

Access Hire Middle East LLC – Standard Terms & Conditions of Hire

These general terms and conditions of hire (“Terms and Conditions”) shall apply to each Hire Agreement to the exclusion of any other terms that the Hirer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing, including the Hirer’s standard terms and conditions, unless expressly agreed to in writing by Access. Full terms and conditions can be accessed on our website at www.accesshiremiddleeast.com

1. Definitions and Interpretation

- 1.1. In these Terms and Conditions, unless specified to the contrary, the following words and phrases have the meanings given to them:
 - “Access” means Access Hire Middle East L.L.C or such other Access Entity from which the Hirer hires equipment (as applicable).
 - “Access Entity” means any company, corporation or other body corporate that is a member of the Access Group.
 - “Business Day” means any day (other than a Friday, Saturday, or a public holiday) when banks in the UAE are open for retail business.
 - “Business Hours” means the hours of 8.00am to 5.00pm on a Business Day.
 - “Claim” means in relation to a person, corporation or other legal entity, a claim, demand, remedy, suit, injury, damage, loss, cost of liability, action, proceeding, right of action, claim for compensation or reimbursement or liability incurred or to be made or recovered by or against such person, corporation or other legal entity however arising and whether ascertained or unascertained.
 - “Credit Application” means the Hirer’s signed application for credit accommodation by Access in respect of Equipment hire and in respect of which a copy of these Terms and Conditions is attached.
 - “Deed of Guarantee and Indemnity” means the deed of guarantee attached hereto.
 - “Equipment” means any machine hired by Access to the Hirer and includes all tools, accessories, parts, item of equipment and devices affixed thereto or supplied therewith.
 - “Environmental Disposal Levy” has the meaning given in clause 4.6
 - “Environmental Laws” means any laws, policy directions or regulations made or issued by a regulatory body or government body relating to the environment including (without limitation) the protection of the environment.
 - “Group” means in relation to a company, that company, any subsidiary, or any holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company. Each company in a Group is a member of the Group.
 - “Guarantors” means the Guarantors listed in item 2 of the schedule to the Deed of Guarantee and Indemnity.
 - “Hire Agreement” means every agreement between Access and the Hirer for the hire of Equipment (whether signed or not) including a Hire Docket, all of which will be deemed to include, as applicable:
 - (a) the Credit Application (or other order documentation approved by Access in respect of the Equipment); and
 - (b) these Terms and Conditions.
 - “Hire Docket” means each docket (if any) issued by Access identifying, amongst other things, the Equipment, the Hire Period, and the hire rate that will be charged under clause 3.4 hereof.
 - “Hire Period” has the meaning given in clause 3.
 - “Hirer” means the person, firm or corporation to whom the Equipment is hired by Access (including the party named and described in the Credit Application as the “Hirer”) and includes any contractor, employee, servant, agent or other person claiming through, under or in trust for any such person, firm or corporation.
 - “Location” means the place where the Hirer will use the Equipment as reference in the Hire Agreement or as otherwise varied in accordance with clause 5.9.
 - “Rental Levy” has the meaning given in clause 4.15
 - “VAT” means any value added tax chargeable under applicable law.

2. Title to Equipment

- 2.1. The Hirer acknowledges that in all circumstances Access (or, if the Equipment is owned by another Access Entity, then that Access Entity) retains title to the Equipment (even if the Hirer goes into liquidation or becomes bankrupt during the Hire Period) and in no circumstances will it be deemed to be a fixture. The rights of the Hirer to use the Equipment are as a bailee only.
- 2.2. The Hirer must not offer, sell, assign, sub-let, charge, mortgage, pledge, create any form of security interest or otherwise deal with the Equipment in any way which is inconsistent with the rights of Access or any other Access Entity, as applicable, as owner.
- 2.3. All risk in the Equipment passes to the Hirer upon delivery to the Hirer or collection of the Equipment by the Hirer, as applicable, and continues during the entirety of the Hire Period and only ceases when Access acknowledges that the Equipment has been returned to Access (or when the Equipment is collected by Access, if agreed to in the relevant Hire Docket or otherwise in writing).

