

**ACTUS INDUSTRIES LIMITED**  
**TERMS AND CONDITIONS FOR THE HIRE OF EQUIPMENT AND THE SUPPLY OF SERVICES**  
*The Customer's attention is particularly drawn to the provisions of clause 14.*

## 1. INTERPRETATION

1.1 Definitions. In these Conditions, the following definitions apply:

**"Additional Fees"** the amount payable by the Customer to Actus for the Additional Services;

**"Additional Services"** any additional Services which fall outside the scope of the Quotation as agreed by the parties in accordance with clause 8.

**"Business Day"** a day (other than a Saturday, Sunday or public holiday) in England when banks in London are open for business;

**"Actus"** Actus Industries Limited registered in England and Wales with company number 06641015 whose registered office is at 5a Fascati way, Maidenhead, Berkshire SL6 4UY;

**"Actus' Premises"** Actus' premises at Unit K5, Field Way, Metropolitan Park, Greenford, Middlesex UB6 8UN or such other premises as notified to the Customer by Actus;

**"Conditions"** these terms and conditions as amended from time to time in accordance with clause 18.7;

**"Contract"** the Quotation and these Conditions together constitute the contract between Actus and the Customer for the supply of Services in accordance with these Conditions;

**"Customer"** the person or firm who purchases the Services from Actus;

**"Deposit"** the deposit amount set out in the Quotation or as agreed between the parties in writing;

**"Goods"** the items provided for sale by Actus to the Customer as specified in the Quotation;

**"Hire Equipment"** the items of equipment provided for hire by Actus as listed in the Quotation, including all substitutions, replacements or renewals of such Hire Equipment and all related accessories, manuals and instructions provided in relation to it;

**"Hire Period"** the period of hire of the Hire Equipment, commencing on the Start Date stipulated in the Quotation or agreed between the parties in writing and continuing until the End Date stipulated in the Quotation unless the Contract is terminated earlier in accordance with these Conditions or such Hire Period is extended by written agreement of the parties;

**"Labour Services"** the services supplied by employees, agents, sub-contractors or other representatives of Actus to the Customer, as detailed in the Quotation;

**"Place of Use"** the location(s) where Actus shall supply the Services, as agreed between the parties in writing;

**"Quotation"** a quotation provided by Actus which has been accepted by the Customer in writing and expressly incorporates these Conditions;

**"Service Fees"** the charges payable by the Customer in consideration of the provision of the Services as set out in the Quotation;

**"Services"** the services supplied by Actus to the Customer as set out in the Quotation, including without limitation the provision of Hire Equipment, Labour Services, Transportation Services and the sale of Goods;

**"Specification"** the specification and or description of the Services, including any relevant plans or drawings, provided in the Quotation or in writing by Actus to the Customer;

**"Total Loss"** due to the Customer's default or during the Hire Period, the Hire Equipment is, in Actus' reasonable opinion or the opinion of its insurer(s), damaged beyond repair, lost, stolen, seized or confiscated;

**"Transportation Services"** the delivery and/or collection services provided to the Customer by Actus, as detailed in the Quotation

**"VAT"** value added tax chargeable under the Value Added Tax Act 1994.

1.2 Construction. In these Conditions, the following rules apply:

1.2.1 a reference to a party includes its personal representatives, successors or permitted assigns;

1.2.2 a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted; and

1.2.3 a reference to writing or written includes e-mails but not faxes.

## 2. BASIS OF CONTRACT

2.1 The Customer's written acceptance of Actus' Quotation constitutes an offer by the Customer to purchase the Services in accordance with these Conditions.

2.2 The Contract shall only come into existence when Actus confirms receipt of the Customer's acceptance of the Quotation in writing.

2.3 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of Actus which is not set out in the Contract. The Customer agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract. Nothing in this clause shall limit or exclude any liability for fraud.

2.4 Any samples, drawings, descriptive matter or advertising issued by Actus, and any descriptions of the Hire Equipment or illustrations or descriptions of the Services contained in Actus' catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.

2.5 These Conditions apply to the Contract to the exclusion of any other terms

that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

## 3. SUPPLY OF SERVICES

3.1 Actus shall provide the Services to the Customer in accordance with the Specification in all material respects.

3.2 Actus shall provide the Services with reasonable care and skill and shall use all reasonable endeavours to meet any performance dates for the Services specified in the Quotation or as agreed in writing between the parties, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

3.3 Actus shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and Actus shall notify the Customer in any such event.

## 4. EQUIPMENT HIRE

4.1 Actus shall hire the Hire Equipment to the Customer subject to the terms of the Contract.

4.2 The Customer shall have the option to either:

i) collect the Hire Equipment from Actus' Premises in accordance with clause 4.3; or

ii) purchase the Transportation Services provided by Actus in accordance with clause 6.

