grant to the Customer of) a fully paid-up, worldwide, non-exclusive, royalty-free, perpetual and irrevocable licence to copy and modify the Deliverables (excluding Customer Materials) for the purpose of receiving and using the Services and Deliverables.
- 7.3 The Supplier acknowledges and agrees that all rights in the Customer Materials are and shall remain the exclusive property of the Customer.

8 Indemnity

- 8.1 The Supplier shall indemnify the Customer against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Customer arising out of or in connection with:
- 8.1.1 any breach by the Supplier of the warranties set out in clauses 3 and 4;
- 8.1.2 any claim made against the Customer for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services (excluding the Customer Materials);
- 8.1.3 any claim made against the Customer by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods, as delivered, or the Deliverables; and
- 8.1.4 any claim made against the Customer by a third party arising out of or in connection with the supply of the Goods, as delivered, or the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors.
- 8.2 This clause 8 shall survive termination of the Contract.

9 Limitation of liability

- 9.1 References to liability in this clause 9 include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 9.2 Nothing in the Contract, shall exclude either party's liability to the other for fraud or personal injury or death resulting from their respective negligence, or for its fraud or fraudulent misrepresentation (or the negligence, fraud or fraudulent misrepresentation), or any matter for which it is not permitted by law to exclude or limit its liability.
- 9.3 Subject to clause 9.2, the Customer shall not be liable to the Supplier for special, punitive, consequential, exemplary, incidental or any other indirect damages, including without limitation, any damages resulting from loss of revenue, profits (actual or anticipated), use, business opportunity or indirect loss of any similar kind arising out of or in connection with the Contract (regardless of basis of claim). The Customer shall only be liable for direct losses arising and the Supplier shall and in so far as it is practicable to do so (with the Supplier exercising all reasonable endeavours) mitigate its losses.
- 9.4 Subject to clauses 9.2 and 9.3, the aggregate liability of the Customer arising out of the Contract shall be limited to 100% of the sums paid to the Supplier by the Customer in the 12 months immediately preceding the matter giving rise to the liability.
- 9.5 This clause 9 shall survive termination of the Contract.

10 Insurance

During the term of the Contract and for a period of 6 years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall, on the Customer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

11 Confidentiality

- 11.1 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.
- 11.2 Each party may disclose the other party's confidential information:
- 11.2.1 to its employees, officers or professional 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 or professional advisers to whom it discloses the other party's confidential information comply with this clause 11; and
- 11.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 11.3 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.

12 Termination

- 12.1 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- 12.1.1 the other party 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 in writing to do so;
- 12.1.2 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;
- 12.1.3 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
- 12.1.4 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.
- 12.2 Without affecting any other right or remedy available to it, the Customer may terminate the Contract for convenience by giving the Supplier 7 days' written notice.
- 12.3 On termination of the Contract, the Supplier shall immediately deliver to the Customer all Deliverables whether or not then complete and return all Customer Materials (on demand).
- 12.4 Termination of the Contract shall not affect the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 12.5 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

13 General

13.1 Assignment and other dealings.

- 13.1.1 The Customer may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights and obligations under the Contract.

- 13.1.2 The Supplier shall not assign, transfer, mortgage, charge, 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 Customer.
- 13.2 **Subcontracting.** The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of the Customer (such consent may be given at the Customer's absolute discretion). If the Customer consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.
- 13.3 **Notices.**
- 13.3.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be 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).
- 13.3.2 Any notice shall be deemed to have been received:
- (a) if delivered by hand, at the time the notice is left at the proper address;
- (b) 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.
- 13.3.3 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.
- 13.4 **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 13.4 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.
- 13.5 **Waiver.**
- 13.5.1 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.
- 13.5.2 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.
- 13.6 **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 13.7 **Entire agreement.**
- 13.7.1 The Contract constitutes the entire agreement between the parties.
- 13.7.2 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.
- 13.7.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
- 13.8 **Third party rights.** 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.
- 13.9 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the parties or their authorised representatives.
- 13.10 **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 England and Wales.
- 13.11 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales 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.

Schedule - Mandatory Policies

The Mandatory Policies are:

- [Modern Slavery and Human Trafficking Policy].
- [Corporate and Social Responsibility Policy].
- [Anti-Bribery and Anti-Corruption Policy].
- [Ethics Policy].
- [Data and Privacy Policy].
- [Security Policy].