

# Wicklow Hire & Sales Limited– Terms & Conditions of Trade

1.	<b>Definitions</b>	(ii)	Failure on the part of the Customer to follow any instructions or guidelines provided by the Company; or
1.1	"Company" shall mean Wicklow Hire & Sales Limited its successors and assigns or any person acting on behalf of and with the authority of Wicklow Hire & Sales Limited.	(iii)	Any use of any Goods otherwise than for any application specified on a quote, order form or hire contract.
1.2	"Customer" shall mean the person or entity described as such on the invoices, application for credit, quotation, work authorisation or any other forms to which these terms and conditions apply, and shall mean any person acting on behalf of and with the authority of such person or entity.	(iv)	The continued use of any Goods after any defect becomes apparent or would have become apparent to a reasonably prudent operator or user; or
1.3	"Guarantor" means that person (or persons), or entity, who agrees to be liable for the debts of the Customer on a principal debtor basis.	(v)	Fair wear and tear, any accident or act of God.
1.4	"Goods" shall mean Goods supplied and/or hired by the Company to the Customer (and where the context so permits shall include any supply of Services as hereinafter defined) and are as described on the invoices, quotation, work authorisation or any other forms as provided by the Company to the Customer.	(b)	The warranty shall cease and the Company shall thereafter in no circumstances be liable under the terms of the warranty if the workmanship is repaired, altered or overhauled without the Company's consent.
1.5	"Services" shall mean all services supplied by the Company to the Customer and includes any advice or recommendations (and where the context so permits shall include any supply of Goods as defined above).	(c)	In respect of all claims the Company shall not be liable to compensate the Customer for any delay in either replacing or repairing the Goods or in properly assessing the Customer's claim.
1.6	"Price" shall mean the cost of the Goods as agreed between the Company and the Customer subject to clause 3 of this contract.	9.3	For Goods not manufactured by the Company, the warranty shall be the current warranty provided by the manufacturer of the Goods. The Company shall not be bound by nor responsible for any term, condition, representation or warranty other than that which is given by the manufacturer of the Goods.
2.	<b>Acceptance</b>	10.	<b>Sale of Goods Act 1893 and Sale of Goods and Supply of Services Act 1980</b>
2.1	Any instructions received by the Company from the Customer for the supply of Goods and/or the Customer's acceptance of Goods supplied by the Company shall constitute acceptance of the terms and conditions contained herein.	10.1	This agreement is subject to the provisions of the Sale of Goods Act 1893 and the Sale of Goods and Supply of Services Act 1980 in all cases except where the Customer is contracting within the terms of a trade/business (which cases are specifically excluded).
2.2	Where more than one Customer has entered into this agreement, the Customers shall be jointly and severally liable for all payments of the Price.	10.2	Notwithstanding clause 11.1 nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the Sale of Goods Act 1893 (in particular sections 12-15), or the Sale of Goods and Supply of Services Act 1980, or any laws or legislation governing the rights of consumers, except to the extent permitted by those Acts laws or legislation.
2.3	Upon acceptance of these terms and conditions by the Customer the terms and conditions are irrevocable and can only be amended with the written consent of the Company.	10.3	In particular where the Customer buys Goods as a consumer the provisions of Clauses 8, 9 and 10 above shall be subject to any laws or legislation governing the rights of consumers.
2.4	The Customer undertakes to give the Company at least fourteen (14) days notice of any change in the Customer's name, address and/or any other change in the Customer's details.	11.	<b>Default &amp; Consequences Of Default</b>
3.	<b>Price And Payment</b>	11.1	Interest on overdue invoices shall accrue from the date when payment becomes due daily until the date of payment at a rate of 2.5% per calendar month and such interest shall compound monthly at such a rate after as well as before any judgment.
3.1	At the Company's sole discretion the Price shall be either:	11.2	If the Customer defaults in payment of any invoice when due, the Customer shall indemnify the Company from and against all costs and disbursements incurred by the Company in pursuing the debt including legal costs on a solicitor and own client basis and the Company's collection agency costs.