3. Hire Docket

- 3.1. Subject to clause 3.3, the period of hire commences when the Hirer takes possession of the Equipment or when Access delivers the Equipment in accordance with the Hirer’s instructions to the Location, as applicable, and the period of hire ends when the Equipment is back in the possession of Access. (In total, the “Hire Period”). The Hire Period includes weekends and public holidays and is irrespective of the time the Equipment is being used.
- 3.2. The Hirer will be entitled to use the Equipment for the Hire Period on the express understanding that it will be charged for such use in accordance with the Hire Agreement.
- 3.3. Should Access agree with the Hirer that Access will deliver and collect the Equipment from the Location, hire charges will commence from the time the Equipment leaves Access’ premises and continue until the date that the Equipment is available for collection from the Location, on a Business Day (“Off-Hire Date”). The Hirer must notify Access of the Off-Hire Date, in writing, in advance and Access may give the Hirer a number as verification that such notification has been received.
- 3.4. The notification will be given by the Hirer with sufficient time in advance (being no later than 3pm on the Off-Hire Date) for the Equipment to be collected and returned to Access’ premises within Access’ normal Business Hours on the Off-Hire Date. If Access considers that insufficient notice has been given (i.e. after 3pm on the Off-Hire Date), the Hirer will be charged for such additional period of time as Access considers is necessary to arrange collection of the Equipment on the next Business Day, but in any case no less than an extra days hire. Any Hire Period specified on the Hire Agreement will not be deemed notice to Access that the Equipment is available for collection and the Hirer is obligated to notify Access of the Off-Hire Date in accordance with this clause.
- 3.5. Where Access agrees to collect the Equipment, the Hirer remains responsible for theft, loss or damage to the Equipment until the Equipment is collected by Access.
- 3.6. The Hire Agreement will specify the type of rates that will apply. Equipment hired for at least five (5) days in a seven (7) day period, will be charged at the weekly rate.

- 3.7. Access reserves the right to charge a minimum period of hire for certain types of Equipment. The minimum period of hire may not be varied except if agreed in writing by Access.
- 3.8. The Hire Period will not be subject to stand down or adjustment for any reason whatsoever unless agreed to by Access in writing.

