

## CONDITIONS OF HIRE

### 1) Delivery and removal of equipment

The Hirer authorises MOBILE SYSTEMS to bring its vehicle onto their property and to recover the equipment at the end of hire. MOBILE SYSTEMS shall not be responsible to the Hirer or the third parties for any damage that may be done to driveways or underground services by any reason of the weight of the vehicle. Requests for collection must be made by telephone when the Hirer has finished with the equipment and not by prior arrangement. Always ask for a pick up number. All cartage charges are to be paid by the Hirer. Equipment must be packed up, ready for loading and assistance rendered to MOBILE SYSTEMS's driver if more than one person is required to load it.

### 2) Hire period

Hiring commences at the time shown on the MOBILE SYSTEMS Hire Agreement, which states the time the equipment leaves MOBILE SYSTEMS's store. The hiring shall terminate at the time stated by the Hirer on the MOBILE SYSTEMS Hire Agreement. By that time the equipment is to be delivered back into MOBILE SYSTEMS's store either by the Hirer or following collection by MOBILE SYSTEMS's vehicle at the hirer's request.

### 3) Owner's right to hire.

MOBILE SYSTEMS may terminate the hire at any time without reason by giving the hirer 48 hours written notice. Such notice may be given earlier either by personal delivery or by post to either the job address or any other address of the Hirer specified on the face of this agreement. MOBILE SYSTEMS will not be responsible to the Hirer for any loss arising as a result of such termination.

### 4) Termination of the hire

Notwithstanding termination of the hiring the Hirer shall be obliged to pay MOBILE SYSTEMS a sum equivalent to hire fees at the rate specified herein in respect of any period from the date of termination of the hiring until the equipment is actually returned to MOBILE SYSTEMS's store.

### 5) Hiring charges

- a) In the absence of any special arrangements to the contrary equipment is hired on a daily rate, Saturdays, Sundays and holidays included. Minimum rates apply when the term of the hire is not greater than 4 hours during our normal business hours or the term of the hire is overnight between the hours of 4pm and 8am Monday to Saturday – shift work excluded.
- b) Daily rates apply in all other cases except that half day may apply when the equipment is returned on day other than the day it is hired and where the hire period during the normal hours of business in any one day is less than 5 hours.
- c) The hire period is based on the time the equipment is uplifted until the time the equipment is returned or advised for pickup, not the time the equipment is used.

### 6) Payment

- a) Unless the Hirer operates a credit account with MOBILE SYSTEMS a bond is required before hiring commences which will exceed the estimated total charges and an additional refund will be made to the Hirer on return of the equipment in good working order and condition. Should total charges exceed the amount of the bond the balance is payable by the hirer promptly on return.
- b) The hirer by accepting the goods or services agrees to the terms and conditions as laid down by MOBILE SYSTEMS and agrees to pay any costs of collection and all legal fees incurred by MOBILE SYSTEMS in the event of legal action becoming necessary.
- c) Where the hirer operates a credit account with MOBILE SYSTEMS payment is due on the twentieth day of the month after the date of invoice. Where payment is not made by the due date MOBILE SYSTEMS reserves the right to charge default interest at the rate of 2% above the hirer's overdraft rate as it may apply.
- d) If the hirer does not require MOBILE SYSTEMS to waive the hirer's responsibility for loss or damage to equipment under Condition 11 then the hirer must make alternative arrangements in writing with MOBILE SYSTEMS through MOBILE SYSTEMS's credit department.

### 7) Care of Equipment and Breakdowns.

- a) The hirer shall not use the equipment in a manner or to an extent that is inconsistent with the manner or extent of use that a reasonable hirer would expect to obtain from the equipment. Any express instructions given by MOBILE SYSTEMS either directly or accompanying the equipment in writing, shall be taken as prima facie evidence of the manner or extent to which the equipment shall be put. The hirer shall take proper care of the equipment being damaged, the hirer shall pay to MOBILE SYSTEMS a sum equivalent to the cost of making good said damage.
- b) In the event of the equipment being lost on hire to the hirer then the hirer shall pay to MOBILE SYSTEMS a sum equivalent to the cost of replacing the equipment as lost. This obligation is subject to condition 11 as applicable.
- c) The Hirer warrants that he/she is competent and qualified to use the equipment in the way or which it is designed.
- d) Breakdown resulting from misuse shall not in any circumstances shorten the period of hire.
- e) The equipment does not purport to be new stock or equal to new, but when sent out all items are understood to be in good working condition and fit for use.
- f) Where this hire agreement would otherwise be subject to the provisions of the Consumer Guarantees Act 1993 and where the hire is a hire for business purposes as recorded on the face hereof, then the hirer agrees that the equipment is a supply to the hirer for business purposes in terms of Sections 2 and 43 of that Act and the provisions of that Act shall not apply to this hire.

### 8) Injury or Damage to hirer or third persons or property

The hirer shall not have any claim against MOBILE SYSTEMS for loss or damage suffered by the hirer as a result of the hirer's use of the equipment and further the hirer will indemnify MOBILE SYSTEMS against any claim by a third person in respect of any loss injury or liability arising from this hiring or arising out of the use of the equipment by the hirer.

