

## TERMS AND CONDITIONS FOR HIRE OF EQUIPMENT BY SCS JV

- A This term and conditions form part of and is incorporated into the Purchase Order Conditions by virtue of clause 14 of the Purchase Order Conditions.
- B The Supplier conducts the business of hiring the Equipment set out in the Purchase Order.
- C The Purchaser is hiring the Equipment for the execution of the design, execution, construction, commissioning and completion of certain works, namely the main civil engineering works in respect of the S1 and S2 sectors of the HS 2 project, including preconstruction services and work for the Works.
- D The Supplier acknowledges that it has read the Purchaser's site information document and has knowledge of constraints and specific requirements required to deliver and set up the Equipment it is supplying.
- E The parties have agreed that the Purchaser shall hire the Equipment from the Supplier on the terms of the Purchase Order, the SCS JV Purchase Order Conditions, these terms and conditions (Terms And Conditions For Hire Of Equipment By SCS JV) and where applicable, the SCS JV Supplemental Terms of Hire of Specific Equipment.
- F The Construction Plant Association (CPA) hire conditions shall only apply to matters not covered within the Agreements set out in E above and the Agreements set out in E shall take precedence. Any clause in the CPA hire conditions that gives it a wider application is disapplied in relation to this hire.

### THE PARTIES AGREE:

#### 1 Definitions and interpretation

##### 1.1

#### **Delivery Date**

means the date stated in the Purchase Order for the delivery of the Equipment, however if delivered later and accepted by the Purchaser, the date the Equipment is delivered to the Purchaser.

#### **Hire Fee**

means the fee for the Equipment as set out in the Purchase Order;

Document Title: (PACKAGE TYPE – SUPPLIER – WPxxxx)

Terms and Conditions for Hire of Equipment

Reference: xxxxx-xxx-xx-xxx-xxxx-

Revision: Cxx

**Hire Period** means the period beginning on the Delivery Date and ending on the date specified in the Purchase Order.

**Equipment** means the machinery, plant or equipment stated on the Purchase Order and further described in the specification in **Error! Reference source not found.** which is to be used in providing the works.

**Specification** means the description of the Equipment set out in Schedule 1;

**VAT** means value added tax, as defined by the Value Added Tax Act 1994 (or other applicable sales tax); and

**Working Hours** means the hours of 09.00 to 17.30 on a Business Day (a day other than a Saturday, Sunday or bank or public holiday in England).

1.2 In this terms and conditions:

1.2.1 a reference to this terms and conditions includes its schedules, appendices and annexes.

1.2.2 a reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time.

**2 Commencement and term**

This Agreement commences on the Delivery Date and shall continue in force until the end of the Hire Period, on the expiry of which it shall automatically terminate, unless terminated or extended earlier by the Purchaser.

**3 Delivery of the Equipment and set up**

3.1 The Supplier shall deliver and if required, set up the Equipment at the Purchaser site stated in the Purchase Order on the Delivery Date stated therein. The Supplier warrants that it is aware of the Purchaser’s site(s) and any constraints for delivery and shall make delivery of the

Document Title: (PACKAGE TYPE – SUPPLIER – WPxxxx)

Terms and Conditions for Hire of Equipment

Reference: xxxxx-xxx-xx-xxx-xxxx-

Revision: Cxx

Equipment safely and in accordance with any Purchaser delivery instructions and the Purchaser's policies on health and safety.

- 3.1.1 If the Supplier is aware that there will be any delay to the Delivery Date, it shall immediately notify the Purchaser in writing and provide a revised date of delivery.
  - 3.1.2 Where the Supplier is unable to deliver on the Delivery Date, the Purchaser at its sole discretion may accept delivery on the new date notified by the Supplier in 3.1.1, the Purchaser may opt to terminate the hire;
  - 3.1.3 if the Purchaser, terminates the hire for the reason of failure to meet the Delivery Date, it shall be entitled to recover from the Supplier reasonable costs and losses incurred by the Purchaser due to the Supplier's failure to deliver provided that the Purchaser has mitigated such costs and losses to the full extent possible and delivery has not been delayed due to a reason attributable to the Purchaser.
  - 3.1.4 If the Supplier is unable to meet the Delivery Date for a reason attributable to the Purchaser, the Supplier shall give the Purchaser a written notice of such delay and the Supplier shall be entitled to reasonable costs and losses incurred by the Supplier, provided that it has mitigated such costs and losses to the full extent possible and provides sufficient documentary evidence
- 3.2 The Supplier shall, on or before the delivery of the Equipment, provide the Purchaser with the following documents:
- 3.2.1 installation and use instructions
  - 3.2.2 all repair and maintenance documents, if applicable
  - 3.2.3 all required test and/or quality certificate;
  - 3.2.4 certificate of origin; transport and customs documents where applicable, eg air waybill, bill of lading, and
  - 3.2.5 A delivery note, setting out the Purchase Order number and description of the equipment
- 3.3 The Purchaser shall have a reasonable period of time following delivery to inspect the Equipment.
- 3.4 The Supplier shall be solely responsible for the delivery and, if stated on the Purchase Order, the setup of the Equipment at the Purchaser site. Where the Supplier is responsible for the setup of the Equipment it acknowledges that it has full knowledge of Purchaser's sites including any constraints and specific requirements for setting up the Equipment.

