

TERMS & CONDITIONS OF HIRE

- 1) In this agreement "the Owner" shall mean "John Henry's Limited" and "the Hirer" shall mean the person or company whose details are set out on the attached rental document to whom the Owner hereby agrees to let the equipment on hire in accordance with the terms of this agreement. All orders placed by the Hirer are subject to these Terms and Conditions which are complete and exhaustive and override any other terms, conditions and provisions referring to the Equipment or to the business arrangements between the Hirer and the Owner. Any conflicting terms in documents passing between the Hirer and the Owner shall have no legal effect. No contract of hire shall be deemed to have been concluded between the Hirer and the Owner until the Owner has issued a rental confirmation in respect of the Equipment to the Hirer.
- 2) The Owner will let and the Hirer will hire on the terms and conditions of this agreement the equipment more particularly described in the attached rental document (the "Equipment").
- 3) Nothing said or done by any agent, employee or servant of the Owner which varies the terms of this agreement shall be binding on the Owner unless reduced into writing and signed by a director of the Owner and specifically varying the terms of this agreement.
- 4) The period of hire shall commence on the date of the Delivery Note and must be signed by an authorised representative of the Hirer.
- 5) Subject to the following clauses of this agreement, the period of hire shall continue for the period set out in the rental confirmation (the "Hire Period") and until the Equipment is returned in good and serviceable repair and condition (fair wear and tear resulting from proper use excepted) to the Owner at 16/24 Brewery Road, London N7 9NH or such other address as the Owner shall from time to time notify to the Hirer (the "Premises"). If for any reason the Equipment is not available on the date on which the period of hire is to commence, the Owner may by notice to the Hirer terminate this agreement and neither party shall have any liability to the other after such termination except the Owner will return any deposit paid by the Hirer to the Owner under this agreement.
- 6) The Hirer undertakes to return the Equipment to the Owner before close of business on the return day specified on the Rental Confirmation unless otherwise agreed with John Henry's Ltd, to the Premises in good and serviceable repair and condition (except for fair wear and tear resulting from proper use of the Equipment) and otherwise in accordance with this agreement.
- 7) On commencement of this agreement the Hirer shall pay to the Owner any deposit and advance hire charges as may be required by the Owner and notified to the Hirer specified in the attached rental document (the "Deposit"). Any Deposit paid by the Hirer or any part thereof may be retained by the Owner in payment of any outstanding sums payable by the Hirer to the Owner.
- 8) During the Hire Period in relation to each item of Equipment the Hirer shall pay to the Owner the hire charge set out in the rental confirmation (the "Hire Charges"). The Hirer's obligation to pay the Hire Charges shall continue throughout the Hire Period notwithstanding any loss or damage to the Equipment or the Equipment being confiscated, seized, taken in execution or otherwise taken from the possession of the Hirer.
- 9) The Owner reserves the right to add to the Hire Charges the cost of keeping the Equipment insured throughout the Hire Period on the basis of either 10% of the Hire Charges excluding insurance or 1 % of the replacement cost of the Equipment.
- 10) Punctual payment of the Hire Charge is the essence of this agreement and the Hirer shall be deemed to have repudiated this agreement if any Hire Charge or part thereof shall remain unpaid for more than 7 days of becoming due.
- 11) Hire Charges are payable by, cheque made payable to John Henry's Limited, by Credit Card, Bank Transfer or by cash within 30 days of the date of the Owner's Invoice unless otherwise specified on the Rental Confirmation.
- 12) All sums payable to the Owner under this agreement shall be paid to him at the Premises and payments made by post shall be at risk of the Hirer.
- 13) If the Hirer cancels an order within 24 hours of the date when the Hire Period was to commence, the Owner reserves the right to charge the Hirer a cancellation charge not exceeding the total agreed anticipated charge for the cancelled hiring.
- 14) The Hirer shall:-
 - 15.1) Punctually pay all sums due to the Owner under this agreement.
 - 15.2) Pay to the Owner interest on overdue Hire Charges at the rate of 2 per cent per month until payment in full thereof, such interest to run from day to day and to accrue after as well as before any judgement.