4. Hire Charges and Other Charges

- 4.1. **Hire:** Subject to clause 4.10, the Hirer will pay Access the hire charges set out in the Hire Agreement, as well as other levies or charges that may be applicable as specified in these Terms and Conditions. The Hirer is not entitled to any discount or rebate if the Equipment is not used by the Hirer for any part of the Hire Period. If the Equipment is used for more than eight (8) hours on any given day Access may charge a double shift rate (i.e. x2 the relevant hire rate specified in the Hire Docket).
- 4.2. **Pricing Confidentiality:** The Hirer acknowledges that all pricing quoted by Access is for the Hirer only and must always be kept confidential.
- 4.3. **Other Services:** Access may, if requested by the Hirer, and only if personnel are available, attend at the Location and instruct the Hirer in the operation of the Equipment. The Hirer will in addition to the hire charges pay Access for such services at the scheduled rate per hour or part thereof including travelling time plus any associated travel and accommodation costs incurred by Access.
- 4.4. **Consumables and Trade Materials:** The Hirer will be liable for charges made for consumables and trade materials used at the scheduled rate as notified to Hirer in writing, from time to time
- 4.5. **Tax and Government Charges:** The Hirer will be liable for stamp duty, VAT and all other applicable taxes, duties, levies, penalties and any other government charges imposed in relation to the Hire Agreement or in respect of the Hire Period. If the Hirer wishes to claim exemption from any duty or applicable tax, the Hirer must furnish appropriate exemption certificates to Access. Unless otherwise expressly agreed in writing by Access, any quarantine costs payable in respect of the Equipment (including without limitation the costs of any necessary disassembly, reassembly and cleaning of the Equipment) is payable by the Hirer, and the Hirer must also pay the hire charges during the period of such disassembly, reassembly and cleaning of the Equipment.
- 4.6. **Environmental Disposal Levy:** The Hirer will pay the amount specified by Access in the Hire Agreement in consideration of any oil, grease or other environmental contaminants used, applied, or discarded in connection with the Equipment.
- 4.7. **Credit Card Payments:** The Hirer acknowledges that Access may impose a charge for accepting payments by credit card in the amount of 1.5% of the total charges that would otherwise apply.
- 4.8. **Delivery:** If the Hirer requires Access to deliver, collect or install the Equipment, the Hirer will be liable for the cost of delivery, collection, or installation at the Location. Access will not be responsible for any loss or damage whatsoever caused by delays in delivery, collection or installation or failure to deliver for any reason whatsoever, including without limitation negligence on the part of Access or its agents or employees. Access shall have the right to charge the Hirer for an additional delivery or collection fee for each occasion where the Equipment was not able to be delivered and/or collected, as applicable, at the agreed times and Location. Access is not a common carrier and does not accept the obligation or liability of a common carrier. Access may refuse the handling, lifting and/or carriage of Equipment for any person in its sole discretion and without reason.
- 4.9. **Return of Equipment:** The Customer will remain liable, and shall be charged, for the time the Equipment is in its possession. (i.e. until it is returned to Access or if Access agrees to collect the Equipment then clause 3.3 applies. The Hirer will be charged a full day hire for the day on which the Equipment is returned by the Hirer or collected by Access, as applicable, irrespective of the time at which the Equipment is returned to or collected by Access.
- 4.10. **Early Return of Equipment:** If the Hirer returns the Equipment before the expiry of the minimum period of hire mentioned in clause 3.5 (if any), the Hirer will remain liable for all hire and other charges payable to Access for the minimum period of hire.
- 4.11. **Payment Due Date:** Subject to clause 13.12, the Hirer is required to pay all fees, charges and costs that become due and payable under the Hire Agreement within thirty (30) days of the invoice date. Payment shall be made to the bank account nominated in writing by Access from time to time.
- 4.12. **Late Payment:** Invoices will be sent periodically to the Hirer at the end of the Hire Period or at the end of each calendar month. Invoices sent to the Hirer’s email address by Access will be deemed to have been received by the Hirer on the date as specified in clause 13.10. If a Hirer does not pay the amount of the Hire Agreement invoice by the payment due date, a late payment fee of 4% per month, compounding monthly, may be imposed. If the Hirer does not pay the amount of the Hire Agreement invoice by the payment due date, the Equipment will be shut down using the telematics system. In addition, without limiting clause 9.4, the Hirer will be liable and shall indemnify Access for all expenses incurred by Access in recovering any amounts which the Hirer fails to pay by the payment due date (including any commission payable to any commercial or mercantile agents and legal costs). Where an invoice remains overdue for 3 days or longer, the Hirer’s trading account will be placed on stop credit. Where an invoice remains overdue for 15 days or longer, Access reserves the right for all equipment to be off hired, removed from Location, and transported back to Access at the Hirer’s sole cost and expense.
- 4.13. **Set-off and application of funds:** Access may set-off against any credit owed to the Hirer any amount owing by the Hirer to Access. Any claims for credit by the Hirer shall be made within fourteen (14) days of receiving Access’ invoice. The Hirer must not withhold or make any deduction from any payment by way of set-off. The Hirer acknowledges and agrees that any payment made by the Hirer pursuant to this Hire Agreement may be applied by Access to such outstanding monies due to Access, as Access determines in its sole discretion and notwithstanding any direction given by the Hirer at the time of payment.
- 4.14. **Return time:** The Hirer may only return the Equipment to Access’ premises during normal Business Hours.
- 4.15. **Rental Levy:** The Hirer will pay a 12.5% Rental Levy on all Hire Agreements in addition to Access’ hire charges for the purpose of covering aesthetic and incidental wear and tear, servicing, break downs and costs associated with the hire and off-hire of Equipment in accordance with the manufacturers guidelines, all relevant standards and all recommendations published by the Elevating Work Platform Association. If the Hirer refuses to pay the rental levy then all costs associated with aesthetic and incidental wear and tear, servicing, break downs and costs associated with the hire and off-hire of Equipment, will be on-charged to the Hirer. The rental levy does not constitute consideration for (and the Hirer remains responsible for) loss or damage occasioned by any one or more of the following:
 - (a) damage due to misuse, abuse or overloading of the Equipment or any components thereof.
 - (b) wrongful conversion of the Equipment or any components thereof.
 - (c) loss or damage suffered due to a contravention by the Hirer of the Hire Agreement.
 - (d) loss or damage arising from use in violation of any applicable laws and regulations.
 - (e) damage caused to tyres and tube by blowout, bruises, cuts, or other causes inherent in the use of the Equipment.

