

TERMS AND CONDITIONS OF HIRE

1. DEFINITIONS

1.1 In these conditions the following words have the following meanings:

“**Customer**” means the person, firm, company or other organization detailed on the front page of the Hire Contract
“**Hire Contract**” means a contract which incorporates these conditions and made between the Customer and SEDCO for the hire of Hire Goods;
“**Hire Fee**” means the charging rate for the hire of the Hire Goods as detailed on the front page of the Hire Contract;
“**Hire Goods**” means any machine, article, tool, and/or device together with any accessories specified in the Hire Contract which are hired to the Customer;
“**Hire Period**” means the period commencing when the Customer holds the Hire Goods on hire and ending upon the happening of any of the following events: (i) the physical return of the Hire Goods by the Customer into SEDCO’s possession; or (ii) the physical repossession or collection of Hire Goods by SEDCO;
“**SEDCO**” means SEDCO LIMITED and will include its employees, servants, agents and/or duly authorized representatives;

2. COMMENCEMENT OF HIRE

2.1 SEDCO agrees to hire to the Customer the Hire Goods for the Hire Period and at the Hire Fee as stated on the front of this Hire Contract upon the terms and subject to the conditions hereinafter appearing.
2.2 SEDCO will use all reasonable endeavours to have the Hire Goods available for delivery or collection on the Commencement Date but SEDCO shall not incur any liability whatsoever in the event of any delay.
2.3 Where hire of the Hire Goods is to a Customer who is an individual and the hire would be covered by the Consumer Credit Act 1974 the duration of the Hire Period shall not exceed 3 months, after which time the Contract shall be deemed to have automatically terminated. Accordingly the hire of any Hire Goods is not covered by the Consumer Credit Act 1974. Nothing in this Contract shall exclude or limit any statutory rights of the Customer which may not be excluded or limited due to the Customer acting as a consumer.

3. HIRE FEE AND PAYMENT TERMS

3.1 A Customer who does not have a credit account with SEDCO will be required to deposit with SEDCO upon the collection or delivery of the Hire Goods a deposit as detailed on the front page of the Hire Contract. Subject to these terms and conditions the deposit will be returned to the Customer less the Hire Fees at the end of the Hire Period.
3.2 A Customer that has a credit account with SEDCO will receive an invoice at the end of the calendar month in which the Hire Period ends and payment shall be made by the Customer forthwith.
3.3 The Hire Fees are, unless otherwise stated, exclusive of any applicable VAT or other relevant taxes for which the Customer shall be liable.
3.4 Payment by the Customer on time under the Contract is an essential condition of the Hire Contract. Payment shall not be deemed to be made until the SEDCO has received either cash or cleared funds in respect of the full amount outstanding.
3.5 If the Customer fails to make any payment in full on the due date SEDCO may charge the Customer interest (both before and after judgment) on the amount unpaid at the rate implied by law under the Late Payment of Commercial Debts (Interest) Act 1998 (where applicable) or at the rate of 4% above the base rate of Barclays Bank plc from time to time (whichever is higher).
3.6 The Customer shall pay all sums due to SEDCO under this Contract without any set-off, deduction, counterclaim and/or any other withholding of monies.

4. RIGHTS OF SEDCO

4.1 Ownership of the Hire Goods remains at all times with SEDCO. The Customer has no right, title or interest in the Hire Goods except that they are hired to the Customer and the Customer must not deal with the ownership or any interest in the Hire Goods. This includes but is not limited to selling, assigning, mortgaging, pledging, charging, securing, hiring, withholding, exerting any right to withhold, disposing of and/or lending.
4.2 Risk in the Hire Goods will pass immediately to the Customer when they leave the physical possession or control of the SEDCO. Risk in the Hire Goods will not pass back to SEDCO from the Customer until the Hire Goods are back in the physical possession of SEDCO.
4.3 SEDCO reserves the right to insure the Hire Goods. This does NOT exclude or limit the duties of the Customer as detailed herein.

5. DELIVERY

5.1 The Customer shall collect the Hire Goods from SEDCO and return them to SEDCO at the end of the Hire Period. If SEDCO agrees to deliver or collect the Hire Goods to and/or from the Customer it will do so at the delivery costs detailed on the front page of the Hire Contract or if not stated at its standard delivery rate.
5.2 Where SEDCO provides any form of services the persons performing the services shall be deemed to be carrying out the services solely on the instruction of the Customer and shall be deemed to be under the direction and control of the Customer for the performance of such services. The Customer shall be solely responsible for any instruction, guidance and/or advice given by the Customer to any such person and for any damage which occurs as a result of such persons following the Customer’s instructions, guidance and/or advice.

