1. DEFINITIONS

(a) The “Owner” is the Company, firm or person letting the plant on hire and includes their successors, assigns or personal representatives.

(b) The “Hirer” is the Company, firm, person, Corporation or public authority taking the owner’s plant on hire and includes their successors, personal representatives or personal representatives of the Hirer.

(c) “Plant” covers all classes of plant, machinery, vehicles, equipment and accessories therefor, which the Owner agrees to hire to the Hirer.

(d) A “day” shall be 8 hours or if the day is a Friday it shall be 7 hours, unless otherwise specified in the Contract.

(e) A “working week” covers the period from starting time on Monday to finishing time on Friday.

(f) The “hire period” shall commence from the time when the plant leaves the Owner’s depot or place where last employed and shall continue until the plant is received back at the Owner’s named depot or other agreed location.

(g) A “Consumer Contract” is a contract entered into with a person acting in his own capacity and not for or on behalf of any business or profession.

2. EXTENT OF CONTRACT

The Hirer shall be responsible for the unobstructed access and, unless otherwise agreed in writing, for unloading and loading of the plant at the site, and any personnel supplied by the Owner for such unloading and/or loading shall be deemed to be the property of the Owner.

3. ACCEPTANCE OF PLANT

Acceptance of the plant or site implies acceptance of all terms and conditions herein unless otherwise agreed in writing.

4. UNLOADING AND LOADING

The Hirer shall be responsible for the unobstructed access and, unless otherwise agreed in writing, for unloading and loading of the plant at the site, and any personnel supplied by the Owner for such unloading and/or loading shall be deemed to be the property of the Owner.

5. DELIVERY IN GOOD ORDER AND MAINTENANCE: INSPECTION REPORTS

(a) Unless notification in writing to the contrary is received by the Owner from the Hirer in the case of plant supplied with an operator within four working days, and in the case of plant supplied without an operator within three working days, of the plant being returned to the site, the plant shall be deemed to be in good order, save for either an inherent fault or a fault not ascertainable by reasonable examination, in accordance with the terms of the Contract and to the Hirer's satisfaction, provided that where plant requires to be erected on site, the period above stated shall be calculated from the date of completed erection of plant. The Hirer shall be responsible for its safe keeping, use in a workmanlike manner within the manufacturer’s rated capacity and return on the completion of the hire in equal good order (fair wear and tear excepted).

(b) The Hirer shall be responsible for all costs incurred in connection with the operation of the plant by the said drivers/operators/persons. The Hirer shall not allow any other person to operate such plant without the Owner's written consent issued in writing.

6. SERVICING AND INSPECTION

The Hirer shall at all reasonable times allow the Owner, his Agents or his Insurers to have access to the plant to inspect, test, adjust, repair or replace the same. So far as reasonably possible, such work will be carried out at times to suit the convenience of the Hirer.

7. TIMBER MATS OR EQUIVALENT

(a) If the ground (including any private access road or track) is soft or unsuitable for the plant to work on, or be transported on, the Owner shall supply and lay suitable timbers or equivalents in a suitable position for the plant to travel over, work on, or be transported over, including for the purpose of delivery and collection.

(b) Where the hire is for lifting equipment, any sound timber or other material supplied by the Owner for use with outriggers/stabilisers is provided solely to assist the Hirer and expressly not to relieve him of his legal, regulatory, or contractual obligations to ensure adequate stability of the lifting equipment under the imposed loading.

8. HANDLING OF PLANT

When a driver or operator or any person is supplied by the Owner with the plant, the Owner shall supply a person competent in operating the plant or for such purposes for which the person is supplied and such person shall be under the direction and control of the Hirer. Such drivers or operators or persons shall for all purposes in connection with their employment in the working of the plant be regarded as the servants or agents of the Hirer, without prejudice to any of the provisions of Clause 13 who alone shall be responsible for all claims arising in connection with unloading and/or loading of the plant by, or with the assistance of, such personnel.

9. BREAKDOWN, REPAIRS AND ADJUSTMENT

(a) When the plant is hired without the Owner’s driver or operator any breakdown or the unsatisfactory working of any part of the plant must be notified immediately to the Owner. Any claim for breakdown time will only be considered from the time and date of such notification.

(b) Full allowance for the hire charges and for the reasonable cost of repairs that have been authorised by the Owner will be made to the Hirer for any stoppage due to breakdown of plant caused by the development of either an inherent fault or a fault not ascertainable by reasonable examination of fair wear and tear and for all stoppages for normal running repairs in accordance with the terms of the Contract.

(c) The Hirer shall, not except for the changing of any tyre and repair of punctures, repair the plant without the written authority of the Owner. The changing of any tyre and repair of punctures are however the responsibility of the Hirer who should arrange for them to be changed/repaired without awaiting authorisation from the Owner.

10. OTHER STOPPAGES

No claims will be admitted (other than those allowed for under “Breakdown” or for “Idle Time”, as herein provided), for stoppages through causes outside the Owner’s control, including bad weather or ground conditions nor shall the Owner be responsible for the cost or expense of recovering any plant due to soft ground.

