

Terms & Conditions

Please note that these terms and conditions limit the liability of the Company and that the Customer will not in all circumstances be entitled to compensation, or full compensation, for any loss and is therefore recommended to seek professional advice as to appropriate insurance cover to be maintained during the performance of the Services.

1. Scope

1.1 These terms and conditions shall apply to all Services provided by the Company. No other terms and conditions will apply to any contract entered into by the Company unless expressly agreed in writing by a director of the Company in writing

1.2 Where the services undertaken by the Company comprise or include any of the following then the Conditions indicated below, copies of which are attached or available on request, shall be applicable to the performance of these services:

Carriage of goods on public roads Road Haulage Association - Conditions of Carriage (1998)
Warehousing of Goods - Road Haulage Association - Conditions of Storage (1998)
Plant Hire - - Construction Plant-Hire Association- Model Conditions for the Hiring of Plant (2001)
Contract Lifting Services - Construction Plant-Hire Association- Model Conditions for Contract Lifting Services 2004)

For the avoidance of doubt in the event of any ambiguity between these conditions and the conditions listed in 1.2 above, these conditions will take precedence.

2. Definitions

2.1 **"Client"** means the person or organisation requiring the services to be carried out, and includes the Client's employees, agents, assignees, successors and personal representatives.

2.2 **"Company"** means the Joseph Merritt Group plc, Merritt Storage Solutions Ltd, Plant Hire (Midlands) Ltd, and Merritts International Machinery Installations Ltd and includes its assignees, successors and personal representatives.

2.3 **"Services"** includes letting plant on hire, contract lifting services, removal, transportation, storage and installation of goods

3. Quotations

3.1 Unless otherwise specified by the Company in writing, every quotation is open for a period of thirty days, after which the quotation will be subject to confirmation.

3.2 Unless otherwise specifically noted by the Company in writing, every quotation is based on the assumption that the following circumstances apply:-

- a) The work will be carried out under the Company's direction without interruption and on a clear site with adequate approaches suitable for the necessary movement of the Contract Equipment.
- b) The Client will have all permits to work/work permissions arranged and the relevant goods, Consignment and/or machinery will be in a state of readiness to allow the Company to commence the services in a prompt fashion.
- c) The Client is responsible for ensuring that the ground, floors or other surface will be firm, level and in good

condition, and will provide proper support for the loads imposed by the Contract Equipment as stated by the Company and also including the weight of the item(s) to be lifted as stated by the Client. The Client will indicate the presence of voids and/or basements below the ground, floor or other surface and ensure the suitability of support including testing of samples as appropriate.

- d) The Services will be carried out in daylight during normal working hours unless otherwise agreed.
- e) All information provided by the Client is complete, true and accurate.

3.3 Where all or any of the above circumstances do not apply, the Company may issue a revised quotation for the Services. If this is not accepted by the Client, who shall be liable for the costs so far incurred by the Company, the Company may elect to be discharged from the contract without further liability to the Client.

3.4 Any additional work, which the Company is required to perform, must be authorised by the Client in writing before such additional work begins and will involve an extra charge, additional to the original contract price. Such additional work will be deemed to be a new Contract and payment for the original work must be paid on time. Where no formal order for additional work is provided then the Company reserves the right to pass on any or all costs associated with leaving and returning to the site.

3.5 Where a quotation has multiple sections, the pricing of each sub- section assumes acceptance of the quotation in its entirety and the Company reserves the right to adjust our quotation, if only a part of the quotation is accepted by the Client.

3.6 The contract price may be increased by the amount of any costs incurred by the Company as a result of delays or cancellations in commencing or completing the contract work due to circumstances beyond the Company's reasonable control including but not limited to inclement weather or industrial action.

3.7 Any handling charges or fees arising from any payment method (to include Credit Cards, CHAPS, Bank Transfers etc.) will be added to the contract price and be at the expense of the Client.

4. Formation and Termination

4.1 A contract involving Services over an indeterminate period, may be terminated by either party giving the other party not less than seven days' notice in writing, or such other notice as may be agreed between the parties. The Company reserves the right to terminate the contract after seven days following a performance review by either party.

4.2 Where the Services include the storage of goods either the Company or the Client may at any time give not less than seven clear days' notice in writing to the other of its intention to terminate the Contract and notwithstanding that the Company may have released the goods, Consignment and/or machinery before the expiry of such notice, all charges shall be payable to the date when the notice would have expired.

4.3 The Company reserves the right to request full or partial payment in advance or may terminate the contract and require the removal of the Contract Goods or any part thereof, forthwith, if in the Company's opinion the Client's financial position becomes unsatisfactory or if the Client ceases to pay its debts in the ordinary course of business or cannot pay its debts as they become due, or (being a company) is deemed to be unable to pay its debts or has a winding up petition issued against it or a receiver appointed of all or any part of its assets, or if a proposal is

made for a composition with creditors or scheme of arrangement or for an administrator to be appointed in respect of all or any part of the business or assets of the Client or (being an individual) commits an act of bankruptcy or has a bankruptcy petition issued against him, or the Client is in breach of an of its obligations arising under the Contract.

4.4 Acceptance of the Company's personnel and/or contract equipment on site implies acceptance of all these terms and conditions.

4.5 Company reserves the right to have the Client settle all outstanding accounts before goods, Consignment and/or machinery are released.

4.6 All written communications from the Company to the Client shall deem to have been served if delivered or posted to the last known address of the Client

4.7 Cancellations: In the event of a cancellation of a booking at short notice, we will apply the following charges:

Up to 48 Hours before Services start time: No Charge
 Within 48 to 24 Hours of Services start time: 50% of contract price
 Within 24 Hours of Services start time: 100% of contract price

The start time is deemed to be at 8:00AM on the morning of the first day of the contract unless otherwise agreed in writing.

4.8 The Company reserves the right to pass on any and all expenses, including legal fees, associated with collecting unpaid or outstanding accounts

5. Liability of the Company

The Company shall be liable for loss of or for damage or injury to persons or property when caused solely by the Company's negligence in the performance of the Services and shall not be liable for any such loss, damage or injury due in whole or in part to any negligence on the part of the Client or any third party.

The Company shall not be liable or responsible for any of the following, however arising:-

5.1 Asbestos - Liability arising from or caused by any work involving the manufacture, mining processing, use, installation, storage, removal, stripping out, demolition, disposal, distribution, inspection or testing of or exposure to asbestos, asbestos fibres, asbestos dust, or asbestos containing materials.

5.2 Electronic Data - Liability arising from:-

- a) Loss, alteration or impairment of, or damage to, information and/or data in electronic form.
- b) Arising from malicious acts of any person carried out by electronic means.
- c) For defamation or harassment carried out by electronic means.

5.3 Liability which is the inevitable or unavoidable consequence of the performance of a contract.

5.4 Damage to the goods, Consignment and/or machinery by disappearance or shortage is discovered only when an inventory is taken or which is not traceable to an event.

5.5 Loss or damage resulting from commissioning or de-commissioning.

5.6 The cost of normal upkeep or making good.

5.7 Damage as a result of chipping of painted surfaces or scratching any surface.

5.8 Damage caused by the use of any tool or process applied to the Contract Goods during maintenance, repair, alteration, modification or overhaul.

5.9 Any provision whatsoever of any lifting equipment including lifting hooks, transport or lifting brackets, frames or plates, spreader or lifting beams, slings, chains or shackles, jacks and/or skates deemed to be specific to any machine, machinery or machinery type. This is to be provided free issue to the Company by the Client unless specifically noted in the contract.

5.10 Charges associated with road closures, removal of street furniture, highways or police escort costs unless specifically detailed in the quotation. Merritts reserves the right to add or amend these charges in our invoice price without notice should these charges be levied to us by the authorities or a third party

6. Payment

6.1 All prices quoted are exclusive of VAT, which will be charged at the rate prevailing at the date of invoice.

6.2 All charges made by the Company are payable strictly thirty days net from the date of the Company's invoice or as set out in the contract offer unless specifically arranged otherwise.

6.3 All charges are payable in full and the Client shall not withhold payment as retention or discount or for any reason whatsoever, regardless of any arrangements for payment to the Client by another party under any other contract. Any withheld payments will be subject to late payment charges as per clause 6.4 below.

6.4 The Client will promptly notify the Company of any disputed invoices and after seven days all charges will be deemed to have been accepted by the Client. The Company's policy is to enforce its right to add interest and administration costs for late payments under the Late Payment of Commercial Debts Regulations 2002 or any other subsequent Regulations that supersede them.

6.5 The Company shall have a general lien over any goods and equipment, or the property of the Client in the custody of the Company, for unpaid debts due and payable to the Company by the Client. The Company shall notify the Client when exercising the right of lien under this clause and if the Client fails to settle all such debts within one month of notification, the Company may sell, as agent of the Client, all or any of the items subject to the lien and apply the proceeds towards payment of the outstanding debt and the expenses of the sale together with interest accrued to that date.

7. Storage

7.1 Payment for storage services must be made monthly in advance.

7.2 The minimum storage time is deemed to be one month unless otherwise agreed in writing by the Company.

7.3 For any contract over one month's duration the Company will require one month's notice, in writing, to terminate the contract. The Company reserves the right to apply the full monthly charge irrespective of the remaining time within the month during which the notice was given.

7.4 The minimum storage area is deemed to be 1,000 sq ft unless otherwise agreed in writing by the Company.

7.5 All storage areas agreed will be increased by an additional 15% to allow for access.

7.6 The Customer may by arrangement with the Company view the goods in storage subject to not less than 7 days' notice. The time of such viewing to be at the sole discretion of the Company

7.7 Unless expressly agreed otherwise in writing and an appropriate charge made, the Company at its sole discretion may move the stored goods to a different warehouse, location or site.