6. DUTIES OF THE CUSTOMER

6.1 The Customer shall:
6.1.1 not tamper or interfere with the Hire Goods, their working mechanisms or any other parts of them and shall take reasonable care of the Hire Goods and only use them for their proper purpose in a safe and correct manner in accordance with any operating and/or safety instructions provided or supplied to the Customer;
6.1.2 notify SEDCO immediately after any breakdown, loss and/or damage to the Hire Goods;
6.1.3 take adequate and proper measures to protect the Hire Goods from theft, damage and/or other risks;
6.1.4 notify SEDCO of any change of its address and details of the location of the Hire Goods;
6.1.5 permit SEDCO at all reasonable times and upon reasonable notice to inspect the Hire Goods including procuring access to any property where the Hire Goods are situated;
6.1.6 keep the Hire Goods at all times in its possession and control and not to remove the Hire Goods from where the Customer is located;
6.1.7 be responsible for the conduct and cost of any testing, examinations and/or checks in relation to the Hire Goods required by any legislation, best practice and/or operating instructions;
6.1.8 not do or omit to do anything which the Customer has been notified will or may be deemed to invalidate any policy of insurance related to the Hire Goods;
6.1.9 not continue to use Hire Goods where they have been damaged and will notify SEDCO immediately if the Hire Goods are involved in an accident resulting in damage to the Hire Goods, other property and/or injury to any person; and
6.1.10 where the Hire Goods require fuel, oil and/or electricity ensure that the proper type and/or voltage is used and that, where appropriate, the Hire Goods are properly installed by a qualified and competent person.
6.2 The Hire Goods must be returned by the Customer in good working order and condition (fair wear and tear excepted) and in a clean condition together with all insurance policies, licences, registration and other documents relating to the Hire Goods.

7. LOSS OR DAMAGE

7.1 The Customer shall be responsible for all expenses, loss (including loss of Hire Fees) and/or damage suffered by SEDCO arising from any breakdown of the Hire Goods due to the Customer’s negligence, misdirection and/or misuse of the Hire Goods.
7.2 The Customer will be responsible for the cost of all repairs necessary to Hire Goods during the Hire Period which arise otherwise than as a result of fair wear and tear or an inherent fault
7.3 The Customer must not repair or attempt to repair the Hire Goods unless authorized to do so in writing by SEDCO.
7.4 If the Hire Goods are returned in damaged, unclean and/or defective state except where due to fair wear and tear and/or an inherent fault in the Hire Goods the Customer shall be liable to pay SEDCO for the cost of any repair and/or cleaning required to return the Hire Goods to a condition fit for re-hire and to pay the Hire Fees, in accordance with the provisions of clause 7.6, until such repairs and/or cleaning have been completed.

7.5 The Customer will pay to SEDCO the replacement cost of any Hire Goods which are lost, stolen and/or damaged beyond economic repair during the Hire Period.

7.6 The Customer shall pay the Hire Fees for the Hire Goods up to and including the date it notifies SEDCO that the Hire Goods have been lost, stolen and/or damaged beyond economic repair. From that date until SEDCO has replaced such Hire Goods the Customer shall pay, as a genuine pre-estimate of lost hire fees profit, a sum as liquidated damages being equal to two thirds of the Hire Fees that would have applied for such Hire Goods for that period. SEDCO shall use its reasonable endeavours to purchase replacements for such Hire Goods using the monies paid under clause 7.5 above.

8. TERMINATION

8.1 If the Hire Period has a fixed period, subject to the provisions of section 8.5 below neither the Customer nor SEDCO shall be entitled to terminate the Contract before the expiry of that fixed period unless agreed with the other party.
8.2 If the Hire Period does not have a fixed period either of the Customer or SEDCO is entitled to terminate the Contract upon giving to the other party any agreed period of notice.
8.3 If no period of notice has been agreed or specified the Customer may terminate the Hire Period by the physical return of the Hire Goods to SEDCO.
8.4 SEDCO shall be entitled to terminate the hire of the Hire Goods by giving not less than 3 days’ notice to the Customer.
8.5 If the Customer:-
(a) fails to make any payment to SEDCO when due;
(b) breaches the terms of the Hire Contract and, where the breach is capable of remedy, has not remedied the breach within 3 days of receiving notice requiring the breach to be remedied;
(c) persistently breaches the terms of the Hire Contract;
(d) pledges, charges or creates any form of security over any Hire Goods or proposes to compound with its creditors, creates a trust deed for its creditors, applies for an interim moratorium in respect of claims and/or proceedings, any distress/diligence, execution or other legal process is levied on any property of the Customer, has a Bankruptcy Petition/Petition for Sequestration presented against it or the Customer takes or suffers any similar action in any jurisdiction;
(e) being a company, ceases or threatens to cease to carry on business, enters into voluntary or compulsory liquidation, has a receiver, administrator or administrative receiver or in the Republic of Ireland an examiner appointed over all or any of its assets, any attachment order/arrestment is made against the Customer, any distress/diligence, execution or other legal process is levied on any property of the Customer or the Customer takes or suffers any similar action in any jurisdiction;
(f) appears reasonably to SEDCO due to the Customer’s credit rating to be financially inadequate to meet its obligations under the Contract; and/or
(g) appears reasonably to SEDCO to be about to suffer any of the above events; then SEDCO shall have the right, without prejudice to any other remedies, to exercise any or all of the rights set out in clause 8.6 below.
8.6 If any of the events set out in clause 8.5 above occurs in relation to the Customer then:
8.6.1 except where the Customer is acting as a consumer SEDCO may enter, without prior notice, any premises of the Customer (or premises of third parties with their consent) where Hire Goods may be and repossess any Hire Goods;
8.6.2 SEDCO may immediately cancel, terminate and/or suspend without liability to the Customer the Hire Contract and/or any other contract with the Customer; and all monies owed by the Customer to SEDCO shall immediately become due and payable.
8.7 Any repossession of the Hire Goods shall not affect SEDCO’s right to recover from the Customer any monies due under the Hire Contract and/or any damages in respect of any breach which occurred prior to repossession of the Hire Goods.
8.8 Upon termination of the Contract the Customer shall immediately:
8.8.1 return the Hire Goods to SEDCO or make the Hire Goods available for collection by SEDCO as requested by SEDCO; and
8.8.2 pay to SEDCO all arrears for Hire Fees and any other sums payable under the Hire Contract

