

STANDARD TERMS & CONDITIONS
SUPPLY OF HIRE EQUIPMENT
Irish Version: May 2022

PLEASE NOTE THAT THESE TERMS ARE USED WITH TRADERS AND WITH CONSUMERS AND IN CERTAIN AREAS DIFFERENT PROVISIONS APPLY TO EACH AS FOLLOWS:

- **Part A:** General Terms applying to Traders and Consumers;
- **Part B:** Terms applying only to Consumers; and
- **Part C:** Terms applying only to Traders; and
- **Part D:** General Terms applying only in respect of the sale of Goods.

A **"Trader"** means a person acting for purposes relating to that person's trade, business, craft or profession, whether acting personally or through another person acting in the trader's name or on the trader's behalf.

A **"Consumer"** means an individual acting for purposes which are wholly or mainly outside that individual's trade, business, craft or profession.

Before placing an order, the Hirer should read these Terms carefully as they contain important information about HSS and the Contract.

WHERE THE HIRER IS A CONSUMER, THE HIRER'S ATTENTION IS DRAWN IN PARTICULAR TO THE SECTIONS CONCERNING HSS' LIABILITY TO THE HIRER SET OUT IN PART B.

PART A: GENERAL TERMS APPLYING TO TRADERS AND CONSUMERS

1. **DEFINITIONS**

1.1 In these Terms:

the following words and expressions shall, unless the context or circumstances require otherwise, have the meanings assigned to them below:

"Additional Charges" means charges applicable to the provision of the Equipment which are charged in addition to the Charges including those additional costs and expenses referred to in these Terms;

"Charges" means the charges set out in the Contract or if no charges are detailed in the Contract, HSS standard charges for the relevant Equipment in force on the date HSS issues a written acceptance of the Order to the Hirer;

"Commencement Date" means the date on which the relevant Contract is formed in accordance with clause 3.2;

"Contract" means the contract between HSS and the Hirer formed in accordance with clause 3.2;

"Damage Waiver" means the optional waiver of liability for payment by the Hirer for damage to Equipment as set out in clause 7;

"Deposit" has the meaning given in clause 6.3;

"Equipment" means the items of equipment to be hired by the Hirer as listed in the Order, all substitutions, replacements or renewals of such equipment and all related accessories, manuals and instructions provided for the equipment;

“Group” means in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company;

“Hire Period” means the period of hire of the Equipment as set out in the Contract, unless the Contract is terminated earlier in accordance with these Terms or extended by agreement between HSS and the Hirer;

“Hirer” means the Consumer or Trader set out as such in the Contract;

“HSS” means the relevant HSS company set out in the Contract;

“Ireland” means the Republic of Ireland;

“Order” means the individual orders for the hire of Equipment placed by the Hirer from time to time in a branch, over the telephone, via our website or the HSS app in accordance with these Terms;

“Replacement Cost” means the cost of replacing with new any item of Equipment or part of it including but not limited to the cost of the item or part of it, any unpaid Charges that would otherwise have been paid by the Hirer were it not for such replacement, and a reasonable administrative charge to be determined by HSS covering the cost to HSS of administering the replacement;

“Site” means any premises or location at which the Equipment is to be delivered to or collected from or is otherwise located;

“Supplier” means (where applicable) the third party from whom HSS will hire the Equipment and then rehire such Equipment to the Hirer pursuant to these terms;

“Terms” means these terms and conditions.

- 1.2 references to the singular include the plural and vice versa and references to any gender include every gender;
- 1.3 references to a “person” include any individual, body corporate, association, partnership, firm, trust, organisation, joint venture, government, local or municipal authority, governmental or supra-governmental agency or department, state or agency of state or any other entity (in each case whether or not having separate legal personality);
- 1.4 in the event that there is a conflict between Part A, Part B and Part C, Part A shall prevail and then Part B in the case of a Consumer and Part C in the case of a Trader; and
- 1.5 any words following the words “include”, “includes”, “including”, “in particular” or any similar words or expressions shall be construed without limitation and accordingly shall not limit the meaning of the words preceding them.

2. **INFORMATION ABOUT HSS AND CONTACTING HSS**

- 2.1 **Who is HSS.** The name, company registration number, registered office address and VAT number of the relevant HSS company from which the Equipment will be hired is set out in the Contract.
- 2.2 **How to contact HSS.** If the Hirer has any questions or if the Hirer has any complaints, the Hirer should contact HSS via any of the methods listed in the Contact Us section at www.hss.ie.

2.3 **How HSS may contact the Hirer.** If HSS has to contact the Hirer, HSS will do so by telephone or by writing to the Hirer at the email address or postal address the Hirer provides to HSS in the Order.

3. **FORMATION OF CONTRACT AND ORDERS**

3.1 **The Hirer's Order is an offer to hire from HSS.** Each Order placed by the Hirer will be an offer by the Hirer to hire the Equipment on these Terms. The Hirer will ensure that each Order is accurate and complete and that the Equipment is suitable for the Hirer's requirements.

3.2 **How we, HSS, accept the Order.** A Contract will be formed between HSS and the Hirer for the provision of the Equipment set out in the Order, when HSS issues a written acceptance (including by email) of the Order to the Hirer.

3.3 **HSS may not accept your Order.** If HSS is unable to accept an Order for any reason, HSS will inform the Hirer of this and will not charge for the Equipment.

3.4 **When will the Contract commence.** The Contract shall commence on the Commencement Date and shall continue for the Hire Period unless terminated earlier in accordance with these Terms.

3.5 **Availability of Equipment.** If we cannot supply the Equipment at the start of the Hire Period, we may need to substitute it with an alternative of equivalent standard. You may elect to refuse a substitute we offer in which case we will refund any money you have paid in advance for the Equipment.

3.6 **Orders may be fulfilled by our suppliers.** Your Order may be fulfilled by one of our suppliers. In such cases:

3.6.1 the Equipment may not be delivered by HSS. The Hirer shall ensure that it carries out adequate inspection of the Equipment on delivery and shall note any shortages or damages on the delivery documents; and

3.6.2 the charges for the Equipment will be payable by the Hirer to HSS in accordance with the payment terms set out in these Terms. In addition, HSS may invoice the Hirer for any Additional Charges which may be levied against HSS by the Supplier in relation to the Contract or the Equipment.

3.7 **Minimum Hire Period.** A minimum hire period may apply to the Equipment. The Hirer may not terminate any Contract in respect of the hire of Equipment prior to the expiry of any minimum Hire Period. Where the Hirer purports to cancel or terminate the Contract where HSS is not at fault prior to the expiry of any minimum Hire Period, the full charges for the Equipment shall continue to be chargeable for the remainder of the minimum Hire Period.

4. **THE EQUIPMENT**

4.1 **HSS retains ownership of the Equipment.** The Hirer acknowledges that the Equipment remains at all times the property of HSS or the Supplier (as applicable). The Hirer has no right, title or interest in the Equipment except that it is hired to the Hirer in accordance with the terms of the Contract.

4.2 **The Hirer will have quiet possession of the Equipment.** HSS and the Supplier (as applicable) shall not, other than in the exercise of its rights under the Contract or applicable law, interfere with the Hirer's quiet possession of the Equipment during any Hire Period.

