

# CONDITIONS OF SALE FOR CARRIER RENTAL SYSTEMS (UK) LTD

(Incorporating SLD Pumps and Power, Carrier Rental Systems, and Carrier Rental Express)

**1. APPLICATION.** These terms and conditions apply to all contracts entered into by any of the above mentioned companies, referred to hereafter as 'the Company' for the sale of goods and supply of services. These terms and conditions shall supersede all previous terms and conditions of the company and shall over-ride and terms and conditions, inconsistent herewith, sought to be imposed by the customer, which are hereby expressly excluded.

**2. DEFINITIONS.** 'Goods' means the vehicles, machinery, plant or equipment or parts, whether new or used as described in the contract. 'Services' means all work done by the company for or on behalf of the customer.

**3. CONTRACT.** The contract between the Company and the customer is constituted by the Company's acceptance, whether by the Company's form, or acknowledgement or otherwise, of the customer's order. No quotation of the Company forms part of the contract with the customer. No order shall be binding on the Company unless and until accepted in writing by the Company and the company's terms.

**4. VARIATION.** No variation or waiver of the contract or of these terms and conditions shall be effective unless agreed by an authorized officer of the company and in writing on the Company's acceptance of the customer's order, or otherwise agreed in writing by a director of the Company.

The variation shall be in writing and signed by both parties, or shall be requested in writing by the customer and accepted expressly as a variation in writing by the company.

No variation shall vitiate the contract.

The company may require the basis of charging any variation to be agreed in writing before any equipment or any service comprising a variation is provided to the customer.

In the event that the basis of charging a variation is not agreed as provided above the company may at its absolute discretion refuse to accept the variation or may require the subject of the proposed variation to be supplied under a separate contract.

**5. PRICE.** The price of goods is ex works and exclusive of VAT unless otherwise agreed. All prices are subject to variation to reflect corresponding variations in the Company's own cost of goods, materials, fuel and labour. The contract price of all goods, including of separate installments of goods supplied under an installment contract, is the Company's ruling price at the time of delivery. The price of services is based on the current rates of work carried out during normal working hours being 8.00 a.m. to 4.30 p.m., Monday to Friday excluding public holidays. Work carried out outside of such hours may be charged on the basis of the rate for overtime. All quotations by the company shall be open for 30 day's unless expressly stated or agreed otherwise. All quotations are subject to availability.

**6. PAYMENT.** Unless otherwise agreed in writing by the Company payment for goods and services shall be made prior to delivery by receipt of cleared funds in our bank, or if by special agreement up to within 30 day's of delivery from invoice date.

In respect of suspension of its performance the company shall be entitled to appropriate relief from any of its obligations under the contract connected with time limits.

The customer indemnifies the company against all direct legal and other costs including but not, limited to the cost of the company's employees incurred in the recovery of any sum which becomes over due for payment and any loss and/or expense suffered by the company resulting from action taken in accordance with the provisions contained within above clause.

**7. EXPORTS.** Payments for all goods and services sold or provided for export from the UK shall be made to the Company in advance or by an irrevocable letter of credit confirmed by a UK clearing bank.

**8. DELIVERY.** The place of delivery shall be the Company's premises. The customer will be notified when goods are ready for delivery. The date of delivery shall be 7 (Seven) days from the date of notification or the date of collection by or dispatch to customer whichever is the earlier. Any time or date given for delivery by the Company is an estimate only. The Company shall not be under any liability for any consequences of delay in the delivery of goods or performance of services caused by the force majeure or any circumstances outside the direct control of the Company.

## **9. SALES OF EQUIPMENT- DELIVERY AND ACCEPTANCE**

9.1 This clause 9 shall apply in all cases where the contract is for the supply of equipment and no installation services at site are provided by the company under the contract notwithstanding other services may be provided by the company in conjunction with the equipment.

9.2 The customer shall be deemed to be satisfied with and have accepted the equipment on delivery UNLESS it shall have complied with the provisions of this Clause 9.

9.3 Any claim that the equipment or any part of it has been lost in transit or are damaged, defective or in the case of services of a defect in workmanship shall be notified by the customer to the company within 7 days of delivery of the equipment or completion of the services.

9.4 Any claim under this condition must be in writing and must contain full details of the claim including the part numbers of any allegedly defective equipment or part thereof.

9.5 The company shall be afforded reasonable opportunity and facilities to investigate any claims made under this condition and the customer shall if so requested in writing by the company promptly return the equipment the subject of any claim and any packing materials securely packed and carriage paid to the company for examination.