7.8 All loading and unloading of vehicles, good etc. at the Company's sites shall be undertaken solely by the company irrespective of the ownership and/or use of such vehicles, goods etc. The Company accepts no liability whatsoever for any loss or damage that results from operations undertaken in breach of this condition regardless of any contribution to such loss or damage by the Company.

7.9 Loading and unloading times will be at the sole discretion of the Company and shall be agreed at least 7 days in advance.

Road Haulage Association Conditions of Carriage 1998

The Company (hereinafter referred to as "the carrier") is not a common carrier and accepts goods for carriage only upon that condition and the Conditions set out below. No servant or agent of the Carrier is permitted to alter or vary these Conditions in any way unless expressly authorised in writing to do so by a Director, Principal Partner or other authorised person. If any legislation is compulsorily applicable to the Contract; and any part of these Conditions is incompatible with such legislation, such part shall, as regards the Contract, be overridden to that extent and no further.

1. Definition

In these conditions:

"Customer" means the person or company who contracts for the services of the Carrier including any other carrier who gives a Consignment to the Carrier for carriage.

"Contract" means the contract of carriage between the Customer and the Carrier.

"Consignee" means the person or company to whom the Carrier contracts to deliver the Consignment.

"Consignment" means goods, whether a single item or in bulk or contained in one parcel, package or container, as the case may be, or any number of separate items, parcels, packages or containers sent at one time in one load by or for the Customer from one address to one address.

"Dangerous Goods" means goods named individually in the Approved Carriage List issued from time to time by the Health and Safety Commission, explosives, radioactive material, and any other goods presenting a similar hazard.

2. Parties and Sub-Contracting

2.1 The Customer warrants that he is either the owner of the Consignment or is authorised by such owner to accept these Conditions on such owner's behalf.

2.2 The Carrier and any other carrier employed by the Carrier may employ the services of any other carrier for the purpose of fulfilling the Contract in whole or in part and the name of every other such carrier shall be provided to the Customer upon request. other such carrier shall be provided to the Customer upon request.

2.3 The Carrier contracts for itself and as agent of and trustee for its servants and agents and all other carriers referred to in (2) above and such other carriers' servants and agents and every reference in these Conditions to "the Carrier" shall be deemed to include every other such carrier, servant and agent with the intention that they shall have the benefit of the Contract and collectively and together with the Carrier be under no greater liability to the Customer or any other party than is the Carrier hereunder.

2.4 Notwithstanding Condition 2(3) the carriage of any Consignment by rail, sea, inland waterway or air is arranged by the Carrier as agent of the Customer and shall be subject to the Conditions of the rail, shipping, inland waterway or air carrier contracted to carry the Consignment. The Carrier shall be under no liability whatever to whomsoever and howsoever arising in respect of such carriage: Provided that where the Consignment is carried partly by road and partly by such other means of transport any loss, damage or delay shall be deemed to have occurred while the Consignment was being carried by road unless the contrary is proved by the Carrier.

3. Dangerous Goods

Dangerous Goods must be disclosed by the Customer and if the Carrier agrees to accept them for carriage they must be classified, packed and labelled in accordance with the statutory regulations for the carriage by road of the substance declared. Transport Emergency Cards (Tremcards) or information in writing in the manner required by the relevant statutory provisions must be provided by the Customer in respect of each substance and must accompany the Consignment.

4. Loading and Unloading

4.1 Unless the Carrier has agreed in writing to the contrary with the Customer:

a) The Carrier shall not be under any obligation to provide any plant, power or labour other than that carried by the vehicle, required for loading or unloading of the Consignment.

b) The Customer warrants that any special appliances required for loading or unloading the Consignment which are not carried by the vehicle will be provided by the Customer or on the Customer's behalf

c) The Carrier shall be under no liability whatever to the Customer for any damage whatever, however caused, if the Carrier is instructed to load or unload any Consignment requiring special appliances which, in breach of the warranty in (b) above, have not been provided by the Customer or on the Customer's behalf.

d) The Carrier shall not be required to provide service beyond the usual place of collection or delivery but if any such service is given by the Carrier it shall be at the sole risk of the Customer

4.2 The Customer shall indemnify the Carrier against all claims and demands whatever which could not have been made if such instructions as are referred to in (1) (c) of this Condition and such service as is referred to in (1) (d) of this Condition had not been given.

5. Signed Receipts

The Carrier shall, if so required, sign a document prepared by the sender acknowledging the receipt of the Consignment but no such document shall be evidence of the condition or of the correctness of the declared nature, quantity or weight of the Consignment at the time it is received by the Carrier and the burden of proving the condition of the Consignment on receipt by the Carrier and that the Consignment was of the nature, quantity or weight declared in the relevant document shall rest with the Customer.

6. Transit

6.1 Transit shall commence when the Carrier takes possession of the Consignment whether at the point of collection or at the Carrier's premises.

6.2 Transit shall (unless otherwise previously determined) end when the Consignment is tendered at the usual place of delivery at the Consignee's address within the customary cartage hours of the district: Provided that:

- a) if no safe and adequate access or no adequate unloading facilities there exist then transit shall be deemed to end at the expiry of one clear day after notice in writing (or by telephone if so previously agreed in writing) of the arrival of the Consignment at the Carrier's premises has been sent to the Consignee: and
- b) when for any other reason whatever a Consignment cannot be delivered or when a Consignment is held by the Carrier 'to await order' or 'to be kept till called for' or upon any like instructions and such instructions are not given or the Consignment is not called for and removed within a reasonable time, then transit shall be deemed to end.

7. Undelivered or Unclaimed Consignments

Where the Carrier is unable for any reason to deliver a Consignment to the Consignee or as he may order, or where by virtue of the proviso to Condition 6(2) hereof transit is deemed to be at an end, the Carrier may sell the Consignment, and payment or tender of the proceeds after deduction of all proper charges and expenses in relation thereto and of all outstanding charges in relation to the carriage and storage of the Consignment shall (without prejudice to any claim or right which the Customer may have against the Carrier otherwise arising under these Conditions) discharge the Carrier from all liability in respect of such Consignment, its carriage and storage: Provided that:

7.1 The Carrier shall do what is reasonable to obtain the value of the Consignment:
And

7.2 The power of sale shall not be exercised where the name and address of the sender or of the Consignee is known unless the Carrier shall have done what is reasonable in the circumstances to give notice to the sender or, if the name and address of the sender is not known to the Consignee that the Consignment will be sold unless within the time specified in such notice, being a reasonable time in the circumstances from the giving of such notice, the Consignment is taken away or instructions are given for its disposal.

8. Carrier's Charges

8.1 The Carrier's charges shall be payable by the Customer without prejudice to the Carrier's rights against the Consignee or any other person: Provided that when any Consignment is consigned 'carriage forward' the Customer shall not be required to pay such charges unless the Consignee fails to pay after a reasonable demand has been made by the Carrier for payment thereof.

8.2 Charges shall be payable when due without reduction or deferment on account of any claim, counterclaim or set off. The Carrier shall be entitled to interest at 8 per cent above the Bank of England Base Rate prevailing at the date of the Carrier's invoice or account calculated on a daily basis on all amounts overdue to the Carrier.

9. Liability for Loss and Damage

9.1 The Customer shall be deemed to have elected to accept the terms set out in (2) of this Condition unless, before the transit commences, the Customer has agreed in writing that the Carrier shall not be liable for any loss or mis-delivery of or damage to or in connection with the Consignment however or whenever caused and whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrongdoing on the part of the Carrier, its servants, agents or sub-contractors.

9.2 Subject to these Conditions the Carrier shall be liable for:

a) physical loss, mis-delivery of or damage to living creatures, bullion, money, securities, stamps, precious metals or precious stones comprising the Consignment only if

- i) The Carrier has specifically agreed in writing to carry any such items; and
- ii) The Customer has agreed in writing to reimburse the Carrier in respect of all additional costs which result from the carriage of said items: and
- iii) The loss, mis-delivery or damage is occasioned during transit and is proved to be due to the negligence of the Carrier, its servants, agents or sub-contractors:

b) Physical loss, mis-delivery, or damage to any other goods comprising the Consignment unless the same has arisen from, and the Carrier has used reasonable

- i) Act of God; care to minimise the effects of:
- ii) Any consequences of war, invasion, act of foreign enemy, hostilities (whether war or not), civil war, rebellion, insurrection, terrorist act, military or usurped power or confiscation, requisition, or destruction or damage by or under the order of any government or public or local authority;
- iii) Seizure or forfeiture under legal process;
- iv) Error, act, omission, mis-statement or misrepresentation by the Customer or other owner of the Consignment or by servants or agents of either of them;
- v) Inherent liability to wastage in bulk or weight, faulty design, latent defect or inherent defect, vice or natural deterioration of the Consignment;
- vi) Insufficient or improper packing;
- vii) Insufficient or improper labelling or addressing;
- viii) Riot, civil commotion, strike, lockout, general or partial stoppage or restraint of labour from whatever cause;
- ix) Consignee not taking or accepting delivery within a reasonable time after the Consignment has been tendered

9.3 The carrier shall not in any circumstances be liable for loss or damage arising after transit is deemed to have ended within the meaning of Condition 6(2) hereof,

whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrongdoing on the part of the Carrier, its servants, agents or sub-contractors

10. Fraud

The Carrier shall not in any circumstances be liable in respect of a Consignment where there has been fraud on the part of the Customer or the owner, or the servants or agents of either, in respect of that Consignment, unless the fraud has, been contributed to by the complicity of the Carrier or of any servant of the Carrier acting in the course of his employment.