### 9) No assignment of hire agreement

- a) This agreement is personal to the hirer and is not capable of assignment by him and the hirer shall not sublet the equipment to any other person but this shall not prevent employees of the hirer using the equipment in conformity with this agreement.
- b) The hirer will not sell, offer for sale, assign, mortgage, pledge, charge or otherwise encumber or deal with or part with possession of the equipment hired on any part or parts thereof other than to MOBILE SYSTEMS.

### 10) No Warranties by owner

The hirer takes the equipment hired on the express condition that MOBILE SYSTEMS gives no warranty, undertaking or promise of any kind whatsoever as to the condition, state of repair or fitness of the equipment hired, nor as to the suitability of the equipment hired for the work to be undertaken with it by the hirer nor as to the suitability of the equipment hired for the work to be undertaken with it by the hirer and the hirer shall use the equipment hired entirely at his own risk. All implied warranties and conditions as to the state, quality or fitness of the equipment for any purpose are hereby excluded. All representations or warranties whether expressed or implied by MOBILE SYSTEMS, its employee or employees, agent or agents whether made before or after the execution of these conditions by the hirer shall be null and void and of no effect except as the same are included in these conditions and the hirer hereby acknowledges that these conditions cover the whole terms of hire of the equipment hired by him from MOBILE SYSTEMS. Any liability attributed to MOBILE SYSTEMS shall be limited to the value of the hire charges charged.

The hirer shall consequently have no claim whatsoever nature or kind against MOBILE SYSTEMS by reason of this condition or of the operation of the equipment hired whether correctly or incorrectly or otherwise howsoever arising and the hirer shall hold MOBILE SYSTEMS safe harmless and indemnified against all claims, actions and proceedings on account of or touching or concerning any of the aforesaid matters and against all costs.

### 11) Limitations of Hirer's responsibility for loss of or damage to equipment

If the hirer has –

- a) Delivered to MOBILE SYSTEMS within 24 hours of the time when the hirer first became aware of the loss of or damage to the equipment, a complete and correct written report of the circumstances of such loss of or damage to the equipment and;
- b) If required by MOBILE SYSTEMS lodged a written report in respect of any such loss or damage to the equipment with the police and;
- c) Rendered such assistance and done such other things as MOBILE SYSTEMS shall have reasonably required for the purposes of enabling MOBILE SYSTEMS to exercise such legal remedies as MOBILE SYSTEMS may have for the recovery of such loss or damage of the equipment -Then MOBILE SYSTEMS will limit the liability of the hirer for loss of and damage to the equipment caused by fire, storm, collision, accident, or theft provided however that MOBILE SYSTEMS will not waive the hirer's liability for:
- d) One half of the cost of purchasing new equipment to replace the equipment lost or damaged to the extent that the equipment is irreparable or the costs of repairing the equipment would exceed the cost of purchasing new equipment in replacement thereof, to a limit of \$1000 each and every incident.
- e) One half of the cost of repairing equipment damaged through accident where that damage is not due to misuse, abuse or overloading of the equipment or failure to take reasonable care of it, subject to clause 12(a) above.
- f) Unjustifiable loss of the equipment.
- g) Loss or damage of the equipment arising from a breach by the hirer of the conditions of this agreement
- h) Loss of damage from misuse of the equipment in violation of any statute regulation or bylaw
- i) Damage caused to tires and tubes by blow out bruises cuts or other causes arising from misuse of the equipment
- j) Loss of damage resulting from lack of lubrication or other normal servicing of the equipment
- k) Theft arising from circumstances where the hirer has failed to secure the property against theft.

- 12) The person signing this document for and on behalf of the hirer (if not personally the hirer) warrants that he/she has the authority of the hirer to make this contract on the hirer's behalf and that he/she is empowered by the hirer to bind the hirer to this agreement. The person so signing hereby indemnifies MOBILE SYSTEMS against all losses and costs that may be incurred by MOBILE SYSTEMS arising out of the person so signing the agreement failing to have such power of authority.

- 13) The hirer shall forthwith on request by MOBILE SYSTEMS advise MOBILE SYSTEMS of the whereabouts of the equipment and allow MOBILE SYSTEMS or its agent or servants reasonable time to inspect and test the equipment and for such purposes the hirer hereby gives irrevocable leave and license to MOBILE SYSTEMS its servants and agents to take possession of the equipment and remove the same and to enter upon any premises of the hirer and as the act of the hirer enter upon any premises where the equipment or any of the same or any part thereof may be.

- 14) In the case of a person entering into this contract in a private capacity as hirer, the hirer by entering into this contract hereby authorizes the disclosure of personal information regarding his/her creditworthiness by any other party to MOBILE SYSTEMS and that this personal information may be used by MOBILE SYSTEMS to advise the hirer of MOBILE SYSTEMS's other goods and services. The hirer has rights of access to and correction on personal information contained in this contract subject to the provisions of the Privacy Act 1993.

### 15) Conditions of Hire

It is agreed that MOBILE SYSTEMS shall let the and the Hirer take on hire the plant (as defined) described above at the nominated rates and under the conditions stated in this contract, including the CONDITIONS OF HIRE stated above. The Hirer accepts these conditions and receipt of the plant in good working order and condition.

### 16) Safety

I understand the safety requirements for using this equipment and agree to take all steps necessary to ensure my own personal safety.