

METANO LTD CONDITIONS OF HIRE FOR BAG IN BOX IBCS

1. DEFINITIONS

- (a) The "Owner" shall mean Metano Ltd *and includes its successors and assigns*.
- (b) The "Hirer" is the company, firm, person, corporation or public authority taking the equipment on hire whether directly or through an agent and includes its successors or personal representatives.
- (c) The "equipment" covers all types of equipment *machinery and accessories* therefore which the Owner agrees to hire to the Hirer.
- (d) A "day" shall, for the avoidance of doubt, in calculating hiring rates and all purposes of this Agreement include weekends and all public holidays as well as normal weekdays and parts of all such days.
- (e) "These Conditions" shall mean the Terms and Conditions *specified* herein and on the reverse side hereof and where the context admits shall be deemed to include all other documents and papers expressed to be made subject to or incorporated in these Terms and Conditions

2. PRELIMINARY

- (a) These Conditions apply to all equipment hired *by the Hirer* from the Owner and can only be varied by express written agreement between the Owner and the Hirer. The express written agreement of the Owner to be effective must be evidenced by the signature of a Director of the Owner The Hirer accepts and acknowledges that these Conditions form a binding legal contract between the Owner and the Hirer and agrees that these Conditions override any terms and conditions stipulated incorporated or referred to by the Hirer whether in its order or in any negotiations or in any other manner
- (b) The Owner's technical data catalogues brochures and other advertising material shall not form any part of these Conditions

3. HIRING CHARGES

- (a) Hiring charges are payable and shall commence from; (i) In the case of pick up of the equipment by the Hirer or Hirer's agent from the Owner's premises or the Owner's nominated point-from time of *such* pick-up
- (ii) in case of delivery by the Owner to the Hirer (where requested and arranged under the terms hereof)-when the Owner or its earner picks up the equipment from the Owner's premises or the Owner's nominated point. The Hiring charges in such instance shall be in addition to and not in substitution for the costs of delivery chargeable and payable under the terms of the Owner's current Conditions of Carriage (see clause 4(b) below)
- Hiring charges shall continue to be payable under these Conditions for so long as the equipment remains on hire as provided in clause 3(e) hereof, and the day of commencement of hiring charges and the day of such termination of hire shall both be counted for the purpose of calculating hiring charges.
- (b) Hiring of equipment is from day to day and the Hirer shall pay the Owner's hire charges at the Owner's ruling rate from time to time in force calculated *the* number of units of equipment on hire on each and every day.
- (c) Variations in the Owner's rates of hire shall take effect on and from the date so notified to the Hirer and the Hirer shall from the date notified pay the said varied hire charges in substitution for those formerly payable.
- (d) Terms of payment of hire charges are strictly net cash within fourteen days from date of invoice. Invoices shall state the number of units of equipment on hire at the start and end of the accounting period and give the number and date of any additional units hired during such period or *of any* units withdrawn from hire during such period. Invoices shall be prima facie evidence of all matters stated therein unless the Hirer gives written notice to the Owner, within twenty-one days of the date of the invoice, that it disputes any matter stated therein. In the event of any payment not being made by the Hirer on the date on which it falls due the Hirer shall pay to the Owner interest on the outstanding amount at the rate of 4 per cent above the Bank of England Minimum Lending Rate for the time being from the date which the payment falls due until payment is received by the Owner, such interest to be calculated on a daily basis.

- (e) The equipment *will* remain on hire until it is:
- (i) returned by the Hirer or the Hirer's agent (the Hirer having complied with the terms of these Conditions) direct to the possession of the Owner at the Owner's premises and de-hired to the Hirer's specified account or
- (ii) deemed to *have* been so returned as hereinafter provided (see clause 5(b) below or
- (iii) transferred to a Transferee under and in compliance with the provisions of Clause 8 hereof
- (f) The hire of all or any of the equipment may be terminated at any time in accordance with provisions of Clause 3(e) hereof in which event hiring charges will no longer be payable in respect of the equipment so returned or transferred.