11. Limitation of Liability

11.1 Except as otherwise provided in these Conditions, the liability of the Carrier in respect of claims for physical loss, mis-delivery of or damage to goods comprising the Consignment, howsoever arising, shall in all circumstances be limited to the lesser of

- a) The value of the goods actually lost, mis-delivered or damaged; or
- b) The cost of repairing any damage or of reconditioning the goods; or
- c) a sum calculated at the rate of £1,300 Sterling per tonne on the gross weight of the goods actually lost, mis-delivered or damaged shall be taken to be their invoice value if they have been sold and shall otherwise be taken to be the replacement cost thereof to the owner at the commencement of transit and in all cases shall be taken to include any Customs & Excise duties or taxes payable in respect of those goods: Provided that:

- (i) in the case of loss, mis-delivery of or damage to a part of the Consignment the weight to be taken into consideration in determining the amount to which the Carrier's liability is limited shall be only the gross weight of that part regardless of whether the loss, mis-delivery or damage affects the value of other parts of the Consignment;
- (ii) Nothing in this Condition shall limit the liability of the Carrier to less than the sum of £10;
- (iii) The Carrier shall be entitled to proof of the weight and value of the whole of the Consignment and of any part thereof lost, mis-delivered or damaged;
- (iv) The Customer shall be entitled to give to the Carrier written notice to be delivered at least 7 days prior to commencement of transit requiring that the £1,300 per tonne limit in 11(1)(c) above be increased but not so as to exceed the value of the Consignment, and in the event of such notice being given the Customer shall be required to agree with the Carrier an increase in the carriage charges in consideration of the increased limit, but if no such agreement can be reached the aforementioned £1,300 per tonne limit shall continue to apply.

11.2 The liability of the Carrier in respect of claims for any other loss whatsoever (including indirect or consequential loss or damage and loss of market), and howsoever arising in connection with the Consignment, shall not exceed the amount of the carriage charges in respect of the Consignment or the amount of the claimant's proved loss, whichever is the lesser, unless:

- a) At the time of entering into the contract with the Carrier the Customer declares to the Carrier a special interest in delivery in the event of physical loss, mis-delivery or damage or of an agreed time limit being exceeded and agrees to pay a surcharge calculated on the amount of that interest, and
- b) At least 7 days prior to the commencement of transit the Customer has delivered to the carrier written confirmation

of the special interest, agreed time limit and amount of the interest

12. Indemnity to the Carrier

The Customer shall indemnify the Carrier against::

12.1 All liabilities and costs incurred by the Carrier (including but not limited to claims, demands, proceedings, fines, penalties, damages, expenses and loss of or damage to the carrying vehicle and to other goods carried) by reason of any error, omission, mis-statement or misrepresentation by the Customer or other owner of the Consignment or by any servant or agent of either of them, insufficient or improper packing, labelling or addressing of the Consignment or fraud as in Condition 10.

12.2 All claims and demands whatsoever (including for the avoidance of doubt claims alleging negligence) by whomsoever made or howsoever arising (including but not limited to claims caused by or arising out of the carriage of Dangerous Goods and claims made upon the Carrier by HM Customs and Excise in respect of dutiable goods consigned in bond) in excess of the liability of the Carrier under these Conditions in reconnection with, the Consignment whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrongdoing on the part of the Carrier, its servants, agents or sub-contractors.

13. Time Limits for Claims

13.1 The Carrier shall not be liable for:

- a) Damage to the whole or any part of the Consignment, or physical loss, mis-delivery or non-delivery of part of the Consignment unless advised thereof in writing within seven days, and the claim is made in writing within fourteen days, after termination of transit.
- b) Any other loss unless advised thereof in writing within twenty-eight days, and the claim is made in writing within forty-two days. After the commencement of transit. Provided that if the Customer proves that:

- (i) It was not reasonably possible for the Customer to advise the Carrier or make a claim in writing within the time limit applicable, and
- (ii) Such advice or claim was given or made within a reasonable time; the Carrier shall not have the benefit of the exclusion of liability afforded by this Condition.

13.2 The Carrier shall in any event be discharged from all liability whatsoever and howsoever arising in respect of the Consignment unless suit is brought within one year of the date when transit commenced.

13.3 In the computation of time where any period provided by these Conditions is seven days or less, Saturdays, Sundays and all statutory public holidays shall be excluded.

14. Lien

14.1 The Carrier shall have a general lien against the Customer, where the Customer is the owner of the Consignment, for any monies whatever due from the Customer to the Carrier. If such a lien is not satisfied within a reasonable time, the Carrier may, at its absolute discretion sell the Consignment, or part thereof, as agent for the customer and apply the proceeds towards the monies due and the expenses of the retention, insurance and sale of the Consignment and shall, upon accounting

to the Customer for any balance remaining, be discharged from all liability whatever in respect of the Consignment.

14.2 Where the Customer is not the owner of the Consignment, the Carrier shall have a particular lien against the said owner, allowing the Carrier to retain possession, but not to dispose of, the Consignment against monies due from the Customer in respect of the Consignment.

15. Unreasonable Detention

The Customer shall be liable to pay any demurrage for unreasonable detention of any vehicle, trailer, container or other equipment but the rights of the Carrier against any other person in respect thereof shall remain unaffected

16. Law and Jurisdiction

The Contract shall be governed by English Law and United Kingdom courts alone shall have jurisdiction in any dispute between the Carrier and the Customer.

Road Haulage Association Conditions of Storage 1998

Please note that the customer will not in all circumstances be entitled to compensation, or to full compensation, for any loss and is therefore recommended to seek professional advice as to appropriate insurance cover to be maintained while goods are in storage.

The Company (herein after referred to as the 'Contractor') accept Goods for Storage only upon the Conditions set out below. No servant or agent of the Contractor is permitted to alter or vary these Conditions in any way unless expressly authorised in writing to do so by a Director, Principal, Partner or other authorised person. If any legislation is compulsorily applicable to the Contract and any part of these Conditions is incompatible with such legislation, such part shall, as regards the Contract, be overridden to that extent and no further.

1. Definitions

'Customer' means the person or company who contracts for the services of the Contractor. 'Contract' means the contract between the Customer and the Contractor for the Storage of the goods.

'Goods' means goods whether a single item or in bulk or contained in one parcel, package or container as the case may be or any number of separate parcels, packages or containers stored under the Contract.

'Storage' means the storage and handling of Goods including unloading and loading goods and movement of Goods between stores and such ancillary services as the Contractor may agree to in writing, and the words "Store" and "Stored" shall be construed accordingly.

'Dangerous Goods' means

- a) Goods named individually in the Approved Carriage List issued from time to time by the Health and Safety Commission, explosives, radio-active materials, any dangerous weapon, drug, poison, damaging article or substance or any article or substance likely to encourage vermin or other pests or likely to cause infection; or
- b) Any Goods which, although, not included in (i) above, in the sole opinion of the Contractor, present a similar hazard.

2. Parties and Sub-Contracting

2.1 The Customer warrants that he is either the owner of the Goods or is authorised by such owner to accept these Conditions on such owner's behalf.

2.2 The Customer also warrants that the Goods are as described to the Contractor with regard to their nature, weight, quantity, condition and dimensions.

2.3 The Customer also warrants that Dangerous Goods accepted for Storage comply with all relevant statutory regulations for the time being in force concerning the storage, carriage, packaging and labelling of such articles

2.4 The Contractor and any other contractor employed by the Contractor may employ the services of any other contractor for the purpose of fulfilling the Contract in whole or in part and the name of every such other contractor shall be provided to the Customer on request.

2.5 The Contractor contracts for itself and as agent of and trustee for its servants and agents and all other contractors referred to in (4) above and such other contractor's servants and agents and every reference in these Conditions to the "Contractor" shall be deemed to include every other such contractor, servant and agent with the intention that they shall have the benefit of the contract and collectively and together with the Contractor be under no greater liability to the Customer or any other party than is the Contractor hereunder.

3. Dangerous Goods

Dangerous Goods must be disclosed by the Customer and if the Contractor agrees to accept them for Storage such Goods must be accompanied by a full written declaration of their nature and contents and be properly and safely packed and labelled in accordance with any legislation for the time being in force for the Storage and carriage of such articles or substances and the Customer shall, whilst the Dangerous Goods are being Stored by the Contractor, keep the Contractor informed of any statutory modification or re-enactment thereof or any rules or regulations made thereunder or rules or recommendations made by any relevant authority, concerning the Storage or handling of Dangerous Goods. The Customer shall, whilst the Dangerous Goods are being Stored by the Contractor, keep the Contractor informed as to its recommendations on the handling and storage of such Goods including all health and safety recommendations and prior to arranging despatch of the Dangerous Goods, the Customer shall provide the Contractor with such information in writing in relation to the Dangerous Goods as will enable the Contractor to know the identity of the substances comprising the Dangerous Goods, the nature of the hazards created by such substances, and the action to be taken in an emergency. The Contractor shall be entitled to disclose the information supplied by the Customer to its servants, agents and other contractors referred to in condition 2 (5), and any relevant Government department

4. Notice of Delivery or Collection

The Customer shall give the Contractor not less than 24 hours' notice of its intention to deliver or remove Goods at the premises of the Contractor.