9.6 The company shall have no liability with regard to any claim in respect of which the customer has not complied with the claims procedures in these conditions.

**10. STORAGE.** If the Company does not receive forwarding instructions sufficient enough to enable it to dispatch the goods within seven days after the date of notification that they are ready for dispatch, the customer shall take delivery or arrange for storage. If the customer does not take delivery or arrange for storage, the Company shall be entitled to arrange storage either at its own works or elsewhere on the customer's behalf and all charges for storage, for insurance or for demurrage shall be payable by the customer.

**11. CARRIAGE.** Where the company undertakes carriage or transport of the goods to the customer, the company does so on behalf of and as the agent for the customer. The customer will pay all carriage costs.

**12. RISK AND INSURANCE.** Risk in the goods and responsibility for insurance becomes that of the customer on the collection of the goods, from the Company's premises by the customer or his agent, including in the circumstances set out in Clauses 9 and 10.

**13. PROPERTY IN GOODS.** Until the company has been paid in full for the goods comprised in this or any other contract between the customer and the company.

13.1 The goods comprised in this contract remain the property of the company, the company reserves the right of disposal of the goods and the customer shall be liable for all costs arising from such disposal

13.2 The Company may recover those goods at any time from the customer if the customer is in default of payment under the terms of his contract with the company, or conveys inability or unwillingness to pay, and for that purpose the Company may, by its servants or agents, enter upon land or premises occupied by the customer where the goods are situated

13.3 If the customer incorporates the goods into other goods or uses them as material for other goods, the property in those other goods becomes that of the Company's

13.4 The customer is entitled to dispose of the goods or such other goods, and pass good title for them, for the account of the Company. On such disposal the customer is under a fiduciary duty to the Company to account for the proceeds to the full extent of his indebtedness. The customer is not acting as the Company's agent for this or any other purpose.

13.5 The company may at any time before title passes and without liability to the customer repossess and dismantle and use or sell any if the equipment and by doing so terminate the customer's rights to sell or otherwise deal in them and for the purposes of determining what if any of the equipment is held by the customer and inspecting them enter any premises of or occupied by the customer.

13.6 The customer grants the company and its agents an irrevocable license to enter at any time vehicles

or premises owned or occupied by the customer or in its possession for the purposes of repossessing and removing any such equipment the property in which has remained in the company under the above clause hereof. The company shall not be responsible for and the customer shall indemnify the company against liability in respect of damage caused to such vehicle or premises in such repossession and removal being damage it was not reasonably practicable to avoid.

13.7 The customer must insure if the equipment is or becomes affixed to any land or building they shall be capable of being identified as the property of the company and removed without material damage to such land or building and to take all necessary steps to prevent title to the equipment from passing to the landlord of such land or building.

13.8 The customer's right to possession of the equipment shall cease if it fails to do anything which would entitle an administrator or administrative receiver to take possession of any assets or would entitle any person to present a petition for winding up.

13.9 The customer shall not exhibit any equipment purchased from the company at any exhibition in the United Kingdom without the prior written consent of a director of the company.

**14. SPECIFICATION.** The Company shall not be under any liability in respect of descriptions, specifications, or other matter in relation to other matter in the relation to goods contained in any material such as brochures, trade publications and descriptive or advertising matter apart from that contained in the contract itself.

## **15. INFORMATION AND ADVICE/ INFORMATION PROVIDED BY CUSTOMERS AND ASSUMPTIONS.**

Where in the company's quotation any information or document is identified as provided by the customer, the company shall be entitled to rely on such information or document for the purposes of discharging its obligations under the contract.

If at any time said assumption is found to be incorrect and correction would effect the performance of the contract in any way whatsoever, any resulting effect on the contract shall be carried out by the company and treated as though it was a variation.

It is the customer's responsibility that the kind and class of goods ordered by him/her are suitable for the purpose. Where practicable the customer shall examine goods before the contract is made, and shall not in any event place any reliance on the Company's skill or judgment or that of its employees or agent in respect of its goods or services. The Company as distributors and not manufacturers, shall not be under any liability for any loss or damage however arising from or attributable to any advice, statement, or representation given by the Company, its employees or agents, to the customer in respect of goods or services, whether regarding performance, capability or suitability for any purpose. Such liability is hereby expressly excluded to the extent permitted by the law.

