

Hire Terms & Conditions



(v1.4)

1. Definitions

In these Conditions: -

- 1.1. "Contract" means a contract for the hire of Equipment concluded by the acceptance by CMPM of an order pursuant to Condition 3. The Contract comprises these Conditions, the Hire Estimate (if one is issued) and the Letter of Agreement (if one is issued).
- 1.2. "Equipment" means the equipment described or any individual item thereof.
- 1.3. "Hire Estimate" means, if issued, the document which could set out the schedule of Equipment for hire, the Hire Period and the Hire Charge
- 1.4. "Hire Charge" means the charge payable by the Hirer to CMPM for the hire of Equipment.
- 1.5. "Hire Period" means a period starting on the date that Equipment is dispatched to or collected by the Hirer and ending on the date on which the Equipment is returned to CMPM.
- 1.6. "Hirer" means the hirer of Equipment from CMPM.
- 1.7. "CMPM" means CM Production Management Ltd.
- 1.8. "The Site" means the premises or site specified by the Hirer where the Equipment is to be used.

2. General

- 2.1. These Terms and Conditions shall apply to all contracts for the hire of the Equipment by CMPM to the Hirer to the exclusion of all other terms and conditions referred to, offered or relied on by the Hirer unless the Hirer specifically states in writing, separately from such terms, that it wishes such terms to apply and this has been acknowledged by CMPM in writing.

- 2.2. Any variation to these Terms and Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by CMPM.
- 2.3. The headings in these Conditions are for ease of reference only and shall not affect their interpretation.
- 2.4. By issuing a purchase order or otherwise acknowledging a hire estimate issued by CMPM the Hirer is agreeing to these Terms and Conditions as amended in accordance with these Conditions.
- 2.5. Any advice or recommendations given by CMPM or its employees or agents to the Hirer or its employees or agents as to the storage, application, installation or use of the Equipment which is not confirmed in writing by CMPM is followed or acted upon entirely at the Hirer's own risk and, accordingly, CMPM shall not be liable for any such advice or recommendations which are not so confirmed or the actions of any third party in the storage, application, installation or use of the Equipment unless the Hirer has separately contracted for such services with CMPM directly.
- 2.6. In the event of and only to the extent of any conflict between these Terms and Conditions and the Hire Estimate then the conflict shall be resolved in accordance with the following order of priority namely the Hire Estimate (if issued) and these Conditions.

3. Order

- 3.1. CMPM shall only accept an order for hire of Equipment provided that it is in writing. Unless otherwise agreed, the written acceptance of the Hirer's order by an authorised employee of CMPM shall constitute the Contract of which these Conditions and Hire Estimate shall form a part. Any terms or conditions in the Hirer's order or any other documentation of whatsoever kind issued by the Hirer which are inconsistent with these Conditions or any other terms of the Contract shall have no effect whatsoever.

4. Hire of equipment

- 4.1. CMPM hereby hires to the Hirer the Equipment for the Hire Period at the Hire Charge.
- 4.2. CMPM reserves the right to supply equipment of a similar design to the Equipment.
- 4.3. All descriptions and specifications, drawings and particulars of weights and dimensions issued by CMPM are approximate only, and are intended only to present a general idea of the goods to which they refer and shall not form part of the contract. Due to

continuing development, CMPM reserves the right to change specifications without notice.

5. Hire charge

- 5.1. The Hirer shall pay to CMPM the appropriate Hire Charge for the Equipment (All hire charges are strictly net) payable on invoice submitted within 14 days. Charges run from day of dispatch until day of return and are based on a period of one week or part thereof irrespective of whether the goods are in use or not. A period of two days' grace is normally given on collection and deliveries (i.e. collection Friday: return Monday).
- 5.2. The Hirer shall pay to CMPM any packing and delivery charges where appropriate.
- 5.3. All sums due from the Hirer to CMPM hereunder shall be increased to include VAT at the current rate.
- 5.4. The Hirer shall pay CMPM's invoices hereunder within 14 days of the date of invoice. Time shall be of the essence in respect of the payment of all sums due hereunder.
- 5.5. CMPM reserves the right to charge the Hirer interest at the rate of 3% per annum above the mean base rate for the time being of the London Clearing Banks on all invoices which are not paid in accordance with Condition 5.4, such interest being calculated from a date 30 days after the date of invoice until actual payment compounded quarterly and to be payable as well after as before any judgement obtained in respect thereof.
- 5.6. All amounts due under the Contract from the Hirer to CMPM shall be paid in full without any set-off, counterclaim, deduction or withholding whatsoever (other than any deduction or withholding of tax as required by law).