## **4 Equipment quality**

### **4.1 The Supplier warrants that the Equipment at all times:**

- 4.1.1 conforms to the Specification and to any descriptions given in quotations, estimates and promotional material;
- 4.1.2 is of satisfactory quality;
- 4.1.3 complies with all applicable laws, standards and good industry practice (including in relation to its manufacture and delivery);
- 4.1.4 is fit for any purpose held out by the Purchaser as the purpose for which it needs the Equipment (or if no such purpose is stated, the use to which the Equipment is normally put); and
- 4.1.5 is safe and will not cause any harm to the Purchaser, its employees or property if used properly.

### **4.2 The Supplier shall:**

- 4.2.1 be responsible for the maintenance of the Equipment during the Hire Period to ensure it meets the requirements of clause 4.1 and the Purchaser shall provide the Supplier reasonable access to do so during Working Hours;
- 4.2.2 provide at its own cost as part of the Hire Fee the consumables that are required by the Equipment except stated in Schedule 2 that the consumables shall be provided by the Purchaser;
- 4.2.3 provide a helpline service that ensures technical and related advice on use of the Equipment is available at all times during Working Hours except agreed otherwise by the Purchaser in writing;
- 4.2.4 establish, in liaison with the Purchaser, a programme for the provision of preventative maintenance services in respect of the Equipment including regular site visits and inspections that is sufficient to the type and use of the Equipment.

### **4.3 If the Equipment fails to meet the requirements of clause 4.1, either on or at any time after delivery then the Supplier shall, promptly, and as requested by the Purchaser:**

- 4.3.1 repair the Equipment or replace it with suitable replacements free of charge; and
- 4.3.2 allow an appropriate reduction in the Hire Fee for the Working Hours which the Equipment is not fully available.

## **5 Use of Supplier's personnel**

- 5.1 If as part of the hire, the Supplier shall provide personnel to operate the Equipment, the Supplier shall ensure that such persons are competently qualified and hold the relevant qualifications and certificates required for such jobs.
- 5.2 The Supplier shall remain liable for the actions of such persons, except that the Supplier shall have no liability for actions and consequences arising from correct implementation of instructions given by the Purchaser or its staff.
- 5.3 The Supplier personnel shall follow the Purchaser's policy on health and safety, alcohol, use of personal equipment and other policies highlighted to the Supplier from time to time by the Purchaser in writing.
- 5.4 The Purchaser shall have the right to remove any such person provided by Supplier from the Purchaser site at its discretion and on notice to the Supplier requiring such removal.

## **6 Hire fee**

- 6.1 The Hire Fee payable by the Purchaser is set out in the Purchase Order and may not be increased by the Supplier without the express written agreement of the Purchaser.
- 6.2 The Hire Fee is exclusive of VAT but inclusive of all other costs including *insurance, maintenance, delivery and packaging*. The Purchaser shall pay any applicable VAT to the Supplier on receipt of a valid VAT invoice.

## **7 Payment**

- 7.1 The payment process is as set out in the SCS JV Purchase Order Conditions.

## **8 Possession and ownership of the equipment**

- 8.1 The Supplier agrees that during the Hire Period the Purchaser may keep possession of the Equipment and may use it without interruption from the Supplier or persons claiming possession of the Equipment through the Supplier.
- 8.2 The Supplier shall at all times retain the ownership of the Equipment and the Purchaser shall not knowingly do anything that leads any person to attempt to seize, distrain, take possession of, or to attempt to execute any civil recovery or judgement on the Equipment.
- 8.3 The Purchaser shall keep the Equipment at the Purchaser's site or such other location as it may notify to the Supplier in writing and in advance.

## **9 Risk in the equipment**

Risk in the Equipment shall remain with the Supplier at all times.

