

## CONDITIONS OF HIRE

These conditions apply to all contracts for the hire of Equipment by PKL Healthcare Ltd and shall apply in place of and prevail over any terms or conditions contained or referred to in any hirer's order or in correspondence or elsewhere or implied by trade custom, practice or course of dealing unless specifically agreed to in writing by a director of PKL Healthcare Ltd.

### 1. Definitions

- 1.1. **"Owner"** means PKL Healthcare Ltd (registered number 6627288).
- 1.2. **"Hirer"** means the person, firm, company, corporation or authority specified overleaf as the hirer of the Equipment and includes his, its or their successors or personal representatives.
- 1.3. **"Equipment"** means the Transportable Medical Equipment outlined in the quotation or proposal provided by the Owner to the Hirer and includes any other equipment or goods of any nature whatsoever provided by the Owner to the Hirer on hire, in connection with or substitution for that equipment.
- 1.4. **"Hire Contract"** means the contract between the Owner and the Hirer for the hire of the Equipment which shall incorporate these terms and conditions.
- 1.5. **"Minimum Hire Period"** means either the fixed term period or the minimum period for which the Hirer agrees to hire the Equipment, as stated in the form of quotation or form of acknowledgement of order provided to the Hirer by the Owner or (in the event that no such Period is specified in such quotation or acknowledgement of order forms) agreed between the Hirer and the Owner.
- 1.6. **"Site"** means the location specified by the Hirer to the Owner as the desired location for the Equipment.

### 2. Consents, Licences and Permissions

- 2.1. The Hirer shall obtain and maintain in force all permissions, consents and licences required for the Equipment or for the erection, installation or operation of the Equipment or any part of it, as the Site, under any statute, regulation or bye-law and comply with any conditions imposed therein.

### 3. Delivery

- 3.1. The Owner will use its reasonable endeavours to deliver the Equipment to the Site on the date specified for the commencement of the Minimum Hire Period.
- 3.2. Unless otherwise specified in writing, the date for delivery of the Equipment shall not be of the essence of the contract and the Owner accepts no liability for failure to deliver the Equipment on any specified date arising from any cause whatsoever.
- 3.3. A suitable access route for delivery and collection is to be provided by the Hirer with unrestricted entry and approach. Where the ground is soft or otherwise unsuitable the Hirer shall supply and lay timbers or appropriate temporary foundations in a suitable position for loading, unloading and for the Equipment to rest on.
- 3.4. It is the Hirer's responsibility to ensure the suitability of the site and access for the Equipment to be hired. Any costs arising from the unsuitability of the site or access are chargeable to the Hirer.

### 4. Connection of Mains Services and Site Commissioning

- 4.1. Connection and disconnection of services on site is the responsibility of the Hirer and must be performed by a competent engineer in accordance with the service

requirements outlined by the Owner. Any connections made to the Equipment in respect of existing services shall be the Hirer's responsibility to obtain the appropriate certification as to the standard of the connection.