5. Receipt of Goods

5.1 Following acceptance of the Goods for Storage the Contractor shall if required provide the Customer with a receipt but no such document shall be evidence of the condition or the correctness of the declared nature, property, chemical composition, quantity, quality, or weight of the Goods at the time they are received by the Contractor and the burden of proving the condition of the Goods on receipt by the Contractor and that the Goods were of the nature, property, chemical composition, quantity, quality or weight declared in the relevant document shall rest with the Customer.

5.2 The Contractor shall notify the Customer of any pre-existing damage to and/or deficiency in the Goods to be stored, within a reasonable time of the Contractor becoming aware of such damage or deficiency. Such Goods will, in the absence of any express agreement to the contrary between the Customer and the Contractor, be returned to the Customer at the Customer's expense.

6. Termination

6.1 Either the Contractor or Customer may at any time give not less than 21 clear days' notice in writing to others of its intention to terminate the Contract and notwithstanding that the Contractor may have released the Goods before the expiry of such notice, all charges shall be payable to the date when the notice would have expired.

6.2 The Contractor may require the removal of the Goods or any part thereof, forthwith, if in the Contractor's opinion:-

- a) The Customer's financial position becomes unsatisfactory, or if the Customer ceases to pay its debts in the ordinary course of business or cannot pay its debts as they become due, or (being a company) is deemed to be unable to pay its debts or has a winding up petition issued against it or a receiver appointed or all or any part of its assets, or if a proposal is made for composition with creditors or scheme of arrangement or for an administrator to be appointed in respect of all or any part of the business or assets of the Customer, or (being an individual) commits an act of bankruptcy or has a bankruptcy petition issued against him or the Customer is in breach of any of its obligations arising under the Contract;
- b) The Storage of Goods poses a risk to the health and safety of the Contractor, its servants or any third party or to the Contractor's property or any third party property;
- c) The continued Storage of the Goods will result in the Goods perishing or otherwise deteriorating and/or will cause damage to other goods or property

6.3 If the Goods or any part thereof are not removed after notice is given by the Contractor to the Customer in accordance with paragraphs (1) and (2) above, then the Contractor may, at its absolute discretion, sell the Goods after the lapse of a reasonable period of time after notice is given by the Contractor of its intention to sell the Goods or part thereof.

7. Revision of Storage Charges and Conditions of Storage

The Contractor's charges and these Conditions may be revised by the Contractor from time to time. Any such revision shall not become effective until the expiry of twenty-one (21) days from the date notice of proposed

revision is given to the Trader in accordance with Condition 15 below.

8. Contractor's Charges

8.1 Goods accepted for storage during any calendar week (Monday to Sunday both inclusive) shall be charged for as though they were received on the first day of such week.

8.2 Charges shall be payable when due without reduction or deferment on account of any claim, counterclaim or set-off. The Contractor shall be entitled to interest at 8 per cent above the Bank of England Base Rate prevailing at the date of the Contractor's invoice or account, calculated on a daily basis on all amounts overdue to the Contractor.

8.3 Should the delivery of Goods be postponed or cancelled by the Customer, the Contractor shall be entitled to recover from the Customer all expenses incurred by the contractor and all rental charges in respect of space reserved for such Goods.

9. Liability for Loss and Damage

9.1 The Customer shall be deemed to have elected to accept the terms set out in (2) of this Condition unless, before the Goods are Stored, the Customer has agreed in writing that the Contractor shall not be liable for any loss of or mis-delivery of or damage to or in connection with the Goods however or whenever caused and whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrongdoing on the part of the Contractor, its servants, agents or sub-contractors.

9.2 Subject to these conditions the contractor shall be liable for:-

- a) Physical loss, mis-delivery of or damage to living creatures, bullion, money, securities, stamps, precious metals or precious stones only if:
 - i) The Contractor has specifically agreed in writing to Store any such items; and
 - ii) The Customer has agreed in writing to reimburse the Contractor in respect of all additional costs which result from the Storage of the said items; and
 - iii) The loss, mis-delivery or damage is occasioned during Storage and is proved to be due to the negligence of the Contractor, its servants, agents or sub-contractors.
- b) Physical loss, mis-delivery of or damage to any other Goods occasioned during Storage unless the same has arisen from, and the Contractor has used reasonable care to minimise the effects of:
 - i) Act of God;
 - ii) Any consequence of war, invasion, act of foreign enemy, hostilities (whether war or not), civil war, rebellion, insurrection, terrorist act, military or usurped power or confiscation, requisition, or destruction or damage by or under the order of any government or public or local authority;
 - iii) Seizure or forfeiture under legal process;
 - iv) Error, act, omission, mis-statement or misrepresentation by the Customer or other owner of the Goods or by servants or agents of either of them;
 - v) Inherent liability to wastage in bulk or weight, faulty design, latent defect or inherent defect, vice or natural deterioration of the Goods;

- vi) Leakage or deficiency of Goods of a perishable or leaky nature, moth, vermin, and insects, atmospheric or climatic causes;
- vii) Insufficient or improper packing
- viii) Insufficient or improper labelling or addressing;
- ix) Riot, civil commotion, strike, lockout, general or partial stoppage or restraint of labour from whatever cause
- x) Any other cause beyond the reasonable control of the Contractor

9.3 The Contractor shall not in any circumstances be liable for loss of or damage to Goods arising after Storage of such Goods has intention to ended, whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrong doing on the part of the Contractor, its servants, agents or sub- contractors.

10. Fraud

The Contractor shall not in any circumstances be liable in respect of Goods where there has been fraud on the part of the Customer or the owner, or servants or agents of either, in respect of those Goods, unless the fraud has been contributed to by the complicity of the Contractor or of any servant of the Contractor acting in the course of his employment.

11. Limitation of Liability

11.1 Except as otherwise provided in these conditions, the liability of the Contractor in respect of claims for physical loss, mis-delivery of or damage to Goods, however arising, shall in all circumstances be limited to the less of:

- a) The value of the Goods actually lost, mis-delivered or damaged; or
- b) The cost of repairing any damage or of reconditioning the Goods; or
- c) A sum calculated at the rate of £100 Sterling per tonne on the gross weight of the Goods actually lost, mis-delivered damaged; and the value of the Goods actually lost, mis-delivered or damaged shall be taken to be their invoice value if they have been sold and shall otherwise be taken to be the replacement cost thereof to the owner at the commencement of transit, and in all cases shall be taken to include any Customs and Excise duties or taxes payable in respect of those Goods:
Provided that:

- i) In the case of loss, mis-delivery of or damage to a part of the Goods the weight to be taken into consideration in determining the amount to which the Contractor's liability is limited shall be only the gross weight of that part regardless of whether the loss, mis-delivery or damage affects the value of others parts of the Goods;
- ii) Nothing in this Condition shall limit the liability of the Contractor to less than the sum of £10;
- iii) The contractor shall be entitled to proof of the weight and value of the whole of the Goods and of any part thereof lost, mis-delivered or damaged;
- iv) The Customer shall be entitled to give the Contractor written notice to be delivered at least 7 days prior to commencement of Storage requiring that the £100 per tonne limit in 11(1) (c) above be increased, but not so as to exceed the value of the Goods, and in the event of such notice being given the Customer shall be required to agree with the Contractor an increase in the Storage charges in consideration of the increased limit, but if no such agreement can be reached the aforementioned £100 per tonne limit shall continue to apply.

11.2 The liability of the Contractor in respect of claims for any other loss whatsoever (including indirect or consequential loss or damage and loss of market), and however arising in connection with the Goods, shall not

exceed the amount of the Storage charges in respect of the Goods or the amount of the claimant's proved loss, whichever is the lesser, unless:

- a) At the time of entering into the Contract with the Contractor the Customer declares to the Contractor a special interest in Storage in the event of physical loss, mis-delivery or damage and agrees to pay a surcharge calculated on the amount of that interest, and
- b) At least 7 days prior to the commencement of Storage the Customer has delivered to the Contractor written confirmation of the special interest and amount of the interest

12. Indemnity to the Contractor

The Customer shall indemnify the Contractor against:

- a) All liabilities and costs incurred by the Contractor (including but not limited to claims, demands, proceedings, fines, penalties, damages, expenses, and loss of or damage to the place of Storage and to other goods stored) by reason of any error, omission, mis- statement or mis-representation by the Customer or other owner of the Goods or by any servant or agent of either of them, insufficient or improper packing, labelling or addressing of Goods or fraud as in Condition 10;
- b) All claims and demands whatever (including for the avoidance of doubt claims alleging negligence), by whomsoever made and howsoever arising (including but not limited to claims caused by or arising out of the Storage of Dangerous Goods and claims made upon the Contractor by HM Customs and Excise in respect of dutiable goods consigned under these Conditions in respect of any loss or damage whatsoever, or in connection with, the Goods whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrongdoing on the part of the Contractor, its servants, agents or subcontractors.

13. Time Limits for Claims relating to Goods

13.1 All claims for damage to or physical loss or mis-delivery of or failure to release any Goods and any claim referred to in Condition 11 (2) shall be made in writing by the Customer within seven days after release of the Goods alleged to be damaged or, in the case of Goods alleged to be lost or which the Contractor fails to release, within seven days after the time when the Goods should in the ordinary course of events have been released and the Contractor shall be under no liability unless such claim is made within the time stipulated. Provided that if the Customer proves that

- a) It was not reasonably possible for the Customer to advise the Contractor or make a claim in writing within the time limit applicable and
- b) Such advice or claim was given or made within a reasonable time,

The Contractor shall not have the benefit of the exclusion of liability afforded by this Condition

13.2 The Contractor shall in any event be discharged from all liability whatsoever and howsoever arising in respect of the Goods unless suit is brought within one year of the date when the Goods were released or should, in the ordinary course of events, have been released.