 - 15.3) Keep the Equipment in good and serviceable repair and condition (fair wear and tear resulting from proper use thereof excepted).
 - 15.4) Notify the Owner of any loss or damage or destruction to the Equipment within 24 hours of such loss, or damage or destruction being sustained. The Hirer will either pay to the Owner the cost of carrying out any repairs to damaged Equipment or will (at the option of the Owner) repair the Equipment themselves or arrange for the equipment to be repaired by a contractor approved by the Owner (such approval not to be unreasonably withheld or delayed) at the cost of the Hirer. The Hirer will pay to the Owner the cost of replacing any lost or destroyed Equipment or any Equipment which in the opinion of the Owner is uneconomical to repair, with new Equipment of equivalent specifications.
 - 15.5) Pay compensation to the Owner for loss of use or damage at a rate equivalent to the Hire Charge payable for the Equipment until such time as the lost or damaged Equipment is replaced or repaired or returned to the Owner in the state of repair and condition required by this agreement to the Premises. Such compensation will be in addition to, not in lieu of, the cost of such replacement or repair which will be born by the Hirer. The compensation will not exceed an amount equal to 13 weeks hire charges for the Equipment.
 - 15.6) Keep the Equipment in its safe custody and control.
 - 15.7) Ensure that the Equipment is used only in a skilful and proper manner and only by persons having the appropriate qualification and experience in the use of the Equipment and that all information and advice relating to its use is strictly observed.
 - 15.8) Take proper care of the Equipment and ensure that it is safely and properly stored.
 - 15.9) Not use the Equipment or permit it to be used for any abnormal or hazardous assignments without the prior consent of the Owner.
 - 15.10) Promptly attend to and pay for all maintenance of the Equipment where the Hire Period is 30 days or longer.
 - 15.11) Subject to paragraph 15.4, not carry out or attempt to carry out any repairs or modifications to the Equipment without the prior written agreement of the Owner, but, subject to such written agreement having been given, procure the prompt performance and payment for all repairs and other work necessary to keep the Equipment in the state of repair and condition required by this agreement;
 - 15.12) Punctually pay all registration charges, mortgage repayments, license fees, rent, rates, taxes and other out-goings payable in respect of any premises in which the Equipment may from time to time be placed or kept and produce to the Owner on demand receipts for all such payments, the Owner being at liberty in the event of default by the Hirer in making such payments to make all or any of such payments and then recover the amount thereof from the Hirer forthwith.
 - 15.13) Where spare parts, for example, lamps, valves and diaphragms are provided, return them to the Owner at the end of the Hire Period, otherwise the cost of replacement parts will be charged to the Hirer in full.
 - 15.14) Permit the Owner and any person authorised by him at all reasonable times to enter upon the premises in which the Equipment is being kept or stored for the purpose of repairing or inspecting and examining the condition of the Equipment or the conditions in which it is being kept.
 - 15.15) Keep the Equipment at all times in his possession and control and to notify the Owner of the location of the Equipment and not to cause or permit any of the Equipment to be affixed to any premises.
 - 15.16) Notify the Owner of any change in the Hirer's address and upon request by the Owner promptly inform the Owner of the whereabouts of the Equipment.
 - 15.17) Not remove the Equipment from the U.K. without the prior written consent of the Owner.
 - 15.18) Keep the Equipment free from any distress execution or other legal process.
 - 15.19) Not without the prior written consent of the Owner sell, assign, let, pledge, mortgage, charge, encumber or part with possession of or otherwise deal with the Equipment or any interest therein or create or allow to be created any lien on the Equipment whether for repairs or otherwise or remove, deface, obliterate or cover up any label plate or other mark indicating that the Equipment is the property of the Owner. In the event of a breach of this clause by the Hirer the Owner shall be entitled (but shall not be bound) to pay to any third party such sum as is necessary to produce the release of the Equipment from any charge, encumbrance or lien and to recover such sum from the Hirer forthwith.