11. LOSS OF OTHER PLANT DUE TO BREAKDOWN

Each item of plant specified in the Contract is hired as a separate unit and the breakdown or stoppage of one or more units or vehicles (whether the property of the Owner or otherwise) through any cause whatsoever, shall not entitle the Owner to compensation or allowance for the loss of working time by any other unit or units of plant, working in conjunction therewith, provided that where the use of such units of plant are expressly hired together as a unit, such items shall be deemed a unit for the purpose of breakdown.

12. LIMITATION OF LIABILITY

For exception liability on the part of the Owner which is expressly provided for in the Contract (including these Clauses)

(a) The Owner shall have no liability or responsibility for any loss or damage of whatever nature due to or arising through any cause beyond his reasonable control;

(b) The Owner shall have no liability or responsibility, whether by way of indemnity or by way of any breach of the Contract, breach of statutory duty or misrepresentation or by reason of the commission of any tort (including but not limited to negligence) in connection with the hire, for any of the Hirer’s loss of profit, loss of use of the plant or any other economic loss or consequential loss or loss of productivity, loss of contracts with any third party, liabilities of whatever nature to any third party, and/or any other financial or economic loss or indirect or consequential loss or damage of whatever nature;

(c) Wherever the Contract (including these Clauses) provides that any allowance is to be made against hire charges, such allowance shall be the Hirer’s sole and exclusive remedy in respect of the circumstances giving rise to the allowance, and such remedy shall be limited to the amount of hire charges which would otherwise be or become due if the allowance in question had not been made.

13. HIRER’S RESPONSIBILITY FOR LOSS AND DAMAGE

(a) For the avoidance of doubt it is hereby declared and agreed that nothing in this Clause affects the operation of Clauses 4, 5, 8 and 9 of this Agreement.

(b) During the continuance of the hire period the Hirer shall subject to the provisions referred to in sub paragraph (a) make good to the Owner all loss or damage to the plant from whatever cause the same may arise, fair wear and tear excepted, and except as provided in Clause 9 herein, and shall fully and completely indemnify the Owner in respect of all claims by any person whatsoever for injury to person or property caused by or in connection with or arising out of the transport, storage, transit, transport, unloading, loading or use of the plant during the continuance of the hire period, and in respect of all costs and charges in connection therewith whether arising under statute or common law. In the event of loss of or damage to the plant, hire charges shall be continued at site time while the plant remains on the site.

(c) Notwithstanding the above the Hirer shall not be responsible for damage, loss or injury due to or arising:

(i) prior to delivery of any plant to the site or (where the site is not immediately adjacent to a highway maintainable at the public expense, prior to its leaving such highway) where the plant is in transit by transport of the Owner or as otherwise arranged by the Owner;

(ii) during the erection and/or dismantling of any plant where such plant requires to be completely erected/dissembled on site, always provided that such erection/dismantling is under the exclusive control of the Owner or his Agent;

(iii) after the plant has been removed from the site and is in transit on a highway maintainable at the public expense (where the site is not immediately adjacent to a highway maintainable at the public expense after it has joined such highway) to the Owner by transport of the Owner or as otherwise arranged by the Owner;

(iv) in the event of plant being travelling to or from a site where the plant is in transit by transport of the Owner or (where the site is not immediately adjacent to a highway maintainable at the public expense, prior to its leaving or after its joining such highway) under its own power with a driver supplied by the Owner.

14. NOTICE OF ACCIDENTS

If the plant is involved in any accident resulting in injury to persons or damage to property, immediate notice shall be given by the Owner by telephone and confirmed in writing to the Owner’s office. In relation to any claim in respect of which the Hirer is not bound fully to indemnify the Owner, no admission, offer, promise of payment or indemnity shall be made by the Hirer without the Owner’s consent in writing.

15. RE-HIRING ETC.

The plant or any part thereof shall not be re-hired, sub-let, or lent to any third party without the written permission of the Owner.

16. CHANGE OF SITE

The plant shall not be moved from the site to which it was delivered or consigned without the written permission of the Owner.

17. RETURN OF PLANT FOR REPAIRS

If during the hire period the Owner decides that urgent repairs to the plant are necessary he may arrange for such repairs to be carried out at the Hirer’s expense and confirmed in writing to the Owner. In relation to any claim in respect of which the Hirer is not bound to indemnify the Owner, no admission, offer, promise of payment or indemnity shall be made by the Hirer without the Owner’s consent in writing.

18. BASIS OF CHARGING

(a) The Hirer shall render to the Owner for each week an accurate statement of the number of hours the plant has worked each day. Where the plant is accompanied by the Owner’s driver or operator, the Hirer shall sign the employee’s Time Record Sheets. The signature of the Hirer’s representative shall bind the Hirer to accept the hours shown on the Time Record Sheets.

