

The Hire Supply Company (UK) Limited

Terms & Conditions Of Sales – 26th June 2020

The customer's attention is drawn in particular to the provisions of *clause 10*.

1. Interpretation

1.1 **Definitions:**

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

"Catalogue" means the Supplier's catalogue, brochures or advertising (online or physical) which are produced for the purpose of giving an approximate idea of the goods referred to in it.

"Conditions" means the terms and conditions set out in this document as amended from time to time in accordance with clause 13.3.

"Contract" means the contract between the Supplier and the Customer for the sale and purchase of the Goods in accordance with these Conditions.

"Customer" means the person or firm who purchases the Goods from the Supplier.

"Data Protection Legislation" means the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications).

"Delivery Location" has the meaning given in clause 5.3.

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

"Goods" means the goods (or any part of them) set out in the Order.

"Order" means the Customer's order for the Goods, as set out in the Customer's purchase order form, the Customer's written acceptance of the Supplier's quotation, contained within an email, text or fax requesting the supply of Goods, ordered online via the Supplier's website or at the Supplier's trade counter, or overleaf, as the case may be.

"Privacy Policy" means the Supplier's policy which is set out at **Click Here** or please request a copy by emailing sales@hscgroupuk.co.uk

"Supplier" means THE HIRE SUPPLY COMPANY (UK) LTD (registered in England and Wales with company number 03093252).

“Trade Counter” means the trade counter situated in the Supplier’s premises from where Customers can collect the Goods if that prerequisite is contained within the Order.

“UK Data Protection Legislation” means all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended

1.2 Interpretation

1.2.1 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.2.2 A reference to a party includes its successors and permitted assigns.

1.2.3 A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

1.2.4 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.2.5 A reference to **writing** or **written** includes fax and email.

2. Basis of contract

2.1 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 law, trade custom, practice or course of dealing.

2.2 Where an Order is made online via the Supplier’s website, the onscreen prompts shall be followed to place an order.

2.3 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order submitted by the Customer are complete and accurate.

2.4 The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order, at which point the Contract shall come into existence.

- 2.5 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.
- 2.6 Any samples, drawings or advertising produced by the Supplier and any illustrations contained in the Supplier's Catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force.
- 2.7 A quotation for the Goods given by the Supplier shall not constitute an offer. A quotation shall only be valid for a period of 20 Business Days from its date of issue.

3. Goods

- 3.1 The Goods are described in the Supplier's Catalogue. All images of the Goods contained within the Supplier's Catalogue and any details given (such as weight, size, capacity, dimensions and measures) are for illustrative purposes only.
- 3.2 The packaging of the Goods may vary from any shown on images in the Supplier's Catalogue.
- 3.3 The Supplier reserves the right to amend the specification of the Goods if required by any applicable statutory or regulatory requirements.

4. Cancellations and Returns

- 4.1 The Customer may cancel the Contract if it notifies the Supplier within 3 days of the Supplier accepting the Contract.
- 4.2 This cancellation right does not apply to any Goods that have become mixed inseparably with other items after their delivery;
- 4.3 If the Goods have been delivered to the Customer before the Supplier has received notification of the cancellation, the Customer must return the Goods at its sole expense without undue delay and in any event within 3 days of the date the Customer cancelled the Contract. Alternatively, where the Supplier has offered to collect the Goods from the Customer, the Supplier will collect them from the Delivery Location and will agree a suitable time for collection.
- 4.4 The Supplier reserves the right to charge the Customer a re-stocking fee of not less than 15% of the price of the Goods which shall be deducted from any refund made.
- 4.5 The Goods must be returned in an undamaged and complete state, in their original undamaged packaging and be accompanied by all tools, accessories and manuals. The Supplier will have the right to refuse the return of any Goods that are not made available for collection or returned in a complete and undamaged state.

5. Delivery

- 5.1 The Supplier will only deliver the Goods to a Trade Counter for collection by the Customer or a Delivery Location within the United Kingdom and Eire. No Order for the delivery of Goods to a Delivery Location outside of the United Kingdom and Eire shall be accepted by the Supplier. Should such an Order be accepted by the Supplier erroneously, the Supplier shall have the right to cancel this Contract immediately without incurring any liability to the Customer. A Customer may place an Order for the Goods from outside of the United Kingdom or Eire, but the Order must be for delivery to a Delivery Locations within the UK or Eire.
- 5.2 The Supplier shall ensure that:
- 5.2.1 each delivery of the Goods is accompanied by a delivery note that shows the date of the Order and any order number and the type and quantity of the Goods (including the code number of the Goods, where applicable); and
- 5.2.2 if the Supplier requires the Customer to return any packaging materials to the Supplier, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Supplier's expense.
- 5.3 Unless otherwise set out in the Order or agreed in writing, the Order shall set out whether the Supplier shall either make the Goods available from its Trade Counter or shall effect the delivery of the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after the Supplier notifies the Customer that the Goods are ready.
- 5.4 Delivery is completed either when the Goods have been collected by the Customer from the Trade Counter or upon the completion of unloading of the Goods at the Delivery Location.
- 5.5 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 5.6 If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

