

## TERMS AND CONDITIONS OF EQUIPMENT HIRE

Please read these terms carefully, as they set out our and your legal rights and obligations in relation to the Equipment.

### 1. DEFINITIONS AND INTERPRETATIONS

- 1.1. The following definitions are used but not otherwise defined in the agreement:
  - a) "Casualty Value" means the market value of the Equipment at the end of the Term or when in relation to a Total Loss, the market value the Equipment would have had at the end of the Term but not for the Total Loss. The Casualty Value may be less than but will not be more than the original purchase price of the Equipment;
  - b) "Days" means working days as recognised in England and Wales being Monday – Friday, excluding National or 'Bank' Holidays, unless expressly stated otherwise;
  - c) "Equipment" means the any items or Equipment which has been hired from the Owner;
  - d) "Force Majeure Event" means an event, or a series of related events, that is outside the reasonable control of the party affected (including but not limited to power failures, industrial disputes affecting any third party, government restrictions, disasters, explosions, fires, floods, riots, terrorist attacks, insurrection and wars);
  - e) "Hirer" means anyone whom has entered into a hire agreement with the Owner;
  - f) "Owner" means IPEC Limited of 2nd Floor, St George's House, 56 Peter Street, Manchester, England, M2 3NQ.
  - g) "Terms" means these terms and conditions of supply which are outlined herein;
  - h) "Total Loss" means any loss or damage that is not repairable or that would cost more to repair than the market value of the Equipment.
- 1.2. The ejusdem generis rule is not intended to be used in the interpretation of these Terms; it follows that a general concept or category utilised in these Terms will not be limited by any specific examples or instances utilised in relation to such a concept or category.
- 1.3. Headings are inserted for the convenience of the Parties only and are not to be considered when interpreting the Agreement. Words used in the singular mean and include the plural and vice versa. Words in the masculine mean and include the feminine and vice versa.

### 2. LEASE

- 2.1. The Owner agrees to lease the Equipment to the Hirer, and the Hirer agrees to lease the Equipment from the Owner in accordance with the Terms set out in the agreement.

### 3. TERM

- 3.1. The Agreement commences on the date the Agreement is signed and will continue on a month-to-month basis (the "Term").

### 4. RENT

- 4.1. The rent will be paid in instalments of an agreed sum in GBP each month, in advance, beginning on the date the Agreement commences and will be paid on the 1st day of each succeeding month throughout the Term (the "Rent").
- 4.2. The Rent quoted to the Hirer are inclusive of Value-Added Tax at the appropriate rate, unless expressly stated otherwise.
- 4.3. The Hirer shall pay each invoice submitted to it by the Owner, in full and in cleared funds, within 30 calendar days of issue of the invoice (the "Due Date") to a bank account nominated in writing by the Owner.
- 4.4. Without prejudice to any other right or remedy that it might have if the Hirer fails to pay the Owner on the Due Date, the Owner may:

- a) Charge the Hirer interest on the overdue amount at the rate of 8% per year above the base rate of the Bank of England from time to time (which interest will accrue daily until the date of actual payment, be compounded quarterly, and be payable on demand);
  - b) Claim interest and statutory compensation from the Hirer pursuant to the Late Payment of Commercial Debts Regulations 2013; or
  - c) Repossess all Equipment hired until payment has been made in full.
- 4.5. All sums payable to the Owner under the Agreement shall become due immediately on its termination despite any other provisions.
- 4.6. The Owner and the Hirer shall pay all amounts due under the Agreement in full without any deduction except as required by law and neither party shall be entitled to assert any credit, set off or counterclaim against the other in order to justify withholding payment of any amount due in whole or in part.

## 5. COLLECTION AND RETURN OF EQUIPMENT

- 5.1. Unless otherwise agreed in writing:
- a) All Equipment shall be delivered Ex Works (incoterms 2010) to the Owner's facility in Manchester England, whereupon risk in the Equipment shall be passed to the Hirer;
  - b) The Hirer shall be solely responsible for arranging and paying for loading, carriage, transport, unloading and insurance for the Equipment under the Agreement;
  - c) The Hirer shall provide the Owner with evidence of export within 10 Days of collection of the Equipment; and
  - d) The Hirer accepts full liability for any damage to or loss of the Product after delivery, accepting that upon delivery the Equipment were of a free from defect and of a merchantable quality.
- 5.2. If the Hirer fails to arrange the collection of the Equipment on or by the date agreed in the relevant Agreement per the start of the term the Owner may (at its discretion):
- a) Make arrangements for the collection and transport of Equipment on behalf of and at the expense of the Hirer; or
  - b) Terminate the Agreement as per Clauses [18, 19].
- 5.3. Return of all Equipment shall be at the Hirer's expense and to the Owners designated office as agreed at the commencement of the Agreement.