9. LIMITATION OF LIABILITY

9.1 All warranties, representations, terms, conditions and duties implied by law relating to fitness, quality and/or adequacy are excluded to the fullest extent permitted by law.
9.2 Any defective Hire Goods must be returned to SEDCO for inspection if requested by SEDCO before SEDCO will have any liability for defective Hire Goods.
9.3 Nothing in this Hire Contract shall exclude or limit the liability of SEDCO for death or personal injury due to SEDCO’s negligence nor exclude or limit any other type of liability which it is not permitted to exclude or limit as a matter of law.
9.4 SEDCO shall have no liability to the Customer if, without just cause, any monies due in respect of the Hire Goods have not been paid in full by the due date for payment and SEDCO shall have no liability for additional damage, loss, liability, claims, costs or expenses caused or contributed to by the Customer’s continued use of defective Hire Goods after a defect has become apparent or suspected or should reasonably have become apparent to the Customer.
9.5 The Customer shall give SEDCO a reasonable opportunity to remedy any matter for which SEDCO is liable before the Customer incurs any costs and/or expenses in remedying the matter itself. If the Customer does not do so SEDCO shall have no liability to the Customer.
9.6 SEDCO shall have no liability to the Customer to the extent that the Customer is covered by any policy of insurance arranged as a result of the Hire Contract.
9.7 SEDCO shall have no liability to the Customer for any consequential losses (including loss of profits and/or damage to goodwill); economic and/or other similar losses; special damages and indirect losses; and/or business interruption, loss of business, contracts and/or opportunity.
9.8 SEDCO shall have no liability to the Customer to the extent that the liability arises because the Customer failed to follow the SEDCO’s oral or written instructions as to the health and safety requirements, storage, installation, commissioning, use or maintenance of the Hire Goods or (if there are none) good trade practice; or the Customer alters or repairs such Hire Goods without the written consent of SEDCO.
9.9 SEDCO’s total liability to the Customer under and/or arising in relation to any Hire Contract shall not exceed the amount of the Hire Fees or the sum of £1,000 (whichever is the higher). To the extent that any liability of SEDCO to the Customer would be met by any insurance of SEDCO then the liability of SEDCO shall be extended to the extent that such liability is met by such insurance.
9.10 Each of the limitations and/or exclusions in this Hire Contract shall be deemed to be repeated and apply as a separate provision for each of liability for breach of contract; liability in tort; and liability for breach of statutory and/or common law duty.

10. GENERAL

10.1 Upon termination of the Contract the provisions of clauses 3.2, 3.4, 3.5, 7.1, 7.2, 7.3 and Section 6 shall continue in full force and effect.
10.2 Each hire of an item of Hire Goods shall form a distinct contract which shall be separate to any other contract relating to other Hire Goods.
10.3 The Customer agrees to indemnify and keep indemnified SEDCO against any and all losses, lost profits, damages, claims, costs (including legal costs on a full indemnity basis), actions and any other losses and/or liabilities suffered by SEDCO and arising from or due to any breach of contract, any tortious/delictual act and/or omission and/or any breach of statutory duty by the Customer.
10.4 No waiver by SEDCO of any breach of this Hire Contract shall be considered as a waiver of any subsequent breach of the same provision or any other provision. If any provision is held by any competent authority to be unenforceable in whole or in part the validity of the other provisions of this Hire Contract and the remainder of the affected provision shall be unaffected and shall remain in full force and effect.
10.5 Although SEDCO will use all reasonable endeavours to discharge its obligations under this Hire Contract in a prompt and efficient manner, it does not accept responsibility for any failure or delay caused by circumstances beyond its control.
10.6 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
10.7 The formation, existence, construction, performance, validity and all aspects of the Hire Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.