6. Delivery and collection

- 6.1. Any dates and times quoted for delivery of the Equipment are approximate only and CMPM shall not be liable for any delay in delivery of the Equipment however caused.
- 6.2. Unless otherwise agreed in writing, the Hirer is responsible for loading, transporting and unloading the Equipment at the Site and on its return to CMPM and for all costs incurred in connection therewith, and any driver or operator supplied by CMPM shall be deemed to be under the Hirer's control and shall comply with all directions of the Hirer.
- 6.3. The Hirer shall conduct a reasonable inspection of the Equipment upon receipt. If such inspection reveals that the Equipment is damaged, or that some of the

Equipment is damaged, or that some of the Equipment has been lost, the Hirer shall notify CMPM and the carrier in writing within 3 days of the date of receipt. Damaged Equipment may be retained by the Hirer for inspection by the carrier provided that it shall be returned to CMPM on demand. If the Hirer fails to notify CMPM and the carrier in accordance with this Condition, or to return the equipment on demand, the Hirer shall pay to CMPM the full cost of repair or replacement of the Equipment or full hire rate until returned.

- 6.4. For Hirers collecting and returning Equipment, CMPM's normal working hours are Monday to Friday 9am – 6pm.
- 6.5. CMPM's normal hours of delivery are Monday to Friday 9am – 5pm. Outside these hours additional charges may apply.
- 6.6. CMPM reserves the right to recharge additional costs of delivery and collection including, but not restricted to, parking fines, waiting time and toll charges.

7. USE OF EQUIPMENT

- 7.1. The Hirer shall ensure that the Equipment is installed and used by competent and qualified personnel in a manner which complies with any applicable statute, regulation or order from time to time in force affecting the Equipment including but not limited to the Health and Safety at Work Act 1974 and any statutory amendment or replacement of it.
- 7.2. The Hirer shall at its expense keep the Equipment in good repair, condition and working order, fair wear and tear excepted. Without prejudice to the generality of the foregoing, the Hirer shall on a very regular basis and certainly every week:-
 - 7.2.1. Inspect, test and clean the Equipment;
- 7.3. The Hirer shall not without the prior written consent of CMPM make any modification or alteration to the Equipment (including but not limited to the removal of any marks that identify the Equipment as being owned by CMPM), or take the Equipment outside of the United Kingdom, or if the Equipment is delivered to a Hirer in a country outside of the United Kingdom, then the Hirer shall not without the prior written consent of CMPM, take the Equipment outside of that country.
- 7.4. The Hirer shall not, without the prior written consent of CMPM in writing, part with control of (including for the purposes of repair or maintenance), sell or offer for sale, underlet or lend the Equipment or allow the creation of any mortgage, charge, lien or other security interest in respect of the Equipment.

7.5. The Hirer shall allow CMPM to inspect the Equipment upon request during CMPM's normal working hours.

7.6. The Hirer shall return all faulty lamps to CMPM. The replacement cost of the lamps will be charged to the Hirer if they are not returned.

8. Breakdown and repairs

8.1. Where the breakdown of the Equipment is caused by fair wear and tear or by a fault in the Equipment or where stoppage occurs in the course of carrying out normal repairs, full allowance for the Hire charges in respect of the individual piece of Equipment that has broken down in such circumstances will be made to the Hirer, any claims to be considered from the time and date of notification in writing by the Hirer.

8.2. Where the breakdown of the Equipment is caused as a result of the negligence or misuse by the Hirer, the Hirer shall be responsible for all loss or damage incurred by CMPM arising from any breakdown and for the payment of the hire charges during the period the Equipment is inoperable due to such breakdown.

9. Ownership

9.1. The Equipment shall at all times remain the property of CMPM or a third party finance company (as the case may be) and the Hirer shall have no rights to the Equipment other than as hirer and the Hirer shall not do or permit or cause to be done any matter or thing whereby the rights of CMPM or a third party finance company (as the case may be) in respect of the Equipment are or may be prejudicially affected.

10. Loss, damage and insurance

10.1. In the event of any loss or damage to the Equipment the Hirer shall pay for its replacement, or the cost of restoring it to good working order, or allow CMPM or its agent to carry out such work at the Hirer's expense.

10.2. The Hirer shall during the Hire Period (without prejudice to the liability of the Hirer to CMPM pursuant to Condition 10.1) keep the Equipment insured for its full replacement value with a reputable insurance company against loss or damage from all risks (including third party risks). The Hirer shall notify its insurers that the Equipment is on hire from CMPM and request the insurers to endorse a note of such interest on the policy, naming CMPM as loss payee. The Hirer shall on demand show to CMPM the policy, the premium receipts and insurance certificate and shall not use or allow the Equipment to be used for any purpose not permitted by the terms and conditions of the said policy or do or allow to be done any act or thing whereby the insurance may be

invalidated.

10.3. Where any event or accident shall occur which is a risk covered by the Hirer's insurance hereunder, the Hirer shall immediately notify CMPM thereof. The Hirer shall hold any monies received by the same as CMPM directs.

11. Hirer's indemnities

11.1. The Hirer shall be solely responsible for and hold CMPM fully indemnified against all claims, demands, liabilities, losses, damages, proceedings, costs and expenses which may be brought against or incurred by CMPM as a result of any accident involving the Equipment.