(a)	as indicated on invoices provided by the Company to the Customer in respect of Goods and/or Services supplied; or	11.3	Without prejudice to any other remedies the Company may have, if at any time the Customer is in breach of any obligation (including those relating to payment), the Company may suspend or terminate the supply of Goods to the Customer and any of its other obligations under the terms and conditions. The Company will not be liable to the Customer for any loss or damage the Customer suffers because the Company exercised its rights under this clause.
(b)	the Company's quoted Price (subject to clause 3.2) which shall be binding upon the Company provided that the Customer shall accept the Company's quotation in writing within thirty (30) days.	11.4	If any account remains overdue after thirty (30) days then an amount of the greater of €20.00 or 10.00% of the amount overdue (up to a maximum of €200) shall be levied for administration fees which sum shall become immediately due and payable.
3.2	The Company reserves the right to change the Price in the event of a variation to the Company's quotation.	11.5	Without prejudice to the Company's other remedies at law the Company shall be entitled to cancel all or any part of any order of the Customer which remains unperformed in addition to and without prejudice to any other remedies and all amounts owing to the Company shall, whether or not due for payment, become immediately payable in the event that:
3.3	Any extra work required will be estimated by the company and signed off by the customer before commencement	(a)	any money payable to the Company becomes overdue, or in the Company's opinion the Customer will be unable to meet its payments as they fall due; or
3.4	At the Company's sole discretion a deposit may be required.	(b)	the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
3.5	Time for payment for the Goods and/or Services shall be of the essence and will be stated on the invoice or any other forms. If no time is stated then payment shall be due seven (7) days following the date of the invoice.	(c)	a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.
3.6	At the Company's sole discretion:	12.	<b>Cancellation</b>
(a)	payment shall be due on delivery of the Goods and/or Services, or	12.1	The Company may cancel these terms and conditions or cancel delivery of Goods at any time before the Goods and/or Services are delivered by giving written notice. On giving such notice the Company shall repay to the Customer any sums paid in respect of the Price. The Company shall not be liable for any loss or damage whatever arising from such cancellation.
(b)	payment shall be due before delivery of the Goods and/or Services, or	12.2	The Customer may cancel delivery of the Goods and/or Services up to one (1) day from the date of acceptance of the Company's quotation.
(c)	payment for approved Customers shall be made by instalments in accordance with the Company's payment schedule, or	12.3	In the event that the Customer cancels delivery of Goods and/or Services the Customer shall be liable for any loss incurred by the Company (including, but not limited to, any loss of profits) up to the time of cancellation.
(d)	payment for approved Customer's shall be due thirty (30) days following the end of the month in which a statement is posted to the Customer's address or address for notices.	13.	<b>Data Protection Act 1988 &amp; Data Protection Act 2003</b>
3.7	Payment will be made by credit card, debit card, cash, or by cheque, or by bank cheque, or by direct credit, or by any other method as agreed to between the Customer and the Company.	13.1	The Customer and the Guarantor/s (if separate to the Customer) authorises the Company to:
3.8	VAT and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.	(a)	collect, retain and use any information about the Customer, for the purpose of assessing the Customer's creditworthiness or marketing products and services to the Customer; and
3.9	The Customer agrees to notify the Company in respect of any queries in relation to their accounts within seven (7) days from receipt of invoices, credit notes or any other documentation that may be issued by the Company.	(b)	disclose information about the Customer, whether collected by the Company from the Customer directly or obtained by the Company from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or of listing (whether before or after judgement) a default by the Customer on publicly accessible credit reporting databases.
4.	<b>Delivery and Collection Of Goods</b>	13.2	Where the Customer is an individual the authorities under (clause 16.1) are authorities or consents for the purposes of the Data Protection Act 1988 & Data Protection Act 2003.
4.1	At the Company's sole discretion delivery of the Goods and/or Services shall take place when the Customer takes possession of the Goods and or Services at the Customer's address.	13.3	The Customer shall have the right to request the Company for a copy of the information about the Customer retained by the Company and the right to request the Company to correct any incorrect information about the Customer held by the Company.