Document Title: (PACKAGE TYPE – SUPPLIER – WPxxxx)

Terms and Conditions for Hire of Equipment

Reference: xxxxx-xxx-xx-xxx-xxxx-

Revision: Cxx

## **10 Insurance**

- 10.1 Except the Supplier has been notified in writing by the Purchaser that the Equipment is covered under the composite insurance policy of the Employer - HS 2 Limited, the Supplier shall be responsible for the insurance for the Equipment to its full replacement value and shall ensure that the policy contains a general endorsement for Indemnity to Principals under which the Purchaser is covered. The Supplier shall provide evidence of its insurance to the Purchaser at any time on request.

## **11 Industry Standard, Health and Safety**

- 11.1 The Supplier shall comply with the Purchaser's health and safety policies and all applicable law in the provision of the Equipment and shall provide the Equipment to required industry standard as set out in a relevant industry standard guidance documents except agreed otherwise in writing by the Purchaser.

## **12 Termination**

- 12.1 Termination is as set out in the SCS JV Purchase Order Conditions. On

Document Title: (PACKAGE TYPE – SUPPLIER – WPxxxx)

Terms and Conditions for Hire of Equipment

Reference: xxxxx-xxx-xx-xxx-xxxx-

Revision: Cxx

**SCHEDULE 1 THE PAYMENT PROCESS IS  
AS SET OUT IN THE SCS JV PURCHASE  
ORDER CONDITIONS  
EQUIPMENT SPECIFICATION**

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*[Describe or list the Equipment to be hired and provided specification (delete pre-provided specification as necessary)]*

### **Vehicles**

All applicable Supplier vehicles, or those of their suppliers, attending Site will be operated by current FORS registered companies that have attained a minimum FORS Bronze award. Additionally, projects will risk assess transport attendance to each site and suppliers may be required to demonstrate compliance to a FORS silver standard to be able to attend certain sites. Any additional requirements over and above 'FORS Bronze' will be advised at point of enquiry.

The Supplier shall ensure that all non-road going Equipment and machinery (NRMM) listed below, with a power output of 37kW – 560kW supplied to the Purchaser complies with stage IIIB of EU Directive 97/68/EC, as a minimum:

- Excavators
- MEWPS
- Dumpers
- Pumps
- Telehandlers
- Compressors
- Rollers
- Articulated Dump Trucks

Proof of compliance should be supplied to the Purchaser in advance of Equipment being delivered to site.

### **Truck Mounted Cranes**

Document Title: (PACKAGE TYPE – SUPPLIER – WPxxxx)

Terms and Conditions for Hire of Equipment

Reference: xxxxx-xxx-xx-xxx-xxxx-

Revision: Cxx

The Supplier of the Lorry Mounted Crane shall hold a CPCS card for the category in question. A proven training under the "ALLMI" scheme (Association of Lorry Loader Manufacturers and Importers) may be considered sufficient on the Purchaser's written notification.

All lifting equipment operators/drivers are required to make contact with an appropriate person on site, and the operation be controlled by a suitably competent site based person as per the approved safe system of work

## **Equipment & Equipment**

No Equipment or transport vehicle must be reversed or moved without supervision by a competent traffic marshal.

ROPS & Restraints - Where there is a risk of the mobile work equipment rolling over i.e. with forward tipping dumpers and ride on rollers, Roll-over Protective Systems (ROPS) must be fitted. Restraining systems (i.e. seat belts) must also be fitted and worn by the operative.

FOPS - Where there is a risk of persons operating mobile Equipment being struck by falling material e.g. demolition Equipment, Falling Object Protective Systems (FOPS) must be fitted.

Immobilisation - Suppliers shall ensure that it not possible for mobile work equipment to be started / used by unauthorised persons.

Lighting and Warnings - Suppliers shall ensure that work equipment used in the dark or in reduced visibility must be fitted with suitable lighting and warning systems which must be maintained in good working order.

In addition, amber-flashing lights that give warning to the presence of the vehicle shall also be fitted. It is also a requirement that some types of construction vehicles be fitted with audible reversing warning devices.

Visual Devices - Where a driver's direct field of vision is inadequate, to ensure safety, visual aids or other suitable devices must be fitted e.g. convex mirrors, CCTV or other suitable devices.

Fire Fighting Equipment - Where escape from work equipment in the event of a fire cannot be achieved easily (such as from a tower crane), appropriate equipment for the extinguishing the fire must be provided.

Storage of potentially polluting materials and Spill Response - Suppliers requiring and storing fuels, oils and chemicals and other materials which may cause harm to the environmental, should ensure they are stored to prevent spillage and in line with the oil storage and COSHH regulations. The Supplier shall also ensure appropriate spillage response material is available in the event of a spill of such material.