- 4.3 **Hirer to notify HSS of issues with, or caused by the Equipment.** The Hirer shall immediately notify HSS of any loss, accident, damage or defect in the Equipment or if the Hirer considers that the Equipment may cause damage to the Hirer's property.
- 4.4 **HSS may access a Site to inspect and repair the Equipment.** The Hirer shall grant (or shall procure that HSS, the Supplier or their authorised representatives are granted) access to the Site at all such reasonable times on reasonable notice to:
- 4.4.1 inspect the Equipment and ensure the Hirer's compliance with its obligations under the Contract; and/or
- 4.4.2 carry out any inspections or repairs of the Equipment.
- 4.5 **The Hirer will replace any fuel in the Equipment.** Where the Equipment is supplied with fuel, the Hirer shall return the Equipment with the same or a greater amount of fuel. HSS shall be entitled to charge the Hirer for any refuelling costs if the Hirer fails to comply with this clause 4.5, at such rates as may be notified to the Hirer from time to time.
- 4.6 **Use and storage of the Equipment by Hirer.** The Hirer:
- 4.6.1 shall keep the Equipment in good repair and condition, (fair wear and tear only excepted) but the Hirer shall not repair or allow any third party (other than the Supplier and only where directed by HSS) to repair the Equipment and shall notify HSS immediately if any repair is necessary;
- 4.6.2 shall where the Equipment requires fuel, oil and/or electricity, ensure that the proper type of fuel, oil and/or voltage is used;
- 4.6.3 shall not sell, licence or create any security interest or type of preferential arrangement on or over the Equipment;
- 4.6.4 shall use the Equipment in compliance with all laws and applicable regulations including any health and safety legislation which relates to the use of the Equipment and in accordance with any operating and/or safety instructions provided to or supplied to the Hirer by HSS;
- 4.6.5 shall not make any alteration to the Equipment (including defacing or covering up any name plate or mark);
- 4.6.6 shall not without the prior written consent of HSS, attach the Equipment to any land or building so as to cause the Equipment to become a permanent or immovable fixture on such land or building;
- 4.6.7 shall not, without the prior written consent of HSS, part with control of the Equipment;
- 4.6.8 shall not do or permit to be done anything which could invalidate HSS' or the Supplier's insurances;
- 4.6.9 is responsible for the security of the Equipment whilst in the Hirer's possession; and
- 4.6.10 will take all appropriate measures to secure the Equipment at the Site, including when not in use.
- 4.7 **Damage to or loss of Equipment.** Subject to clause 7, the Hirer shall pay HSS:

- 4.7.1 all costs and expenses in respect of: (i) rectifying any damage to the Equipment (fair wear and tear excepted) which occurred during the period in which the Equipment was at the Hirer's risk; and (ii) cleaning the Equipment following collection of the Equipment, in each case to return the Equipment to a condition fit for rehire. Such costs and expenses shall be confirmed to the Hirer by HSS, subject to supporting documentation. In addition, the Hirer will continue to pay the Charges until any repairs and or cleaning have been completed; and
- 4.7.2 the Replacement Cost in respect of lost or stolen Equipment and/or Equipment which is beyond economic repair and the Hirer will continue to pay the Charges, until the Replacement Cost has been received by HSS.
- 4.8 **Consequences of expiry or cancellation of the Contract.** On expiry or cancellation of the Contract for whatever reason all Equipment at such time in the possession of the Hirer shall immediately become due for return to HSS or its nominated supplier.
- 4.9 **HSS requires access to recover or substitute the Equipment.** The Hirer will grant, and will ensure that the owner of any third party premises will grant to HSS or the Supplier, their agents, employees and sub-contractors the right at any time to enter any premises where the Equipment is or may be stored in order to recover or substitute the Equipment. The rights granted in this clause 4.9 are without prejudice to any rights and remedies of HSS.
- 4.10 **Substitution of the Equipment.** HSS may substitute the Equipment from time to time with an alternative piece of equipment of an equivalent standard. HSS will give you reasonable notice if it intends to do this.
5. **DELIVERY AND COLLECTION**
- 5.1 **When HSS will provide the Equipment.** During the order process HSS will let the Hirer know when HSS or the Supplier (as applicable) will provide the Equipment.
- 5.2 **HSS is not responsible for delays outside of HSS' control.** If the supply of the Equipment is delayed by an event outside HSS' control (including but not limited to any disruption or delay to HSS' business or supply chains arising as a result of the United Kingdom's exit from the European Union or any form of health epidemic) then HSS will contact the Hirer as soon as possible to let the Hirer know and HSS will take steps to minimise the effect of the delay. HSS will not be liable for delays caused by any event outside HSS' control, but if there is a risk of substantial delay the Hirer may contact HSS to end the Contract and receive a refund for any Equipment paid for but not received.

- 5.3 **If the Hirer does not allow access to provide the Equipment.** If the Hirer does not allow or procure HSS or the Supplier access to its property to provide the Equipment as arranged HSS may charge the Hirer additional costs incurred by HSS as a result. If, despite HSS' or the Supplier's reasonable efforts, the Hirer is not contactable or access to the Hirer's property cannot be re-arranged within a reasonable period of time, HSS may end the contract. It is the Hirer's responsibility to ensure that the Site has been inspected by the Hirer and that the Site is adequately prepared to allow HSS or the Supplier to access it to effect Delivery in a safe manner without causing damage. The Hirer acknowledges that HSS or the Supplier may effect deliveries or collections in large, heavy commercial vehicles and will hold HSS harmless in the event of any damage caused by lack of Site preparation by the Hirer, to include poor access routes and/or ground conditions. If the Hirer has any concerns around access and safe delivery, this should be raised with HSS staff prior to completing an Order and noted on the Order, failing which HSS shall have no liability for damage to Site or delayed or failed delivery and the Hirer shall be liable for any related charges, including redelivery charges.
- 5.4 **When the Hirer becomes responsible for the Equipment.** Delivery will occur when the Equipment is made available to the Hirer at the delivery address (whether at HSS' premises or at the Site). Unless otherwise agreed by the parties in writing, risk of loss, theft, damage or destruction of the Equipment shall pass to the Hirer on delivery in accordance with this clause and will return to HSS (or its Supplier as applicable) once loading of the Equipment onto the collection vehicle is complete. For the avoidance of doubt, where the Hirer contacts HSS or otherwise uses the HSS app to off-hire the Equipment, risk will always remain with the Hirer until loading onto the collection vehicle is complete.
- 5.5 **What will happen if the Hirer does not give required information to HSS.** HSS may need certain information from the Hirer so that HSS can supply or arrange the supply of the Equipment, for example, delivery details. HSS will contact the Hirer to ask for this information. If the Hirer does not give HSS this information within a reasonable time of HSS asking for it, or if the Hirer gives HSS incomplete or incorrect information, HSS may either end the Contract or make an additional charge of a reasonable sum to compensate HSS for any extra work that is required as a result. HSS will not be responsible for supplying the Equipment late or not supplying any part of it if this is caused by the Hirer not giving HSS the information HSS needs within a reasonable time of HSS asking for it.
- 5.6 **If the Hirer does not allow access to collect the Equipment.** The Hirer shall grant or procure the grant of access to the Site to HSS or the Supplier to allow the collection of the Equipment and make the Equipment available for collection by HSS or the Supplier on the date and time agreed between HSS and the Hirer. If HSS or the Supplier is unable to collect the Equipment as arranged HSS may charge the Hirer any additional costs incurred by HSS as a result.
- 5.7 **Branch collections and returns.** When a Hirer wishes to collect or return HSS owned Equipment from or to an HSS branch or place of business, it shall be the Hirer's responsibility to prepare its vehicle so that the collection/return can be carried out without damage being caused to such vehicle or injuries being sustained by the Hirer or by HSS staff and the Hirer shall hold HSS harmless in the event of contravention of this. In addition, the Hirer must only return any HSS owned Equipment collected in Ireland to an HSS branch in Ireland. Should the Hirer have any doubt as to whether these requirements can be complied with, it should ask HSS to arrange a collection/delivery, subject to Charges (as applicable).

