

NEPTUNUS LIMITED TERMS AND CONDITIONS OF HIRE

The Client's attention is drawn to the provisions of condition 8.

1 INTERPRETATION

1.1 The definitions and rules of interpretation in this condition apply in these Terms and Conditions.

Client: the person, firm or company who hires the Goods from Neptunus, as set out in the Contract.

Contract: any contract between Neptunus and the Client for the hire of the Goods, incorporating these Terms and Conditions.

Goods: any Goods agreed in the Contract to be hired to the Client by Neptunus (including any part or parts of them).

Hire Period: shall mean the period from the date on which the Goods are delivered to the Site to the last date of removal of the Goods from the Site inclusive, as set out in the Contract.

Losses: all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by Neptunus

Neptunus: Neptunus Limited incorporated in England and Wales (CRN 02098852) whose registered office is at Cob Drive, Swan Valley, Northampton, NN4 9BB.

Period of Use: shall mean the period from the date on which Neptunus hands over the Goods to the Client until the date on which dismantling of the Goods begins, inclusive.

Site: the location where the Goods are erected and its immediate environs.

Statutory Interest: the interest payable under the provisions of the Late Payment of Commercial Debts (Interest) Act 1998.

1.2 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.3 Words in the singular include the plural and in the plural include the singular.

1.4 A reference to one gender includes a reference to the other gender.

1.5 Condition headings do not affect the interpretation of these Terms and Conditions.

2 APPLICATION OF TERMS

2.1 Subject to variation under condition 2.8 the Contract shall incorporate these Terms and Conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Client purports to apply under any purchase order, confirmation of order, specification or other document). For semi-permanent hire, Neptunus' Semi-Permanent Supplement Hire Terms and Conditions shall also be incorporated into the Contract.

2.2 No terms or conditions endorsed on, delivered with or contained in the Client's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.

2.3 These Terms and Conditions apply to all of Neptunus' hire of Goods and any variation to these Terms and Conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by a director of Neptunus. The Client acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Neptunus which is not set out in the Contract. Nothing in this condition shall exclude or limit the Neptunus' liability for fraudulent misrepresentation.

2.4 Each order or acceptance of a quotation for Goods by the Client from Neptunus shall be deemed to be an offer by the Client to hire Goods subject to these Terms and Conditions to the exclusion of all others.

2.5 No order placed by the Client shall be deemed to be accepted by Neptunus until the Contract has been signed by Neptunus or (if earlier) Neptunus delivers the Goods to the Client.

2.6 The Client shall ensure that the terms of its order and any applicable specification are complete and accurate.

2.7 Any quotation is given on the basis that no Contract shall come into existence until the Contract has been signed by Neptunus. Any quotation is valid for a period of 8 weeks only from its date, provided that Neptunus has not previously withdrawn it.

- 2.8 Where a departure in writing is made from any clause of these Terms and Conditions in accordance with the provisions of condition 2.3, the remaining clauses of the agreement shall continue to apply.
- 2.9 Unless otherwise set out in the Contract, all prices quoted by Neptunus are exclusive of VAT, packaging and carriage costs and/or of taxes, duties or charges otherwise imposed on the Goods and/or services.
- 2.10 All charges and expenses for the requisite energy, electricity, sewerage and water shall be borne by the Client, as shall any fees and/or duties imposed by any public authority in relation to the supply and/or erection of the Goods.
- 2.11 The prices in the quotations shall apply solely to the quantities and/or materials stated therein.
- 2.12 Changes to stated prices are expressly reserved. Neptunus shall be entitled to pass increases in wages, materials, transport and other charges and taxes on to the Client, after the Contract comes into existence but before complete delivery has taken place.

3 ORDERS

- 3.1 The Contract will be signed by Neptunus only when it accepts an order confirmed in writing by the Client.
- 3.2 Items on which quotations are given will only be exclusively reserved for the Client on receipt of the signed order confirmation, together with the first contractually agreed instalment of payment, as set out in the Contract.
- 3.3 Changes to the order by the Client, once it has been issued, but before the Contract comes into existence must be brought to Neptunus' attention in writing in good time. Changes made by word of mouth shall only apply once confirmed in writing by Neptunus. Any changes that cause costs higher than those on which the quoted prices were based will be charged for in addition.
- 3.4 Neptunus reserves the right to carry out extra work, whether or not specified in the Client's order or the Contract, and to charge the same to the Client, if such work is in the interests of the proper fulfilment of the order. Neptunus shall give the Client prior notice of such extra work in writing unless the urgent nature thereof prevents this. Neptunus also reserves the right to increase its charges and/or amend any specification under the Contract in order to comply with any applicable statutory or regulatory requirements.