13.3 In computation of time where any period provided by these Conditions is seven days or less, Saturdays, Sundays and all statutory public holidays shall be excluded.

14. Lien

14.1 The Contractor shall have a general lien against the Customer, where the Customer is the owner of the Goods, for any monies whatever due from the Customer to the Contractor. If such a lien is not satisfied within a reasonable time, the Contractor may, as its absolute discretion sell the Goods, or part thereof, as agent for the Customer and apply the proceeds towards the monies due and the expenses of the retention, insurance and sale of the Goods and shall, upon accounting to the Customer for any balance remaining, be discharged from all liability whatever in respect of the Goods.

14.2 Where the Customer is not the owner of the Goods, the Contractor shall have a particular lien against the said owner, allowing the Contractor to retain possession, but not to dispose of, the Goods against monies due from the Customer in respect of the Goods

15. Impossibility of Performance

The Contractor shall be relieved of its obligations to perform the Contract to the extent that the performance thereof is prevented by failure of the Customer, fire, weather conditions, industrial dispute, labour disturbance or cause beyond the reasonable control of the Contractor.

16. Notice

All written communications from the Contractor to the Customer shall be deemed to have been served if delivered or posted to the last known address of the Customer.

17. Law and Jurisdictions

This Contract shall be governed by English Law, except in the case of Goods stored solely in Scotland when it shall be governed by Scottish Law, and United Kingdom courts alone shall have jurisdiction in any dispute between the Contractor and the Customer.

Construction Plant Hire Association - Model Conditions for the Hiring of Plant - 2001

1. Definitions

- a) The Owner is the Company, firm or person letting the plant on hire and includes their successors, assigns or personal representatives.
- b) The Hirer is the Company, firm, person, Corporation or public authority taking the owner's plant on hire and includes their successors or personal representatives.
- c) Plant covers all classes of plant, machinery, vehicles, equipment and accessories therefore, which the Owner agrees to hire to the Hirer.
- d) A day shall be 8 hours or if the day is a Friday it shall be 7 hours, unless otherwise specified in the Contract.
- e) A working week covers the period from starting time on Monday to finishing time on Friday.
- f) The hire period shall commence from the time when the plant leaves the Owner's depot or place where last employed and shall continue until the plant is received back at the Owner's named depot or other agreed location.
- g) A Consumer Contract is a contract entered into with a person acting in his own capacity and not for or on behalf of any business or trade entity.

2. Extent of Contract

No conditions other than specifically set forth in the Offer and Acceptance and herein shall be deemed to be incorporated in or to form part of the Contract or shall otherwise govern the relationship between the Owner and the Hirer in relation to the hire of any particular plant pursuant to the Offer and Acceptance. The Contract does not create any right enforceable by or purport to confer any benefit on any person not a party to it except that a person who is a successor to or an assignee of the rights of the Owner is deemed to become a party to the Contract after the date of succession or assignment (as the case may be).

3. Acceptance of Plant

Acceptance of the plant on site implies acceptance of all terms and conditions herein unless otherwise agreed in writing.

4. Unloading and Loading

The Hirer shall be responsible for the unobstructed access and, unless otherwise agreed in writing, for unloading and loading of the plant at the site and any personnel supplied by the Owner for such unloading and/or loading shall be deemed to be under the direction and control of the Hirer. Such personnel shall for all purposes in connection with their employment in the unloading and/or loading of the plant be regarded as the servants or agents of the Hirer (but without prejudice to any of the provisions of Clause 13) who alone shall be responsible for all claims arising in connection with unloading and/or loading of the plant by, or with the assistance of, such personnel.

5. Delivery in Good Order and Maintenance: Inspection Reports

- a) Unless notification in writing to the contrary is received by the Owner from the Hirer in the case of plant supplied with an operator within four working days, and in the case of plant supplied without an operator within three working days, of the plant being delivered to the site, the plant shall be deemed to be in good order, save for either an inherent fault or a fault not ascertainable by reasonable examination, in accordance with terms of the Contract and to the Hirer's satisfaction, provided that where plant requires to be erected on site, the periods above stated shall be calculated from the date of completed erection of plant. The Hirer shall be responsible for its safe keeping, use in a workmanlike manner within the manufacturer's rated capacity and return on the completion of the hire in equal good order (fair wear and tear excepted).
- b) The Hirer shall when hiring plant without Owner's operator or driver take all reasonable steps to keep himself acquainted with the state and condition of the plant. If such plant be continued at work or in an unsafe and unsatisfactory state or environment, the Hirer shall be solely responsible for any damage, loss or accidents whether directly or indirectly arising therefrom.
- c) The current Inspection Report required under the relevant legislation, or a copy thereof, shall be supplied by the Owner if requested by the Hirer and returned on completion of hire.

6. Servicing and Inspection

The Hirer shall at all reasonable times allow the Owner, his Agents or his Insurers to have access to the plant to inspect, test, adjust, repair or replace the same. So far as reasonably possible, such work will be carried out at times to suit the convenience of the Hirer.

7. Timber Mats or Equivalent

- a) If the ground (including any private access road or track) is soft or unsuitable for the plant to work on, travel, or be transported over without timbers or equivalents the Hirer shall supply and lay suitable timbers or equivalents in a suitable position for the plant to travel over, work on, or be transported over, including for the purpose of delivery and collection.
- b) Where the hire is for lifting equipment, any sound timber or other material supplied by the Owner for use with outriggers/stabilisers is provided solely to assist the Hirer and expressly not to relieve him of his legal, regulatory or contractual obligations to ensure adequate stability of the lifting equipment under the imposed loading.

8. Handling of Plant

When a driver or operator or any person is supplied by the Owner with the plant, the Owner shall supply a person competent in operating the plant or for such purpose for which the person is supplied and such person shall be under the direction and control of the Hirer. Such drivers or operators or persons shall for all purposes in connection with their employment in the working of the plant be regarded as the servants or agents of the Hirer (but without prejudice to any of the provisions of Clause 13) who also shall be responsible for all claims arising in connection with the operation of the plant by the said drivers/operators/persons. The Hirer shall not allow any other person to operate such plant without the Owner's previous consent to be confirmed in writing.

9. Breakdown, Repairs and Adjustments

- a) When the plant is hired without the Owner's driver or operator any breakdown or the unsatisfactory working of any part of the plant must be notified immediately to the Owner. Any claim for breakdown time will only be considered from the time and date of notification.
- b) Full allowance for the hire charges and for the reasonable cost of repairs that have been authorised by the Owner will be made to the Hirer for any stoppage due to breakdown of plant caused by the development of either an inherent fault or a fault not ascertainable by reasonable examination or fair wear and tear and for all stoppages for normal running repairs in accordance with the terms of the Contract.
- c) The Hirer shall not, except for the changing of any tyre and repair of punctures, repair the plant without the written authority of the Owner. The changing of any tyre and repair of punctures are however the responsibility of the Hirer who should arrange for them to be changed/repared without awaiting authorisation from the Owner. The Hirer is responsible for all costs incurred in the changing or replacement of any tyre and the repair of any puncture.
- d) The Hirer shall be responsible for all expense involved arising from any breakdown and all loss or damage incurred by the Owner due to the Hirer's negligence, misdirection or misuse of the plant, whether the Hirer or his servants, and for the payment of hire at the idle time rate as defined in Clause 25 during the period the plant is necessarily idle due to such breakdown, loss or damage. The Hirer is responsible for the cost of spares and/or repairs due to theft, loss or vandalism of the plant. The Owner will be responsible for the cost of repairs, inclusive of the cost of spares, to the plant involved in breakdown form all other causes.

10. Other Stoppages

No claims will be admitted (other than those allowed for under Hirer "Breakdown" or for "Idle Time", as herein provided), for stoppages through causes outside the Owner's control, including bad weather or ground conditions nor shall the Owner be responsible for the cost or expense of recovering any plant from soft ground.

11. Loss of Other Plant Due To Breakdown

Each item of plant specified in the Contract is hired as a separate unit and the breakdown or stoppage of one or more units or vehicles (whether the property of the Owner or otherwise) through any cause whatsoever, shall not entitle the Hirer to compensation or allowance for the loss of working time by any other unit or units of plant working in conjunction therewith, provided that where two or more items of plant are expressly hired together as a unit, such items shall be deemed a unit for the purpose of breakdown.

12. Limitation of Liability

Except for liability on the part of the Owner which is expressly provided for the Contract (including these Clauses):

- a) The Owner shall have no liability or responsibility for any loss or damage of whatever nature due to or arising through any cause beyond his reasonable control
- b) The Owner shall not have liability or responsibility, whether by way of indemnity or by reason of any breach of the Contract, breach of statutory duty or misrepresentation or by reason of the commission of any tort (including but not limited to negligence) in connection with the hire, for any of the Hirer's loss of profit, loss of use of the plant or any other asset or facility, loss of production or productivity, loss of contracts with any third party, liabilities of whatever nature to any third party, and/or any other financial or economic loss or indirect or consequential loss or damage of whatever nature; and
- c) Whenever the Contract (including these Clauses) provides that any allowance is to be made against hire charges, such allowance shall be the Hirer's sole and exclusive remedy in respect of the circumstances giving rise to the allowance, and such remedy shall be limited to the amount of hire charges which would otherwise be or become due if the allowance in question had not been made.