11.2. The Hirer shall be solely responsible for and hold CMPM fully indemnified against all claims, demands, liabilities, losses, damages, proceedings, costs and expenses which may be brought against or incurred by CMPM as a result of any breach or default on the part of the Hirer in the discharge of its obligations under any Contract.

12. Limitations of liability

12.1. CMPM's liability for direct physical damage to tangible property of the Hirer caused by the negligence of CMPM, its employees, agents or subcontractors, or by breach of any Contract, shall not exceed £500,000 subject to the exclusions set out in Condition 12.2.

12.2. CMPM shall not be liable for the following loss or damage, howsoever caused and even if foreseeable by or in contemplation of CMPM: –

12.2.1. loss of profits, business, revenue, goodwill or anticipated savings whether sustained by The Hirer or any other person; or

12.2.2. special, indirect or consequential loss other than direct physical damage to tangible property of The Hirer or any other person; or

12.2.3. any loss arising from any claim made against CMPM by any other person.

13. Termination

13.1. Where there is no fixed period of hire, the period of hire may be terminated by either party giving to the other 7 days' notice in writing and the Hirer's obligations under this agreement shall continue until the Equipment is returned to CMPM.

13.2. CMPM shall have the right to immediately terminate a Contract by giving notice in writing if: –

13.2.1. The hirer fails to pay when due any amount due under the Contract; or

13.2.2. the Hirer is in material breach of any of the Terms and Conditions or any other terms of the Contract; or

13.2.3. the Hirer is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or

13.2.4. composition with its creditors; or

13.2.5. the Hirer shall do or cause to be done or permit or suffer any act or thing whereby the rights of CMPM over the Equipment may be prejudiced or put in jeopardy

13.2.6. the Hirer suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or

13.2.7. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Hirer (being a company, limited liability partnership or partnership) other than for the sole purpose of a scheme for a solvent amalgamation of the Hirer with one or more other companies or the solvent reconstruction of the Hirer

13.2.8. Suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986; or

13.2.9. Any event occurs, or proceeding is taken, with respect to the Hirer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Conditions 13.2.3 to 13.2.7 (inclusive),

14. Consequences of termination

14.1. Any termination of a Contract (however occasioned) shall not affect any accrued rights or liabilities of either party, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

14.2. On termination of a Contract (however occasioned) the Hirer shall no longer be in possession of the Equipment with CMPM's consent and shall unless otherwise agreed with CMPM forthwith return the Equipment to CMPM in good working order.

14.3. Notwithstanding Condition 14.2, CMPM may, without notice and at the Hirer's expense, retake possession of the Equipment and for this purpose may enter the Site or any premises at which the Equipment is

located.

14.4. On termination of a Contract (howsoever occasioned), without prejudice to any other rights or remedies of the Hirer, the Hirer shall pay to CMPM on demand all Hire Charges due but unpaid and other sums due but unpaid at the date of such demand together with any interest accrued pursuant to Condition 5.5 and any costs and expenses incurred by CMPM in recovering the Equipment and/or in collecting sums due under the Contract (including storage, insurance, repair, transport and legal costs).

14.5. On termination of a Contract pursuant to Condition 13.2, without prejudice to any other rights or remedies of CMPM, the Hirer shall pay to CMPM on demand a sum equal to the whole of the Hire Charges that would (but for the termination) have been payable if the agreement had continued from the date of such demand to the end of the Hire Period, less a discount for accelerated payment of 10% of the sum due.

14.6. The sums payable pursuant to Condition 14.5 shall be agreed compensation for CMPM's loss and shall be payable in addition to the sums payable pursuant to Condition 14.4.

15. Force Majeure

15.1. Although CMPM shall use all reasonable endeavours to discharge its obligations under a Contract in a prompt and efficient manner, it does not accept responsibility for any failure or delay caused by circumstances beyond its control.

16. Severance

16.1. If any term or provision of these Terms and Conditions is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if these Terms and Conditions had been agreed with the invalid, illegal or unenforceable provision eliminated.

17. Solicitation of Employees and Contractors

17.1. For the duration of the Hire, Employment and engagement period and 12 months thereafter, the hirer hereby agrees not to employ or engage in services, either directly or indirectly, or through an Affiliate, any current employee or contractor of CMPM or its Affiliates or any individual who was an employee or contractor of the Employer or its Affiliates at any time during employment Period and agrees not to solicit or contact in any manner that could reasonably be construed as a solicitation, either directly or indirectly, or through an Affiliate, any employee or contractor of the Employer or its Affiliates for the purpose of encouraging such employee or contractor to leave or terminate his employment with the Employer or its Affiliates.

17.2. For purposes of clarity, the hirer will agree to pay the employer CPM a solicitation fee of £5000 for any CPM employee or contractor found to be directly or indirectly providing the same or similar service to the hirer.

18. General

- 18.1. The Hirer shall not assign or otherwise transfer all or any part of a Contract.
- 18.2. The formation, construction and performance of all Contracts shall be governed in all respects by English law. The parties hereby agree to submit to the exclusive jurisdiction of the English Courts.