4. DELIVERY

- (a) Delivery will normally be effected by the Owner to the Hirer or Hirer's agent at the Owner's premises. If delivery by the Hirer is required elsewhere and the Owner consents thereto then the costs of delivery to the place nominated by the Hirer shall be borne by the Hirer. In the event of the parties arranging delivery by the Owner other

than at the Owner's premises the current Conditions of Carriage of the Owner shall apply to the carriage of the of the equipment until delivery by the Owner to the Hirer of the Equipment: in such event and to that extent the said Current Conditions of Carriage shall be deemed to be incorporated into these Conditions. Hiring Charges shall in such event still commence and be payable in accordance with Clause 3(a) of these Conditions.

(b) The time and place of delivery will be agreed between the Owner and the Hirer and the Owner will use its best endeavours to keep the date of delivery but if there is any delay in delivery on the Owner's part then a new delivery date shall be agreed in the light of the circumstances of the delay and the Hirer shall take delivery of the equipment at such reasonable time as the Owner is able to deliver it or arrange its delivery. The Owner shall not be responsible for any loss suffered by the Hirer directly or indirectly by reason of any late delivery of the equipment

5. LOSS OR DAMAGE

(a) Risk in the equipment shall pass to the Hirer upon delivery of the same under the terms hereof and the Hirer shall thereafter be fully responsible at all times for any damage to or deterioration or loss of the equipment, fair and reasonable wear and tear only excepted. If upon return of the equipment to the Owner, such equipment is damaged or has deteriorated the Hirer shall pay the Owner on demand the costs incurred by the Owner in the repair of such equipment. If any unit of equipment is lost, worn out, destroyed or damaged beyond repair, the Hirer shall forthwith pay to the Owner: (i) a sum equal to the cost of purchasing or manufacturing a new unit or part unit to replace the unit or part unit which has been so lost, worn out, destroyed or damaged.

Upon a payment as aforesaid being made in respect of any equipment, such equipment shall be deemed to have been returned to the Owner (see Clause 3(e)(ii) above) Until such payment (and notwithstanding such loss, wearing out, destruction or damage) SUCH equipment shall be deemed to remain on hire and hiring charges shall continue to be payable under the terms hereof. The Hirer shall not be entitled to delay payment under the terms of this clause until it has received any insurance monies in respect of such loss, wearing out, destruction or damage. Notwithstanding the provisions of this clause *if* the property in any equipment lost, worn out, destroyed or damaged beyond repair shall at all times, and notwithstanding that payment has been made by the Hirer to the Owner as aforesaid remain vested in the Owner. Should the Owner locate any such equipment it shall have the right to enter upon any premises for the purpose of re-taking possession thereof.

(b) The Hirer undertakes to insure and keep insured against its liabilities under Clause 9 hereof and to insure and keep insured the equipment with a reputable insurer in the values referred to in Clause 18 hereof as soon as risk in the equipment passes to the Hirer and to furnish details of such insurances to the Owner *if* required by the Owner.

6. MAINTENANCE, INSPECTION, REPAIRS AND ALTERATIONS

(a) The Hirer shall take all necessary steps to keep itself acquainted with the state and condition of the equipment during the term of these Conditions. Save as provided in Clause 9 hereof the Hirer shall be solely responsible for any damage loss or injury whether directly or indirectly arising from the presence or use of the equipment or any defect therein

(b) Without prejudice to the Hirer's obligations under these *Conditions* as to loss or damage of equipment and without imposing any binding obligations on the Owner as to testing repairing or replacing of the equipment the Hirer shall at all reasonable times allow the Owner its agents or insurers to have access to the equipment to inspect test adjust repair or replace the same. As far as possible such work will be carried out at times to suit the convenience of the Hirer.

(c) The Hirer shall not alter or suffer to be altered in any way any equipment or any parts thereof.

7. RETURN OF EQUIPMENT

(a) The Owner may at any time by notice in writing to the Hirer require the Hirer to return any equipment on hire at the expiration of a period of thirty days after service of such notice. If the Hirer fails to return the equipment at the expiration of said period, or returns less than the total quantity of equipment which is on hire, then the Hirer shall be deemed to have lost the equipment which the Hirer has failed to return and the provisions of Clause 5(b) of these Conditions shall thereupon apply to the equipment not so returned.