## 6. USE OF EQUIPMENT

- 6.1. The Hirer will use the Equipment in a proper and careful manner and will comply with the manufacturer's requirement and recommendations respecting the Equipment and with any applicable law, whether statute, common or applicable in the region that the Equipment is being used.
- 6.2. The Hirer will use the Equipment for the purpose for which it was designed and not for any other purpose.
- 6.3. Unless the Hirer obtains prior written consent of the Owner, the Hirer will not alter, modify or attach anything to the Equipment unless the alteration, modification or attachment is easily removable without damaging the functional capabilities or economic value of the Equipment.

## 7. REPAIR AND MAINTENANCE OF EQUIPMENT

- 7.1. The Hirer will at the Hirer's own expense, keep the Equipment in good repair, appearance and condition, normal and reasonable wear and tear excepted. The Hirer will supply all parts that are necessary to keep the Equipment in such a state.
- 7.2. If the Equipment is not in good repair, appearance and condition when it is return to the Owner, the Owner may make such repairs or cause such repairs to be made as necessary to put the Equipment in a state of good repair, appearance and condition, normal and reasonable wear and tear excepted. The Owner will make said repairs within a reasonable time of taking possession of the Equipment and will give the Hirer written notice of and invoice for the said repairs. Upon receipt of such invoices the Hirer will immediately reimburse the Owner for the actual expense of those repairs.

## 8. WARRANTIES

- 8.1. The Owner warrants that:
- a) It has the right or at the relevant time will have the right to hire the Equipment;
  - b) The Equipment hired will be free from any charge of encumbrance;
  - c) The Equipment will correspond to any descriptions of the Equipment supplied by the Owner to the Hirer;
  - d) The Equipment will be in good working order and good condition open collection by the Hirer or their representative;
  - e) The Equipment is of merchantable quality and is fit for the following purpose: [insert short description of Equipment purpose and suitability]; and
  - f) The Equipment will comply with all laws, rules, and regulations applicable to the Hire of the Equipment in the United Kingdom.

## 9. LOSS AND DAMAGE

- 9.1. To the extent permitted by law, the Hirer will be responsible for risk of loss, theft, damage or destruction to the Equipment from any and every cause.
- 9.2. If the Equipment is lost or damaged, the Hirer will continue paying Rent, will provide the Owner with prompt written notice of such loss or damage and will, if the Equipment is repairable, put or cause the Equipment to be put in a state of good repair, appearance and condition.
- 9.3. In the event of Total Loss of the Equipment, the Hirer will provide the Owner with prompt written notice of such loss and will pay the Owner all unpaid Rent for the Term plus the Casualty Value of the Equipment, at which point ownership of the Equipment passes to the Hirer.

## 10. OWNERSHIP

- 10.1. The Equipment is property of the Owner and will remain the Property of the Owner.
- 10.2. The Hirer will not encumber the Equipment or allow the Equipment to be encumbered or pledge the Equipment as security in any manner.
- 10.3. The Owner warrants that as long as no Event of Default has occurred, the Owner will not disturb the Hirer's quiet and peaceful possession of the Equipment or the Hirer's unrestricted use of the Equipment for the purpose which the Equipment as designed.

## 11. LIABILITY AND INSURANCE

- 11.1. If the Owner's performance of its obligations under the Agreement is prevented or delayed by any act or omission of the Hirer, its agent, sub-contractor, consultant or employees, the Owner shall not be liable for any costs, charges or losses sustained or incurred by the Hirer that arise directly or indirectly from such prevention or delay.
- 11.2. Nothing in any agreement limits or excludes either party's liability for:
- a) Death or personal injury caused by its negligence;
  - b) Fraud or fraudulent misrepresentation;
  - c) Breach of the terms implied by Part 1 Chapter 4 of the Consumer Rights Act 2015 (title and quiet possession) UK;
  - d) Any other liability which cannot be limited or excluded by applicable law.
- 11.3. Subject to Clause [10.1] the Owner's liability to the Hirer under or in connection with each Contract, whether in contract or tort (including negligence) will be limited as follows:
- a) The Owner will not be liable for any: (i) loss of profits, income or anticipated savings, (ii) loss or corruption of any data, database or software, (iii) reputational damage or damage to goodwill, (iv) loss of any contract or commercial opportunity, or (v) indirect, special or consequential (remote or speculative) loss or damage;
  - b) The Owner will not be liable for any losses arising out of a Force Majeure Event;

- c) The Owner's liability in relation to any event or series of related events will not exceed the total amount paid or payable by the Hirer to the Owner under the Agreement as far as permitted by applicable law.