4 FULFILMENT OF THE ORDER

- 4.1 All delivery times given by Neptunus are always approximate and non-binding, unless it expressly appears in the Contract that the agreed delivery time and date is an irrevocable deadline. The delivery time will commence as soon as the order confirmation is dispatched and the Client has provided Neptunus with all the data, drawings and materials that the latter judges reasonably necessary. An over-run on the delivery time shall not relieve the Client of its obligations under these Terms and Conditions and/or the Contract agreement and neither shall it entitle the Client to terminate the Contract and/or claim compensation.
- 4.2 The Client must ensure that Neptunus has adequate opportunity to fulfil the order. The Client must also ensure that third parties carrying out work on the Client's instructions do not cause any delay to Neptunus' work. If, however, delay arises for the aforementioned reason, the cost thereof will be charged to the Client and Neptunus shall not be responsible for any Losses for late delivery or erection of the Goods accordingly.
- 4.3 Delivery shall be completed upon the completion of the erection of the Goods at the Site specified in the Contract, unless otherwise agreed by the parties in writing
- 4.4 If it appears, during the performance of the Contract by Neptunus, that through force majeure (which shall be deemed to include but not be limited to: acts of God, governmental actions, war or national emergency, acts of terrorism, protests, mobilisation, riot, civil commotion, fire, explosion, epidemic, flood or other extreme weather conditions, in particular strong winds, hold-up due to frost, traffic jam, conflagration, breakdown of machinery, lockouts, strikes or other labour disputes (whether or not relating to either parties workforce) or circumstances unknown to Neptunus at the time the Contract came into existence, the work is incapable of performance, then subject always to the provisions of condition 4.5, Neptunus shall be entitled to change the Contract, such that performance of the work becomes possible. Neptunus shall be entitled, without consultation or notification, to outsource the order or part thereof or to have same fulfilled by a third party, if this is, in Neptunus' sole opinion, conducive to the proper and efficient performance of its obligations under the Contract.
- 4.5 If the Client does not comply strictly with any obligation on him arising from the Contract with Neptunus, Neptunus shall at its sole discretion and at all times be entitled to suspend the Contract and/or to terminate it, wholly or in part, without any requirement for a notice of default and/or judicial intervention, all such without prejudice to any right to compensation howsoever arising that Neptunus might have.

- 4.6 In the event of force majeure, non-delivery of requisite materials and semi-finished Goods to Neptunus by third parties and other unforeseen circumstances that disrupt the normal course of business and delay or render unreasonable performance of the Contract) Neptunus shall be relieved of its obligation to comply without the Client thereby having any claim for Losses. Should force majeure arise, Neptunus shall immediately notify the Client thereof, whereupon the Client shall have the opportunity to cancel the order within five days of receipt of said notice, subject to an obligation to recompense Neptunus for the part of the order already fulfilled.

5 RISK/TITLE

- 5.1 The Goods are at the risk of the Client from the arrival of the Goods at the Site (and shall be at the Client's risk irrespective of whether the Goods have been erected or not) and shall remain at the Client's risk up to and including the time that the dismantling of the Goods has completed and the Goods are removed from the Site at the end of the Hire Period.
- 5.2 The Client shall maintain the Goods in satisfactory condition and keep them insured on Neptunus behalf for their full price against all risks to the reasonable satisfaction of Neptunus from the arrival of the Goods at the Site. On request the Client shall produce to Neptunus the policy of insurance together with receipts for the payment of premiums.
- 5.3 Title and ownership of the Goods shall not pass to the Client and shall remain vested in Neptunus at all times and the Client shall:
- hold the Goods on a fiduciary basis as Neptunus' bailee;
 - store the Goods (at no cost to the Neptunus) separately from all other Goods of the Client or any third party in such a way that they remain readily identifiable as Neptunus' property; and
 - not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods.
- 5.4 If before expiry of the Hire Period the Client becomes subject to any of the events listed in clause 13.1, then, without limiting any other right or remedy Neptunus may have, Neptunus may at any time:
- require the Client to deliver up all Goods in its possession; and
 - if the Client fails to do so promptly, enter the Site or the premises where the Goods are located on behalf of the Client or of any third party where the Goods are stored in order to recover them.
- 5.5 The Client grants Neptunus, its agents and employees an irrevocable licence at any time to enter the Site or any premises where the Goods are or may be stored in order to inspect them, or, where the Client's right to possession has terminated, to recover them.
- 5.6 On termination of the Contract, howsoever caused, the Neptunus' (but not the Client's) rights contained in this condition 5 shall remain in effect.