13. Hirer's Responsibility for Loss and Damage

- a) For the avoidance of doubt it is hereby declared and agreed that nothing in this Clause affects the operation of Clauses 4, 5, 8 and 9 of this Agreement.
- b) During the continuance of the hire period the Hirer shall subject to the provisions referred to in sub paragraph (a) make good to the Owner all loss of or damage to the plant from whatever cause the same may arise, fair wear and tear excepted, and except as provided in Clause 9 herein, and shall also fully and completely indemnify the Owner in respect of all claims by any person whatsoever for injury to person or property caused by or in connection with or arising out of the storage, transit, transport, unloading, loading or use of the plant during the continuance of the hire period, and in respect of all costs and charges in connection therewith whether arising under statute or common law. In the event of loss of or damage to the plant, hire charges shall be continued at idle time rates as defined in Clause 25 until settlement has been effected.
- c) Notwithstanding the above the Hirer shall not be responsible for damage, loss or injury due to or arising:

- i) Prior to delivery of any plant to the site (or, where the site is not immediately adjacent to a highway maintainable at the public expense, prior to its leaving such highways) where the plant is in transit by transport of the Owner or as otherwise arranged by the Owner
- ii) During the erection and/or dismantling of any plant where such plant required to be completely erected/dismantled on site, always provided that such erection/dismantling is under the exclusive control of the Owner or his Agent.
- iii) After the plant has been removed from the site and is in transit on a highway maintainable at the public expense (or where the site is not immediately adjacent to a highway maintainable at the public expense after it has joined such highway) to the Owner by transport of the Owner or as otherwise arranged by the Owner.
- iv) Where plant is travelling to or from a site on a highway maintainable at the public expense (or, where the site is not immediately adjacent to a highway maintainable at the public expense, prior to its leaving or after its joining such highway) under its own power with a driver supplied by the Owner.

14. Notice of Accidents

If the plant is involved in any accident resulting in injury to persons or damage to property, immediate notice must be given to the Owner by telephone and confirmed in writing to the Owner's office. In relation to any claim in respect of which the Hirer is not bound fully to indemnify the Owner, no admission, offer, promise of payment or indemnity shall be made by the Hirer without the Owner's consent in writing.

15. Re-Hiring Etc.

The plant or any part thereof shall not be re-hired, sub-let, or lent to any third party without the written permission of the Owner.

6. Change of Site

The plant shall not be moved from the site to which it was delivered or consigned without the written permission of the Owner.

17. Return of Plant for Repairs

If during the hire period the Owner decides that urgent repairs to the plant are necessary he may arrange for such repairs to be carried out on site or at any location of his nomination. In that event the Owner shall be obliged to replace the plant with similar plant if available, the Owner (but without prejudice to any of the provisions of Clauses 9 and/or 13) paying all transport charges involved. In the event of the Owner being unable to replace the plant he shall be entitled to determine the Contract forthwith (but without prejudice to any of the provisions of Clauses 9 and/or 13) by giving written notice to the Hirer. If such determination occurs;

- a) Within three months from the commencement of hire, the Owner (but without prejudice to any of the provisions of Clauses 9 and/or 13) shall pay all transport charges involved, or,
- b) More than three months from the commencement of hire, the Owner (but without prejudice to any of the provisions of Clauses 9 and/or 13) shall be liable only for the cost of reloading and return transport.

18. Basis of Charging

- a) The Hirer shall render to the Owner for each week an accurate statement of the number of hours the plant has worked each day. Where the plant is accompanied by the

Owner's driver or operator, the Hirer shall sign the employee's Time Record Sheets. The signature of the Hirer's representative shall hind the Hirer to accept the hours shown on the Time Record Sheets.

b) Full allowance will be made for breakdown periods resulting from mechanical or electrical faults or absence of driver or operator supplied by Owner except where breakdown is due to acts of omissions of third parties and/or the Hirer's misuse, misdirection or negligence, subject however to the provisions of Clause 8 of this Agreement.

c) Breakdown time in respect of such periods shall be allowed for not more than 8 hours Monday to Thursday and not more than 7 hours on Friday less the actual hours worked.

d) Plant shall be hired out either:

- i) For a stated minimum number of hours per day or per week or
- ii) Without any qualification as to minimum hours. Odd days at the beginning and at the end of the hire period shall be charged pro rata.

e) Stoppages due to changing of tyres and repairs to punctures will be chargeable as working time up to a maximum of 2 hours for any one stoppage and any excess will be charged for at the appropriate idle time rates.

f) In the case of plant which requires to be dismantled for the purpose of transportation, if the Owner agrees to a modification of the hire charge for the period required for assembling on site and dismantling upon completion of hire, such modification of the hire charge and the period for which it shall apply shall be stated on the Hire Contract.

19. Plant Hired On a Daily Basis Without Qualifications as To Hours

The full daily rate will be charged on a daily basis irrespective of the hours working except in the case of breakdown for which the Owner is responsible, when the actual hours worked will be charged pro rata of the average working day. No hire charge shall be made for Saturday and/or Sunday unless the plant is actually worked.

20. Plant Hired By the Week or Month Without Qualifications as To Hours

The weekly or monthly rate shall be charged irrespective of the number of hours working, except in the case of breakdown for which the Owner is responsible, when an allowance pro rata of the agreed weekly rate or pro rata of the agreed monthly rate will be made for each full working day broken down calculated to the nearest half working day.

21. Plant Hired By the Week or the Hour for a Minimum of 39 Hours per Week

If no breakdown occurs, the full hire for the minimum period in the Contract will be charged and an additional pro rata charge will be made for hours worked in excess of such minimum period. Allowance will be made for breakdowns up to 8 hours except on Fridays when the allowance will be up to 7 hours providing always that where the actual hours worked are in excess of the minimum period less breakdown time, the actual hours worked shall be chargeable. Idle time for this purpose shall be treated as actual working time. The minimum week of 39 hours shall be reduced by 8 hours Monday to Thursday and 7 hours Friday for each day's statutory holiday occurring in such week, provided that the plant does not work on the holiday.

22. "All-In" Rates

Where "All - In" rates are charged by agreement the minimum period shall be defined in the Contract and in accordance with the hire rates and terms contained therein, subject to the provisions of Clause 26.

23. Commencement and Termination of Hire (Transport of Plant)

a) The hire period shall commence from the time when the plant leaves the owner's depot or place where last employed and shall continue until the plant is received back at the Owner's named depot or other agreed location but an allowance shall be made of more than one day's hire charge each way for travelling time. If the plant be used on day of travelling, full hire rates shall be paid for the period of use on that day. If more than one day be properly and unavoidably occupied in transporting the plant, a hire charge at idle time rates shall be payable for such extra time, provided that where plant is hired for a total period of less than one week, the full hire rate shall be paid from the date of despatch to the date of return to the Owner's named depot or other agreed location.

b) An allowance of not more than one day's travelling time shall be allowed when the plant is travelling to a site other than that specified in the Contract provided that:

- i) Consent to such transfer has been given by the Owner under Clause 16, and
- ii) The plant is moved by means other than under its own power, and,
- iii) The plant shall have been on the site specified in the Contract or on any other site to which consent to transfer has been given under Clause 16 for a period of at least 14 days.

24. Notice of Termination of Contract

Where the period of hire is indeterminate or having been defined becomes indeterminate the Contract shall be determined by seven days' notice in writing given by either party to the other except in cases where the plant has been lost or damaged. Notwithstanding that the Owner may have agreed to accept less than 7 days' notice of termination, the Hirer's obligations under Clause 13 shall continue until the plant is returned to the Owner in accordance with Clause 31 or until the Owner has collected the plant within 7 days following the acceptance of short notice. Oral notice given by the Hirer to the Owner's driver or operator shall not be deemed to constitute compliance with the provision of this Clause.

25. Idle Time

When the plant is prevented by prolonged inclement weather from working for a complete week the charge shall be two thirds of the hire rate or such other idle time rate as is stated in the Offer. If the plant works for any time during the guaranteed hire period then the whole of that guaranteed minimum period shall be charged as working time. In any case no period less than one day shall be reckoned as idle time save for as provided for in clause 18(e). where an "All-In" rate is charged, idle time is charged on the machine element only. Full rate will be charged for the operator.

26. Wages and Other Chargeable Items Relating to Drivers and Operators of Plant

All chargeable items shall be paid by the Hirer at the rates contacted save that any subsequent increases before and/or during the hire period arising from awards under any wage agreements and/or from increases in the

employer's statutory contribution shall be charges as additions at cost by the Owner and shall be admitted and paid by the Hirer.

27. Travelling Time and Fares

Travelling time and fares for drivers, operators and any person supplied by the Owner, similar expenses incurred at the beginning and end of the hire period and where appropriate return fare of the driver, operator and any person supplied by the Owner to his home will be chargeable at cost. No charge shall be made by the Owner for any such expenses incurred by other employees of the Owner for the purpose of servicing, repair or maintenance of plant, unless necessitated by the Hirer's negligence, misdirection or misuse of the plant

28. Fuel, Oil and Grease

Fuel, oil and grease shall, when supplied by the Owner, be charged at net cost or an agreed estimate of net cost, and when supplied by the Hirer, shall be of a grade or type specified by the Owner.

29. Sharpening Of Drills/Steels Etc.

The cost of re-sharpening shall be borne by the Hirer.

30. Owner's Name Plates

The Hirer shall not remove, deface or cover up the Owner's name plate or not mark on the plant indicating that it is his property.

31. Transport

The Hirer shall pay the cost of and if required by the Owner, arrange transport of, the plant from the Owner's depot or other agreed location to the site and return to named depot or other agreed location on completion of the hire period

32. Government Regulations

The Hirer will be responsible for compliance with relevant regulations issued by the Government or Local Authorities, including regulations under the Factories Acts, Health and Safety at Work Act etc. and observance of the Road Traffic Acts should they apply, including the cost of Road Fund Licences and any insurances made necessary thereby, save that if and during such time as the plant is travelling, whether for full or part journey from Owner to site and site to Owner under its own power with a driver supplied by the Owner, the Owner and not the Hirer shall be responsible as aforesaid.