6. CHARGES AND PAYMENT

- 6.1 **Where to find the Charges.** The Charges (which includes VAT) will be the price indicated on the order pages (or otherwise notified to the Hirer) when the Hirer places the Order.
- 6.2 **Variation of the Charges.** HSS will be entitled to vary the Charges and any Additional Charges at any time by giving written notice to the Hirer to reflect any variation in the cost of supplying the Equipment which arises as a consequence of:
- 6.2.1 any variation in the Hirer's requirements for the Equipment;
 - 6.2.2 any increase in the costs payable to the Supplier;
 - 6.2.3 any information provided by the Hirer being inaccurate or incomplete;
or
 - 6.2.4 any failure or delay by the Hirer in providing information.
- 6.3 **A deposit or other payment information may also be required.** At the time the Equipment is ordered, HSS may also require the Hirer to pay a deposit and/or require the Hirer to provide details of a valid credit or debit card and allow HSS to take a deposit.
- 6.4 **Status of the Deposit.** The Deposit shall be a deposit against default by the Hirer of payment of any Charges or any Additional Charges or any loss of or damage caused to the Equipment.
- 6.5 **HSS may off-set the Deposit against amounts owed by the Hirer to HSS.** If the Hirer fails without due cause to make any payment of the Charges or any Additional Charges or any Replacement Cost or causes any loss or damage to the Equipment (in whole or in part), HSS shall be entitled to apply the Deposit in part or in whole against any such costs and by providing the Deposit the Hirer specifically consents to this.
- 6.6 **Return of Deposit.** Unless HSS is entitled to make a deduction from the Deposit in accordance with clause 6.5, the full amount of the Deposit will be returned to the Hirer at the end of the Hire Period.
- 6.7 **When the Hirer must pay and how.** The Hirer must pay the Charges at the time agreed in the Contract. Unless otherwise agreed by the parties in writing or in the Contract, any invoices submitted by HSS shall be paid by the Hirer within a period of thirty (30) days from the end of the month in which the relevant invoice is issued.
- 6.8 **HSS will pass on changes in the rate of VAT.** If the rate of VAT changes between the Order date and the date HSS supplies the Equipment, HSS will adjust the rate of VAT that the Hirer pays, unless the Hirer has already paid for the Equipment in full before the change in the rate of VAT takes effect.
- 6.9 **HSS can charge interest if the Hirer pays late.** If the Hirer is a Consumer, the provisions of clause B 15 shall apply. If the Hirer is a Trader, the provisions of clause C 20.5 shall apply.
- 6.10 **Other remedies of HSS for late payment.** Should any portion of an account fall overdue then the total account will become due on demand. The Hirer will be responsible for reasonable legal charges incurred by HSS in the recovery of amounts due or the recovery of the Equipment. In addition HSS is entitled to suspend further services to the Hirer.

7. **DAMAGE WAIVER**

Damage Waiver may be offered to the Hirer or, in some cases, may be a requirement by HSS of its Contract with the Hirer. The provisions of clauses 7.1 to 7.5 shall apply if Damage Waiver has been taken up by the Hirer. It is important to note that Damage Waiver only provides you with cover as set out in this Clause 7.

7.1 **Damage Waiver:** Subject to the remainder of this clause 7, if the Hirer pays the Damage Waiver charge being a sum equal to 16% of the Charges (where available as an option), HSS will waive any further charges for:

7.1.1 rectifying accidentally damaged Equipment; and/or

7.1.2 theft of the Equipment.

7.2 **Conditions of Damage Waiver applying:** The waiver provided by Damage Waiver is subject to the following conditions:

7.2.1 the Hirer must be able to demonstrate that reasonable care has been taken to prevent theft;

7.2.2 theft of Equipment must be reported to the Police and a crime reference number obtained; and

7.2.3 the Hirer must notify HSS within forty eight (48) hours of the theft, obtain an HSS theft report form via the Contact Us section of www.hss.ie and return it as instructed.

7.4 **When Damage Waiver will not apply.** Damage Waiver shall not apply and the Hirer shall be responsible for any damage to, or loss of, the Equipment in the following circumstances:

7.4.1 theft of consumable goods;

7.4.2 theft due to the dishonesty, wilful default or negligence of the Hirer, its employees, sub-contractors or agents;

7.4.3 theft where the Equipment was left unattended overnight outside a secured compound or building;

7.4.4 theft from a vehicle where the Equipment was left visible and unattended;

7.4.5 loss of Equipment revealed only when an inventory is made or at collection;

7.4.6 loss arising from civil disturbance; and/or

7.4.7 loss occurring outside Ireland.

7.5 **Limitations and exclusions for Damage Waiver:** Damage Waiver does not cover the following and the Hirer shall remain responsible to HSS for:

7.5.1 the first €50 or 20% of the Replacement Cost (whichever is the greater amount) of any Equipment damage or loss claim and any and all amounts of damage or loss exceeding €5,000 for any single Contract;

7.5.2 tyre punctures and/or Replacement Costs due to irreparable tyre damage;

7.5.3 damage or loss caused by the Hirer's negligence, damage or breach of the Contract including damage or loss connected to the Hirer's obligations set out in clause 4.6; and

7.5.4 damage or loss caused by or contributed to as a result of the misuse, neglect, alteration, mishandling or unauthorised manipulation of the Equipment by the Hirer.

8. **ENDING THE CONTRACT**

8.1 **Automatic termination at day 88 of the Contract term.** Where the hire is to a Hirer who is a "consumer" under the Consumer Credit Act 1995, the Hire Period shall not exceed 88 days, after which time the relevant Contract shall be deemed to have automatically terminated.

8.2 Grounds for mutual termination. Either party may, immediately on giving written notice to the other party, terminate the Contract and/or the relevant Contract without payment of compensation if the other party:

8.2.1 commits a material breach of the Contract which is incapable of remedy;

8.2.2 commits a material breach of the Contract which can be remedied but fails to remedy that breach within seven (7) days of a written notice setting out the breach and requiring it to be remedied being given by the other party; and/or

8.2.3 becomes Insolvent and each party shall notify the other party immediately upon becoming Insolvent.

8.3 **Termination on Notice.** Subject to clause 3.7, either party may terminate the Contract on giving the other party not less than five (5) days' notice in writing.