- (f) glass breakage or graffiti.
- (g) loss or damage relating to lack of lubrication or other normal servicing of Equipment or due to a failure to comply with the cleaning and servicing instructions given by Access.
- (h) loss or damage to the Equipment whilst located, used, loaded, unloaded, transported on or over water, wharves, bridges, or vessels of any kind.
- (i) loss or damage to motors or other electrical appliances or devices caused by overloading or artificial electrical current, including use of under-rated or excessive length of extension leads on electrically powered tools and machines.
- (j) damage caused by exposure to any corrosive or caustic substance, such as (without limitation) cyanide, salt, water, and acid.
- (k) theft of the Equipment or any deliberate damage of any type caused to the Equipment (whether caused by the Hirer or any third party whatsoever).
- (l) loss or damage to Equipment during transport, except where transported by Access.
- (m) loss or damage caused by the negligence of the Hirer and damage caused by paint, texture, coat, overspray, concrete, grinding, welding, gas, cutting, collision, dropping and/or impact.

Payment of the rental levy entitles the Hirer to one set of tyres per year. If the Hirer refuses payment of rental levy, then tyre wear will be charged on a usage basis. Tyre wear will be determined by a measurement taken at the start and completion of the Hire Period.

- 4.16. **Extreme Worksite Levy:** The Hirer will pay a 20% Extreme Worksite Levy on all Hire Agreements in addition to Access’ hire charge if Equipment is used offshore, over water or down in under-ground mines. The Hirer must advise Access in writing if the Equipment is proposed to be used off-shore, over water or down in under-ground mines and must produce evidence that they have taken out suitable insurance cover for the items of Equipment with such insurance cover to include Access as a named insured and cover Access’ liability as a principal in connection with the performance of the Hire Agreement and contain provisions whereby all rights subrogation or actions against any of the persons comprising the insured are waived; the term “insured” applies to each of the persons comprising the insured as if a separate policy of insurance had been issued to each of them (subject to the overall sum insured not being increased as a result); and any non-disclosure or misrepresentation by one insured does not prejudice the right of the other insured to claim under any insurance policy.
- 4.17. **After Hours Servicing and Breakdowns:** Access will provide on-site servicing and break-down assistance at the Location during standard Business Hours, in accordance with the Hire Agreement. If attendance to Location is required after Business Hours or not on a Business Day, the Hirer will be charged such time at the after-hour rates referenced in [insert] and at a minimum call out charge of three (3) hours per call out.
- 4.18. **Non-Potable Water:** Where the use of non-potable water for dust suppression causes corrosion to equipment, the Hirer will be charged for refurbishment of the equipment.
- 4.19. **Cleaning:** The Hirer is responsible for all costs associated with any cleaning, painting, replacement of decals, repairs and refuelling of equipment returned to Access in an unsatisfactory condition, as determined by Access in its sole discretion. If the Equipment was in any way exposed to asbestos or asbestos containing materials during the Hire Period, the Hirer must ensure that the Equipment is decontaminated (including cleaned, washed and vacuumed) by a licensed asbestos removals prior to return to Access. The Hirer must pay for all costs associated with this decontamination and provide evidence from a licensed asbestos removal that this has been carried out.