33. Protection of Owner's Rights

- a) The Hirer shall not re-hire, sell, mortgage, charge, pledge, part with possession of or otherwise deal with the plant except as provided under Clause 15 and shall protect the same against distress, execution or seizure and shall indemnify the Owner against all losses, damage, costs, charges and expenses arising as a direct result of any failure to observe and perform this condition except in the event of Government requisition.
- b) If the Hirer make default in punctual payment of any sum due to the Owner for hire of plant or other charges or shall fail to observe and perform the terms and conditions of this Contract, or if the Hirer shall suffer any distress or execution to be levied against him or make or propose to make any arrangement with his creditors or becomes insolvent within the meaning of Section 113 of the Housing Grants, Construction and Regeneration Act 2996 or any amendment or re-enactment thereof for the time being in

force; or shall do or cause to be done or permit or suffer any act or thing whereby the Owner's rights in the plant may be prejudiced or put into jeopardy, this Contract may forthwith be determined by notice from the Owner to the Hirer (notwithstanding that the Owner may have waived some previous default or matter of the same or a like nature). The Contract shall thereupon be deemed determined by reason of the Hirer's breach and it shall be lawful for the Owner to retake possession of the said plant and for that purpose enter into or upon any premises where the same may be and the determination of the hiring under this Condition shall not affect the right of the Owner to recover from the Hirer any monies due to the Owner under the Contract or any of the Owner's rights and remedies. In particular, without limitation, the Owner shall be entitled to claim the hire charges outstanding as at the date of determination of the hire under this clause, return transport charges under clause 31, and damages for the Hirer's actual or deemed breach of the Contract under this Clause.

34. Changes in Normal Working Week

The foregoing provisions have been framed upon the basis of the Hirer working a 5-day week of 39 hours; it is hereby agreed that in the event of:

- a) There being any change in the normal weekly hours in the industry in which the Hirer is engaged or,
- b) The Contract being made with reference to a 5 day week of other than 39 hours

Clauses 1(d) and (e), 18 (c) and (d), 20 and (in regard to breakdown allowance and reduction for statutory holidays) 21 shall be deemed to be modified conformably and in the event of an alteration in the normal weekly working hours in the said industry the "Hire Rates and Terms" of plant hired for a minimum weekly or daily period shall be varied pro rata.

35. Dispute Resolution

- a) If the original site is in England or Wales, the proper law of the Contract shall be English law. If the original site is in Scotland, the Contract shall in all respects be construed and operated as a Scottish contract, and shall be interpreted in accordance with Scots law. If the original site is in Northern Ireland, the proper law of the Contract shall be Northern Ireland law.
- b) The Scheme for Construction Contracts contained in the Scheme for Construction Contracts (England and Wales) Regulations 1998, or any amendment or re-enactment thereof for the time being in force, shall apply to the Contract. The person (if any) specified in the Contract to act as adjudicator may be named in the Offer. The specified nominating body to select adjudicators shall be the Construction Plant Hire Association acting by its President or Chief Executive for the time being. In paragraph 21 of the Scheme "this paragraph" shall be deleted and "paragraph 20" substituted.
- c) The Owner and the Hirer shall comply forthwith with any decision of the adjudicator; and shall submit to summary judgment and enforcement (and/or, under Scots law, shall consent to a motion for summary decree and submit to enforcement) in respect of all such decisions; in each case, without any defence, set-off, counterclaim, abatement or deduction. Where, under Scots law, the Owner, the Hirer, or the adjudicator, wishes to register a decision of the adjudicator for execution in the Books of Council and Session, any other party shall, on being requested to do so, forthwith consent to such registration by subscribing the decision before a witness.

Construction Plant Hire Association (2004) Standard Terms and Conditions for Contract Lifting Services

1. Scope and Definitions

- a) The terms and conditions set out in this document describe the trading policy and practice of the Company for its "Contract Lifting Services", as distinct from its crane-hire services, and form the Standard Contract Terms and Conditions for any Contract Lifting Services entered into by the Company.
- b) "Contract Lifting Services" means the supply of a supervised lifting service including planning and execution of the lifting operation in accordance with the relevant Regulations and Codes.
- c) These terms and conditions shall not be varied except with the Company's written agreement.
- d) No other terms and conditions shall apply to any Contract Lifting Services contract entered into by the Company unless expressly agreed in writing by means of a quotation or otherwise between the Company and Client. In particular, any terms and conditions specified by the Client on an order form or otherwise, shall not be binding on the Company and shall not apply to any Contract Lifting Services contract unless agreed in writing by the Company prior to the commencement of the lifting operation. The contract does not create any right enforceable by or purport to confer any benefit on any person not a party to it except that a person who is a successor to or an assignee of the rights of the Company is deemed to become a party to the contract after the date of or assignment (as the case may be).
- e) Unless otherwise agreed by the Company and the Client, these terms and conditions also apply to any additional work that the Company may agree to carry out for the Client and which may arise from or is connected with any Contract Lifting Services contract.
- f) The following words and phrases used in these terms and conditions have the meanings indicated:
 - i) "**Appointed Person**" means the person given the authority to assess, plan and organise the work; to select suitable or appropriate plant and equipment, to ensure statutory documentation is current and in order, to provide instruction and supervision for the work to be undertaken safely; and to stop the work whenever he considers danger is likely to arise if it were to be continued.
 - ii) "**Crane Supervisor**" means the person who supervises the lifting operation within the safe system of work developed by the Appointed Person and has the authority continue.
 - iii) "**Client**" means the person or organisation requiring the lift to be carried out, and includes the Client's employees, agents, assignees, successors and personal representatives.
 - iv) "**Company**" means the company or firm agreeing to carry out the Contract Lifting Services and includes its assignees, successors and personal representatives.
 - v) "**Contract Equipment**" means any Lifting Appliance and other equipment and accessories used or intended to be used by the Company in performing, or in connection with, the Contract Lifting Services.
 - vi) "**Contract Goods**" means the goods which are to be lifted by the Company in accordance with these terms and conditions.
 - vii) "**Contract Lifting Services**" may include the removal, transportation, storage and installation of goods.
 - viii) "**Contract Price**" means the price agreed by the Company and the Client as payment for the performance by the Company of the Contract Lifting Services, which may be a lump-sum price or a time related schedule of rates
 - ix) "**Lifting Appliance**" means work equipment for lifting or lowering loads and includes its attachments used for anchoring, fixing or supporting it.

x) "**Regulations and Codes of Practice**" means the Lifting Operations and Lifting Equipment Regulations 1998 (SI 1998 No. 2307), the Provision and Use of Work Equipment Regulations 1998 (SI 1998 No. 2306), the British Standard Codes of Practice for the Safe Use of Cranes (BS7121), as amended from time to time, and/or any other Regulations or Codes of Practice which may supersede them

2. Quotations and Contract Price

2.1 Unless otherwise specified by the Company in writing, every quotation is open for acceptance for a period of thirty days, after which the quotation will be subject to confirmation.

2.2 Unless otherwise specifically notes by the Company in writing, every quotation is based on the assumption that the following circumstances apply

- a) The work will be carried out under the Company's direction without interruption and on a clear site with adequate approaches suitable for the necessary movement of the Contract Equipment
- b) The Client is responsible for ensuring that the ground or other surface will be firm, level and in good condition, and will provide proper support for the loads imposed by the Contract Equipment as stated by the Company and also including the weight of the item(s) to be lifted as stated by the Client.
- c) The Contract Lifting Services will be carried out in daylight during normal working hours unless otherwise agreed
- d) All information provided by the Client is complete, true and accurate

2.3 Where all or any of the above circumstances do not apply, the Company may issue a revised quotation for the Contract Lifting succession Services. If this is not accepted by the Client, who shall be liable for the costs so far incurred by the Company, the Company may elect to be discharged from the contract without further liability to the Client.

2.4 Any additional work which the Company is required to perform must be authorised by the Client in writing and will involve an extra charge, additional to the Contract Price.

2.5 The Contract Price may be increased by the amount of any costs incurred by the Company as a result of delays or cancellations in commencing or completing the contract work due to circumstances beyond the Company's reasonable control including but not limited to inclement weather or industrial action.

3. Formation and Termination of the Contract

3.1 No contract is created before the Company accepts a written order for the carrying out of the Contract Lifting Services work. The commencement of the contract will be subject to availability of the Contract Equipment at the time requested.

3.2 If the Client termination the contract without the written agreement of the Company, the Client is liable for the full Contract Price. If the Company has agreed in writing to the cancellation, the Client shall be liable for such reasonable proportion of the Contract Price as may be assessed by the Company at that time, together with all costs and charges incurred by the Company or to which it is committed.

3.3 A contract involving an unspecified number of lifts over an indeterminate period may be terminated by either party giving the other party not less than seven days' notice in

writing or such other notice as may be agreed between the parties.

4. Status and Authority of Client and Company

4.1 The Client warrants that the Client is the owner or the authorised agent of the owner of the Contract Goods and is authorised to accept and does accept these terms and conditions for Contract Lifting Services.