### 5. Maintenance, Care and Alterations

- 5.1. The Hirer shall use the Equipment in a skilful and proper manner and in accordance with any operating instructions issued with the Equipment and shall ensure that the Equipment is operated and used by properly skilled and trained personnel. The Hirer shall be responsible for maintaining the Equipment in the same condition as on the date of its delivery and for returning the Equipment on the completion of hire under the Hire Contract in a good and clean condition (fair wear and tear excepted). If the Owner in its absolute discretion shall consider that the Equipment shall require cleaning at any time while it is on hire to the Hirer in order to ensure its efficient operation or its continued efficient operation, the Owner shall be entitled to clean the Equipment and charge the cost of so doing to the Hirer.
- 5.2. If at any time during the period of hire to the Hirer any item of the Equipment is lost or damaged the Hirer shall be responsible for the cost of replacement or repair of such item of the Equipment, such repair or replacement to be of a similar specification as the original part or item of the Equipment which it is repairing or replacing. In the event that the Equipment or any item of the Equipment is, in the opinion of the Owner, a total loss ("Terminated Equipment"), the Hirer shall pay to the Owner an amount calculated in accordance with clause 10 in respect of such Equipment and the hire of the relevant Equipment shall be terminated. The rentals payable in respect of any remaining Equipment shall be adjusted by the Owner to reflect the fact that the Terminated Equipment is no longer on hire.
- 5.3. The Hirer shall be responsible for the replacement of all consumable items including but not limited to air filters, hepa filters, ucv hepa filters, bulbs, belts and fuses. In the case of damage to the Equipment the Owner shall be entitled in its absolute discretion to determine whether the damage shall be made good by repair or the damaged item of the Equipment shall be replaced.
- 5.4. No alteration or modification will be carried out to the Equipment without the prior consent in writing of the Owner. Nothing may be affixed to either the interior or exterior walls of the units forming part of the Equipment
- 5.5. In the event of any item of the Equipment malfunctioning the Hirer will inform the Owner at the earliest possible opportunity. The Owner will procure that an engineer visits the site to examine the malfunctioning item of the Equipment.
- 5.6. If in the opinion of the Owner any malfunction of the Equipment is caused by misuse, neglect, malicious vandalism, or impact damage the cost of repairs will be charged to the Hirer. If in the opinion of the Owner the malfunction of the Equipment is caused by incorrect usage, insufficient service supply or any other problem unrelated to the Equipment, the Owner will charge the Hirer a full call-out charge at the rates of the Owner ruling at the time, including all transport charges.
- 5.7. In times of severe weather, precautions should be taken by the Hirer to avoid frost, wind, hail or storm damage. The Owner recommends that the facility be drained down or kept heated overnight at such times. Damage caused by frost is the responsibility of the hirer. The facility is designed and

manufactured to run at the internal temperatures set in the operator's manual. Any damage due to failure of incoming services or control systems supplied by the hirer or due to insufficient notification of the failure of internal services (such as a boiler or calorifier) will be the responsibility of the hirer.

- 5.8. Under no circumstances may the Hirer remove any Equipment or part thereof from the Equipment supplied by the Owner.
- 5.9. The Hirer shall be responsible for ensuring compliance with any applicable rules or regulations relating to health or safety at work. In particular, if it is necessary or prudent for fire extinguishers or alarms to be available at the site of the Equipment or within the Equipment the Hirer shall be responsible for supplying them.
- 5.10. Should any fixed or loose item of Equipment not be returned with the Equipment at the expiry of the hire thereof then rental will be charged on that item, at the Owner's then current standard rate, until it is either returned to the Owner or payment for the item is received by the owner.
- 5.11. Once delivered to the Hirer however it is the Hirer's responsibility to ensure that the facility is fit for its intended purpose and appropriate hygiene and system standards are maintained. It is the Hirers responsibility to ensure that all testing and maintenance required throughout the duration of the hire is carried out to ensure compliance with statutory and technical compliance standards.

## 6. Inspection

- 6.1. The Hirer shall at all times allow the Owner, its agents or servants or any person authorised by the Owner, to have reasonable access to the Equipment to inspect, test, adjust, repair or replace the same.
- 6.2. The Hirer shall procure that all necessary consents from third parties are obtained and kept in force to permit the Owner to have access to the Equipment at all times for the purpose of the Hire Contract.

## 7. Period of Hire

- 7.1. The period of hire of the Equipment will commence on the earliest date of either, the day when the Equipment is delivered to the Site, or on the delivery date stated in the hire contract and will terminate on the day when it is received back at the Owner's premises or at a location nominated by the Owner, both days being included in the period of hire unless otherwise agreed in writing. A predetermined installation, commissioning and systems verification period is to be incorporated in the hire period. Whilst this installation, commissioning and verification is being completed the Equipment is on hire to the Hirer.
- 7.2. If a Minimum Hire Period is a term of the hire contract then the Hirer cannot terminate the hire before the end of the Minimum Hire Period. Any termination notice given during the Minimum Hire Period cannot take effect before the last day of the Minimum Hire Period. Any notice to terminate the hire, whether at the expiry of the Minimum Hire Period or thereafter, must be in writing, delivered in accordance with the terms of this contract and must be of at least the duration given as follows.