6 CLIENT'S OBLIGATIONS

- 6.1 The Client must ensure that:
- on the dates agreed, the Site or the location to which the Goods are to be delivered is accessible from the public highway, completely free of obstructions and levelled such that Neptunus is able to begin erecting the Goods without further work. Should the Site be inaccessible, for example because of weather conditions, the Client must provide a replacement site;
 - Neptunus and its employees, consultants and/or subcontractors have unrestricted access to the Site or the location to which the Goods are to be delivered in order to deliver and erect the Goods. The Client, its employees, consultants and/or subcontractors shall provide all reasonable assistance in relation to the delivery and erection of the Goods as so requested by Neptunus, and shall co-operate with all reasonable requests from Neptunus;
 - anchorage must be possible on the Site, using either ground anchors of up to 100 cm, or concrete blocks or concrete floors, the cost of which will be charged to the Client, unless stated otherwise in the Contract; and
 - the Site or the location to which the Goods are to be delivered is suitable for vehicles such as articulated lorries, cranes, forklift-trucks and other plant (or can be made so by means of track way or temporary roadway). Neptunus will not be liable for damage to the Site or to paving and the Client shall indemnify and keep Neptunus indemnified against all Losses howsoever arising in connection therewith.
- 6.2 The Client must familiarise himself with the permissions including but not limited to licences, orders, planning permissions, building regulations and exemptions that may be required in respect of the Goods, the Site or delivery location and use thereof (the "Permissions") and must ensure that all such Permissions are in place both prior to delivery of the Goods, throughout the Hire Period and until such time as the Goods have been collected and removed from the Site. The Client shall attend to all applications for Permissions in connection therewith at the Client's own expense. The Client must also make provision at the Client's own expense for installing and keeping ready for use the prescribed fire alarm and evacuation systems and other fire prevention arrangements (including but not limited to extinguishers, emergency lighting and emergency exit signs) and other safety requirements. The Client must inform the relevant official bodies of the intended construction of the Goods and, if so required, make arrangements for a building inspection, which must take place in the presence of a representative of Neptunus.

- 6.3 Neptunus shall, if necessary, make structural calculations available to the Client in connection with the erection of the Goods and/or if required by the Permissions only. The Client, being aware that such calculations incorporate patented and confidential information, is bound to secrecy and must ensure that the calculations are used exclusively for the purposes of the technical inspection only, and shall not be used for any other purpose without the prior written consent of Neptunus.
- 6.4 If excavation works and/or soil drilling have to be carried out in connection with anchorage, the Client must inform Neptunus of the exact position of any underground services or cables (including but not limited to gas, water, electricity, heating and communications) and must submit drawings of the same to Neptunus in advance of the delivery. The Client shall indemnify and keep Neptunus indemnified against all Losses howsoever arising in relation to damage caused to cables and pipes.
- 6.5 The Client must provide a clear drawing showing where the Goods are to be positioned on the Site. The Client must be present at the commencement of the erection work and indicate the exact location. The Client shall indemnify and keep Neptunus indemnified against all Losses howsoever arising in relation to the positioning of the Goods.
- 6.6 As the Goods are at the Client's risk from their arrival at the Site or the location to which the Goods are to be delivered up and until the Goods have been completely dismantled and removed from the Site, the Client must ensure that, during fulfilment of the Contract, the Site and the area allocated for storage under condition 6.7 is properly enclosed and has security against theft and malicious damage.
- 6.7 The Client must make space available within the Site for the storage of packaging material.
- 6.8 The Client must provide the requisite connections for electricity, water supply and sewerage, subject at all times to clause 2.10. The Client must also provide (temporary) toilet facilities during performance of the work by Neptunus at the Client's sole cost.
- 6.9 The Client must inform Neptunus of the specific provisions on Health, Safety and the Environment applicable to the Site. The Client shall indemnify and keep Neptunus indemnified against all Losses arising from the failure of the Client to perform its obligations under this condition 6.8.
- 6.10 The Client must provide adequate heating to prevent damage from snow, frost or ice and will not allow the build-up of snow on the Goods.