**16. WARRANTY.** The Company shall pass on the benefits of or grant the customer the same warranties and/or guarantees as the Company receives from its suppliers or the manufacturer of the goods. Except for such warranties or guarantees no condition is made or warranty is given by the Company or is to be implied by law as quality, merchantability, fitness for any purpose, life of wear of the goods in any condition. Nor are any such conditions or warranties made, given or to be implied in respect of services.

In respects of contracts for the international supply of goods or services to states other than in the United Kingdom and the Republic of Ireland, the company shall not be under any liability however arising from death or injury to any person, or any loss of damage caused by or in connection with any defect in the goods or services or any breach of condition or warranty whether express or implied.

**17. LIABILITY.** The liability of the Company in respect of goods and services is limited to the extent of the liability undertaken by the manufacturer or supplier thereof (see clause 16 above) and the Company shall not be under any further or additional liability in respect thereof or for any consequential loss, damage or injury howsoever arising. Such liability is hereby expressly excluded to the extent permitted by law.

**18. ALTERATIONS.** The company shall have the right to effect reasonable or necessary alterations to goods after the contract is made.

**19. ACCESS.** Where the contract is for services to be performed for the customer outside the company premises, it shall be the customer's responsibility to ensure safe and unimpeded access. If access is impeded or work interrupted for any period for reason outside the Company's direct control, the customer shall be liable to the Company for the Company's charges in full for such period.

**20. CUSTOMER'S GOODS.** The Company shall be under no responsibility nor liability for loss or damage however arising for customer's goods either while on the premises of or under control of the Company is transit.

**21. EXHIBITIONS.** The customer shall not exhibit any goods obtained from the Company at any exhibition in the UK or abroad without the consent of a Director of the Company in writing.

**22. NON-PAYMENT.** In addition to such other rights as the Company may have, the Company shall be entitled to charge interest on overdue payments to the Company at the rate of 6 per cent per annum above the base rate of interest for lending at Lloyds TSB Bank Limited.

**23. NON-COMPLIANCE.** In the event of failure by the customer to comply with any of these terms and conditions the customer shall be liable to have withdrawn by the company any discount he may have been granted or to which he may otherwise have become entitled.

**24. LIEN.** The Company shall have, in addition to such rights of lien as it may otherwise be entitled by law, a general lien on all goods of the customer in the Company's possession for the unpaid price of goods sold and delivered or services rendered to the customer under any contract with them.

**25. INSOLVENCY.** If, before the customer makes payment in full, the customer becomes insolvent or bankrupt or enters into a scheme of arrangement or composition with creditors or goes into liquidation or is put into the hands of a receiver or commits an act of bankruptcy or if the customer expressly or impliedly states his/its inability or unwillingness to pay the price, the company shall forthwith be entitled to exercise all or any of the following rights, namely to retain all money paid to the customer, to stop goods in transit, to exercise a lien over them to resell them and to claim from the customer any further loss arising in any manner whatsoever and to be indemnified by him, to elect to treat the agreement as repudiated or as continuing, provided always that the company will not retain money already paid or arising on a resale in excess of the full loss and damage suffered by the company but if the net proceeds of the sale plus retained money do not satisfy the Company's full loss, the company shall be entitled to claim from the customer such sum as will satisfy the full loss.

**26. CANCELLATION OF ORDERS.** Orders for equipment which has to be made specially for the customer and/or for which the company has placed an order with a manufacturer will be charged in full unless written notice of cancellation is received not less than 8 weeks before the delivery date notified to the customer, and providing manufacture of such equipment or any component has not commenced at the date of that notice. Order for stock items may be cancelled by written notice at any time before the equipment is allocated or set aside for the contract by the company but if the cancellation is received after such equipment or components have been so allocated or set aside by the company then a reasonable packing and handling charge will be payable by the customer.

**27. FORBEARANCE.** No forbearance indulgence or delay by the Company in forcing or insisting on any of the terms and conditions of this agreement shall prejudice the Company's rights to enforce or insist upon them.

**28. FORCE MAJEURE.** The company shall not be liable for any such failure in the performance of any of its obligations under the contract caused by factors outside its control.

**29. LAW.** The law applicable to all contracts of the company with customers including out with the United Kingdom and Republic of Ireland is English Law. Any claim or action brought by such a customer is subject to the exclusion jurisdiction of the Courts of England.

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**NOTE TO CLIENT - WHEN HIRING EXTERNAL FUEL TANKS IT IS THE CLIENT'S RESPONSIBILITY TO SUPPLY SECONDARY CONTAINMENT SO THAT ANY SPILLAGE HOWSOEVER CAUSED IS THE CLIENT'S RESPONSIBILITY.**

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