Document Title: (PACKAGE TYPE – SUPPLIER – WPxxxx)

Terms and Conditions for Hire of Equipment

Reference: xxxxx-xxx-xx-xxx-xxxx-

Revision: Cxx

Tools - The Purchaser will only accept tools onto site that have been competently tested for levels of vibration by OPERC (Off road Equipment and Equipment Research Centre) or supplied with verified manufacturer's data. Where applicable the tools tested and their associated results are shown on the OPERC 'HAVTEC' website.

In addition, the noise output in dB(A) and dry weight in kg will also be provided, as well as 'K' Factor data (via the Hire Association of Europe website) where available.

Licences/Permits - required permits or licenses (such as mobile Equipment license) for certain types of Equipment (such as concrete crushers) will be obtained by the Supplier and a copy of the license submitted to the Purchaser prior to starting works.

Road-going Tractors (licenced for the road) will be supplied with derv (not rebated fuel)

A handbrake warning alarm must be fitted on large site goods vehicles / HGVs to indicate when the cab door is open and the handbrake is not applied.

All Mobile diesel powered (self-contained) welfare to have an optical smoke alarm fitted to seating area as well as carbon monoxide alarm

All lighting towers supplied will be fitted with AMOSS or equivalent and levelling devices

Unless specified and agreed otherwise, all Equipment equipment with a power output of 37kw - 560kw will as a minimum meet Stage IIIB of the EU directive 97/68/EC. Where compliance is by way of aftermarket treatment then the provision of certification confirming a minimum of 85% emissions reduction is required.

### **Lifting Operations & Equipment**

The Supplier/supplier of lifting equipment and / or accessories must provide evidence of valid thorough examination prior to or at delivery to site and prior to being used for the first time.

Suppliers shall ensure that all lifting operations are planned to ensure that they are carried out safely and that all foreseeable risks are taken into account. Planning should be carried out for or by an appointed person and approved by them. The contractor shall also provide appropriately competent crane supervisors/coordinators and slinger / signallers as is necessary to ensure safety.

Boom lowering devices (hose burst check valves), or similar devices, are required on the raising boom cylinder(s) of all excavators with a maximum rated lift capacity of greater than 1,000Kg or an overturning moment of greater than 40,000Nm which are for object handling operations.

Excavators intended to be used for object handling with a maximum rated lift capacity of greater than 1000Kg shall be fitted with an acoustic or visual warning device which indicates to the operator that the object handling capacity or corresponding load moment is exceeded. Safe Load radius charts shall also be made immediately available to the operator e.g. displayed in the cab.

Document Title: (PACKAGE TYPE – SUPPLIER – WPxxxx)

Terms and Conditions for Hire of Equipment

Reference: xxxxx-xxx-xx-xxx-xxxx-

Revision: Cxx

Tower cranes must have standard edge protection in the form of guardrails at rest / landing platforms to prevent the risk of falls and have appropriate protection from falls throughout the access route to the operator's cab. Ladder access in Tower Cranes should be inclined and 'hooped' with intermediate landing / rest platforms whenever practicable but no more than 9 meters apart.

Telehandlers will not be supplied equipped for lifting underslung loads unless specifically requested to do so.

No tower crane is to be fitted with a vertical ladder

Mobile cranes with a capacity in excess of 40te will be permanently fitted with an anemometer. All lifting equipment or accessory supplied to the Purchaser must be compliant with the requirements of applicable BSEN standard.

### **Use of Ladders**

The use of ladders will only be permitted by the Purchaser following the completion of a suitable and sufficient risk assessment, which clearly identifies the fact that ladders provide the best means of access for a particular task. Wherever possible, the use of ladders should be avoided.

In any case, the specification of such ladders must be of industrial standard, with handrails where practicable and their condition should be sound with regular work equipment checks carried-out to ensure ongoing compliance. Where the Purchaser has not approved the use of ladders, then the Supplier shall provide alternative means of access (which is to the satisfaction of the Purchaser) at the Supplier's own expense



Document Title: (PACKAGE TYPE – SUPPLER – WPxxxx)

Terms and Conditions for Hire of Equipment

Reference: xxxxx-xxx-xx-xxx-xxxx-

Revision: Cxx

## **SCHEDULE 2 CONSUMABLES**

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*[List of consumables for the Equipment to be provided by the Purchaser]*

Document Title: (PACKAGE TYPE – SUPPLIER – WPxxxx)

Terms and Conditions for Hire of Equipment

Reference: xxxxx-xxx-xx-xxx-xxxx-

Revision: Cxx

### **SCHEDULE 3**

#### **HEALTH AND SAFETY REQUIREMENTS**

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*[please add health and safety requirements. Delete pre added requirements as necessary]*

#### **Health, Safety & Environment**

The Supplier shall comply with all current Health, Safety & Environmental legislation relevant to the works including but not limited to the Construction (Design and Management) Regulations 2007 (CDM Regulations).

