

CONDITIONS OF HIRE 2004

1. DEFINITIONS

'The Owner' means Marshall Brewson Ltd.

'The Hirer' means the Company, or the firm or the person or the Authority specified in the schedule to this Agreement who or which is hiring 'the Plant' from the Owner.

'The Plant' means the plant or equipment which is specified in the schedule to this Agreement but it also includes all and any accessories and ancillary equipment which is hired with the plant or which is supplied to the Hirer for use with the plant after the commencement of this Agreement and any substitutes or replacements for the plant or equipment which is originally hired.

'The Rental' means the payment for the hire of the Plant which is the Hirer has agreed to pay to the owner and which is specified in the schedule to this agreement.

2. COMMENCEMENT OF HIRE

The hire of the Plant commences on the date specified in the schedule to this Agreement.

3. DURATION OF HIRE

The hire of the Plant shall last for the period specified in the schedule to this Agreement and the period is inclusive of both the first and the last dates specified in the schedule.

4. TERMINATION OF HIRE

The hire of the Plant shall cease on the last date specified in the schedule to this agreement but is inclusive of that day.

5. WHAT IS INCLUDED IN THE HIRE

The following are included in the hire of the Plant: -

- (i) Full maintenance service of the Plant including replacement if necessary if the Plant should breakdown or fail to work PROVIDED that the breakdown is not caused by the Hirer.
- (ii) Sufficient instruction in the use of the Plant to enable the hirer to work the plant but the Owner expects the hirer to be sufficiently competent to operate the Plant without supervision or assistance of any kind from the Owner once the Plant has been initially installed at the Hirer's premises.
- (iii) The Plant will be provided full with fuel (if used). It is the Hirer's responsibility to return the Plant in the same condition, if not the Hirer will be charged for the fuel and a re-fuelling charge.

6. DELIVERY IN OF THE RIGHT PLANT IN GOOD ORDER AND SAFE USEAGE

When the Plant is delivered the Hirer is responsible for satisfying himself: -

- (i) that the Plant agree with the description given in the Schedule to this Agreement
- (ii) that it is suitable in every way for the purpose for which he requires it
- (ii) that it can be used in the situation and circumstances in which it is intended to be used in a manner which is safe to his workers and to anyone who may be affected by the operation of the Plant. If the Hirer is in any doubt upon this point then he must seek the advice of the Owner.

7. OWNERSHIP

The Plant is owned by the Owner and always remains owned by the Owner. It is only entrusted to the Hirer. The Hirer agrees that he will never attempt to pass on ownership to anyone whatsoever and will not offer or pledge the Plant as security for any debt whatsoever in any way. The Hirer also agrees that he will not allow the Plant (or any part of it) to be taken in execution or distress or in any way whatsoever to satisfy any obligation of his. If he is in breach of this clause then the Hirer agrees that he will immediately pay to the Owner the full market value of the Plant. It is agreed that that shall be a debt that shall be immediately due and payable to the Owner and the Owner shall be at liberty to issue court proceedings forthwith if it is not paid.

8. CUSTODY

The Hirer agrees that the Plant will only be kept at the premises which are named in the Schedule to this Agreement and at no other place without the prior consent of the Owner in writing. The Hirer also agrees that he will keep the Plant in his custody and under his control and he will not lend it to anyone else whatsoever or part with control.

9. USE AND MAINTENANCE

The Hirer agrees that the Plant will be used properly and only for the purpose for which it is intended. The Hirer also agrees that he will maintain the Plant in every way in a proper and satisfactory manner. The Hirer agrees that if the Plant shall be in need of repair which goes beyond routine maintenance then he will ask the Owner to arrange for such repair and will not attempt any such repair himself.

10. BREAKDOWN

If the Plant should breakdown through no fault of the Hirer then the Hirer agrees that he will immediately notify the Owner who will arrange to have the plant repaired or replaced as quickly as possible. During the time that the Plant is out of use because of such a breakdown then it is agreed that no payment shall be made for the hire of the Plant. It is agreed that the Owner shall not be liable for any compensation arising out of a breakdown of the Plant.

11. INSURANCE

The Hirer agrees that he will arrange for the plant to be insured: -

- (i) against all risk of damage or theft to the Plant or any part of it from any reasonably foreseeable cause and
- (ii) against all risk of any damage which the Plant may cause if it should breakdown or be used wrongly or negligently

and the Hirer also agrees that he will give full details of such insurance cover to the Owner upon request including in particular: -

- (i) the name and address of the Insurance Company
- (ii) the number of the insurance policy and any reference number used by the insurance company and
- (iii) the amount for which the insurance policy provides protection

and the Hirer also agrees that he will produce the receipt for the payment of the most recent premium due upon the policy or other satisfactory evidence of the current existence of the insurance cover when asked to do so by the Owner.

12. DAMAGE TO THE PLANT

- (1) The Hirer agrees that he is responsible for all damage to the Plant and he will indemnify the Owner against any loss of the Plant or any damage to it no matter how the damage is caused. The word 'damage' includes excessive wear to the Plant.
- (2) The Hirer also agrees that he is responsible for all damage caused by the Plant or by its use and that he will indemnify the Owner against any claims whatsoever which arise out of the use of the Plant in any way.
- (3) The Hirer also agrees that he will immediately notify both his own insurance company and the Owner in the event of any accident involving the plant or any damage to the Plant.
- (4) Any sum which is to be paid to the Owner under this clause must be paid to the Owner immediately the amount due has been determined by the Owner. Any dispute as to the amount due does not alter this provision or delay the time when the amount should be paid to the Owner.

Because of the obligations incurred by the Hirer in this clause the Hirer must ensure that he is properly insured against these liabilities.

13. DEFAULT BY THE HIRER OR BANKRUPTCY OF THE HIRER

IF: -

- (1) the Hirer does not meet any of his obligations under this agreement including particularly the payment for hire or
- (2) the Hirer commits an act of bankruptcy or because bankrupt or, if the Hirer is a company, then if the Company goes into liquidation for any reason then.
 - (A) The Owner may immediately retake possession of the Plant and the Hirer agrees that the Owner may enter any premises which the hirer may enter, including the Hirer's own premises, in order to take possession of the Plant.
 - (B) The Hirer's obligations under this agreement do not end and he must pay the rent for the hire of the plant up to the time that the Plant is repossessed by the owner and any obligations which have already arisen under this Agreement continue and the Owner may immediately commence court proceedings in respect of any of these matters. For example if the Plant has been damaged then the Hirer still has to pay to make good the damage even though the Plant may have been repossessed by the Owner.

14. PAYMENT FOR THE RENTAL AND INTEREST ON MONEYS DUE

- (1) The Hirer agrees that he will pay the Rental at the times specified in the Schedule to this Agreement and that all payments for the rental will be made in advance for the period to which they relate. The first payment of rental for the first period shall be made when this Agreement is signed by the Hirer.
- (2) The Hirer also agrees that if the Rental or any other sum which becomes payable under the terms of this Agreement is not paid upon the due date then he will pay interest on the amount of Rental in arrears calculated on a day to day basis at an interest rate equal to 4% above the base lending rate of the Royal bank of Scotland PLC prevailing from time to time.

15. CONSEQUENTIAL LOSS

It is agreed that the Owner is not liable for any loss arising out any breakdown or dailure of the Plant to operate which is not the fault of the Owner.

16. ASSIGNMENT

The Hirer cannot transfer this Agreement to anyone whatsoever without the prior consent of the Owner.