### Minimum Hire Period Notice

1 - 3 months	1 month
3 - 12 months	2 months
12 - 24 months	3 months
24 months and over	6 months

## 8. Rental and Payment Terms

- 8.1. During the Minimum Hire Period the Hirer shall pay to the Owner the rentals in respect of the Equipment specified in the quotation provided to the Hirer by the Owner or (in the event that no quotation is provided by the Owner to the Hirer or that any item of Equipment provided to the Hirer by the Owner is not specified in the quotation) agreed between the Owner and the Hirer.
- 8.2. If the Minimum Hire Period exceeds one month, the Owner will invoice rental charges in respect of the Equipment monthly, as at the first day of each succeeding month unless otherwise agreed in writing.
- 8.3. The rental charges under the Hire Contract are due from the Hirer as at the date of invoice from the Owner. All rentals will be paid by the Hirer punctually to the Owner during the continuance of the period during which the Equipment is on hire to the Hirer and without deduction, set-off or counterclaim for any reason whatsoever, including but not limited to in respect of any period where for whatever reason the Equipment shall not be or cannot be used by the Hirer or shall not be available for use by the Hirer.
- 8.4. In the event of late payment the Owner reserves the right to charge interest at the rate of 1.5% of amount not paid monthly after, as well as before, any judgement from the due date for payment until the date of payment in full thereof.
- 8.5. The Owner reserves the right to amend hire rates at any time after the expiry of the Minimum Hire Period, giving seven days' notice in writing to the Hirer specifying the amended rates.
- 8.6. Where the quotation or form of contract forming part of the Hire Contract so specifies the Hirer shall be obliged to pay a security bond to the Owner upon entering into the Hire Contract. The amount of such deposit shall be set off by the Owner against the final payments in respect of the Equipment becoming due from the Hirer under the Hire Contract. This will be held until the satisfactory termination of the hire and return of the Equipment to the Owner.
- 8.7. The Hirer will pay to the Owner V.A.T. at the rate ruling on all rental payments made under the Hire Contract
- 8.8. During or after the Minimum Hire Period the Owner may adjust the hire rate or other charges due under the Hire Contract in accordance with the prevailing retail price indices [or if there is a change in the availability or rate of capital allowances] or the rate of corporation tax changes unless otherwise agreed in writing.
- 8.9. During the period of hire the Owner undertakes to provide the following services which are to be included within the agreed hire rate, unless it has been agreed that the Hirer shall provide these services or they have been excluded from any proposals.
  - 2 major and 2 minor planned maintenance visits completed on the equipment annually covering all equipment installed by PKL Healthcare Ltd, including;
    - Medical Gas System
    - Heating, Ventilation, Air Conditioning System and Controls
    - Surgeons panel
    - Building fabric
 After completion of the planned maintenance visit or call out, any consumable items including but not limited to air filters, hepa filters, ucv hepa filters, bulbs, belts and fuses will be charged to the hirer.

## 9. Termination

Without prejudice to the Owner's right to be paid arrears of rentals or other sums due under the Hire Contract the Owner may terminate the hire under the Hire Contract on the occurrence of any of the following events:-

- 9.1. if the Hirer shall fail to pay any of the rentals or any other sums agreed to be paid by the Hirer to the Owner under the Hire Contract punctually on the due date; or
- 9.2. if the Hirer shall be in breach of any term of the Hire Contract; or
- 9.3. if the Hirer shall do or allow to be done any act or thing which may prejudice or endanger the Owner's property or rights in the Equipment; or
- 9.4. if the Hirer shall die; or
- 9.5. if the Hirer shall have a bankruptcy order made against him; or
- 9.6. if the Hirer shall be liquidated or wound up or have a petition for winding up presented against it or pass a resolution for voluntary winding-up (otherwise than for reconstruction or amalgamation to which the Owner shall have given its written consent); or
- 9.7. if an administrator is appointed over the Hirer or any steps are taken to appoint an administrator over the Hirer or if the Hirer has a receiver appointed over the whole or any part of its assets; or
- 9.8. if the Hirer is likely to be dissolved, deconstituted or reconstituted or is dissolved, deconstituted or reconstituted or there shall be carried out an extraordinary audit by the Audit Commission pursuant to the Audit Commission Act 1998; or
- 9.9. if the Hirer shall convene any meeting of its creditors or make a deed of assignment or arrangement or otherwise compound with its creditors; or
- 9.10. if any steps shall be taken to levy a distress or execution or if a distress or execution shall be levied or threatened to be levied upon any chattels in the possession of the Hirer; or
- 9.11. if the Hirer shall abandon the Equipment;

whereupon the Owner's consent to the Hirer's possession of the Equipment shall be terminated immediately and the Owner may take possession of the Equipment wherever it or any part of it may be.