4.3 If the Customer chooses to collect the Hire Equipment in accordance with clause 4.2, the parties shall agree a date and time for the Customer or its representative to attend Actus' Premises. The collection of the Hire Equipment by the Customer from Actus' premises shall constitute conclusive evidence that the Customer has examined the Hire Equipment and has found it to be in good condition, complete and fit in every way for the purpose for which it is intended. If required by Actus, the Customer's duly authorised representative shall sign a receipt confirming such acceptance.

4.4 The Hire Equipment shall at all times remain the property of Actus, and the Customer shall have no right, title or interest in or to the Hire Equipment save the right to possession and use of the Hire Equipment during the Hire Period subject to these Conditions.

4.5 The Hire Equipment shall remain at the sole risk of the Customer during the Hire Period and any other time during which the Hire Equipment is in the possession, custody or control of the Customer ("Risk Period") until such time as the Hire Equipment is returned to Actus. During the Hire Period and the Risk Period, the Customer shall, at its own expense, obtain and maintain the following insurances:

4.5.1 insurance of the Hire Equipment to a value not less than its full replacement value comprehensively against all usual risks of loss, damage or destruction by fire, theft or accident, and such other risks as Actus may from time to time specify in writing; and

4.5.2 insurance for such amounts as a prudent owner or operator of the Hire Equipment would insure for, or such amount as Actus may from time to time reasonably require, to cover any third party or public liability risks of whatever nature and however arising in connection with the Hire Equipment.

4.6 The Customer shall:

4.6.1 ensure that the Hire Equipment is kept and operated in a suitable environment, used only for the purposes for which it is designed, and operated in a proper manner by trained competent staff in accordance with any operating instructions provided by Actus;

4.6.2 take such steps (including compliance with all safety and usage instructions provided by Actus) as may be necessary to ensure, so far as is reasonably practicable, that the Hire Equipment is at all times safe and without risk to health or damage;

4.6.3 not make any alteration to the Hire Equipment, attempt to repair the Hire Equipment or remove any existing component(s) or labels or signage from the Hire Equipment without the prior written consent of Actus;

4.6.4 give immediate written notice to Actus in the event of any loss, accident or damage to the Hire Equipment arising out of or in connection with the Customer's possession or use of the Hire Equipment;

4.6.5 permit Actus or its duly authorised representatives to inspect, maintain or repair the Hire Equipment at all reasonable times and for such purpose to enter upon any premises at which the Hire Equipment may be located, and shall grant reasonable access and facilities for such inspection;

4.6.6 not without the prior written consent of Actus, attach the Hire Equipment to any land or building so as to cause the Hire Equipment to become a permanent or immovable fixture on such land or building;

4.6.7 not, without the prior written consent of Actus, part with control of (including for the purposes of repair or maintenance), sell or offer for sale, underlet or lend the Hire Equipment or allow the creation of any mortgage, charge, lien or other security interest in respect of it;

4.6.8 not do or permit to be done any act or thing which will or may jeopardise the right, title and/or interest of Actus in the Hire Equipment and, where the Hire Equipment has become affixed to any land or building, the Customer must take all necessary steps to ensure that Actus may enter such land or building and recover the Hire Equipment both during the term of the Contract and for a reasonable period thereafter, including by procuring from any person having

an interest in such land or building, a waiver in writing and in favour of Actus of any rights such person may have or acquire in the Hire Equipment and a right for Actus to enter onto such land or building to remove the Hire Equipment;

**4.6.9** not suffer or permit the Hire Equipment to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if the Hire Equipment is so confiscated, seized or taken, the Customer shall immediately notify Actus and the Customer shall at its sole expense use its best endeavours to procure an immediate release of the Hire Equipment and shall indemnify Actus on demand against all losses, costs, charges, damages and expenses incurred as a result of such confiscation;

**4.6.10** not use the Hire Equipment for any unlawful purpose;

**4.6.11** ensure that at all times the Hire Equipment remains identifiable as being the property of Actus and wherever possible shall ensure that existing visible signs to that effect remain attached to the Hire Equipment;

**4.6.12** return the Hire Equipment at the end of the Hire Period or on earlier termination of the Contract at such address as Actus requires, or if necessary allow Actus or its representatives access to the premises where the Hire Equipment is located for the purpose of removing the Hire Equipment. The Customer shall return the Hire Equipment to Actus without delay; and

**4.6.13** make all arrangements necessary to protect the Hire Equipment from all risks including theft, fire and vandalism whilst the Hire Equipment is in its possession or control.