5. Hirer’s Hire Obligations

- 5.1. **Possession and Use by Hirer:** The Hire Agreement is personal to the Hirer and the Hirer will not allow nor authorise any other person or entity to use, re-hire or have possession of the Equipment at any time during the Hire Period.
- 5.2. **Suitability:** The Hirer agrees that the use of the Equipment is deemed acceptance it has satisfied itself as to the suitability, condition, and fitness for purposes of the Equipment. Access gives no warranty that the Equipment is suitable for the Hirer’s purpose.
- 5.3. **Operation of Equipment:** The Hirer warrants and always undertakes that it will:
 - (a) operate the Equipment safely, strictly in accordance with all laws, only for its intended use and in accordance with the manufacturer’s instructions.
 - (b) ensure persons operating or erecting the Equipment are suitably instructed/trained in its safe and proper use and where necessary hold a current Certificate of Competency and be licensed to use it.
 - (c) return the Equipment to Access in the same good and clean condition it was in when the Hirer received it, ordinary fair wear and tear excluded. If the Hirer fails to clean the Equipment, Access will charge the cleaning cost to the Hirer.
 - (d) display maintain all safety signs and instructions (as required by law) and ensure that all instructions and signs are observed by the operator of the Equipment.
 - (e) ensure all persons operating the Equipment wear suitable clothing and protective equipment as required or recommended by the manufacturer or by Access.
 - (f) ensure that no persons operating the Equipment are under the influence of drugs or alcohol.
 - (g) conduct a job safety analysis prior to using the Equipment at a Location.
 - (h) accept responsibility for the safe keeping of and insuring the Equipment during the Hire Period.
 - (i) maintain operating and maintenance records of the Equipment and make copies of such records readily available to Access, together with such additional information as Access may reasonably require.
 - (j) not do or permit to be done any act or thing which will or may jeopardise the right, title and/or interest of Access in the Equipment and, where the Equipment has become affixed to any land or building at the Location, the Hirer must take all necessary steps to ensure that Access may enter the Location and recover the Equipment both during the term of the Hire Agreement and for a reasonable period thereafter, including by procuring from any person having an interest in such land or building, a waiver in writing and in favour of Access of any rights such person may have or acquire in the Equipment and a right for Access to enter onto such land or building to remove the Equipment.
 - (k) Always ensure that the Equipment remains identifiable as being Access’ property and wherever possible shall ensure that a visible sign to that effect is attached to the Equipment.
 - (l) deliver up the Equipment at the end of the Hire Period or an earlier termination of the Hire Agreement as agreed between the parties in the Hire Agreement.
 - (m) ensure that no persons carry illegal, prohibited, or dangerous substances in or on the Equipment; and
 - (n) comply with all applicable laws, including but not limited to any environmental laws, and immediately rectify any breach of a such applicable law, including those caused by the use of the Equipment.