8.4 **HSS' rights to terminate.** HSS may terminate the Contract immediately on giving written notice to the Hirer if:

8.4.1 the Hirer does not, within a reasonable time of us asking for it, provide HSS with information that is necessary for HSS to provide the Equipment;

8.4.2 the Hirer does not, within a reasonable time, allow HSS or its Supplier to deliver or collect the Equipment to the Hirer or the Hirer does not collect them from HSS;

8.4.3 the Equipment is lost, stolen, seized, confiscated or in HSS' reasonable opinion or the opinion of its insurer(s), damaged beyond repair;

8.4.4 the Hirer fails to pay any of HSS' invoices within thirty (30) days from the due date for payment;

8.4.5 the Supplier terminates its agreement with HSS;

8.4.6 (in relation to Traders only) the Hirer (or its associated persons, agents or subcontractors) is shown not to be running its business in accordance with applicable law and regulations and with high levels of governance and ethical standards or cannot evidence such standards by way of appropriate policies and controls (or otherwise) to HSS's reasonable satisfaction, including but not limited to compliance with the Criminal Justice (Corruption Offences) Act 2018, the Criminal Law (Human Trafficking) Act 2008 and the General Data Protection Regulation; or

- 8.4.7 the Hirer otherwise breaks these Terms.
- 8.5 **The Hirer's right to the Equipment ends when the Contract ends.** Without prejudice to the remainder of these Terms, on the termination or expiry of the Contract HSS' consent to the Hirer's possession of the Equipment shall terminate and HSS or the Supplier may take possession of the Equipment and for this purpose may enter the Site or any premises at which the Equipment is located.
- 8.6 **Accrued rights and remedies will not be prejudiced by termination or expiry.** The termination of the Contract (or any part of it) shall be without prejudice to the rights and remedies of either party which may have accrued up to the date on which the Contract expires or is cancelled for whatever reason.
- 8.7 **Consequences of termination or expiry.** Upon the termination or expiry of the Contract, howsoever caused, without prejudice to any other rights or remedies of HSS:
- 8.7.1 HSS shall be entitled to invoice all Charges and Additional Charges incurred which have not yet been invoiced;
- 8.7.2 the Hirer shall pay on demand all Charges and Additional Charges which are due but are unpaid at the date of demand, together with any interest accrued; and
- 8.7.3 the Hirer shall pay on demand all costs and expenses incurred by HSS in recovering the Equipment and/or in collecting any sum due under the Contract (including any storage, transport, insurance, repair, legal and remarketing costs).
- 8.8 **Definition of Insolvent. "Insolvent"** means where a person ceases to trade, is unable to pay its debts as they fall due or where a person becomes, or is likely to become, insolvent or bankrupt including where a person has a receiver, administrative receiver, administrator or provisional liquidator appointed; is subject to a notice of intention to appoint an administrator; passes a resolution for its winding-up has a winding up order made by a court in respect of it; enters into any composition or arrangement with creditors (save in respect of a solvent restructuring) or has any steps or actions taken in connection with any of these procedures in any jurisdiction.
9. **HOW TO END THE CONTRACT WITH HSS**
- 9.1 **Telling HSS.** To exercise the right to terminate, the Hirer must inform HSS by a clear statement (e.g. a letter sent by post or e-mail), using the information above under "How to contact HSS" in clause 2.2 or by using the off-hire functionality provided on our website or the HSS app.
- 9.2 **Returning Equipment after ending the Contract.** If the Hirer ends the Contract for any reason after Equipment has been dispatched or delivered to the Hirer, the Hirer must return it to HSS or allow HSS or the Supplier to collect it. Please contact us using the information above under "How to contact HSS" in clause 2.2.
- 9.3 **What HSS charges for collection.** If the Hirer is responsible for the costs of return and HSS or the Supplier is collecting the Equipment from the Hirer, HSS will charge the Hirer the direct cost to HSS of collection.

10. **VARIATION**

10.1 **Which version of our Terms apply to your order.** HSS amends these Terms from time to time. Every time a Hirer orders Equipment from us, the terms in force at the time of the Order and available at www.hss.ie will apply to the Contract between the Hirer and HSS.

10.2 **Amending the Terms applicable to your Order.** HSS may revise these Terms as they apply to an Order from time to time to reflect the following circumstances:

10.2.1 changes in relevant laws and regulatory requirement; and

10.2.2 changes to HSS' processes and procedures.

If HSS have to revise these Terms as they apply to an Order, HSS will contact the Hirer to give the Hirer reasonable advance notice of the changes and let the Hirer know how to cancel the Contract if the Hirer is not happy with the changes. The Hirer may cancel either in respect of all the affected Equipment or only for any Equipment the Hirer has yet to receive. If the Hirer opts to cancel, the Hirer will have to return (at HSS' cost) any relevant Equipment already received and HSS will arrange a full refund of the price paid by the Hirer.

11. **HOW HSS WILL USE A HIRER'S PERSONAL INFORMATION**

HSS is the data controller of any personal information a Hirer provides to us. HSS will collect and process such information in order to process and fulfil an Order. Where your Order is fulfilled by one of our suppliers, your data will be provided to the supplier for such purpose.

If the Hirer is an individual providing HSS with its own personal information, please see HSS's privacy policy which is available on our website (<https://www.hss.com/hire/privacy-and-cookies-policy>) for further information on how personal information is used and rights in relation to that information.

If the Hirer is providing personal data of another individual to HSS, the Hirer must tell that individual that the Hirer is providing their information to HSS and show them a copy of this notice.

12. **GENERAL**

12.1 **Even if HSS delays in enforcing a Contract, HSS can still enforce it later.** If HSS fails to insist that the Hirer performs any of its obligations under a Contract or if HSS does not enforce its rights against the Hirer, or if HSS delays doing so, that will not mean that HSS has agreed not to enforce its rights against the Hirer and will not mean that the Hirer does not have to comply with those obligations. If HSS does waive a default by the Hirer, HSS will only do so in writing, and that will not mean that HSS will automatically waive any later default by the Hirer.

12.2 **If a court finds part of the Terms illegal, the rest will continue in force.** Each of the paragraphs of these Terms operates separately. If any court or relevant authority decides that any term is unlawful or unenforceable, the remaining paragraphs will remain in full force and effect.

12.3 **Nobody else has any rights under a Contract.** The Contract is between the Hirer and HSS. No other person shall have any rights to enforce any of its terms.

12.4 **Transfer of rights to someone else.** The Contract is personal to the Hirer and the Hirer shall not assign, delegate, sub-contract, transfer, charge or otherwise dispose of all or any of its rights and responsibilities under the Contract without the prior written consent of HSS. HSS may assign or transfer any or all of its rights and obligations under the Contract to any member of its Group and shall give written notice to the Hirer on or after such event.

13. **GOVERNING LAW AND JURISDICTION**

13.1 **Which laws apply.** Subject to clause 13.2, these Terms and any and all Contracts and any non- contractual obligations arising out of or in connection with them will be governed by Irish law.

13.2 **Where you may bring legal proceedings.** HSS and the Hirer agree that the Irish courts have exclusive jurisdiction to determine any dispute arising out of or in connection with these Terms and any and all Contracts (including in relation to any non-contractual obligations), except if the Hirer is a Consumer and a resident of Northern Ireland either party may bring proceedings in Northern Ireland.