**4.7** Actus shall not, other than in the exercise of its rights under the Contract or applicable law, interfere with the Customer's quiet possession of the Hire Equipment during the Hire Period.

**4.8** Actus may substitute the Hire Equipment as it deems necessary in order to fulfil its obligations under the Contract provided that the substitute equipment is the same as, or an improvement of, the Hire Equipment.

## 5. GOODS

**5.1** The Customer shall purchase the Goods described in the Quotation subject to the terms of the Contract.

**5.2** The Customer shall have the option to either:

- i) collect the Goods from Actus' Premises in accordance with clause 5.3; or
- ii) purchase the Transportation Services provided by Actus in accordance with clause 6.

**5.3** If the Customer chooses to collect the Goods in accordance with clause 5.2, Actus shall notify the Customer when the Goods are ready and the parties shall agree a date and time for the Customer or its representative to attend Actus' Premises. The collection of the Goods by the Customer from Actus' premises shall constitute conclusive evidence that the Customer has examined the Goods and has found them to be in good condition, complete and fit in every way for the purpose for which it is intended. If required by Actus, the Customer's duly authorised representative shall sign a receipt confirming such acceptance.

**5.4** The risk in the Goods shall pass to the Customer on collection in accordance with clause 5.3 or following receipt of confirmation that the Customer has accepted the Goods in accordance with clause 6.2.

**5.5** Title to the Goods shall not pass to the Customer until Actus receives payment in full (in cash or cleared funds) for the Goods.

**5.6** Until title to the Goods has passed to the Customer, the Customer shall:

**5.6.1** not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

**5.6.2** maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery; and

**5.6.3** give Actus such information relating to the Goods as Actus may require from time to time.

## 6. TRANSPORTATION SERVICES

**6.1** The Customer shall purchase the Transportation Services described in the Quotation from Actus subject to the terms of the Contract.

**6.2** Transportation Services shall be provided by Actus or by a third party on behalf of Actus. Actus shall use reasonable endeavours to provide the Transportation Services on the date and time agreed between the parties, but timing of delivery or transportation is not of the essence of the Contract.

**6.3** In the event that Transportation Services are provided to transport Hire Equipment or Goods then the Customer shall procure that a duly authorised representative of the Customer shall be present at the delivery of the Hire Equipment and/or Goods. Acceptance of delivery by such representative shall constitute conclusive evidence that the Customer has examined the Hire Equipment and has found it to be in good condition, complete and fit in every way for the purpose for which it is intended. The Customer's duly authorised representative shall sign a receipt confirming such acceptance.

**6.4** Actus reserves the right not to attempt to provide the Transportation Services via any route which in the reasonable opinion of the driver is considered not to be safe, may lead to the injury of passengers, or may lead to damage to the Hire Equipment, the Goods or the vehicle. In the event that transportation or delivery of the Hire Equipment and/or Goods is not possible due to adverse site conditions or unsafe routes, pursuant to this clause 6.4 or as a result of the Customer's breach of clause 9.1.3, the Service Fees will still be payable.

## 7. LABOUR SERVICES

**7.1** If Actus has agreed to provide the Labour Services to the Customer as set out in the Quotation then this clause 7 shall apply.

**7.2** Actus shall use reasonable endeavours to provide the Labour Services in accordance with the Specification in all material respects.

**7.3** Actus shall use reasonable endeavours to meet any performance dates

specified in the Quotation but any such dates shall be estimates only and time for performance by Actus shall not be of the essence of the Contract.

**7.4** The Customer shall:

**7.4.1** co-operate with Actus in all matters relating to the Labour Services;

**7.4.2** provide, for Actus, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the all premises, office accommodation, data and other facilities as reasonably required by Actus for the provision of the Labour Services;

**7.4.3** at its sole expense provide all requisite materials, facilities, access and suitable working conditions to enable Actus to carry out the Labour Services safely and expeditiously; and

**7.4.4** inform Actus of all health and safety rules and regulations and any other reasonable security requirements that apply at premises at which the Customer requires Actus to carry out the Labour Services.