(b) The Owner shall not be liable to the Hirer *for* damages or compensation in respect of any loss suffered by the Hirer by reason of the termination of the hire aforesaid

(c) Notwithstanding the provisions of this clause the property in the equipment which is not returned within the period aforesaid shall *always remain* in the Owner and if any such equipment is *subsequently* located it shall be returned to the Owner.

8. OWNERSHIP AND EQUIPMENT TRANSFERS

(a) Notwithstanding the delivery of and passing of risk in the equipment to the Hirer the full legal and equitable property and title in the equipment shall at all times *remain* vested in the Owner.

(b) Save only as provided in this Clause the equipment shall not be re-hired leased lent charged or pledged to any third party nor shall the Hirer part with possession of or otherwise deal with the equipment and nor may the benefit of this Agreement be assigned by the Hirer, and the Hirer shall indemnify the Owner against all losses damages costs charges and expenses arising from failure to observe and perform this condition.

(c) Equipment may be transferred by the Hirer to a third party - the Transferee where the transfer has been expressly authorised by the Owner and then effected in a manner directed by *the* Owner at that time

(d) Responsibility for the equipment as well as the hire of the equipment remains with the Hirer until the Transferee has given notice to the Owner of acceptance of the equipment so transferred in the manner required by the Owner, in which event responsibility for such equipment and the hire thereof shall become the obligation of the Transferee, and the Hirer shall, to the extent acknowledged by the Transferee in the notice of acceptance, be released from future obligations in relation to such equipment.

(e) Equipment so authorized for transfer shall, on the day of the transfer, increase the quantity of equipment on hire to the Transferee, by the quantity acknowledged by the Transferee to the Owner as so transferred.

(f) Disputed transfers will remain charged to the Hirer until such time as the Transferee has agreed to the quantity. The onus of convincing the Transferee that the Transferee may be in error rests fully with the Hirer.

(g) Equipment shall not be taken outside the United Kingdom except with the express prior written consent of the Owner. The consent of the Owner to be effective must be evidenced by the signature of a Director of the Owner.

9. INDEMNITY BY HIRER

(a) The Hirer shall fully and completely indemnify and keep indemnified the Owner in respect of all claims by any person whatsoever for injury to person or property or for any other form of damage or loss whether consequential *or economic which may* be brought against the Owner arising out of the use of or any defect in the equipment whilst the equipment is on hire under these Conditions or arising out of any alterations made to the equipment or any part thereof by the Hirer save that nothing in these Conditions shall exclude or restrict the Owner's *liability* under law for death or personal injury directly resulting from the Owners own negligence.

(b) If the equipment is involved in any accident resulting in death or personal injury for which the Owner may be held liable in whole or in part under the terms hereof immediate notice must be given to the Owner by telephone and confirmed in writing to the Owner's office and in respect of any claim no admission offer promise of payment or indemnity shall be made by the Hirer without the express consent in writing of the Owner.

10. GENERAL

(a) The Hirer shall not remove deface or obliterate or cause or suffer to be removed, defaced or obliterated any identifying marks of ownership or of patent rights upon the equipment.

(b) The Owner shall not be responsible for any loss suffered by the Hirer directly or indirectly by reason of the use to which the equipment is put or by reason of any breakdown or failure of the equipment.

(c) The Hirer acknowledges that prior to entering into this agreement it inspected the equipment and that the same is satisfactory for the Hirer's purposes in all respects and that the Hirer in no way relies upon any statement or representation made by the Owner. The Owner accepts no responsibility of any kind and does not warrant that the equipment is suitable for the particular purpose or any purpose for which it is or may be required.

(d) All notices or notifications required to be given to the Hirer under this agreement may be delivered by hand or addressed to it by prepaid post at its last known address and are deemed served (and the Hirer so notified) on delivery or two days after posting whichever shall first occur.