PART B: TERMS APPLYING ONLY TO CONSUMERS

14. LIABILITY

- 14.1 **HSS is responsible to the Hirer for foreseeable loss and damage caused by HSS.** If HSS fails to comply with the Contract, HSS is responsible for loss or damage the Hirer suffers that is a foreseeable result of HSS breaking the Contract or failing to use reasonable care and skill. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the contract was made, both the Hirer and HSS knew it might happen, for example, if you specifically drew it to our attention during the sales process.
- 14.2 **HSS does not exclude or limit in any way HSS' liability where it would be unlawful to do so.** This includes liability for:
- 14.2.1 death or personal injury caused by HSS' negligence or the negligence of HSS' employees, agents or subcontractors;
 - 14.2.2 for fraud or fraudulent misrepresentation;
 - 14.2.3 for breach of the Hirer's legal rights in relation to the Equipment including the right to receive the Equipment; and
 - 14.2.4 for any matter for which HSS is not permitted by law to exclude or limit, or to attempt to exclude or limit, liability
- 14.3 **HSS is not liable for business losses.** HSS only supplies the Equipment for domestic and private use. If the Hirer uses the Equipment for any commercial, business or re-sale purpose HSS will have no liability to the Hirer for any loss of profit, loss of business, business interruption, or loss of business opportunity.
- 14.4 **HSS' aggregate liability.** Subject to clause 14.2, HSS' liability for loss, destruction or damage to goods or property is limited to a total of €1 million whether due to our breach of contract, negligence or otherwise. If you think that there is a possibility that goods or property could be damaged which have a higher value, then you must notify us in writing before the Equipment is delivered to the Site. On receipt of such notification, we may choose to make additional coverage available and this will involve an increase in the Charges.
- 14.5 **AS A CONSUMER, THE HIRER HAS LEGAL RIGHTS AND REMEDIES IN RELATION TO THE PROVISION OF THE EQUIPMENT. ADVICE ABOUT THE HIRER'S LEGAL RIGHTS AND REMEDIES IS AVAILABLE FROM YOUR CITIZENS' INFORMATION CENTRE OR THE COMPETITION AND CONSUMER PROTECTION COMMISSION. NOTHING IN THESE TERMS WILL AFFECT THE HIRER'S LEGAL RIGHTS AND REMEDIES.**

15. LATE PAYMENT

- 15.1 If the Hirer does not make any payment to HSS by the due date, HSS may charge interest to the Hirer on the overdue amount at the rate of 4% per annum above the base lending rate from time to time of Bank of Ireland. This interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The Hirer must pay HSS interest together with any overdue amount.

PART C: TERMS APPLYING ONLY TO TRADERS

16. FORMATION OF CONTRACTS

No Hirer Terms will apply to any Contracts. Each Contract will be subject to these Terms to the exclusion of all other terms and conditions, including any terms or conditions which the Hirer purports to apply under any purchase order, confirmation of order or similar document, whether or not such document is referred to in the Contract.

17. THE EQUIPMENT

17.1 Liability for damage to Hirer's property. HSS shall have no liability to the Hirer for damage to the Hirer's property if the Hirer fails to comply with clause 4.3.

17.2 Consequences of parting with control of the Equipment. If the Hirer without the prior written consent of HSS, parts with control of the Equipment, the Hirer shall, immediately upon HSS' request procure the return of the Equipment to the Hirer. If the Equipment is not returned to the Hirer within 5 days of HSS' request, the Equipment shall be deemed to be lost and the Hirer shall be responsible for the replacement of the Equipment and the Charges and any Additional Charges will continue to apply until settlement is made to the satisfaction of HSS.

17.3 Equipment will comply with the Contract. HSS shall:

17.3.1 during each Hire Period, ensure that the Equipment shall be of satisfactory quality, comply with any description provided by the Hirer and shall be fit for its intended purpose; and

17.3.2 on the Commencement Date, ensure that the Equipment shall comply with all applicable laws and statutory regulations and any reasonable instructions and guidelines issued by the Hirer at the time of hire, including health, safety and security standards.

17.4 What to do if the Equipment fails to comply with the Contract. If, at any time during the Hire Period, the Hirer becomes aware of a breach of clause 17.3 the Hirer shall give written notice of the breach to HSS as soon as reasonably possible once the Hirer has become aware of the breach.

17.5 Remedies if the Equipment fails to comply with the Contract. Following receipt of written notice under clause 17.4 HSS or (in relation to clauses 17.5.1 and 17.5.2 only) the Supplier will:

17.5.1 repair the Equipment;

17.5.2 replace the Equipment with equipment of an equivalent or similar specification; or

17.5.3 reduce the Charges of the relevant Equipment by a sum which is fair in the circumstance.

These are the Hirer's only remedy for a breach of clause 17.3.

17.6 Circumstances where HSS will not be liable. HSS shall not be responsible to the Hirer for any breach of clause 17.3 and shall not be required to repair or replace the Equipment in accordance with clause 17.5 if:

17.6.1 the breach arose directly as a result of any act or omission of the Hirer; and/or

17.6.2 the breach was caused by or contributed to as a result of the misuse, neglect, alteration, mishandling or unauthorised manipulation of the Equipment.

In such circumstances, and without prejudice to its other rights including those in clause 4.7, HSS shall be entitled to charge the Hirer for attending Site to repair or replace Equipment.

18. CRANE EQUIPMENT

18.1 In this clause 18, the following words and expressions shall, unless the context or circumstances require otherwise, have the meanings assigned to them below:

“Contract Lifting” means the hire of Crane Equipment and operating personnel where the Supplier is responsible for the Crane Equipment selection, slinging and signalling arrangements, supervision and planning of the lift and lifting operation;

“Crane Equipment” means Equipment that comprises a crane or cranes (save for mini cranes) supplied in accordance with this clause 18; and

“Crane Hire” means the hire of Crane Equipment and any operator (if provided) whereby the purpose of such hire is work to be carried out at the Hirer’s instructions and where the Hirer is responsible for the Crane Equipment selection, slinging and signalling arrangements, supervision and planning of the lift and lifting operation.

18.2 Where Crane Equipment is provided to the Hirer, the provisions of this clause 18 shall apply in addition to the other terms in these Terms.

18.3 Where this clause 18 applies, the Contract shall be for the supply of Crane Equipment by the Supplier (not HSS) to the Hirer on a Contract Lifting or Crane Hire basis. HSS assumes no responsibility whatsoever in respect of the Crane Equipment or in respect of any operator of the Crane Equipment.

18.4 The Supplier shall supply the Crane Equipment and any operator directly to the Hirer. Where one or more operators are provided under the Contract, HSS shall not, under any circumstances, accept any liability for the conduct or actions of such operators, advisers or staff of any kind. Operators provided under the Contract are provided by the Supplier and are not, and are not to be construed as, employees or agents of, or otherwise controlled by, HSS.

18.5 The Hirer shall provide a suitably-trained and experienced “appointed person” to supervise the operation who will take responsibility for health and safety, the lift plan and all other aspects of the operation.

18.6 Where the Crane Equipment is provided on a Crane Hire basis and the operator is provided by the Hirer, the operator shall have the appropriate qualifications, training and experience to operate the Crane Equipment.

18.7 If advice or information is sought from and given by HSS, the Hirer understands and accepts that such advice or information is given without responsibility and not to relieve or reduce the Hirer’s requirement to make its own independent assessment relating to the use of the Crane Equipment.