## 8. ADDITIONAL SERVICES

**8.1** If the Customer requests Actus to perform Additional Services or if an instruction by the Customer falls outside the scope of Services as agreed in the Quotation, Actus shall notify the Customer of any Additional Fees and will not undertake those Additional Services until the Additional Fees and time for performance of the Additional Services is agreed by the parties in writing.

**8.2** Unless the parties agree otherwise, the Additional Fees shall be a reasonable amount calculated by reference to the time charges set out in the Quotation

**8.3** Any Additional Fees payable by the Customer shall be included in the next invoice following performance of the Additional Services to which it relates

## 9. THE CUSTOMER'S RESPONSIBILITIES AND OBLIGATIONS

**9.1** The Customer shall during the term of the Contract:

**9.1.1** ensure that the terms of the Quotation and any information provided by the Customer to Actus are complete and accurate;

**9.1.2** keep Actus fully informed of any and all material matters relating to the Services;

**9.1.3** provide Actus and its representatives with access to the Place of Use as required for the provision of the Services. The Customer shall ensure that the Place of Use is fully prepared, suitable and safe for the provision of the Services;

**9.1.4** ensure compliance with any local authority, fire, health and safety or other regulations and applicable laws and the Customer shall also obtain any necessary licences, consents, permissions and approvals for the provision of the Services;

**9.1.5** co-operate with Actus in all matters relating to the Services;

**9.1.6** provide Actus with such information and materials as Actus may reasonably require to supply the Services, and ensure that such information is accurate in all material respects; and

**9.1.7** not do or permit to be done anything which could invalidate the insurances referred to in these Conditions.

**9.1.8** insure against such risks relating to the Services as may be required by law, together with such other insurance as Actus may from time to time consider reasonably necessary and advise to the Customer.

**9.1.9** ensure that all insurance policies procured by the Customer shall be endorsed to provide Actus with at least 20 Business Days' prior written notice of cancellation or material change (including any reduction in coverage or policy amount) and shall upon Actus' request name Actus on the policies as a loss payee in relation to any claim relating to the Hire Equipment. The Customer shall be responsible for paying any excess and related costs due on any claims under such insurance policies.

**9.1.10** on demand, supply copies of the relevant insurance policies or other insurance confirmation acceptable to Actus and proof of premium payment to Actus to confirm the insurance arrangements.

**9.2** If the Customer fails to effect or maintain any of the insurances required under these Conditions, Actus shall be entitled to effect and maintain the same, pay such premiums as may be necessary for that purpose and recover the same as a debt due from the Customer.

**9.3** In the event of a breach of clause 9.1.3, the Customer shall indemnify Actus against all expenses, costs, claims, loss, damage or liability to which Actus may become liable or subject to it performing its obligations under the Contract.

**9.4** If Actus' performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation ("Customer Default");

**9.4.1** Actus shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays Actus' performance of any of its obligations;

**9.4.2** Actus shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Actus' failure or delay to perform any of its obligations as set out in this clause 9.4; and

**9.4.3** the Customer shall reimburse Actus on written demand for any costs or losses sustained or incurred by Actus arising directly or indirectly from the Customer Default.

## 10. GOODS AND HIRE EQUIPMENT WARRANTY

**10.1** Actus warrants that the Hire Equipment and Goods shall substantially conform to their specification (as detailed in the Quotation), be of satisfactory quality and fit for any purpose held out by Actus. Actus shall use its reasonable endeavours to remedy, free of charge, any material defect in the Hire Equipment or Goods which manifests itself provided that:

**10.1.1** the Customer notifies Actus of any defect in writing within 10 Business Days of the defect occurring or of becoming aware of the defect;

**10.1.2** Actus is permitted to make a full examination of the alleged defect;

**10.1.3** the defect did not materialise as a result of misuse, neglect, alteration, mishandling or unauthorised manipulation by any person other than Actus's authorised personnel;

**10.1.4** the defect did not arise out of any information, design or any other assistance supplied or furnished by the Customer or on its behalf; and

**10.1.5** the defect is directly attributable to defective material, workmanship or design.

**10.2** If Actus fails to remedy any material defect in the Hire Equipment and/or Goods in accordance with clause 10.1, Actus shall provide replacement equipment that is at least the same specification as the Hire Equipment and/or Goods, or, if such replacement is not available, accept the return of part or all of the Hire Equipment and/or Goods and make an appropriate reduction to the Service Fees payable during the remaining term of the Contract and, if relevant, return any Deposit (or any part of it).