- 5.4. **Cleaning and Maintenance:** The Hirer must:
- carry out daily checks, clean, fuel, lubricate and maintain the Equipment in good condition and in accordance with the manufacturer's and Access' instructions at the Hirer's cost; and
 - not in any way alter, modify, tamper with, damage or repair the Equipment without Access' written consent.
- 5.5. **Safekeeping:** The Hirer must ensure that during the Hire Period the Equipment is stored safely, securely and is protected from theft, seizure, damage, or vandalism.
- 5.6. **Alteration and Identifying Marks:** The Hirer must not alter, deface, remove, or erase any notices, safety information, identifying mark, plate, or number on the Equipment.
- 5.7. **Inspections:** The Hirer consents and shall allow Access, or its nominated representative, to inspect the Equipment from time to time during the Hire Period. The Hirer must provide access to the Equipment and a safe place of work at the Location for Access, or its nominated representative, to carry out any inspection, including as required under any applicable standards. In addition, the Hirer may arrange a joint inspection with Access at the end of the Hire Period.
- 5.8. **Safe Loading and Transport:** Subject to clause 3.3, the Hirer will ensure the safe loading, securing, and transporting of all Equipment in accordance with all applicable laws and manufacturer's guidelines. The Hirer and any transporting contractor must observe any safety directions advised by Access and/or manufacturer of the Equipment for its loading and safe handling.
- 5.9. **Location:** The Hirer must not remove the Equipment from the Location without first obtaining Access' prior written consent, which consent may be given or withheld at Access' absolute and sole discretion. Subject to clause 3.3, the Equipment must be returned to Access' premises where the Equipment was collected by the Hirer or delivered by Access, as applicable, during normal Business Hours.
- 5.10. **Electrical Equipment testing and tagging:** The Hirer is responsible for arranging at the Hirer's cost the testing and tagging of all electrical equipment forming part of the Equipment by the relevant manufacturer's agent in accordance with the manufacturer's instructions and the applicable law and any regulatory authority requirements. Access can arrange, at the Hirer's cost, for such testing and tagging of the relevant electrical equipment. Any damage caused to the Equipment resulting from incorrect testing will be at the Hirer's cost.
6. **Equipment Breakdown**
- 6.1. **Obligations of Hirer:** In the event that the Equipment breaks down or becomes unsafe to use during the Hire Period, the Hirer must:
- immediately stop using the Equipment and notify Access;
 - immediately take all steps necessary to prevent injury occurring to persons or property as a result of the condition of the Equipment;
 - immediately take all steps necessary to prevent any further damage to the Equipment; and
 - not repair or attempt to repair the Equipment without Access' written consent.
- 6.2. **Obligations of Access:** In the event that the Equipment breaks down or becomes unsafe to use through no fault, negligence, recklessness, wilful conduct or misuse by the Hirer or any third party who gains access to the Equipment at the Location, Access will:
- take commercially reasonable steps necessary to repair the Equipment as soon as reasonably possible after being notified by the Hirer;
 - not impose a hire charge for that portion of the Hire Period for which the Equipment was broken down or unsafe, nor, subject to clause 13.5, the costs associated with any repair or replacement of the Equipment; and
 - not be liable for any expenditure, damages, loss or inconvenience incurred by the Hirer or any Claim made against the Hirer arising from or in any way connected with a breakdown of or a malfunction in the Equipment, no matter the cause of the breakdown or malfunction.
7. **Lost, Stolen or Damaged Equipment**
- 7.1. The Hirer is always responsible for the Equipment and its attached tools and accessories during the Hire Period.
- 7.2. If the Equipment is lost, stolen or damaged during the Hire Period, or if the Hirer fails to return the Equipment to Access within the agreed timeframes, the Hirer will be liable for:
- any costs incurred by Access in repairing the Equipment or for the new replacement cost of the Equipment if it cannot be economically repaired; and
 - any other costs whatsoever incurred by Access as a result of the loss, theft or damage to the Equipment (including the full hire charges as set out in the Hire Agreement until the Equipment or any replacement equipment stated in clause 7.2(a) is again available for use by Access).
8. **Supply Documents**
- 8.1. Upon request by Access the Hirer must supply Access, within two (2) days of written notice, with full copies of any document relating to the Equipment in any way including any police report regarding any damage caused to the Equipment by any person.
9. **Indemnities and Exclusions of Liabilities**
- 9.1. Subject to clause 9.2 and except as expressly provided to the contrary in the Hire Agreement, all terms, conditions, warranties, undertakings, inducements or representations whether express or implied, statutory or otherwise, relating to Access' obligations under the Hire Agreement are excluded from the Hire Agreement to the extent permissible by applicable law.
- 9.2. Where any applicable law implies a term, condition or warranty in this Hire Agreement and the applicable law prohibits provisions in a contract excluding or modifying the application, exercise or liability under that term, condition or warranty, such term, condition or warranty will be deemed to be included in this Hire Agreement to the minimum extent permissible. The Hirer hereby warrants and agrees with Access that any damages suffered by it as a result of any breach by Access of this Hire Agreement or any breach of any applicable law will not exceed and otherwise be capped at the lesser of the actual charges payable pursuant to the Hire Agreement or four (4) months hire charges.
- 9.3. Subject to clause 9.2, Access shall not be liable to the Hirer for consequential or indirect loss or damage (including but not limited to loss of actual or anticipated profits or revenue, economic loss of any kind or any loss suffered as a result of any Claim or claims by third parties) in contract, tort (including negligence) under statutory duty or otherwise from or in relation to the Equipment or this Hire Agreement.