(e) The right of the Hirer to possession of the equipment under thereof shall automatically cease and determine in the event of Resolution or Petition being passed or an Order being made for the winding up of the Hirer or if a Receiver of the Hirer's property undertaking or assets or any part thereof is appointed (if the Hirer is an Individual) on the death or bankruptcy of the Hirer or if the Hirer shall do or shall cause to be done or permit or suffer any act or thing whereby the Owner's rights in the equipment may be prejudiced or put in jeopardy and in such event the equipment shall forthwith be returned to the Owner and the Owner may recover such equipment and may enter upon the Hirer's premises for that purpose. Determination of the hiring under this subclause shall not affect the right of the Owner to recover from the Hirer any monies due to the Owner under these Conditions or damages for breach thereof.

(f) No relaxation forbearance delay or indulgence by the Owner in enforcing any of these Conditions or the granting of time by the owner to the Hirer shall prejudice affect or restrict the rights and powers of the Owner hereunder nor shall any waiver of any breach hereof operate as a waiver of any subsequent or any continuing breach hereof. Any waiver or variation of these Conditions or consent of the Owner required under these Conditions to be effective must be in writing signed by a Director of the Owner.

(g) The Hirer shall pay to the Owner all expenses (including legal costs on a full indemnity basis) incurred by or on behalf of the Owner in ascertaining the whereabouts of the equipment or taking possession of the equipment by reason of a breach by the Hirer of any provisions of these Conditions and in any legal proceedings taken by or on behalf of the Owner to enforce the provisions of these Conditions.

(h) The Hirer shall be fully responsible for compliance with relevant regulations issued by the Government or Local Authorities and observance of the Factories Acts the Health and Safety at Work etc. Act 1974 and also the Road Traffic Acts (including the costs of licence and registration fees and any insurances made necessary by the last named) and any statutory modification or re-enactment of such Acts and all bye-laws regulations orders and directions made or to be made there under.

(i) The Hirer shall notify the Owner of any change in the Hirer's address and upon request by the Owner promptly inform the Owner of the whereabouts of the Equipment.

(j) The parties hereto consider these Conditions to be fair and reasonable and further agree that if any term contained herein shall be adjudged by a court of competent jurisdiction to be void or unenforceable but would be valid or enforceable if some part or parts thereof were deleted or if it were varied or modified in some way then such provision shall apply with such modification or variation as may be necessary to make it valid and effective.

11. TERMS

Invoice/Statements are rendered monthly "Terms Strictly Net 14 Days" from date of invoice. Statement for interest on late payment see Clause 3(d) above. All payments shall be made without any deduction or deferment on account of alleged disputes or cross-claims.

12. REPAIR

Repair and maintenance costs due to fair wear and tear will be borne by Metano Ltd.

13. CARTAGE

All rates quoted are ex Metano Ltd premises. Transport can be arranged at hourly rates applicable at the time.

14. COMPENSATION

The compensation value is the amount payable per unit of equipment lost worn-out (fair wear and tear excepted) destroyed or damaged beyond repair.

Hire charges will continue on such equipment until compensation payment is effected.

15. VALUE ADDED TAX

The Hirer shall be liable for any payment of any Value Added Tax that may be chargeable on the hiring of the equipment and unless otherwise specified all prices quoted are exclusive of Value Added Tax. The Owner shall be entitled at any time during the period of the Agreement to take into account any change in the rate of Value Added Tax and the Hirer shall be liable to pay any such increases.

16. ACCEPTANCE

The rates quoted remain constant for a period of thirty days from the date of this offer but following the expiration of this period they may be subject to review.

17. VARIATION

All rates quoted are subject to adjustment to meet variation to awards, materials or other costs which occur within the industry, or due to legislation government orders regulations or directions or any other cause beyond the control of the owner occurring during the term of these conditions.

18. Insurance

Each item of equipment shall be insured by the lessee, new for old, to the value of £400.00 (GBP) for demountable equipment, £500 (GBP) for galvanized steel equipment and £950.00 (GBP) for stainless steel equipment. A copy of the appropriate Insurance shall be with the owner within 10 working days from the date the first of the container(s) are delivered.