11.4. No Insurance is required for the Equipment during the period of hire.

## 12. TAXES

- 12.1. The Hirer will report and pay all taxes, fees and charges associated with the Equipment, with the use of the Equipment, and with revenues and profits arising out of the use of the Equipment, including, but not limited to, sales taxes, property taxes, licenses and registration fees. The Hirer will pay any and all penalties and interest for failure to pay any tax, fee or charge on or before the date on which the payment is due. The Hirer will pay any and all penalties and interest for failure to report required information to any taxing authority with jurisdiction over the Hirer or Equipment. If the Hirer fails to do any of the foregoing, the Owner may, but is not obligated to do so at the Hirer's expense.
- 12.2. Notwithstanding any other provisions in the Agreement, the Hirer will not be required to pay any tax, fee or charge if the Hirer is contesting the validity of the same in the manner prescribed by the legislation governing the imposition of the same, or in the absence of a prescribed form, in a reasonable manner. However, the Hirer will indemnify and reimburse the Owner for damages and expenses incurred by the Owner arising from or related to the Hirer's failure to pay any tax, fee or charge regardless of whether the Hirer is contesting the validity of the same or not.
- 12.3. If the Hirer fails to pay any and all taxes, fees and charges mentioned in the Agreement and the Owner, on behalf of the Hirer, pays the same, the Hirer will reimburse the Owner for the cost upon notification from the Owner of the amount.

## 13. INDEMNITY

- 13.1. The Hirer will indemnify and hold harmless the Owner against any and all claims, actions, suits, proceedings, costs, expenses, damages and liabilities, including legal representative's fees and costs, arising out of or related to the Hirer's use of the Equipment.

## 14. DEFAULT

- 14.1. The occurrence of any one or more of the following events will constitute an event of default ("Event of Default") under the terms of the agreement:
  - a) The Hirer fails to pay any amounts provided for in the agreement when such amount is due or otherwise breaches the Hirer's obligations under the Agreement;
  - b) The Hirer becomes insolvent or makes an assignment of rights or property for the benefit of creditors or files for or has a bankruptcy proceeding instituted against it under the bankruptcy law of the United Kingdom or other competent jurisdiction; or
  - c) A writ of attachment or execution is levied on the Equipment and is not released or satisfied within 10 Days.

## 15. REMEDIES

- 15.1. On the occurrence of an Event of Default, the Owner will be entitled to pursue any one or more of the following remedies (the "Remedies"):
  - a) Declare the entire amount of the Rent for the Term immediately due and payable without notice or demand to the Hirer;
  - b) Commence legal proceedings to recover the Rent and other obligations accrued before and after the Event of Default;
  - c) Take possession of the Equipment, without demand or notice, wherever they may be located, without any court order or other process of law. The Hirer waives any and all damage occasioned by such taking of possession;
  - d) Terminate the Agreement immediately upon written notice to the Hirer;

- e) Pursue any other remedy available in law or equity.
- 15.2. The Hirer is entitled to protection and remedies available to them under applicable statute or common law principals.

#### **16. FORCE MAJEURE EVENTS**

- 16.1. Neither Party shall be liable for any failure or delay in performing their obligations where such failure or delay results from a Force Majeure Event;
- 16.2. The party affected by a Force Majeure Event shall use all reasonable endeavours to mitigate the effect of such an event upon the performance of its obligations;
- 16.3. The corresponding obligations of the other party will be suspended to the same extent as those of the party affected by a Force Majeure Event;
- 16.4. If the failure or delay continues for a period exceeding 90 calendar days, either party may terminate or cancel the Services to be carried out under the Agreement, as per Clause [16].

#### **17. NOTICES**

- 17.1. Any notices (other than legal proceedings) to be delivered under the Agreement must be in writing and delivered by pre-paid first-class post or left by hand delivery at the other party's registered or place of business, or sent by email to the other party's main business email address as notified by the sending party. Notices:
  - a) Sent by post will be deemed to have been received, where posted from and to addresses in the United Kingdom, on the second Day and, where posted from or to addresses outside of the United Kingdom, on the tenth Day following the date of posting;
  - b) Delivered by hand will be deemed to have been received at the time the notice is left at the proper address;
  - c) Sent by email will be deemed to have been received on the next Day after sending.