- 9.4. The Hirer is liable for and indemnifies Access against all liability, claims, loss, costs and expenses (including legal fees, costs and disbursements on the higher of a full indemnity basis, determined without taxation, assessment or similar process and whether incurred or awarded against Access and any environmental loss, cost, damage or expense) arising from or incurred in connection with the Hirer's hire and use of the Equipment or its breach of the Hire Agreement.
- 9.5. Each indemnity in this Hire Agreement is a continuing obligation, separate and independent from the other obligations of the parties and survives termination, completion, and expiration of this Hire Agreement. It is not necessary for a party to incur expenses or make any payment before enforcing a right of indemnity conferred by this Hire Agreement. The Hirer must pay on demand any amount it must pay under an indemnity in this Hire Agreement.
- 9.6. For the purposes of clauses 9.3 to 9.5, use of Equipment operated by a person supplied by Access will be deemed use of the Equipment by the Hirer.
10. **Termination**
- 10.1. Access may terminate the Hire Agreement, without need for a court order, immediately by notice to the Hirer, if:
- the Hirer breaches any term of the Hire Agreement; or
 - the Hirer becomes bankrupt or insolvent, executes a personal insolvency agreement, enters liquidation, comes under external administration, goes into receivership, or ceases to carry on business.
- 10.2. Access may terminate the Hire Agreement for any reason by giving the Hirer two (2) hours' written notice.
- 10.3. The right of termination is in addition to any other rights under the Hire Agreement and does not exclude any right or remedy under law or equity and the terms of this Hire Agreement (including in respect of payment of the hire charges) continue to apply until the return of the Equipment to Access (or collection by Access, as applicable). Termination or expiry of the Hire Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Hire Agreement which existed at or before the date of termination or expiry.
11. **Consequence of Expiry and/or Termination and Recovery of Equipment**
- 11.1. Upon expiry or earlier termination of the Hire Agreement, howsoever caused:
- Access' consent to Hirer's possession of the Equipment shall terminate and Access may, by its authorised representatives, without notice and at Hirer's expense, retake possession of the Equipment and for this purpose may enter the Location or any premises at which the Equipment is located; and without prejudice to any other rights or remedies of Access, the Hirer shall pay to Access, on demand:
 - all fees, charges and costs and other sums due but unpaid at the date of such demand together with any interest accrued pursuant to clause 4.12;
 - any costs and expenses incurred by Access in recovering the Equipment and/or in collecting any sums due under the Hire Agreement (including any storage, insurance, repair, transport, legal, hire costs from the date of termination and/or expiry to the date the Equipment is returned or collected by Access, as applicable, and remedial costs).
12. **Remote Area Hire Conditions**
- 12.1. **Definitions:**
- "Remote Area"** is an area restricted by the local bodies (for example, free zone or CNIA) where free access is not permitted.
- "PMP"** is the electronically managed preventive maintenance programme operated by Access (or its agent) for all Equipment. The PMP involves regular attendance at the Location by Access' service personnel to conduct routine three (3) monthly Equipment servicing and general maintenance requirements.
- 12.2. Unless otherwise specified in the Hire Agreement the PMP for all Equipment operating in a Remote Area will be subject to a per km charge both to and from the Location at the scheduled rate per kilometre as referenced in the Hire Docket plus labour costs at the scheduled rate per person per hour (including travelling time) plus any other direct travelling costs including airfares and accommodation (**"Remote Area Travelling Charges"**).
- 12.3. Multiple items of Equipment hired by the same Hirer in the same Remote Area will only be charged as "one call out".
- 12.4. The Hirer remains responsible for daily maintenance and care of all Equipment in its possession, including daily checking of all fluids (fuel, oil, water, battery levels etc.), general tightening of any loose nuts, bolts, belts or fittings and lubrication of all grease points.
- 12.5. If the Equipment breaks down in a Remote Area, the Hirer must also pay Access the Remote Area Travelling Charges relating to any attendance to the Remote Area concerned.
- 12.6. It is the responsibility of the Hirer to provide access to Remote Area. Refusal to allow access to the Equipment at the specified intervals will incur additional charges. Equipment will be placed out of service at full charge until access is given for servicing to be completed.
- 12.7. If the Hirer requires Equipment to be serviced at intervals other than the pre-determined PMP service cycle (to align service cycles with Remote Area requirements), then the Hirer must pay all charges relating to attendance to the Remote Area by a technician to complete the additional service.
- 12.8. It is the responsibility of the Hirer to pay the Remote Area Travelling Charges, which shall be invoiced in accordance with clause 4.11.
13. **Miscellaneous**
- 13.1. **Governing Law and Dispute Resolution:** The Hire Agreement is governed by the laws of the UAE shall be governed by and construed in accordance with the law of Dubai International Financial Centre ("DIFC"). Any dispute arising out of or in connection with these Conditions or a relevant Hire Agreement, including any question regarding its existence, validity, or termination, shall be subject to the exclusive jurisdiction of the Courts of the DIFC.