## 10. Consequences of Termination

Immediately upon the hiring of the Equipment being terminated pursuant to clause 9 above the Hirer shall pay to the Owner:-

- 10.1. all arrears of rentals then due;
- 10.2. all rentals which had the Owner's consent to the Hirer's possession of the Equipment not been determined were agreed to be paid by the Hirer to the Owner until the end of the Minimum Hire Period or, in the event that the Minimum Hire Period has expired, until the date when the Hire Contract could first validly be terminated thereafter by notice in writing given by the Hirer to the Owner (less a discount for accelerated payment at the rate of 3% per annum);
- 10.3. all expenses and costs incurred by the Owner in retaking possession of the Equipment and/or enforcing its rights under the Hire Contract. Provided however that if during any part of the period from termination by the Owner of hire under the Hire Contract until the expiry of the Minimum Hire Period (or other period taken into account in computing the payment to be made by the Hirer hereunder) the Owner shall

have hired out all items of Equipment in the nature of the Equipment which it then has available for hire, the Owner shall allow a rebate to the Hirer equal to the daily rental value under the Hire Contract of such item of Equipment in respect of each day during such period (less an amount of 3% thereof representing the discount applicable under clause 10.2 above).

## 11. Cleaning

- 11.1. The Hirer shall fully clean down the Equipment each day of the period during which it is on hire from the Owner to the Hirer as is mandatory for hygienic practice. At the expiry of the hire it is mandatory that the hirer deep cleans the Equipment. The Owner will be entitled to charge, at its then current standard rates, for any Equipment that has not undergone a deep clean.

## 12. Conditions, Warranties and Exclusions

- 12.1. The Equipment shall be deemed to be complete, in good order and condition and to the Hirer's satisfaction unless notification is received by the Owner within 3 days of the Equipment being delivered to the Site.
- 12.2. No warranty or representation is given or made that the Equipment is suitable for the purpose required by the Hirer.
- 12.3. In the event of malfunction, failure or poor or partial performance of the Equipment or any part of it and subject to the provisions of clause 12.1 and clause 6 above, the liability of the Owner shall be limited to repairing or replacing the Equipment or the relevant part.
- 12.4. The terms set out in these conditions together with any other terms of the Hire Contract agreed in writing between the Owner and the Hirer constitute all the terms of the Hire Contract. Subject thereto, all conditions, warranties and representations, expressed or implied by statute, common law or otherwise, in relation to the Equipment are hereby excluded and the Owner shall be under no liability to the Hirer for any loss, damage or injury, direct or indirect, resulting from defective material, faulty workmanship or otherwise arising and whether or not caused by the negligence of the Owner, its employees or agents save that the Owner shall accept liability for death or personal injury caused by the negligence of the Owner.
- 12.5. Without prejudice to the above provisions, no liability will attach to the Owner for any economic or consequential loss or damage for any breach of the Hire Contract whatsoever by the Owner or from any cause whatsoever, including the negligence of the Owner or the Owner's employees.

## 13. Transport

- 13.1. Unless otherwise stated in the quotation provided by the Owner to the Hirer, the Hirer shall pay to the Owner the cost of the transport of the Equipment from the Owner's premises to the Site and its return to the Owner's premises.

## 14. Sub-Let and Changes of Site

- 14.1. Subject to 14.3 below the Hirer shall not re-hire, sell, mortgage, charge, pledge, part with possession of, or otherwise deal with the Equipment or purport to do any such things and shall protect the same against distress, execution or seizure and shall indemnify the Owner against all damages, losses, costs, charges and expenses that may be occasioned by failure to observe and perform this condition except in the case of Government requisition.
- 14.2. The Hire Contract is personal to the Hirer and the Hirer shall not assign his or its rights hereunder.
- 14.3. Subject to giving written notice to the Owner specifying any sub-hirer the Hirer may sub-let the whole (but not part only)

of the Equipment to any person, firm or company for use at the Site but any such sub-letting shall not affect in any way the Hirer's liability to the Owner under the terms of the Hire Contract and the Hirer shall indemnify and keep indemnified the Owner against any loss, cost, claim, demand, liability or expense which the Owner may suffer, incur or sustain as a result of or in connection with any such sub-letting.