- 5.7 If the Customer fails to take delivery of the Goods on the date they are delivered to the Delivery Location then, except where such failure or delay is caused by a Force Majeure Event or the Supplier's failure to comply with its obligations under the Contract the Supplier shall have the right to charge all costs associated with the delivery (e.g. courier costs and administration fees).
- 5.8 If 3 days after the day on which the Supplier notified the Customer that the Goods were ready for collection from the Trade Counter the Customer has not collected them, the Supplier may resell or otherwise dispose of part or all of the Goods without notice.
- 5.9 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

6. Quality

- 6.1 The Goods are only intended for use in the United Kingdom and Ireland. The Supplier does not warrant that the Goods comply with the laws, regulations or standards outside of the United Kingdom and Ireland.
- 6.2 The Supplier warrants that on the delivery and for a period of 30 days thereafter the Goods shall:
- 6.2.1 conform with their description; and
 - 6.2.2 be free from material defects in design, material and workmanship.
- 6.3 Subject to clause 6.4, if:
- 6.3.1 the Customer gives notice in writing to the Supplier within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 6.1;
 - 6.3.2 the Supplier is given a reasonable opportunity of examining such Goods; and
 - 6.3.3 the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier place of business at the Customer's cost],
- the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.
- 6.4 The Supplier shall not be liable for the Goods' failure to comply with the warranty set out in clause 6.1 in any of the following events:
- 6.4.1 the Customer makes any further use of such Goods after giving notice in accordance with clause 6.3;
 - 6.4.2 the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, commissioning,

installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;

- 6.4.3 the Goods are damaged in transit as a result of the negligence or default of the courier engaged to deliver the Goods to the Delivery Location;
 - 6.4.4 the Customer alters or repairs such Goods without the written consent of the Supplier;
 - 6.4.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
 - 6.4.6 the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 6.5 Certain of the Goods supplied may have the benefit of a manufacturers guarantee. Details of the terms and conditions of that manufacturer guarantee shall be provided with the Goods where possible.
- 6.6 Except as provided in this clause 6, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 6.1.
- 6.7 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 6.8 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

7. Title and risk

- 7.1 The risk in the Goods shall pass to the Customer on completion of delivery.
- 7.2 Title to the Goods shall not pass to the Customer until the earlier of:
 - 7.2.1 the Supplier receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Supplier has supplied to the Customer, in which case title to the Goods shall pass at the time of payment of all such sums; and
 - 7.2.2 the Customer resells the Goods, in which case title to the Goods shall pass to the Customer at the time specified in *clause 7.4*.
- 7.3 Until title to the Goods has passed to the Customer, the Customer shall:
 - 7.3.1 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;

- 7.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - 7.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - 7.3.4 notify the Supplier immediately if it becomes subject to any of the events listed in clauses 11.1.2 to clause 11.1.4; and
 - 7.3.5 give the Supplier such information relating to the Goods as the Supplier may require from time to time.
- 7.4 Subject to clause 7.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Goods. However, if the Customer resells the Goods before that time:
- 7.4.1 it does so as principal and not as the Supplier's agent; and
 - 7.4.2 title to the Goods shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.
- 7.5 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clauses 11.1.2 to clause 11.1.4 then, without limiting any other right or remedy the Supplier may have:
- 7.5.1 the Customer's right to resell the Goods or use them in the ordinary course of its business ceases immediately; and
 - 7.5.2 the Supplier may at any time:
 - 7.5.2.1 require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product; and
 - 7.5.2.2 if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

8. Price and payment

- 8.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in the Supplier's Catalogue or published price list in force as at the date of delivery.
- 8.2 The Supplier will use its best endeavours to ensure that the prices of the Goods are correct at all material times. Given the volume of goods sold the Customer acknowledges and accepts that from time to time some of the Goods ordered may be incorrectly priced. If the Supplier discovers an error in the price of any of the Goods ordered, it will contact the Customer as soon reasonably practicable and will give the Customer the option of continuing the

purchase of the Goods at the correct price or cancelling the Order. The Supplier will not take any steps to process the Order until the Customer has made a decision. If the Supplier cannot contact the Customer for whatever reason, it will treat the Contract as cancelled and notify the Customer in writing. If the Supplier has erroneously accepted and processed an Order where a pricing error has been made, the Supplier shall have the right to cancel the Order and refund the Customer any sums paid in respect of the Goods contained within that Order.