The Purchasers Current Policies and Policy Statements (including but not limited to those relating to Health & Safety, Environment, Sustainable Procurement, Drugs and Alcohol etc.) have been made available to the Supplier and the requirements of such Policies or Policy Statements shall also be highlighted and reinforced to The Supplier during the site induction.

The Supplier must ensure that all activities to be carried out on The Purchasers site under their control are managed by current and valid Risk Assessment(s) and Method Statement(s). Copies of said documents must be accessible to The Suppliers representatives whilst on The Purchasers site. Where necessary or requested said documents must be submitted to The Purchaser for approval prior to commencement of work.

All operatives employed by The Supplier in connection with the works must attend a Health, Safety and Environmental Induction, prior to their commencement on site.

All Suppliers shall ensure that all those engaged by them to work on the site including (but not limited to) all maintenance contractors, delivery personnel and other transient workers are competent are provided by the Supplier with the necessary information relative to their particular activity, are supervised by the Supplier and work under a safe system of work.

The Supplier shall be responsible at his cost for ensuring that sufficient and suitable Personal Protective Equipment (PPE) is available on the site at all times for all employees and persons within

Document Title: (PACKAGE TYPE – SUPPLIER – WPxxxx

Terms and Conditions for Hire of Equipment

Reference: xxxxx-xxx-xx-xxx-xxxx-

Revision: Cxx

his control, including his visitors, those making deliveries and all employees and persons within the control of his suppliers. The Supplier must ensure that where appropriate, or as otherwise designated by the Purchaser, suitable PPE is worn by all employees and persons within his control, including his visitors, and all employees and persons within the control of his suppliers at all times. The Supplier should be aware that the wearing of suitable gloves and safety glasses is mandatory when on site. PPE styles and colours may vary from project to project, if in doubt please contact the Purchaser for confirmation.

Where safety helmets and/or safety footwear and/or high visibility vests and/or any other PPE are not provided by the Supplier, the Purchaser will arrange to supply these and the cost of these will be deducted from the price stated in the Purchase Order. Such PPE shall be of an appropriate personal specification, suitability and condition and reflect the corporate image either of the sub - contractor or that of the Contractor and not of other Suppliers or contractors engaged or involved in the project.

No personal audio systems will be allowed on site and the use of mobile phones is strictly prohibited, use only allowed in designated areas. The Purchaser will provide project specific details during the Induction.

Evidence of medical fitness is required for all persons who operate mobile Equipment , mobile and equipment or where the work activity dictates.

### **Site Health Safety and Environmental Management Plan (HASEMP)**

The Supplier shall comply with the Purchaser's Site Health, Safety and Environmental Management Plan.

### **CSCS & Training**

Each Supplier must ensure that those engaged in their undertakings are competent for the tasks they have to perform. Details of training and skills testing of employees must be provided to the Purchaser on request.

As such, all personnel working on the project will fall under the scope of the requirements of the CSCS (including CPCS).

Suppliers are expected to support our stance on CSCS and must therefore comply with these requirements and shall demonstrate such compliance by providing evidence as is reasonably required in advance of working on site. Failure to provide evidence to that specified above will render such labour inadmissible to site and the Supplier shall provide alternate labour to comply with those obligations.

Supplier's Managers/Supervisors must be able to demonstrate the appropriate level of SHE Management Competence that should include a minimum of two days safety management training.

It is a requirement on all The Purchasers sites that the person supervising teams of artisans or others wears a blue safety helmet, this will identify him to site management as being the competent person.

Document Title: (PACKAGE TYPE – SUPPLIER – WPxxxx)

Terms and Conditions for Hire of Equipment

Reference: xxxxx-xxx-xx-xxx-xxxx-

Revision: Cxx

### **CPCS and Driving Licences**

It is The Purchasers policy that the operators/drivers of all mobile Equipment and other categorised equipment including ride on rollers and forward tipping dumpers, must hold valid CPCS card (or equivalent recognised by the Purchaser) AND a current valid UK recognised car driving licence.

### **Daily SHE Management Review**

Suppliers should be aware that on a daily basis, a brief review of the day's activities will be undertaken on site at the start of each day, prior to any works commencing on site.

A record of the review and the associated attendance will be recorded and signed off by the project senior management team.'