14.4. In particular but without prejudice to the generality of clause 14.3 above the Hirer will remain liable for all damage to the Equipment or any part of it caused by any person, firm or company to which the Hirer gives possession of the Equipment and for any charges raised by the Owner in accordance with these terms and conditions in the event of failure to maintain the Equipment properly.

### 15. Insurance

15.1. The Hirer shall for the period of the hire insure and keep the Equipment and its accessories insured under a comprehensive insurance policy without restriction or excess to its full replacement value as stated in the form of contract provided by the Owner to the Hirer against all the usual risks including loss or damage by fire, flood, accident or any other cause and shall insure against all third party risks. The Hirer shall also fully and completely indemnify the Owner in respect of all costs and third party claims and charges in connection therewith whether arising under statute or common law.

15.2. The Hirer shall ensure that the interest of the Owner is noted on the insurance policy effected by the Hirer so that in the event of loss or damage to the Equipment or any claim being made against the Owner for loss or damage to person or property the Owner will have the benefit of an indemnity from an insurance company to the full value of the loss, damage or claim.

### 16. Owner's Marks

16.1. The Hirer will not remove, obscure, alter or deface in any way any of the Owner's nameplates, signs, engravings or other indications of ownership on any of the Equipment.

16.2. The Hirer will procure that none of the Equipment becomes affixed to any land and will indemnify the Owner against any loss, cost claim, demand, liability or expense which the Owner may suffer, incur or sustain as a result of any person, firm or company claiming that any Equipment has become affixed to any property.

### 17. General

17.1. Any delay or failure by the Owner to exercise any right or remedy under the terms hereof shall not constitute a waiver of it or them and any of the Owner's rights or remedies may be enforced separately or concurrently with any other right or remedy now or in the future accruing to the Owner to the effect that such rights are cumulative and not exclusive of each other.

17.2. The continuance of the hire under the Hire Contract and of the Hirer's liability for payment of rentals and all other sums due under it shall not be affected in any way by the loss or theft of or any damage to or defect in the Equipment, whether latent or patent.

17.3. The Hirer shall not be permitted to assign its interest in the Hire Contract. The Owner shall be permitted to assign all its right, title and interest in the Hire Contract. On any assignment, the Hirer agrees to continue to pay all sums due under the Hire Contract to the assignee or the Owner as agent of the assignee without deduction, set-off or counterclaim for any reason whatsoever.

17.4. Without prejudice to clause 17.3, in the event that the Owner defaults in any of its obligations under the Hire Contract, including, but not limited to, its obligations under clause 8.9, the Hirer shall give the Owner notice of the relevant default and allow the Owner a reasonable period of time in which to remedy the default. If the Owner fails to remedy the default, the Hirer shall not be entitled to terminate the Hire Contract and its sole rights shall be to require the Owner to use a third party nominated by the Hirer and approved by the Owner (such approval not to be unreasonably withheld or delayed) to perform the Owner's obligations under the Hire Contract and to recover damages from the Owner for non-performance.

17.5. Any written communication from the Owner to the Hirer or from the Hirer to the Owner shall be sufficiently served if sent by pre-paid post or letter or delivered by hand to the address of the other as referred to in the quotation or contract document forming part of the Hire Contract and if sent by post or letter shall be deemed to have been received by the addressee 48 hours after the time of posting and at the date of delivery if delivered otherwise than by post.

17.6. The Hire Contract shall be governed by and construed in accordance with the laws of England.

### 18. Cancellation

18.1. In the event that the Hirer cancels the Hire Contract by notice in writing to the Owner before taking delivery of the Equipment, the Owner reserves the right to charge a fee to the Hirer representing the Owner's costs actually incurred in preparing the Equipment for hire under the Hire Contract or the Owner's loss resulting from cancellation of the Hire Contract, whichever is the greater.

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