7 COMPLAINTS AND WARRANTY

- 7.1 The quantity and description of the Goods shall be as set out in Neptunus' quotation or the Contract at completion of delivery of the Goods, unless otherwise agreed as between the parties in writing.
- 7.2 All samples, drawings, descriptive matter, specifications and advertising issued by Neptunus and any descriptions or illustrations contained in Neptunus' catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract and this is not a sale by sample. To the extent that the Goods are to be designed or erected in accordance with a specification supplied by the Client, and in particular when suggestions or recommendations made by Neptunus are ignored or not followed by the Client, the Client shall indemnify Neptunus against all Losses suffered or incurred by Neptunus in connection with any claim made against Neptunus.
- 7.3 Defects must be reported in writing on delivery or on handover. Subsequent defect reports shall be deemed to have been submitted out of time and will no longer be accepted. Defects that justify partial cancellation shall not give any right to claim complete cancellation.
- 7.4 To establish a defect, the Client shall assist Neptunus and arrange access when required to provide the opportunity to organise, or have organised by a third party, an on-Site investigation of the quality of the Goods and services supplied.
- 7.5 Neptunus accepts no liability whatsoever for defects caused by or suffered by the Goods or services through the fault or actions of third parties or the Client, or from external causes and the Client shall indemnify and keep Neptunus indemnified against all Losses arising therefrom.

8 LIMITATION OF LIABILITY

- 8.1 Subject to condition 7, the following provisions set out the entire financial liability of Neptunus (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Client in respect of:
- any breach of these Terms and Conditions;
 - any use made or resale by the Client of any of the Goods, or of any product incorporating any of the Goods; and
 - any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

- 8.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.
- 8.3 Nothing in these Terms and Conditions excludes or limits the liability of Neptunus:
- for death or personal injury caused by Neptunus' negligence; or
 - under section 2(3), Consumer Protection Act 1987; or
 - for any matter which it would be illegal for Neptunus to exclude or attempt to exclude its liability; or
 - for fraud or fraudulent misrepresentation.
- 8.4 Subject to condition 8.2 and condition 8.3:
- Neptunus' total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price; and
 - Neptunus shall not be liable to the Client for any Losses which arise out of or in connection with the Contract; and
 - Neptunus' total liability to the Client in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Goods.

9 LIABILITY

- 9.1 Complaints concerning particular work or Goods supplied shall not suspend the Client's obligation to pay. In no event may the Client claim cancellation of this agreement as a result of complaints or defects.
- 9.2 Neptunus and persons under its control shall not be liable in any way whatsoever for any damage, however described and arising from what ever course, other than as a consequence of its own intent or gross negligence, as proven by the Client.
- 9.3 The Client shall indemnify and keep Neptunus indemnified against all Losses arising from claims that third parties make against Neptunus for damage arising from or by the Goods supplied.

10 HIRE

- 10.1 Neptunus shall at all time retain title in the Goods made available to the Client.
- 10.2 The Client shall:
- only use the Goods for their intended purpose and declares that it receives them in good condition,
 - keep the Goods in the condition it receives them and will return them on expiry of the Period of Use in the same condition as that in which he received them;
 - take such steps (including compliance with all safety and usage instructions provided by Neptunus) as may be necessary to ensure, so far as is reasonably practicable, that the Goods are at all times safe and without risk to health when they are being used;
 - not carry off the Goods or cause them to be carried off the Site without the written consent of Neptunus;
 - provide access to the Goods at all times and the Client grants to Neptunus an irrevocable licence to enter the Site or the property where the Goods are located during the Hire Period;
 - not, without the prior written consent of Neptunus, part with control of (including for the purposes of repair or maintenance), sell or offer for sale, underlet or lend the Goods or allow the creation of any mortgage, charge, lien or other security interest in respect of the Goods without the written consent of Neptunus;
 - not suffer or permit the Goods to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if the Goods are so confiscated, seized or taken, the Client shall notify Neptunus and the Client shall at its sole expense use its best endeavours to procure an immediate release of the Goods and shall indemnify Neptunus on demand against all Losses incurred as a result of such confiscation;
 - ensure that at all times the Goods remain identifiable as being Neptunus' property and wherever possible shall ensure that a visible sign to that effect is attached to the Goods; and
 - ensure that the Goods are available for collection at the end of the Hire Period from the Site, giving Neptunus or its representatives full access to the Site or any premises where the Goods are located for the purpose of removing the Goods.
- 10.3 The Client must inform Neptunus without delay if the Client's Goods or real property or the property that is the object of this agreement are seized, or if Neptunus' proprietary rights are otherwise endangered.
- 10.4 The Goods will be insured by Neptunus for the Hire Period against the risks of fire, storm, damage by aircraft and lightning. Fixtures and Goods that are not Neptunus' property and are on or in the Goods are not included in this cover and are at the Client's risk and expense. During the Hire Period the Client shall bear the risk of vandalism, theft, embezzlement or loss.