18.8 The Hirer shall provide such information as HSS or the Supplier shall require and in particular the Hirer shall:

- 18.8.1 provide HSS with the weight of the item(s) to be lifted;
- 18.8.2 in respect of the information the Supplier provides to HSS regarding the force the Crane Equipment's outriggers exert on the ground, confirm that the ground can withstand those forces; and
- 18.8.3 clear the site of all vehicles and personnel where the Crane Equipment will operate, ensuring barriers are in place to prevent unauthorised access to the site,

and warrants that the information given in accordance with clauses 18.8.1 and 18.8.2 is complete and accurate.

- 18.9 The Hirer shall indemnify HSS on demand in full, from and against any and all losses, liabilities, damages, costs and expenses (however described, characterised or classified and whether direct or indirect) that HSS incurs as a result of the Hirer giving incomplete or inaccurate information in accordance with clause 18.8. HSS will use reasonable endeavours to mitigate any such losses.

Insurance

- 18.10 The Hirer shall take out and maintain insurance against any and all liabilities the Hirer might incur under the Contract. HSS reserves the right to require confirmation that the Hirer is complying with its insurance obligations under this clause 18.10.

- 18.11 Without prejudice to clause 18.10, where Crane Equipment is hired on a Crane Hire basis, the Hirer shall maintain with reputable insurers the following insurance which will provide cover in respect of the Hirer's liabilities under the Contract including without limitation those relating to:

- 18.11.1 loss or damage to the Crane Equipment whilst on Site with a minimum per occurrence limit of indemnity of €5,000,000;

- 18.11.2 continuing Charges and Additional Charges where the Crane Equipment is being repaired following any damage;

- 18.11.3 injury to the Supplier's personnel sustained as a result of operations of the Crane Equipment on the Site;

- 18.11.4 injury to third parties and/or their property resulting from operations of the Crane Equipment on the Site; and

- 18.11.5 loss or damage to any goods being lifted by the Crane Equipment.

- 18.12 Without prejudice to clause 18.10, where Crane Equipment is hired on a Contract Lifting basis, the Hirer shall maintain with reputable insurers the following insurance which will provide cover in respect of the Hirer's liabilities under the Contract including without limitation those relating to:

- 18.12.1 loss or damage to the Crane Equipment whilst on Site resulting solely from the Supplier's negligence;

- 18.12.2 loss or damage to the property of third parties resulting solely from the Supplier's negligence with a per occurrence limit of indemnity of up to €5,000,000 (irrespective of the number of items being lifted); and

- 18.12.3 injury to any persons sustained as a result of operations of the Crane Equipment on the Site with a per occurrence limit of indemnity of up to €5,000,000.

Limitation of Liability

18.13 Without prejudice to clause 21, HSS shall have no liability to the Hirer whatsoever including but not limited to liability in respect of:

18.13.1 any goods or other thing lifted or to be lifted;

18.13.2 any surface or subsurface features such as underground services; or

18.13.3 any above ground structures, including any overhead cables, overhanging or protruding objects

which might result from the travelling, positioning or working of the crane or of any support vehicle.

Provision of Lifting Gear

18.14 If requested and specified by the Hirer in advance, the Crane Equipment will be provided with specific certificated lifting gear, subject to availability and at additional cost. HSS accepts no responsibility for loss or delay should the lifting gear prove unsuitable.

Ground Conditions

18.15 The Hirer shall be entirely responsible for the preparation and maintenance of any ground upon which the Equipment or support vehicles will travel over or from which they will operate. The Hirer shall be fully liable to HSS for any damage to the Crane Equipment or support vehicle caused by ground conditions and shall indemnify HSS against any liability, expense, loss or damage caused by ground conditions.

Travelling, Erection And Dismantling

18.16 Any time spent setting up, transporting and moving the Crane Equipment and support vehicles, erecting and dismantling the jibs and transporting additional jibs sections or ballast is payable by the Hirer to HSS at the rate specified in the Contract. The Hirer shall also allow HSS, or the Supplier as relevant, or any representative thereof, free and unrestricted access to the Equipment and support vehicles and to all areas of their operation.

18.17 Insofar as the Hirer's use of the Crane Equipment requires any licence, permission or authorisation from any private or public body or government or Local Authority or the giving of notice to any such body, government or Authority, then the obtaining of any such licence, permission or authorisation, or the giving of any such notice, shall be the entire responsibility of the Hirer, who must ensure that sufficient notice is given to the Supplier and HSS to guarantee compliance with applicable regulations. This responsibility extends to ensuring that the site is clear of all obstructions and that traffic management arrangements are set up and operated correctly.

19. DELIVERY

19.1 The Hirer shall procure that a duly authorised representative of the Hirer shall be present at the Site where the Equipment is to be delivered. Acceptance of delivery of the Equipment by such representative shall constitute conclusive evidence that the Hirer has accepted such delivery.

19.2 Time of delivery of the Equipment and/or performance of the Contract will not be of the essence.

- 19.3 If the Equipment is unavailable for inspection or collection by HSS or the Supplier within 5 days of the scheduled date for inspection or collection (as agreed between HSS and the Hirer), the Equipment shall be deemed to be lost and the Hirer shall be responsible for the replacement of the Equipment as set out in clause 4.7 and the Charges and any Additional Charges will continue to apply until settlement is made to the satisfaction of HSS.
- 19.4 If HSS or the Supplier delivers a quantity of the Equipment less than the quantity specified in the Order, the Hirer shall agree the shortages with HSS and note the same on the delivery document. The Hirer may elect to:
- 19.4.1 refuse to take delivery of or reject the Equipment and the Hirer shall have liability for the cost of delivery only; or
 - 19.4.2 take delivery of and keep the lesser quantity of Equipment or any part thereof and pay for them at the rate specified in the Order subject to a pro-rata reduction in the relevant Charges.
- 19.5 If HSS or the Supplier delivers a quantity of Equipment greater than the quantity specified in the Order, the Hirer may elect to:
- 19.5.1 accept and pay for all the Equipment delivered at the Charges; or
 - 19.5.2 accept and pay for the quantity specified in the Order and reject the excess.

20. **CHARGES AND PAYMENT**

- 20.1 **Withholding tax.** If the Hirer is required in accordance with the relevant tax laws to make any withholding in respect of taxes from payments made or due to HSS, it shall provide HSS with a certificate evidencing that withholding has been made and properly accounted for to the relevant tax authorities and shall provide HSS with such assistance as may reasonably be required to enable HSS to reclaim such taxes.
- 20.2 **Hirer's with Credit Accounts.** If HSS has granted a credit account to the Hirer:
- 20.2.1 then payment of any Charges or any other sums due under the Contract, including VAT, shall be made in full cleared funds by the end of the month following the date of the invoice; and
 - 20.2.2 HSS may set a reasonable credit limit.
- 20.3 **HSS may terminate if the credit limit is exceeded.** HSS reserves the right to terminate or suspend the Contract if allowing it to continue would result in the Hirer exceeding its credit limit or the Hirer has already exceeded its credit limit.
- 20.4 **Invoice queries.** The Hirer should notify HSS in writing of any queries concerning invoices within 14 days of the invoice date. HSS will not grant an extension to credit account payment terms for unresolved invoice queries that have been notified after such date.
- 20.5 **Late payment.** If the Hirer does not make any payment to HSS in full by the due date, without prejudice to any other rights of HSS, HSS may charge you interest (both before and after judgment) on the amount unpaid in accordance with the European Communities (Late Payment in Commercial Transactions) Regulations 2012 (SI 580 of 2012) and/or to suspend further Services to you or any of your associated companies.