#### **18. AGREEMENT TERMINATION**

- 18.1. Each Agreement after it has been executed will continue in force until the earlier of:
  - a) The later of completion of: the end of the Term of the agreement; and
  - b) The termination of the Agreement in accordance with the provisions of the Clause
- 18.2. An agreement may be terminated in the following circumstances:
  - a) Either party may terminate a Contract immediately by giving written notice to the other party if the other party commits any material breach in any of the Contract Terms; or
  - b) The Owner may terminate the Agreement immediately by giving written notice to the Hirer if the Hirer fails to pay the Owner any amount due under any Agreement by the due date for payment; and
- 18.3. Either party may terminate any Agreement immediately by giving written notice to the other party if:
  - a) The other party persistently breaches any Terms of the Agreement;
  - b) The other party: (i) is dissolved; (ii) ceases to conduct all (or substantially all) of its business; (iii) is or becomes unable to pay its debts as they fall due; (iv) is or becomes insolvent or is declared insolvent; or (v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;
  - c) An administrator, administrative receiver, liquidator, receiver, trustee, manager or similar entity is appointed over any of the assets of the other party; or
  - d) An order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume the obligations of the other party under the Contract).

#### **19. EFFECTS OF TERMINATION**

- 19.1. Upon termination or expiry of the Agreement:

- a) The Hirer shall immediately pay to the Owner all outstanding unpaid invoices and interest, and in respect of Services supplied but for which no invoice has been submitted, the Owner may submit an invoice, which shall be payable immediately on receipt;
- b) The Hirer shall within a reasonable time, return all of the hired Equipment. Until they have been returned or repossessed, the Hirer shall act as fiduciary and bailee of the Owner;
- c) Termination of an Agreement will not affect either party's accrued rights (including accrued rights to be paid, accrued rights to remedy for breach of conditions or warranty) as at the date of the termination; and
- d) Other than as set out in the Agreement neither party shall have any further obligation to the other regarding the Agreement after its termination.

## 20. SEVERABILITY

- 20.1. If any provision of the Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of the Agreement will continue to be in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted or amended, that part will be deemed to be deleted (or will be amended at the discretion of the Owner with written consent from both parties), and the rest of the provision will continue in effect (unless that would contradict the clear intention of the parties in which case the relevant provision will be deemed as deleted).
- 20.2. If there is a conflict between any provision of the Agreement and any applicable legislation (the "Act") the Act will prevail the other provisions of the Agreement will continue to be in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted or amended, that part will be deemed to be deleted (or will be amended at the discretion of the Owner with written consent from both parties), and the rest of the provision will continue in effect (unless that would contradict the clear intention of the parties in which case the relevant provision will be deemed as deleted).
- 20.3. In the event that any of the provisions of the Agreement is held to be unlawful and/or unenforceable in whole or in part, those provisions to the extent enforceable and all other provisions will nevertheless continue to be valid and enforceable as though the unlawful and/or unenforceable parts had not been included in the Contracts and the remaining provisions had been executed by both Parties subsequent to the expungement of the invalid provision (unless that would contradict the clear intention of the parties in which case the relevant provision will be deemed as deleted).

## 21. GENERAL TERMS

- 21.1. The Agreement may be executed in counterparts. Facsimile signatures are binding and are considered to be original signatures.
- 21.2. No breach of any provision in an Agreement will be waived except with the express written consent of the party not in breach.
- 21.3. Unless otherwise agreed, no delay, act or omission by a party in exercising any right or remedy will be deemed a waiver of that, or any other, right or remedy.
- 21.4. The agreement will extend to and be binding upon and inure to the benefit of the respective heirs, executors, administrators, successors and assign, as the case may be, of each Party to the Agreement.
- 21.5. The Agreement contains the whole agreement between the parties relating to its subject matter and supersedes all previous agreements, arrangements and understandings between the parties in relation to the subject matter. Nothing in this clause limits or excluding any liability for fraud or fraudulent misrepresentation.

## 22. GOVERNING LAW

- 22.1. The Agreement will be constructed in accordance with and governed by the laws of England and the parties submit to the exclusive jurisdiction of the English courts.