## 11. PAYMENT TERMS

**11.1** The Customer shall pay the Service Fees and any Additional Fees to Actus.

**11.2** The Customer shall pay each invoice submitted to it by Actus, in full and in cleared funds and in GB Pounds Sterling by the due date for payment to a bank account nominated in writing by Actus. Time for payment shall be of the essence of the Contract.

**11.3** The Fees are exclusive of VAT and any other applicable taxes and duties or similar charges which shall be payable by the Customer at the rate and in the manner from time to time prescribed by law.

**11.4** The Customer shall reimburse Actus for any expenses or disbursements (including without limitation any third party disbursements, congestion charges, parking tickets, travelling expenses, hotel costs, subsistence and any associated expenses). Any expenses or disbursements payable by the Customer shall be included in the next invoice after they are incurred by Actus and paid by the due date for payment as stipulated on the invoice.

**11.5** If the Customer fails to make any payment due to Actus under the Contract by the due date for payment, then, without limiting Actus' other rights and remedies, the Customer shall pay interest on the overdue amount at the rate of 4% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.

**11.6** The Deposit is a deposit against default by the Customer of payment of any Fees or any loss of or damage caused to the Hire Equipment. The Customer shall, on the date of the Quotation, pay the Deposit to Actus. If the Customer fails to make payment of any Fees in accordance with the Contract, or causes any loss or damage to the Hire Equipment (in whole or in part), Actus shall be entitled to apply the Deposit against such default, loss or damage. The Customer shall pay to Actus any sums deducted from the Deposit within 10 Business Days of a demand for the same.

**11.7** The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding except as required by law. Actus may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by Actus to the Customer.

## 12. INTELLECTUAL PROPERTY RIGHTS

**12.1** In this clause 12, "Intellectual Property Rights" means all patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**12.2** All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by Actus.

**12.3** The Customer acknowledges that, in respect of any third party Intellectual Property Rights in the Services, the Customer's use of any such Intellectual Property Rights is conditional on Actus obtaining a written licence from the relevant licensor on such terms as will entitle Actus to license such rights to the Customer.

## 13. CONFIDENTIALITY

A party ("**receiving party**") shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party ("**disclosing party**"), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is

required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause 13 shall survive termination of the Contract.

## 14. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

**14.1** Nothing in these Conditions shall limit or exclude Actus' liability for death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors; fraud or fraudulent misrepresentation; breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); breach of the terms implied by section 8 of the Supply of Goods (Implied Terms) Act 1973; or any other liability which cannot be excluded by law.

**14.2** Subject to clause 14.1:

**14.2.1** Actus shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, loss of revenue, loss of business or any indirect or consequential loss or damage arising under or in connection with the Contract however caused, even if foreseeable; and

**14.2.2** Actus's maximum aggregate liability for breach of the Contract (including any liability for the acts or omissions of its employees, agents and subcontractors), whether arising in contract, tort (including negligence), misrepresentation or otherwise, shall in no circumstances exceed 125% of the Fees for a consecutive 12 month period.

**14.3** Subject to clause 14.1 the Contract sets forth the full extent of Actus' obligations and liabilities in respect of the performance of its obligations in accordance with the Contract. In particular, there are no conditions, warranties or other terms, express or implied, including as to quality, fitness for a particular purpose or any other kind whatsoever, that are binding on Actus except as specifically stated in the Contract. Any condition, warranty or other term concerning the Hire Equipment and/or Goods which might otherwise be implied into or incorporated within the Contract, whether by statute, common law or otherwise, is expressly excluded. The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

**14.4** This clause 14 shall survive termination of the Contract.

## 15. TERMINATION

**15.1** In the event that the Customer wishes to cancel the Equipment Hire Services prior to the Despatch date of the Hire Period, the Customer agrees that it shall pay cancellation charges to Actus in accordance with the table below:

Notice Period	Cancellation Charges
<i>Up to 7 days</i>	100% of the total Service Fees due in relation to the Equipment Hire Services
<i>Between 8 and 14 days</i>	50% of the total Service Fees due in relation to the Equipment Hire Services
<i>Between 15 and 21 days</i>	25% of the total Service Fees due in relation to the Equipment Hire Services
<i>22 days or more</i>	No sums due

**15.2** In the event that the Customer wishes to cancel the Transportation Services prior to the commencement of such services, the Customer agrees that it shall pay cancellation charges to Actus in accordance with the table below:

Notice Period	Cancellation Charges
<i>Up to 7 days</i>	100% of the total Service Fees due in relation to the Transportation Services
<i>Between 8 and 14 days</i>	50% of the total Service Fees due in relation to the Transportation Services
<i>Between 15 and 21 days</i>	25% of the total Service Fees due in relation to the Transportation Services
<i>22 days or more</i>	No sums due

**15.3** In the event that the Customer wishes to cancel the Labour Services prior to the commencement of such services, the Customer agrees that it shall pay cancellation charges to Actus in accordance with the table below:

Notice Period	Cancellation Charges
<i>Up to 7 days</i>	100% of the total Service Fees due in relation to the Labour Services
<i>Between 8 and 14 days</i>	50% of the total Service Fees due in relation to the Labour Services
<i>Between 15 and 21 days</i>	25% of the total Service Fees due in relation to the Labour Services
<i>22 days or more</i>	No sums due

**15.4** Without limiting its other rights or remedies, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

**15.4.1** be unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;

**15.4.2** enters into compulsory or voluntary liquidation, or compounds with or convenes a meeting of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors, or a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (other than, in each case, for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party);

**15.4.3** has a receiver or manager or an administrator appointed or an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or a person becomes entitled to appoint a receiver over the assets of the other party; or

**15.4.4** any event occurs or proceeding is taken with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 15.4.1 to clause 15.4.3 (inclusive); or

**15.4.5** the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business.

**15.5** Without limiting its other rights or remedies, Actus may terminate the Contract with immediate effect by giving written notice to the Customer if:

**15.5.1** the Customer fails to pay any amount due under the Contract on the due date for payment and fails to pay all outstanding amounts within 7 days after being notified in writing to do so;

**15.5.2** the Customer commits a breach of any other term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of the Customer being notified in writing to do so;

**15.5.3** the Customer fails to take Delivery of the Hire Equipment; or

**15.5.4** the financial position of the Customer deteriorates to such an extent that in Actus's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

**15.6** The Contract shall automatically terminate if a Total Loss occurs in relation to the Hire Equipment.

## **16. CONSEQUENCES OF TERMINATION**

**16.1** On termination of the Contract for any reason:

**16.1.1** Actus's consent to the Customer's possession of the Hire Equipment shall terminate and Actus may, by its authorised representatives, without notice and at the Customer's expense, retake possession of the Hire Equipment and for this purpose may enter the Place of Use or any premises at which the Hire Equipment is located; and

**16.1.2** without prejudice to any other rights or remedies of the Customer, the Customer shall pay to Actus on demand:

a. all Fees and other sums due but unpaid at the date of such demand together with any interest accrued pursuant to clause 11.5;

b. any costs and expenses incurred by Actus in recovering the Hire Equipment and/or in collecting any sums due under the Contract (including without limitation any storage, insurance, repair, transport, legal and remarketing costs);

**16.1.3** the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and

**16.1.4** clauses which expressly or by implication survive termination shall continue in full force and effect.

## **17. FORCE MAJEURE**

**17.1** For the purposes of the Contract, "Force Majeure Event" means an event beyond the reasonable control of a party including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of Actus or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

**17.2** A party (the "Affected Party") shall not be liable to the other party as a result of any delay or failure to perform its obligations under the Contract as a result of a Force Majeure Event.

**17.3** If the Force Majeure Event prevents the Affected Party from providing the Hire Equipment and/or any of the Services (as the case may be) for more than 4 weeks, the other party shall, without limiting its other rights or remedies, have the right to terminate the Contract immediately by giving written notice to the Affected Party.

## **18. GENERAL**

### **18.1 Assignment and other dealings.**

**18.1.1** Actus may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.

**18.1.2** The Customer shall not, without the prior written consent of Actus, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.

### **18.2 Notices.**

**18.2.1** Any notice given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier or e-mail.

**18.2.2** A notice shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 18.2.1; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by e-mail, one Business Day after transmission.

**18.2.3** The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

### **18.3 Severance.**

**18.3.1** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

**18.3.2** If any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

**18.4** Waiver. A waiver of any right under the Contract or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy. A waiver (given in accordance with this clause) will only constitute a waiver under this Contract and shall not be a waiver of any similar right, obligation or arrangement under another contract between the Customer and Actus.

**18.5** No partnership or agency. Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

**18.6** Third parties. A person who is not a party to the Contract shall not have any rights to enforce its terms.

**18.7** Variation. Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by Actus.

**18.8** Governing law. This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.

**18.9** Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation

**18.10** (including non-contractual disputes or claims).

**18.8** Governing law. This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.

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