21. **HSS' LIABILITY**

21.1 **Non-excludable liability.** Neither party excludes or limits its liability, if any, to the other party for:

21.1.1 death or personal injury resulting from its negligence or by the negligence of a person for whom it is vicariously liable;

21.1.2 any breach of its obligations implied by the Sale of Goods and Supply of Services Act 1980 and to the extent applicable the Sale of Goods Act 1893;

21.1.3 for its fraud or fraudulent misrepresentation or the fraud or fraudulent misrepresentation by a person for whom it is vicariously liable; or

21.1.4 any matter which it would be illegal for it to exclude or to attempt to exclude its liability.

21.2 **Tangible property liability.** Subject to clauses 21.1 and 21.4, HSS' maximum aggregate liability to the Hirer for loss of or damage to tangible property caused by its negligence or act or omission shall be limited to five million euros (€5,000,000).

21.3 **HSS' aggregate liability.** Subject to clause 21.1 and 21.4, HSS' maximum aggregate liability to the Hirer arising out of or in connection with the Contract, whether in contract, tort, misrepresentation, under statute or otherwise, howsoever caused including by negligence and/or arising from a breach of, or a failure to perform or defect or delay in performance of, any of HSS' obligations under the Contract but excluding any liability which falls within clause 21.2, shall be limited in respect of each Contract, to the Charges and other sums paid or payable in respect of that Contract as specified in the Order.

21.4 **Excluded types of liability.** Subject to clause 21.1, neither party shall have any liability to the other party for any:

21.4.1 loss of profit (direct or indirect);

21.4.2 loss of revenue, loss of production or loss of business (in each case whether direct or indirect);

21.4.3 loss of goodwill, loss of reputation, loss of opportunity and/or loss of operation (in each case whether direct or indirect);

21.4.4 loss of anticipated saving or loss of margin (in each case whether direct or indirect);

21.4.5 liability of the other party to third parties (whether direct or indirect);
or

21.4.6 indirect, consequential or special loss,

arising out of or in connection with the Contract, whether in contract, tort, misrepresentation, under statute or otherwise, howsoever caused including by negligence and/or arising from a breach of, or a failure to perform or defect or delay in performance of, any of that party's obligations under the Contract and/or any defect in or breakdown of the Equipment or the Equipment's unsuitability for the Hirer's intended purpose.

21.5 **The Effect of clause 21.4 on the Hirer's liability.** Clause 21.4 shall not limit or exclude HSS' ability to claim against the Hirer in respect of:

- 21.5.1 any loss of or damage to Equipment subject to any Damage Waiver applying;
- 21.5.2 the ability to recover the Charges applicable for any remaining Hire Period on early termination of any Contract as set out in these Terms; and/or
- 21.5.3 costs and expenses in respect of recovery of the Equipment as set out in these Terms.

21.6 **HSS' entire liability.** The Contract set out the full extent of HSS' obligations and liabilities in respect of the Equipment including the hire of Equipment to the Hirer. 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 the Hirer except as specifically stated in the Contract. Any condition, warranty or other term concerning the Equipment which might otherwise be implied into or incorporated within the Contract, whether by statute, common law or otherwise, is expressly excluded.

22. **INTELLECTUAL PROPERTY RIGHTS**

No right of licence is granted to the Hirer in respect of any intellectual and industrial property rights whether registered or unregistered (including know how and rights to prevent passing off) in Ireland and all other countries in the world and together with all applications, renewals and extensions of the same of HSS, except the right to use the Equipment in the Hirer's ordinary course of business for the purpose for which they were supplied.

23. **CONFIDENTIALITY**

23.1 **Use of Confidential Information.** Each party will keep secret and confidential all confidential information concerning the business, affairs, customers, clients or suppliers of the other party which is disclosed or obtained in connection with the Contract and/or any Contract and shall not use nor disclose the same save for the purposes of the Contract or with the prior written consent of the relevant party. Where disclosure is made to any employee, consultant, sub-contractor or agent, who needs to know the confidential information for the purposes of the Contract and/or any Contract it shall be done subject to the obligations set out in the Contract and each party shall procure that any such employee, consultant, sub-contractor or agent complies with such obligations.

23.2 **Exceptions to obligations of confidentiality.** The obligations of confidentiality in this clause shall not extend to any matter which:

- 23.2.1 is in or enters the public domain other than as a result of a breach of the obligations of confidentiality under the Contract; or
- 23.2.2 is independently disclosed by a third party entitled to disclose the same; or
- 23.2.3 is required to be disclosed under any applicable law, or by order of a court, governmental body or authority of competent jurisdiction.

24. **NOTICES**

24.1 **Method and Address for notices.** Any notices sent under the Contract must be in writing, delivered by hand or sent by registered post or recorded delivery to the parties at their registered addresses. Any notice or communication given in accordance with clause 24.1 shall be deemed to have been served:

- 24.1.1 if delivered by hand, at the time of delivery; or

24.1.2 if sent by registered post or recorded delivery at 9.00 a.m. on the second Business Day after the date of posting.

25. **GENERAL**

25.1 **Entire Agreement.** The Contract constitutes the entire agreement between the parties and supersedes any prior agreement or arrangement in respect of its subject matter and:

25.1.1 neither party has entered into the Contract in reliance upon, and it shall have no remedy in respect of, any representation or statement which is not expressly set out in the Contract; and

25.1.2 nothing in this clause 25.1 shall be interpreted or construed as limiting or excluding the liability of either party for fraud or fraudulent misrepresentation.

25.2 **No Partnership.** Nothing in the Contract and no action taken by the parties in connection with it or them shall create a partnership or joint venture or relationship of employer and employee between the parties or give either party authority to act as the agent of or in the name of or on behalf of the other party or to bind the other party or to hold itself out as being entitled to do so.

25.3 **Independent Contractor.** Each party agrees that it is an independent contractor and is entering into the Contract as principal and not as agent for or for the benefit of any other person.

PART D: GENERAL TERMS APPLYING IN RESPECT OF THE SALE OF GOODS

In this Part D the following words and expressions shall, unless the context or circumstances require otherwise, have the meanings assigned to them below:

"Additional Charges" means charges applicable to the purchase of the Goods which are charged in addition to the Charges;

"Charges" means the charges set out in the Contract or if no charges are detailed in the Contract, HSS standard charges for the relevant Goods in force on the date HSS issues a written acceptance of the Order to the Purchaser;

"Contract" means the contract between HSS and the Purchaser formed in accordance with clause 28;

"Delivery Location" means the Purchaser's premises or delivery address as provided in the Order;

"Goods" means the goods or products to be purchased from HSS by the Consumer or Trader as listed in the Order, all substitutions, replacements or renewals of such goods and all related accessories, manuals and instructions provided for the goods;

"HSS" means the relevant HSS company set out in the Contract;

"Order" means the individual orders for the purchase of Goods placed by the Purchaser from time to time in accordance with these Terms;

"Purchaser" means the Consumer or Trader who purchases Goods from HSS pursuant to an Order;

26. **GENERAL**

26.1 Clauses 10, 11, 12 and 13 shall apply in respect of the purchase of Goods by a Purchaser from HSS and for the purpose of this clause 26.1 shall be construed as referring to a Purchaser instead of Hirer, to Goods instead of Equipment and the words Contract and Order shall be construed as defined in this Part D.