 - 15.20) In circumstances where the cost of insurance and the cost of the Hire Charges, the Hirer shall during the Hire Period and at the cost of the Hirer insure the Equipment and keep it insured against loss or damage by accident fire and theft to the full replacement value of the Equipment with an insurance company to be approved by the Owner under an all risks policy of insurance in the name of the Owner free from restriction or excess (the "Insurance"). The Hirer hereby irrevocably appoints the Owner as his agent for the purpose of receiving all monies under the Insurance and giving a discharge thereof.
 - 15.21) Punctually pay all premiums payable under the Insurance and produce the receipts for the premiums to the Owner on demand and do everything necessary to maintain the Insurance in full effect and not do anything whereby the Insurance will or may be vitiated.
 - 16) The Hirer warrants to the Owner that they have selected the Equipment, have inspected it and is completely satisfied that the Equipment is in good working order and that it is undamaged and is fit and suitable for the purpose intended by the Hirer. The Owner shall not be responsible for any defects or deficiencies in the Equipment unless an appropriate specific note is made on the attached rental document and is countersigned by an authorised representative of the Owner.
 - 17) The Hirer shall fully and promptly indemnify the Owner against all liabilities, claims, demands, costs and expenses which the Owner may suffer or incur directly or indirectly as a result of the use or misuse by the Hirer or its employees or any other person of the Equipment during the Hire Period, or as a result of the Owner ascertaining the whereabouts of the Equipment or taking possession of it due to a breach by the Hirer of this agreement or as a result of preserving, insuring and storing the Equipment thereafter or as a result of any other breach by the Hirer of any of the terms of this agreement and will fully indemnify the Owner for the cost of any legal proceedings taken by or on behalf of the Owner to enforce the provisions of this agreement.
 - 18) The Owner reserves the right generally or for any particular service, client or class of Equipment to alter at any time and without previous notice any published prices and/or specifications but no such alteration shall affect a contract of hire then current.
 - 19) Where the Equipment is lost, stolen, destroyed or damaged by the act or omission of a third party, the Hirer shall immediately notify the Owner thereof. The Hirer shall not compromise any claim without the consent of the Owner and shall allow the Owner to take over the conduct of any negotiations with or proceedings against the third party (except in relation to claims made of the Hirer for personal injuries, loss of use of the Equipment or loss of or damage to the property of the Hirer unconnected with the Equipment). The Hirer shall at his own expense take such proceedings (in the Hirer's sole name or jointly with the Owner as the Owner shall direct) and shall hold all sums recovered together with any monies received by the Hirer under any policy of insurance taken out by the Hirer pursuant to the provisions of this agreement on trust for the Owner and shall pay or apply these sums as the Owner directs as is necessary to discharge the Hirer's liability to the Owner and to compensate the Owner for the loss, theft or destruction of or damage to the Equipment. Any surplus sums may be retained by the Hirer for his own benefit.
 - 20) The Hirer may terminate this agreement at any time by giving three working days notice in writing to the Owner delivered to the Premises and delivering up the Equipment to the Owner at the Premises in good and serviceable condition and repair (fair wear and tear resulting from proper use of the Equipment excepted) without prejudice to any pre-existing liability of the Hirer hereunder and the Hirer shall not be entitled to repayment of any sums previously paid by him to the Owner.
 - 21) If the Hirer defaults in returning the Equipment to the Owner the Owner may retake possession of it and the Hirer grants to the Owner an irrevocable licence to enter for this purpose any premises of the Hirer where the Equipment is located.
 - 22) Any termination of the agreement and return of the Equipment to the Owner shall be without prejudice to the rights and remedies of the Owner accrued before such termination or return and shall not prejudice the right of the Owner to recover any amount outstanding at the termination or return from the Hirer.