- 10.5 The Client shall be liable for all damage to the Goods, however it may be described or caused, notwithstanding whether it is the result or fault of the Client, of a third party or of force majeure. The Client must report any damage to or defect in the Goods to Neptunus immediately. The Client may not make repairs without Neptunus' consent. If the defect in or damage to the Goods arose without any fault on the part of the Client, the Client shall, where a direct replacement or suitable alternative is readily available, be entitled to replacement of the Goods concerned for the remaining term of the agreement.
- 10.6 The Client shall indemnify and keep Neptunus indemnified against all Losses arising from any environmental damage (including but not limited to soil contamination arising from fuel-powered hired Goods such as heating, generator sets, etc.) arising from the Hire of the Goods.
- 10.7 The Client shall not cover up or remove the brand names, (picture) marks and logos on the equipment or parts thereof without the written consent of Neptunus.
- 10.8 If, at the end of the Hire period, the Client does not make the Goods available to Neptunus promptly, Neptunus shall be entitled, for every day or part day for which the Goods are not delivered up to it, to charge the Client the daily rental set out in the Contract by way of compensation, together with any expenses incurred as a result of the delay. If it appears on return that the Goods exhibit defects or are damaged or incomplete, or that the hired Goods have not been cleaned or cleaned deficiently of paint, tape, glue, stickers, graphics or other such materials that have been applied to the hired Goods, the cost of replacement, repair or removal will be charged to the Client.
- 10.9 In the event of shortages at the end of the Contract as against the Goods provided and as set out in the Contract, the counts by Neptunus' warehouse shall be conclusive evidence thereof and the Client shall indemnify Neptunus for any Losses suffered.

11 INTELLECTUAL PROPERTY RIGHTS AND COPYRIGHT

- 11.1 Neptunus shall retain the copyright to any designs, drawings, sketches and calculations designed or accomplished, as the case may be, even where done on the Client's instructions.
- 11.2 The Client undertakes to use the designs, drawings, sketches and calculations only for the Client's own purposes, and not to make them available in any manner whatsoever to any third party, for reward or otherwise.

12 PAYMENT

- 12.1 All payments shall be made on the due dates specified in the Contract, in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Client has a valid court order requiring an amount equal to such deduction to be paid by Neptunus to the Client.
- 12.2 Time for payment shall be of the essence.
- 12.3 No payment shall be deemed to have been received until Neptunus has received cleared funds.
- 12.4 All payments due under the Contract shall become due immediately on its termination despite any other provision.
- 12.5 If the fulfilment of an order extends over a period of more than a month or if, in Neptunus' opinion, the sum involved is such as to require it, Neptunus may at its option demand payment in advance and/or in instalments, as set out in the Contract.
- 12.6 Neptunus shall be entitled to demand security for payment during fulfilment of the Contract including but not limited to demanding a guarantee from a group company (a parent or subsidiary company as defined in the Companies Act 2006) of the Client or from a director of the Client.
- 12.7 Should a payment deadline be exceeded, the Client shall be liable to pay interest on the amount of the invoice at a rate of 1% per month or part thereof, commencing on the date the amount of the invoice becomes payable. If and when the Statutory Interest is more than the percentage mentioned herein, the Statutory Interest will be charged.
- 12.8 The Client shall indemnify and keep Neptunus indemnified against all Losses arising from Neptunus collecting the payments due under the Contract. These Losses for the purpose of this clause 12.8 shall be deemed to be an amount equal to the actual Losses suffered by Neptunus
- 12.9 If the Client is in default of its obligation to pay, Neptunus reserves the right to suspend work, which means that Neptunus will recommence its operations only when the Client has met its obligations, without prejudice to Neptunus' right to compensation should the Client remain in default. If the cause of the work not being finished promptly is rooted in non-compliance with the terms of payment, Neptunus shall not be held liable in any way whatsoever for the late delivery.
- 12.10 If the Client does not pay despite repeated reminders, Neptunus reserves the right to resort to cancellation of the contract and to

repossess whatever Goods have already been supplied, whereupon the Client shall be held liable for all Losses arising from failure to comply or comply promptly with the agreements on payment.