26.2 Clause 14 shall apply in respect of the purchase of Goods by a Purchaser who is a Consumer and for the purpose of this clause 26.2 shall be construed as referring to a Purchaser instead of Hirer, to Goods instead of Equipment and the word Contract shall be construed as defined in this Part D.

26.3 Clauses 21.1-21.4, 21.6, 8.2-8.4 and 8.6-8.8 shall apply in respect of the purchase of Goods by a Purchaser who is a Trader and for the purposes of this clause 26.3 shall be construed as referring to a Purchaser instead of Hirer, to Goods instead of Equipment and the words Additional Charges, Charges, Contract and Order shall be construed as defined in this Part D.

27. **INFORMATION ABOUT HSS AND CONTACTING HSS**

27.1 **Who is HSS.** The name, company registration number, registered office address and VAT number of the relevant HSS company from which the Goods will be purchased is set out in the Contract.

27.2 **How to contact HSS.** If the Purchaser has any questions or if the Purchaser has any complaints, the Purchaser should contact HSS. HSS can be contacted via any of the methods listed in the Contact Us section at www.hss.ie.

27.3 **How HSS may contact the Purchaser.** If HSS has to contact the Purchaser, HSS will do so by telephone or by writing to the Purchaser at the email address or postal address the Purchaser provides to HSS in the Order.

28. **FORMATION OF CONTRACT AND ORDERS**

- 28.1 **The Purchaser's Order is an offer to purchase from HSS.** Each Order placed by the Purchaser will be an offer by the Purchaser to purchase the Goods on these Terms. The Purchaser will ensure that each Order is accurate and complete and that the Goods are suitable for the Purchaser's requirements.
- 28.2 **How we, HSS, accept the Order.** A Contract will be formed between HSS and the Purchaser for the provision of the Goods set out in the Order, when HSS issues a written acceptance of the Order to the Purchaser.
- 28.3 **HSS may not accept your Order.** If HSS is unable to accept an Order for any reason, HSS will inform the Purchaser of this and will not charge for the Goods.
- 28.4 **When will the Contract commence.** The Contract shall commence on the date on which the relevant Contract is formed in accordance with clause 28.2.

29. **CHARGES AND PAYMENT**

- 29.1 **Where to find the Charges.** The Charges (which includes VAT) will be the price indicated on the order pages (or otherwise notified to the Purchaser) when the Purchaser places the Order.
- 29.2 **When the Purchaser must pay and how.** The Purchaser must pay the Charges at the time agreed in the Contract. Unless otherwise agreed by the parties in writing or in the Contract, any invoices submitted by HSS shall be paid by the Purchaser within a period of thirty (30) days from the end of the month in which the relevant invoice is issued.
- 29.3 If the Purchaser fails to make any payment due to HSS under this agreement by the due date for payment, then, without limiting HSS's remedies, the defaulting party shall pay interest on the overdue amount at the rate of 4% a year above Bank of Ireland's base rate from time to time. This interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment.
- 29.4 If the Purchaser disputes any invoice or other statement of monies due, the Purchaser shall immediately notify HSS in writing. The parties shall negotiate in good faith to attempt to resolve the dispute promptly. HSS shall provide all evidence as may be reasonably necessary to verify the disputed invoice or request for payment.

30. **QUALITY**

- 30.1 The Goods supplied to the Purchaser by HSS shall:
- 30.1.1 be of merchantable quality (within the meaning of the Sale of Goods and Supply of Services Act 1980) and fit for any purpose held out by HSS;
 - 30.1.2 in all other respects comply with the Sale of Goods Act 1893 and Sale of Goods and Services Act 1980; and
 - 30.1.3 comply with all applicable statutory and regulatory requirements.
- 30.2 HSS shall obtain and maintain in force all licences, permissions, authorisations, consents and permits needed to supply the Goods in accordance with the Terms.

31. **DELIVERY**

- 31.1 The Purchaser shall collect the Good from HSS, or if agreed with HSS, HSS will deliver the Goods to the Delivery Location.
- 31.2 Delivery is completed on the completion of loading of the Goods at the Delivery Location or HSS's premises as applicable.
- 31.3 HSS shall have no liability for any failure or delay in delivering an Order to the extent that any failure or delay is caused by the Purchaser's failure to comply with its obligations under these Terms.
- 31.4 If the Purchaser fails to take delivery of Goods within three business days of HSS notifying the Purchaser that the Goods are ready for collection, then, except where that failure or delay is caused by HSS's failure to comply with its obligations under these Terms:
- 31.4.1 delivery of Goods shall be deemed to have been completed at 9.00 am on the third business day following the day on which HSS notified the Purchaser that the Goods were ready for collection;
- 31.4.2 HSS shall store the Goods until delivery takes place, and charge the Purchaser for all related costs and expenses (including insurance).

32. **ACCEPTANCE AND DEFECTIVE PRODUCTS**

- 32.1 The Purchaser may reject any Goods delivered to it that do not comply with clause 30, provided that:
- 32.1.1 notice of rejection is given to HSS:
- in the case of a defect that is apparent on normal visual inspection, within five Business Days of delivery;
 - in the case of a latent defect, within a reasonable time of the latent defect having become apparent; and
- 32.1.2 none of the events listed in clause 32.3 apply.
- 32.2 If the Purchaser fails to give notice of rejection in accordance with clause 32.1, it shall be deemed to have accepted these Goods.
- 32.3 HSS shall not be liable for the failure of any Goods to comply with the warranty set out in clause 30 in any of the following events:
- 32.3.1 the Purchaser makes any further use of those Products after giving notice in accordance with clause 32.1;
- 32.3.2 the defect arises because the Purchaser failed to follow HSS's oral or written instructions for the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
- 32.3.3 the Purchaser alters or repairs the Goods without the written consent of HSS;
- 32.3.4 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
- 32.3.5 the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory

requirements.

32.4 If the Purchaser rejects the Goods under clause 32.1 then the Purchaser shall be entitled to:

32.4.1 require HSS to repair or replace the rejected Goods; or

32.4.2 require HSS to repay the price of the rejected Goods in full.

Once HSS has complied with the Purchaser's request, it shall have no further liability to the Purchaser for the rejected Goods' failure to comply with clause 30.

33. **TITLE AND RISK**

33.1 Risk in the Goods shall pass to the Purchaser on delivery.

33.2 Title to the Goods shall not pass to the Purchaser until HSS receives payment in full (in cash or cleared funds) for the Goods.

33.3 Until title to the Goods has passed to the Purchaser, the Purchaser shall:

33.3.1 store those Goods separately from all other goods held by the Purchaser so that they remain readily identifiable as HSS's property;

33.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to those Goods; and

33.3.3 maintain those Goods in satisfactory condition and keep them insured on HSS's behalf for their full price against all risks with an insurer that is reasonably acceptable to HSS.

Version: May 2022