4.2	The costs of delivery by the Company are in addition to the quoted Price.	14.	<b>General</b>
4.3	The Customer shall make all arrangements necessary to take delivery of the Goods and/or Services whenever they are tendered for delivery. In the event that the Customer is unable to take delivery of the Goods and/or Services as arranged then the Company shall be entitled to charge a reasonable fee for redelivery.	14.1	If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
4.4	Delivery of the Goods and/or Services to a third party nominated by the Customer is deemed to be delivery to the Customer for the purposes of this agreement.	14.2	These terms and conditions and any contract to which they apply shall be governed by the laws of Ireland and are subject to the jurisdiction of the courts of Ireland.
4.5	The Company may deliver the Goods and/or Services by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions in these terms and conditions.	14.3	The Company shall be under no liability whatever to the Customer for any indirect loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by the Company of these terms and conditions.
4.6	The Customer shall take delivery of the Goods tendered notwithstanding that the quantity so delivered shall be either greater or lesser than the quantity purchased provided that:	14.4	In the event of any breach of this contract by the Company the remedies of the Customer shall be limited to damages. Under no circumstances shall the liability of the Company exceed the Price of the Goods.
(a)	such discrepancy in quantity shall not exceed 5%, and	14.5	The Customer shall not be entitled to set off against or deduct from the Price any sums owed or claimed to be owed to the Customer by the Company.
(b)	the Price shall be adjusted pro rata to the discrepancy.	14.6	The Company may license or sub-contract all or any part of its rights and obligations without the Customer's consent.
4.7	The failure of the Company to deliver shall not entitle either party to treat this contract as repudiated.	14.7	The Company reserves the right to review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which the Company notifies the Customer of such change.
4.8	The Company shall not be liable for any loss or damage whatever due to failure by the Company to deliver the Goods (or any of them) promptly or at all.	15.	<b>Our Rights of Access</b>
5.	<b>Risk</b>		The Customer authorises the Company to enter land or premises where the Company reasonably believe any equipment to be, in order to inspect, test, repair, replace or repossess it.
5.1	If the Company retains ownership of the Goods nonetheless, all risk for the Goods passes to the Customer on delivery.	16.	<b>Location of Equipment</b>
5.2	If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Customer, the Company is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by the Company is sufficient evidence of the Company's rights to receive the insurance proceeds without the need for any person dealing with the Company to make further enquiries.		Equipment that has been hired out to the Customer by the Company may not be removed from any site originally specified or from any site originally specified by the Company
6.	<b>Title</b>	17.	<b>Basis of Charging for Hired Equipment</b>
6.1	It is the intention of the Company and agreed by the Customer that ownership of the Goods shall not pass until:		The Hire Charges payable shall be at the rate or rates applicable to the equipment as indicated in the list of Rates in force at the time of Hire term. Hire charges shall begin at the time stated in the hire contract and will continue for the duration of the hire contract and shall only cease when the Company has issued the Customer with a collection docket or an off Hire docket or until the Customer has returned the equipment to the Company in a clean and in a fully hire-able condition and the Company has issued a receipt for it. The Customer is fully liable for all refuelling, cleaning and damages charges immediately on the return to the Company of Hire equipment. All time is fully chargeable including Saturdays, Sundays, Bank and public holidays and all charges are payable on demand.
(a)	the Customer has paid all amounts owing for the particular Goods, and	18.	<b>When the Contract comes into being</b>
(b)	the Customer has met all other obligations due by the Customer to the Company in respect of all contracts between the Company and the Customer.		The contract comes into being when the Customer has placed an order giving details of their requirements and has agreed to be bound to these terms and conditions and when the Company has accepted your order.
6.2	Receipt by the Company of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then the Company's ownership or rights in respect of the Goods shall continue.	19.	<b>Responsibility of the Hirer/Customer</b>
6.3	It is further agreed that:		It is the Customers responsibility for the loading and unloading of equipment at the delivery address specified. If the Company provides a person or persons to assist the Customer then they will be under the Customers control at such times.