 - 23) If the Hirer makes any default on payment of any of the sums payable under this agreement or commits any breach of the other terms and conditions of this agreement whether express or implied (which if capable of remedy is not remedied within 30 days of a notice in writing from the Owner specifying the breach and stating what steps are necessary to remedy it) or convenes any meeting of creditors or makes any arrangement or composition with its creditors or takes any steps or has steps taken against it, for its winding-up or dissolution (other than in the course of an amalgamation or voluntary reconstruction) or for the making of any administration order or has a liquidator appointed or a receiver, administrative receiver, an administrator or similar office appointed over the whole of any part of its undertaking or assets or is unable or admits its inability to pay its debts as they fall due or suffers any similar act or event in consequence of debt or if any distress or execution is levied or threatened upon any of the Hirer's property or any judgement against the Hirer shall remain unsatisfied for more than 14 days or if the Hirer abandons the Equipment, the Owner may by notice in writing either served personally on the Hirer or sent to him by prepaid post to or left at the address of the Hirer set out in the rental confirmation attached or such address notified to the Owner by the Hirer terminate this agreement with immediate effect and without prejudice to any other right or remedy it may have.
 - 24) Forthwith upon the termination of this agreement, the Hirer shall return the Equipment at its own risk and expense to the Premises in a good state of repair and maintenance and in good condition and working order (ordinary wear and tear resulting from proper use thereof excepted). If the Hirer defaults in returning the Equipment, the Owner may retake possession of it and the Hirer grants the Owner irrevocable licence to enter for this purpose any premises of the Hirer where the Equipment is located.
 - 25) The Equipment shall at all times remain the property of the Owner and the Hirer shall have no rights in the Equipment other than as set out herein. Nothing contained in this agreement shall confer or be deemed to confer any interest in the Equipment on the Hirer.
 - 26) The Hirer shall not do or permit or cause to be done any matter or thing whereby the rights of the Owner in respect of the Equipment may be prejudicially affected and in particular the Hirer shall keep the Equipment free from any distress, execution or other legal process. In the event of the Equipment being so distressed or otherwise as aforesaid, the Hirer shall give notice in writing of that fact to the Owner.
 - 27) Except to the extent specifically provided for in this agreement, the Owner shall not be liable whether in contract or in tort or otherwise or for loss, injury or damage howsoever caused or arising from any defect or failure, in or unsuitability for any purpose of the Equipment whether such defect be latent or apparent on examination or without prejudice to the generality of the foregoing in the operation, setting up, packing away, moving, transporting or any like process where by reason of the presence of the Equipment and loss injury or damage may be sustained.
 - 28) The Owner shall not in any event be liable for any indirect or consequential loss whatever and however caused.
 - 29) Nothing in this agreement shall exclude or restrict any liability for death or personal injury resulting from the Owner's negligence (as defined in section 1 of the Unfair Contract Terms Act 1977).
 - 30) Any notice given to the Hirer under this agreement shall be validly given if served by any of the methods specified in clause 22 above and shall if sent by post be conclusively deemed to have been received by the Hirer within 48 hours after the time of posting.
 - 31) Where the Owner supplies an operator to the Hirer for any purpose whatsoever including instructing the Hirer in the use of the Equipment such operator shall be deemed to be the agent, servant or employee of the Hirer and not the Owner and the Owner shall not be liable, to the extent permitted by law, for any act, error or omission of the operator however caused.
 - 32) No failure or delay by the Owner in exercising any of its rights hereunder shall prejudice or restrict or diminish the rights and powers of the Owner hereunder nor operate as a waiver thereof nor shall any waiver of any breach hereof operate as a waiver of any subsequent or any continuing breach hereof. The Owner will not waive (or be deemed to have waived) any rights under the terms of this agreement by accepting the return of the Equipment or repossessing the same.
 - 33) Film, magnetic tapes, equipment, materials and property ostensibly belonging to the Hirer in the possession or custody of or handled by the Owner will be subject to a lien in favour of the Owner for the general balance of all monies from time to time due to the Owner from the Hirer.
 - 34) The Hirer shall not assign or transfer or purport to assign or transfer this agreement or the benefit to any other person.
 - 35) The Hirer and the Owner agree that the provisions of this agreement are personal to them and are not intended to confer any rights of enforcement on any third party. The Contracts (Rights of Third Parties) Act 1999 shall not apply to this agreement or to any of its provisions.
 - 36) If any clause in this agreement shall become or be declared by any Court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity or unenforceability shall in no way impair the validity or enforceability of any other clause