- 13.2. **Security of Obligations:** As security for the obligations and liabilities of the Hirer and Guarantors under the Hire Agreement, the Hirer and Guarantors hereby charges for the due and punctual payment and performance of those obligations and liabilities, all of its legal and equitable interest (both present and future) of whatsoever nature held in any way in any real property. Without limiting the generality of the charge in this clause, the Hirer and Guarantors agree, on request by Access, to execute any documents and do all things necessary required by Access to register a mortgage security over any real property in which the Hirer and Guarantors have an interest (whether legal, equitable, present or future). The Hirer and Guarantors will indemnify Access on an indemnity basis against all costs and expenses incurred by Access in connection with the preparation and registration of any mortgage documents. The Hirer and Guarantors also consent unconditionally to Access lodging a caveat or caveats noting its interest in any real property in which the Hirer and Guarantors have an interest (whether legal, equitable, present, or future).
- 13.3. **Variation:** Access may at any time vary the Hire Agreement, including these Terms and Conditions, by giving the Hirer fourteen (14) days' written notice of its intention to do so. If the Hirer is materially prejudiced by the variation, it may terminate the Hire Agreement, without need for a court order, by returning the Equipment to Access (or, if agreed, arranging for the collection by Access in accordance with clause 3.3, in which case the Hire Agreement shall terminate, without need for a court order or any further notice, upon collection of the Equipment by Access).
- 13.4. **VAT:** All prices quoted are VAT exclusive and net of any and all taxes, unless otherwise expressly stated. Access will provide a tax invoice to the Hirer where applicable. All VAT, customs duties, Government taxes, import / export permits and documentation fees levied or pertaining to Equipment during the Hire Period are payable by the Hirer and the Hirer hereby fully indemnifies Access against such liability to the extent Access becomes liable for payment of such a tax or has paid such tax and is unable to recover it from the relevant authority.
- 13.5. **Notice:** Any notice or other communication required to be given to a party under or in connection with a Hire Contract shall be in writing (in English) and shall be delivered to the other party personally or sent by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax or email to the other party's main fax number or email address, respectively, noted on the Hire Docket or as otherwise updated from time to time in accordance with this clause 13.5. Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at such address or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax or email, upon notification of successful transmission; provided that if deemed receipt occurs before 9am on a Business Day the notice shall be deemed to have been received at 9am on that day, and if deemed receipt occurs after 5pm on a Business Day, or on a day which is not a Business Day, the notice shall be deemed to have been received at 9am on the next Business Day.
- 13.6. **No Waiver:** No delay or omission to exercise any right, power or remedy accruing to Access upon any continuing breach or default under the Hire Agreement will impair any such right, power or remedy, nor will it be construed to be a waiver of any right of Access to take action or make a claim in respect of a continuing breach or default or to be acquiescence to it.
- 13.7. **Withdrawal of Credit Accommodation:** Any credit accommodation granted by Access to the Hirer may be reviewed at any time without notice. Credit may be withdrawn from Hirers failing to make payments or use the Equipment in accordance with these Terms and Conditions and a statement/invoice may be issued at that time requiring payment within seven (7) days of the date of the statement/invoice of any amount due and owing.
- 13.8. **Authority of Hirer:** The person signing the Hire Agreement (including the Credit Application) for and on behalf of the Hirer hereby covenants with Access that he or she has been duly authorised by Hirer to enter into the Hire Agreement on the Hirer's behalf, is empowered by the Hirer to bind the Hirer to the Hire Agreement and hereby indemnifies Access against all losses, costs and Claims incurred by Access arising out of or relating to such a person not, in fact, having such power and/or authority.
- 13.9. **Previous Editions:** This edition of the Terms and Conditions replaces and supercedes all of Access' previously issued Terms and Conditions of Hire.
- 13.10. **Time of the Essence:** Time is to be of the essence of all obligations of the Hirer in the Hire Agreement.
- 13.11. **Assignment and other dealings:** The Hire Agreement is personal to the parties and neither party shall assign, transfer, mortgage, charge, subcontract, delegate declare a trust over or deal in any other manner with any of its rights and obligations under the Hire Agreement.
- 13.12. **Right of Refusal to Hire:** Access is in no way obliged to hire any Equipment to the Hirer and may refuse to hire Equipment to a Hirer at its absolute and sole discretion.
14. **Insurance**
- 14.1. **Subject to the provisions of clause 4.16, as applicable, the Hirer shall effect and maintain at its expense the policies of insurance specified in subclauses (a) and (b) providing cover for the whole of the period of hire including any extension or continuation.**
- A policy providing indemnity for physical loss, including theft and/or damage to the Equipment for the replacement value of each item of Equipment, including whilst in transit; and
 - A public liability policy in the usual terms which provides indemnity with respect to the operation of the Equipment to a limit of indemnity of at least \$20,000,000.
- 14.2. The Hirer shall ensure that each policy of insurance names Access as a named insured as owner of the Equipment.
- 14.3. The Hirer shall provide Access with evidence of the insurance effected in compliance with clauses 14.1(a) and 14.1(b) immediately upon demand by Access.
- 14.4. The Hirer warrants that it shall not do any of the following:
- do anything, or fail to do anything, which would allow an insurer to refuse or reduce a claim.
 - vary the insurance required by this clause in any way without the written consent of Access; or
 - enforce, conduct, settle or compromise a claim without the consent of Access.