(a)	where practicable the Goods shall be kept separate and identifiable until the Company shall have received payment and all other obligations of the Customer are met; and	20.	<b>Return and Maintenance of Equipment on Hire</b>
(b)	until such time as ownership of the Goods shall pass from the Company to the Customer the Company may give notice in writing to the Customer to return the Goods or any of them to the Company. Upon such notice the rights of the Customer to obtain ownership or any other interest in the Goods shall cease; and		(i) It is the responsibility of the Customer to return equipment or to make clear arrangements with the Company for the collection of equipment at the end of the hire period. The Customers responsibility only ends when the equipment has been returned or collected and the Company has issued an unqualified receipt for all of the equipment.
(c)	the Company shall have the right of stopping the Goods in transit whether or not delivery has been made; and		(ii) The Customer must not sell or otherwise part with control of the equipment and will indemnify the Company against all liability, financial loss, claim or proceedings whatsoever, and in respect of death or personal injury or damage to or loss of property whatsoever arising out of the delivery, use, non use, repossession, collection or return of equipment or any part thereof.
(d)	if the Customer fails to return the Goods to the Company then the Company or the Company's agents may enter upon and into land and premises owned, occupied or used by the Customer, or any premises as the invitee of the Customer, where the Goods are situated and take possession of the Goods; and		(iii) The Customer shall be responsible for the daily checking of fuel, oil and lubricant levels whilst the equipment is in the possession of the Customer
(e)	the Customer is only a bailee of the Goods and until such time as the Company has received payment in full for the Goods then the Customer shall hold any proceeds from the sale or disposal of the Goods on trust for the Company; and	21.	<b>Conditions of Insurance</b>
(f)	the Customer shall not deal with the money of the Company in any way which may be adverse to the Company; and		It is the Hirers sole responsibility to fully comprehensively insure all plant and equipment as listed overleaf under the Hirers All Risks Insurance Policy to a reasonable reliable value. By acceptance of any plant and equipment taken on hire by the hirer the insurance obligation is automatically placed upon the hirer and forms part of the conditions of hire. Where Road Traffic Act Insurance is required, the hirer is responsible for arranging Fully Comprehensive Motor Insurance Cover.
(g)	the Customer shall not charge the Goods in any way nor grant nor otherwise give any interest in the Goods while they remain the property of the Company; and	22.	<b>Operators of Equipment</b>
(h)	the Company can issue proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods may not have passed to the Customer; and		The Hirer will ensure that operators of hired equipment are suitably trained and/or competent in the use of such equipment or where required hold the necessary certificate of competency in the use of such equipment.
(i)	until such time that ownership in the Goods passes to the Customer, if the Goods are converted into other products, the parties agree that the Company will be the owner of the end products.	23.	
7.	<b>Customer's Disclaimer</b>		
7.1	The Customer hereby disclaims any right to rescind, or cancel the contract or to sue for damages or to claim restitution arising out of any misrepresentation made to the Customer by the Company and the Customer acknowledges that the Goods are bought or hired, relying solely upon the Customer's skill and judgment.		
8.	<b>Defects</b>		
8.1	The Customer shall inspect the Goods and/or Services on delivery/completion and shall immediately notify the Company by phone as well as within one (1) day in writing to the Company of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Customer shall afford the Company an opportunity to inspect the Goods and/or Services within a reasonable time following delivery if the Customer believes the Goods and/or Services are defective in any way. If the Customer shall fail to comply with these provisions the Goods and/or Services shall be presumed to be free from any defect or damage. For defective Goods and/or Services, which the Company has agreed in writing that the Customer is entitled to reject, the Company's liability is limited to either (at the Company's discretion) replacing the Goods and/or Services or repairing the Goods and/or Services.		
8.2	No Goods shall be accepted for return except in accordance with 9.1.		
9.	<b>Warranty</b>		
9.1	Subject to the conditions of warranty set out in Clause 10.2 the Company warrants that if any defect in any products supplied by the Company becomes apparent and is reported to the Company within seven (7) days of the date of delivery (time being of the essence) then the Company will either (at the Company's sole discretion) repair the defect or provide a replacement.		
9.2	The conditions applicable to the warranty given by Clause 10.1 are:		
(a)	The warranty shall not cover any defect or damage which may be caused or partly caused by or arise through:		
(i)	Failure on the part of the Customer to properly maintain any Goods; or		