(b) Full allowance will be made for breakdown periods resulting from mechanical or electrical faults or absence of driver or operator supplied by the Owner except where breakdown is due to acts or omissions of third parties and/or gross negligence of or any misconduct or neglect of the Owner or his employees. The provisions of Clause 8 of this Agreement.

(c) Breakdown time in respect of such periods shall be allowed for not more than 8 hours Monday to Thursday and not more than 7 hours on Friday less the actual hours worked.

(d) Plant shall be hired out either:

THE CONSTRUCTION PLANT HIRE ASSOCIATION MODEL CONDITIONS
FOR THE HIRING OF PLANT (WITH EFFECT FROM JULY 2001)
21. PLANT HIRED BY THE WEEK OR THE HOUR FOR A MINIMUM OF 39 HOURS PER WEEK
If no breakdown occurs, the full hire for the minimum period in the Contract will be charged and an additional pro rata charge will be made for hours worked in excess of such minimum period. Allowance will be made for breakdowns up to 8 hours except on Fridays when the allowance will be up to 7 hours providing always that where the actual hours worked are in excess of the minimum period less breakdown time, the actual hours worked shall be chargeable. Idle time for this purpose shall be treated as actual working time. The minimum week of 39 hours shall be reduced by 8 hours Monday to Thursday and 7 hours Friday for each day’s statutory holiday occurring in such week, provided that the plant does not work on the holiday.

22. “ALL-IN” RATES
Where “All-in” rates are charged by agreement the minimum period shall be as defined in the Contract and in accordance with the hire rates and terms contained therein, subject to the provisions of Clause 26.

23. COMMENCEMENT AND TERMINATION OF HIRE (TRANSPORT OF PLANT)
(a) The hire period shall commence from the time when the plant leaves the Owner’s depot or place where last employed and shall continue until the plant is received back at the Owner’s named depot or other agreed location but an allowance shall be made of not more than one day’s hire charge each way for travelling time. If the plant is used on day of travelling, full hire rates shall be paid for the period of use on that day. If more than one day be properly and reasonably employed in transporting the plant, a hire charge at idle time rates shall be payable for such extra time, provided that where plant is hired for a total period of less than one week, the full hire rate shall be paid from the date of despatch to the date of return to the Owner’s named depot or other agreed location.
(b) An allowance of not more than one day’s travelling time shall be allowed when the plant is travelling to a site other than that specified in the Contract provided that:
(i) consent to such transfer has been given by the Owner under Clause 16, and,
(ii) the plant is moved by means other than under its own power, and,
(iii) the plant shall have been on the site specified in the Contract or on any other site to which consent to transfer has been given under Clause 16 for a period of at least 14 days.

24. NOTICE OF TERMINATION OF CONTRACT
Where the period of hire is indeterminate or having been defined becomes indeterminate the Contract shall be determined if the Owner serves written notice giving by either party to the other except in cases in which the plant has been lost or damaged. Notwithstanding that the Owner may have agreed to accept less than 7 days notice of termination, the Hirer’s obligations under Clause 13 shall continue until the plant is returned to the Owner in accordance with Clause 31 or until the Owner has collected the plant within the 7 days following the acceptance of short notice. Oral notice given by the Hirer to the Owner’s driver or operator shall not be deemed to constitute compliance with the provisions of this Clause.

25. IDLE TIME
When the plant is prevented by prolonged inclement weather from working for a complete week, the charge shall be two thirds of the hire rate or such other idle time rate as is stated in the Offer. If the plant works for any time during the guaranteed hire period then the whole of that guaranteed minimum period shall be charged as working time. In any case no period less than one day shall be reckoned as idle time save for as provided for in clause 18(a). Where an “All-in” rate is charged, idle time is charged on the machine element only. Full rate will be charged for the operator.

26. WAGES AND OTHER CHARGEABLE ITEMS RELATING TO DRIVERS AND OPERATORS OF PLANT
All chargeable items shall be paid by the Hirer at the rates contracted save that any subsequent increase before and/or during the hire period arising from awards under any wage agreements and/or from increases in the employee’s statutory contribution shall be charged as additions at cost by the Owner and shall be admitted and paid by the Hirer.

27. TRAVELLING TIME AND FARES
Travelling time and fares for drivers, operators and any person supplied by the Owner, similar expenses incurred at the beginning and end of the hire period and where appropriate return fare of the driver, operator and any person supplied by the Owner to his home will be chargeable at cost. No charge shall be made by the Owner for any such expenses incurred by other employees of the Owner for the purpose of servicing, repair or maintenance of plant, unless necessitated by the Hirer’s negligence, misdirection or misuse of the plant.

28. FUEL, OIL AND GREASE
Fuel, oil and grease shall, when supplied by the Owner, be charged at net cost or an agreed estimate of net cost, and when supplied by the Hirer, shall be of a grade or type specified by the Owner.

29. SHARPENING OF DRILLS/STEELS ETC.
The cost of re-sharpening shall be borne by the Hirer.

30. OWNER’S NAME PLATES
The Hirer shall not remove, deface or cover up the Owner’s name plate or mark on the plant indicating that it is his property.