- 8.3 The Supplier may, by giving notice to the Customer at any time before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:
 - 8.3.1 any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - 8.3.2 any request by the Customer to change the delivery date(s), quantities or types of Goods ordered; or
 - 8.3.3 any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.
- 8.4 The price of the Goods:
 - 8.4.1 excludes amounts in respect of value added tax (**VAT**), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and
 - 8.4.2 excludes the costs and charges of any packaging, insurance and transport of the Goods, which shall be invoiced to the Customer.
- 8.5 The Supplier may invoice the Customer for the Goods before, on or at any time after the completion of delivery.
- 8.6 The Customer shall pay each invoice submitted by the Supplier:
 - 8.6.1 immediately before collection of the Goods from the Trade Counter in circumstances where the Customer does not have pre-arranged credit terms with the Supplier;
 - 8.6.2 within 30 days of the date of the invoice or in accordance with any credit terms agreed by the Supplier and confirmed in writing to the Customer; and
 - 8.6.3 in full and in cleared funds to a bank account nominated in writing by the Supplier, and
 - 8.6.4 time for payment shall be of the essence of the Contract.

- 8.7 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 11 (Termination), the Customer 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 8.7 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%.
- 8.8 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).

9. Data Protection

- 9.1 The Supplier and the Customer will comply with all requirements of the Data Protection Legislation.
- 9.2 The Supplier will process the Customer's personal data in accordance with the Privacy Policy which may be amended from time to time by the Supplier without notice to the Customer.

10. LIMITATION OF LIABILITY

- 10.1 The restrictions on liability in this clause 10 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 10.2 Nothing in in the Contract limits any liability which cannot legally be limited, including liability for death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable).
- 10.3 Subject to clause 10.2, the Supplier's total liability to the Customer shall not exceed the price paid by the Customer for the Goods set out in the Order.
- 10.4 Subject to clause 10.2, the following types of loss are wholly excluded:
- 10.4.1 loss of profits;
 - 10.4.2 loss of sales or business;
 - 10.4.3 loss of agreements or contracts;
 - 10.4.4 loss of anticipated savings;
 - 10.4.5 loss of use or corruption of software, data or information;
 - 10.4.6 loss of or damage to goodwill; and
 - 10.4.7 indirect or consequential loss.

- 10.5 Unless the Customer notifies the Supplier that it intends to make a claim in respect of an event within the notice period, the Supplier shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of the event having occurred and shall expire one month from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.
- 10.6 This clause 10 shall survive termination of the Contract.

11. Termination

- 11.1 Without limiting its other rights or remedies, the Supplier may terminate this Contract with immediate effect by giving written notice to the Customer if:
- 11.1.1 the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing to do so;
 - 11.1.2 the Customer 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), 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;
 - 11.1.3 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
 - 11.1.4 the Customer's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 11.2 Without limiting its other rights or remedies, the Supplier may suspend provision of the Goods 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 11.1.2 to clause 11.1.4, 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.
- 11.3 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 the Contract on the due date for payment.
- 11.4 On termination of the Contract for any reason the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Goods 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.

- 11.5 Termination of the Contract, however arising, 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 the Contract which existed at or before the date of termination.
- 11.6 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.

12. Force majeure

The Supplier shall not be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the Supplier shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 90 days the Supplier may terminate this Contract by giving 30 days written notice to the Customer.

13. General

13.1 Assignment and other dealings.

13.1.1 The Supplier 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.

13.1.2 The Customer 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 Supplier.

13.2 Entire agreement.

13.2.1 This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

13.2.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

- 13.3 **Variation.** No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 13.4 **Waiver.** No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 13.5 **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 this agreement. If any provision of the Contract is deemed deleted under this clause 13.5 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.
- 13.6 **Notices.**
- 13.6.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
- 13.6.1.1 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); or
- 13.6.1.2 sent by fax to its main fax number or sent by email to its email address set out in the order or as otherwise agreed between the parties in writing.
- 13.6.2 Any notice shall be deemed to have been received
- 13.6.2.1 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- 13.6.2.2 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 or at the time recorded by the delivery service; and
- 13.6.2.3 if sent by fax or email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 13.6.2.3, business hours means 9.00 am to 5.00 pm Monday to Friday on a day that is not a public holiday in the place of receipt.

13.6.3 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.

13.7 **Third party rights.**

13.7.1 Unless it expressly states otherwise, 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.

13.7.2 The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

13.8 **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.

13.9 **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 this Contract or its subject matter or formation.