

# **SUPPLEMENTARY CONDITIONS APPLICABLE TO TOOL AND EQUIPMENT HIRE**

## **TO BE READ IN CONJUNCTION WITH THE CPA MODEL CONDITIONS FOR THE HIRING OF PLANT (2001)**

**EXPLANATORY NOTE:** The purpose of these Supplementary Conditions is, partly, to raise awareness of the Hirer's responsibilities for the Safe Use of Tools and Equipment and partly to define contractually the extent of the Owner's and Hirer's responsibilities as between themselves.

### **RESPONSIBILITIES OF THE HIRER**

#### **1. Management**

- 1.1 In order to comply with the requirements of legislation, which includes the Management of Health and Safety at Work Regulations 1999 (SI 1999 No. 3242); and the Provision and Use of Work Equipment Regulations 1998 (SI 1998 No. 2306) the Hirer has overall responsibility for the management and use of Tools and Equipment.
- 1.2 If advice or information is sought from and given by any representative of the Owner, the Hirer understands and accepts that such advice or information is given in good faith and does not relieve or reduce the Hirer's requirement to make his own independent assessment as outlined above.

#### **2. Insurance**

- 2.1 The Hirer shall take out and maintain insurance against any and all liabilities the Hirer might incur under the Contract provided the same is commercially available. The Owner reserves the right at any reasonable time to require confirmation that the Hirer is complying with its insurance obligations.
- 2.2 At the discretion of the Owner it may be possible to give the Hirer an interest in the Owner's own insurance policy for a fee. This interest must be agreed in writing prior to the commencement of any work covered by the Contract.

#### **3. Holiday Periods**

It is the responsibility of the Hirer to ensure the safekeeping of all Tools and Equipment hired which is not returned to the Owner before the start of any holiday period. The Tools and Equipment will be deemed to be in use during the holiday period and will be charged in accordance with the terms of the Contract. For the avoidance of doubt, the Tools and Equipment are deemed to be on-hire during public/bank holidays

#### **4. Stolen or Damaged Tools and Equipment**

- 4.1 If the Tools and Equipment are damaged and are economically repairable, the Hirer will be charged for the repairs.
- 4.2 If any item of the Tools and Equipment is two years old or less, then the Hirer will be charged by the Owner for a brand new item to replace the item that has been damaged beyond economic repair or which has been stolen.
- 4.3 If any item of the Tools and Equipment is over two years old, then the Hirer will be charged by the Owner if the item has been stolen or damaged beyond economic repair, at the current replacement value.

## **5. Acceptance of Plant**

Receipt of the Tools and Equipment by the Hirer from the depot or on site implies acceptance of all terms and conditions herein unless otherwise agreed in writing by the Owner.

## **6. Fuel, Oil and Grease**

The Hirer must ensure the correct grade of fuel, oil and grease is used in the Tools and Equipment and shall be solely responsible for and shall indemnify the Owner in respect of all damages, losses, costs and expenses arising as a result of the wrong grade of fuel, oil or grease being used.

## **7. Electrical Plant**

Any item of Tools and Equipment which is electrical must not be used unless it is correctly earthed, or unless it is of doubled insulated construction. Such electrical equipment must be connected by a qualified electrician to an adequate electrical supply of the correct voltage.

## **8. Commencement and Termination of Hire**

8.1 The hire period shall commence when the Owner has delivered the Tools and Equipment to site, or once the Tools and Equipment are collected from the depot by the Hirer; and the hire period shall continue until the Tools and Equipment are either collected by the Owner from site, or delivered back to the depot by the Hirer.

8.2 If the Hirer gives notice of termination of the hire to the Owner, the full hire charges shall be paid to the Owner up to the date that the Tools and Equipment were returned by the Hirer to the Owner's depot or when the Owner has collected the Tools and Equipment.

8.3 The Hirer shall be entitled to "off-hire" the Tools and Equipment in accordance with the following sub-clauses:

8.3.1 The Hirer must notify the Owner in writing when the Tools and Equipment are to be off-hired.

8.3.2 Each item of Tools and Equipment to be off-hired must be identified clearly to enable the Owner to provide a unique off-hire number to the Hirer.

8.3.3 The Owner shall not charge the Hirer any hire charges for any period for which an off-hire number has been obtained, but the Hirer shall still be responsible for such hire charges for those items if he is unable to provide the off-hire number to the Owner for that item of Tools and Equipment.

8.4 In the event that any item of Tools and Equipment which is off-hired, is not made available for collection when the Owner attends the site to collect it, such Tools and Equipment shall be deemed with immediate effect to be placed back on hire, and all hire charges shall be due in accordance with these conditions. The Hirer shall be responsible for the reasonable costs and expenses incurred by the Owner in seeking to collect such off-hired items.

## **9. Payment**

9.1 Where a deposit is required from the Hirer for the Tools and Equipment, then this must be paid to the Owner prior to the Tools and Equipment being either collected or delivered from the depot.

9.2 A Hirer who has an approved credit account shall pay the Owner's hire charges no later than 30 days after the date of each invoice. If a sum remains unpaid after the

due date, the payment of all hire charges, no matter how recent, shall become due immediately.

- 9.3 In the event that the Owner refers any matter relating to the recovery of any amounts owing pursuant to the contract of hire to its legal department, the Owner shall be entitled to levy an administration fee of £50.00 in respect of each such referral. This fee is in addition to any sums recoverable by the Owner pursuant to the Late Payment of Commercial Debts (Interest) Act 1998, or any subsequent legislation.
- 9.4 The Hirer shall not be entitled to withhold payment of any amount payable to the Owner except those monies which are in dispute with the Hirer. In the case of any short delivery or delivery of damaged Tools and Equipment to the Hirer, the Hirer shall still be liable to pay for the balance of the Tools and Equipment that were correctly delivered in working order.

#### **10. Returned Equipment**

The Hirer is responsible for ensuring that the Tools and Equipment are cleaned prior to collection or delivery back to the depot.

#### **11. Maximum Period of Hire for Unincorporated Bodies**

In accordance with the Consumer Credit Act, if the Hirer is a partnership, sole trader or other unincorporated body, then the contract of hire will not be more than three consecutive calendar months; and the Hirer shall return the Tools and Equipment to the Owner on or before the last day of the aforementioned three calendar month period .

### **RESPONSIBILITIES OF THE OWNER**

#### **12. Operating Instructions**

The Owner will ensure that the Hirer receives written operating instructions for the type of Tools and Equipment being supplied. Such instructions are a means of passing on operating and safety information regarding the Tools and Equipment to a competent operator. Where the operator is not present at the delivery or collection point for the Tools and Equipment, the person signing acknowledges he has a duty to pass on such instructions to the operator of the Tools and Equipment.

#### **13. Severability**

- 13.1 In the event that any clause (or part thereof) of these conditions is held to be unlawful, unenforceable or invalid by any court or other competent body, this shall not in any way affect the validity of the remainder of such clause and the remainder of the other clauses in these conditions.
- 13.2 In the event that there shall be any conflict between these conditions and the CPA Model Conditions then the former shall prevail.

#### **14. Availability**

Tools and Equipment are offered subject to availability at the time of order.

#### **15. Definitions**

“Tools and Equipment” covers all classes of tools and equipment which the Owner agrees to hire to the Hirer.