- 12.11 The Client shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Neptunus may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Client against any amount payable by Neptunus to the Client.

13 TERMINATION

- 13.1 Without limiting its other rights or remedies, Neptunus may terminate the Contract with immediate effect by giving written notice to the Client if:

- a. the Client commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 7 days of the Client being notified in writing to do so;
- b. the Client has a bankruptcy order made against him or makes an arrangement or composition with its creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Client or notice of intention to appoint an administrator is given by the Client or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Client or for the granting of an administration order in respect of the Client, or any proceedings are commenced relating to the insolvency or possible insolvency of the Client; or
- c. the Client suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between Neptunus and the Client, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Client ceases to trade; or
- d. the Client encumbers or in any way charges any of the Goods prior to full payment being received by Neptunus; or
- e. the Client suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
- f. the Client's financial position deteriorates to such an extent that in Neptunus' opinion the Client's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

- 13.2 Without limiting its other rights or remedies, Neptunus may suspend provision of the Goods under the Contract or any other contract between the Client and Neptunus if the Client becomes subject to any of the events listed in clause 13.1, or Neptunus reasonably believes that the Client is about to become subject to any of them, or if the Client fails to pay any amount due under the Contract on the due date for payment.

- 13.3 Without limiting its other rights or remedies, Neptunus may terminate the Contract with immediate effect by giving written notice to the Client if the Client fails to pay any amount due under the Contract on the due date for payment.

- 13.4 On termination of the Contract for any reason the Client shall immediately pay to Neptunus all of Neptunus' outstanding unpaid invoices and interest, and Neptunus shall be entitled to start dismantling and carrying off the equipment at once.

- 13.5 Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract that existed at or before the date of termination.

- 13.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

- 13.7 The Client shall be entitled to cancel the agreement in writing before the delivery date by means of a registered letter served in accordance with clause 16 of these Terms and Conditions. The Client shall thereby become liable to a cancellation charge equal to a percentage of the price agreed in the Contract, which percentage shall be determined as follows:

- a. on cancellation more than 120 days before delivery: 20 %
- b. on cancellation 120 – 61 days before delivery: 40 %
- c. on cancellation 60 – 31 days before delivery: 60 %
- d. on cancellation 30 days or less before delivery: 80 %

In addition, the client is obliged to compensate Neptunus for the work already carried out by Neptunus and/or its subcontractors and for the investments made and/or investment obligations entered into by Neptunus.

- 13.8 The payments referred to in Article 13.7 also apply in the event of cancellation, postponement, interruption or premature termination of an event in connection with an epidemic, pandemic or contagious disease (both national and international) and/or

in connection with measures to be taken/adopted (by the responsible authorities) to prevent the spread of the diseases referred to above. This applies irrespective of the degree of foreseeability of the outbreak of the diseases referred to above.

14 ASSIGNMENT

- 14.1 Neptunus may assign the Contract or any part of it to any person, firm or company.
- 14.2 The Client shall not be entitled to assign the Contract or any part of it without the prior written consent of Neptunus.

15 GENERAL

- 15.1 Each right or remedy of Neptunus under the Contract is without prejudice to any other right or remedy of Neptunus whether under the Contract or not.
- 15.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 15.3 Failure or delay by Neptunus in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 15.4 Any waiver by Neptunus of any breach of, or any default under, any provision of the Contract by the Client shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 15.5 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

16 COMMUNICATIONS

- 16.1 All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent e-mail to the addresses and e-mail addresses set out in the Contract or such changed addresses or e-mail addresses notified by one party to the other.
- 16.2 Communications shall be deemed to have been received:
 - a. if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or
 - b. if delivered by hand, on the day of delivery; or
 - c. if sent by e-mail on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.
- 16.3 Communications addressed to Neptunus shall be marked for the attention of the Managing Director.

17 APPLICABLE LAW AND DISPUTES

- 17.1 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 English law, and the parties submit to the exclusive jurisdiction of the English courts.