4.2 The Client requires and authorises the Company to assume overall control of the Contract Lifting Services, to provide the Appointed Person and to plant, supervise, carry out and complete the Contract Lifting Services in accordance with the relevant Regulations and Codes of Practice including, where considered by the Company to be appropriate, to control and instruct the Client's personnel involved in the work

4.3 The Client undertakes to clear the contract site, including public highways and access roads where necessary, of all vehicles and personnel not directly involved with the Contract Lifting Services and, for that purpose, is responsible for setting up barricades, tapes or cones, to the extent that the Company may at its discretion require for the performance of the contract. With respect to road closures, bus lane closures etc, irrespective of whether the Company has arranged these on behalf of the Client, the Client is ultimately responsible both for ensuring that the Company has clear and unrestricted access to all areas of operation and that the Client is responsible for all costs incurred should the operation be aborted due to lack of such clear and unrestricted access, or other circumstances beyond the Company's control.

4.4 With the permission of the Client, which shall not be unreasonably withheld, the Company may arrange for the Contract Lifting Services, or any part of the work, to be carried out by agents, sub- the purposes of the contract shall be regarded as the Company and contractors or independent contractors who, for the purposes of the contract shall be regarded as the Company and whose right against and liabilities to, the Client shall be the same as those of the Company under these contract terms and conditions

5. Regulations and Codes of Practice

5.1 The Company will perform the Contract Lifting Services in accordance with the relevant Regulations and Codes of Practice

5.2 At the Client's request, the Company will provide the Client with any available information relevant to the qualifications and competence of the Appointed Person provided by the Company, who, in accordance with the relevant Regulations and Codes of Practice will have overall responsibility for the Contract Lifting Services under the contract.

5.3 In the absence of written notice by the Client to the contrary, received by the Company prior to the commencement of the lifting operation, the Appointed Person and/or Crane Supervisor shall be deemed to be to the satisfaction of the Client

5.4 The Client shall supply, or confirm, in writing all information available to the Client, which is requested by the Company and/or the Appointed Person or which the Client should be reasonably aware may be necessary, or useful, to facilitate compliance with the Regulations and Codes of Practice. This includes, but is not limited to, the location of anything on or near the site, above or below the

ground, which is likely to be damaged by, or cause damage to the Contract Equipment, or which is likely to affect the health or safety of any person involved in the work.

6. Liability of the Company

6.1 The Company shall be liable for loss or for damage or injury to persons or property when caused **solely** by the Company's negligence in the performance of the contract and shall not be liable for any such loss, or damage or injury due in whole or in part to any negligence on the part of the Client or any third party

6.2 The Company's liability, if any, arising from or in connection with the Contract Lifting Services contract

- a) For loss or destruction of or damage to the Contract Goods shall be limited to a total of £25,000 (twenty five thousand pounds sterling) irrespective of the number of items being lifted/handled
- b) For any other loss, damage or injury shall be limited to a total sum of £5,000,000 (five million pounds sterling) Unless in either case, a different amount is agreed in writing by the Company and the Client prior to the commencement of the contract

6.3 Full details of any loss, damage or injury, which is or may be the subject of a claim by the Client against the Company, shall be notified by the Client to the Company within seven days of the date of discovery thereof. Any proceedings to enforce any such claim by the Client against the Company must be commenced not later than twelve months after the date of occurrence of the event giving rise to the loss, damage or injury

7. Exclusion of the Company's Liability

7.1 The Company shall not be liable for any loss, damage or injury caused by, or arising from or as the result of, any of the following:

- a) Any defect in the Contract Goods including any design defect and any defect relating to the lifting points on the contract goods.
- b) Inaccurate or incomplete information given by the Client.
- c) Any instructions given by the Client to the Company's employees.
- d) Any defect in the equipment provided by the Client.
- e) Any act or omission of any personnel supplied by the Client, or by anybody or person under contract to the Client in connection with the Contract Goods, except when correctly following the Company's instructions for the purpose of performing the Company's work under the contract.
- f) Delay in commencing or completing the contract work due to circumstances beyond the Company's control including, but not limited to, any strike or other industrial action or adverse weather conditions.
- g) Unexpected or unforeseen subsidence or unstable ground conditions.

7.2 The Company shall not be liable or responsible for any of the following, however arising:

- a) Loss or damage of whatever nature due to or arising though any cause beyond the Company's reasonable control
- b) Whether by way of indemnity or by reason of any breach of the contract, breach of statutory duty or misrepresentation or by reason of the commission of any tort (including but not limited to negligence) in connection with the contract for any of the Client's loss of profit, loss of the use of the plant or any other asset or facility, loss of production or productivity, loss of contracts with any third party, liabilities of whatever nature to any third party,

and/or any other financial or economic loss or indirect or consequential loss or damage of whatever nature; and
c) Loss or damage to the Contract Goods while in storage outside the control of the Company.

8. Insurance

8.1 The Company will carry insurance to cover its potential liability under the contract having regard to the maximum amounts referred to in clause 6.2.

8.2 The Company may, at its discretion, exclude the contract from cover under its existing policies and require a specific insurance policy to cover the contract to be provided by and at the expense of the Client. This specific insurance policy shall provide the Company with protection no less extensive than would have been the case if this clause 8.2 had not been invoked.

8.3 If the Company is of the opinion that the insurance cover held by the Client may be insufficient to meet any applicable requirements of clause 8.2 of the Client's liabilities under the contract, the Company may require the Client to take out at the Client's expense additional liability insurance cover or take out such cover itself and recover the cost from the Client as a debt

8.4 If the value of the Contract Goods exceeds the Company's liability limits referred to in clause 6.2, and the Client requires the Company to increase its cover, it is the responsibility of the Client to give the Company sufficient written notice of that fact with details of the value of the Contract Goods so that the Company's liability cover, if agreed by the Company, can be increased accordingly. The cost of any additional cover will be passed on to the Client.

8.5 The Client agrees to indemnify the Company against:

- a) Any claim arising from or connected with the Company's work on the contract site, in preparing the site or performing the contract, including claims of nuisance and claims of trespass to persons, property, land or air space
- b) All other losses, damages or claims in respect of any matters arising from or in connection with the contract and for which, under these terms and conditions, the Client is liable or for which under clause 7 the Company is not liable;
- c) Any liability arising from or in connection with the contract to pay any amount in excess of the relevant limits referred to in clause 6.2.

8.6 The Client shall insure against its liability to indemnify the Company and all other liabilities of the Client under the contract.

8.7 If requested by the Company, the Client shall produce a copy of any insurance policy together with evidence of the premium having been paid, held by the Client and relevant to the contract.

9. Transportation of Contract Goods

9.1 The Company is not a common carrier.

9.2 If, under the contract, the Contract Goods, or any part of them, require transportation by air, sea, road or rail, the Company may either undertake the transportation or arrange for transportation by some other person or organisation.

9.3 In the latter event referred to in clause 9.2, unless otherwise agreed in writing by the Company, the Company's liability for the Contract Goods so transported shall be no greater than that of the person or organisation

carrying out the transportation, that is, the airline, shipping company, haulage contractors or railway authority concerned, and the amount of compensation, if any, payable for loss of or damage to the Contract Goods during transportation shall be limited to the amount recoverable from that person or organisation in respect of that loss or damage.

10. Payment of Charges

10.1 All prices quoted are exclusive of VAT, which will be charged at the rate prevailing at the date of invoice.

10.2 All charges by the Company are payable strictly thirty days net from the date of the Company's invoice or as set out in the contract offer.

10.3 All charges are payable in full and the Client shall not withhold payment as retention or discount or for any reason whatsoever, regardless of any arrangements for payment to the Client by another party under any other contract.

10.4 The Company's policy is to enforce its right to add interest and administration costs for late payments under the Late Payment of Commercial Debts Regulations 2002 or any other subsequent Regulations that supersede them.

10.5 The Company shall have a general lien over any goods and equipment, or the property of the Client in the custody of the Company, for unpaid debts due and payable to the Company by the Client. The Company shall notify the Client when exercising the right of lien under this clause and if the Client fails to settle all such debts within one month of notification, the Company may sell, as agent of the Client, all or any of the items subject to the lien and apply the proceeds towards payment of the outstanding debt and the expenses of the sale together with interest accrued to that date.

11. Law of the Contract

11.1 If the original contract site is in England or Wales, the proper law of the contract shall be English law. If the original site is in Scotland, the contract shall in all respects be construed and operated as a Scottish contract, and shall be interpreted in accordance with Scots law. If the original contract site is in Northern Ireland, the proper law of Contract shall be Northern Ireland law.

11.2 The Scheme for Construction Contracts (England and Wales) Regulations 1998, or any amendments or re-enactment thereof for the time being in force (the "Scheme"), shall apply to the contract. The person (if any) specified in the contract to act as adjudicator may be named in the offer. The specified nominating body to select adjudicators shall be the Construction Plant-hire Association acting by its President or Chief Executive for the time being. In paragraph 21 of the Scheme "this paragraph" shall be deleted and "paragraph 20" substituted.

11.3 The Company and the Client shall comply forthwith with any decision of the adjudicator; and shall submit to summary judgment and enforcement (and/or, under Scottish law, shall consent to a motion for summary decree and submit to enforcement) in respect of all such decisions: in each case, without any defence, set-off, counterclaim, abatement or deduction. Where, under Scottish law, the Company, the Client, or the adjudicator, wishes to register a decision of the adjudicator for execution in the Books of Council and Session, any other party shall, on being requested to do so, forthwith consent to such registration by subscribing the decision before a witness.

Footnotes

- 1. Acceptance of the Contract Equipment on site implies acceptance of all these terms and conditions.**
- 2. These standard terms and conditions for Contract Lifting Services are the copyright of the Construction Plant-hire Association and must NOT be reproduced, stored in any retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise unless they are current members of the Construction Plant Association**
- 3. Copies of these standard terms and conditions are only available from the Construction Plant-hire Association**