

## MABEY HIRE LIMITED GENERAL TERMS AND CONDITIONS

These terms and conditions (Terms) and any supplemental documentation (eg final priced quotation (Quotation) or work specific documentation) provided by Mabey Hire Limited (Mabey) to you (Contractor/ Customer), collectively referred to as the Agreement, contain the Terms that apply in relation to your order for and supply by Mabey of its equipment (Equipment) and related services (Services) specified in the Quotation.

- 1. Entire Agreement:** The provisions in this Agreement constitute all of the terms and conditions between Mabey and the Customer in relation to the Equipment and any related Services and exclude terms and conditions inconsistent with the terms and conditions contained in this Agreement. This Agreement may not be supplemented or amended by the use of any other document(s), except as otherwise agreed to in a written agreement signed by Mabey.
- 2. Delivery:** Delivery of the Equipment will be on the date and at a place agreed with the Customer. Mabey will notify the Customer when Equipment is ready for delivery. Delivery is deemed complete when the Equipment arrives at the place of delivery. If the Customer fails to take delivery, Mabey may arrange storage of the Equipment either at the Mabey's depot or elsewhere on behalf of the Customer. Mabey may charge any reasonable costs for the resulting insurance and storage. Equipment may need to be delivered in instalments depending on the type of Equipment. Any such delivery details will be agreed beforehand with the Customer. Where it has been agreed that Mabey should arrange transport of the Equipment to or from the Mabey's premises, Mabey is responsible for safe loading of the Equipment at Mabey's premises and Customer is responsible for safe unloading and (for hire Equipment) reloading of the Equipment to be returned. Customer must notify Mabey whether it has suitable loading or unloading facility. Failure to do so may cause delay in delivery and Mabey may charge any reasonable costs resulting from an attempted delivery that could not be completed due to lack of suitable loading or unloading facility at Customer's site. Where the unloading of Equipment at the job site is delayed by the Customer (eg Mabey driver is kept waiting), Mabey may charge £100 to cover for first hour of delay and thereafter £200 for each additional hour of delay. Where Equipment is to be collected and/ or returned by Customer from and/ or to Mabey's depot, Mabey will load and unload the Equipment onto and from the delivery vehicle (respectively) at its premises but the Customer is responsible for ensuring that Equipment remains safely loaded on the vehicle during transit and that it is not damaged; further, Customer is responsible for all unloading activity at the site and reloading at the time of the return of Equipment.
- 3. Risk and Ownership:** The Equipment is at the risk of the Customer from completion of delivery. Where the Equipment is hired, risk in the Equipment will pass back to Mabey at such time as the Equipment is returned to Mabey. Where the Equipment is sold, ownership of the Equipment passes to the Customer upon receipt of full payment by Mabey of all sums due to it in respect of the Equipment. Where the Equipment is hired, the Equipment at all times remains the property of Mabey, and the Customer has no right or title in the Equipment, save the right to possession and use of the Equipment subject to the Terms. From completion of delivery until ownership of the Equipment has passed to the Customer or the end of the hire period (as applicable), the Customer will hold the Equipment as Mabey's bailee on a fiduciary basis and maintain the Equipment in good condition.
- 4. Use of Equipment:** Customer is solely responsible for the assembly, installation (unless Mabey has quoted to carry out the installation), maintenance, use, and where applicable removal and dismantling of the Equipment in conformity with industry-standard safe practice, applicable laws and as detailed in the job-specific drawings and/or printed literature issued by Mabey. In order to assure proper fit and safety, Customer is not to intermingle, connect or use the Equipment with components not specifically supplied by Mabey under this Agreement except as specifically required for the safe and correct use of the Equipment.
- 5. Suitability of Equipment:** It's the Customer's responsibility to ascertain the stability of ground conditions and soil types and accordingly, to determine the type of Equipment appropriate for its project. Any advice for the use of the Equipment, any assumptions to be made by Mabey or any related configuration given by Mabey is based solely upon the loadings and statistical information given by the Customer. No attempt is, or can be, made by Mabey to check the validity of Customer information or ascertain what further factors should be taken into account and, accordingly, the configurations are suggested by Mabey as guidelines only. Where Mabey makes certain assumptions based on Customer information (e.g. design brief) such assumptions will be set out in Mabey's Quotation documentation. It is Customer's responsibility to ensure that any information that it has provided to Mabey has been correctly interpreted by Mabey and that any assumptions made by Mabey are valid. Where the proposed Equipment design scheme imposes loads onto an existing structure then it is solely the Customer's responsibility to check that the structure is capable of sustaining those loads. Mabey is not responsible where the proposed Equipment design scheme proves unsuitable due to the existing structure being incapable of sustaining the imposed loads.
- 6. Return:** Where the Equipment is for hire, upon completion of Customer's use of the Equipment, it is to be returned to Mabey complete and in the same condition as it was delivered, although, ordinary wear and tear is excepted. Customer will reimburse Mabey in full for any whole or part of the Equipment that is lost or damaged (excepting ordinary wear and tear), including for eg, the cost of repairing or replacing the lost or damaged Equipment, together with a sum equal to the rent applicable to such Equipment calculated from the end of the hire period until the compensation for the lost or damaged Equipment is received by Mabey.
- 7. Services:** Where agreed in the Quotation, or otherwise in writing by the parties, Mabey will assemble, install, and where applicable remove and dismantle the Equipment at the agreed premises. The Customer will procure that a duly authorised representative of the Customer is present at any installation and/or removal of the Equipment to sign any paperwork reasonably required by Mabey to evidence the installation and/or removal of the Equipment.  
  
If Mabey provides the services of an Equipment advisor (Equipment Advisor) at the job site, Equipment Advisor's role is limited to providing Customer's specifically-designated representative assistance regarding proper assembly, installation and use of the Equipment, using the instructions provided with the Equipment and any job-specific design drawings issued by Mabey; the Equipment Advisor's assistance is not to be substituted for Customer's own expertise (and/or the expertise provided by any third party) concerning the safe and proper assembly, installation, maintenance, use, removal and dismantling of the Equipment.
- 8. Warranty:** Mabey warrants that the Equipment and any job-specific design drawings issued by Mabey will be substantially in accordance with the site conditions descriptions, specifications or set of specifications you (or any third party on your behalf) has supplied to Mabey regarding the intended use of the Equipment. Additionally, for sale Equipment, Mabey warrants that for a period of 12 months from delivery of the Equipment, it will be correct and free from defects in material and workmanship under normal operational and maintenance use. Mabey, subject to its rights to inspect any defects, will replace or repair at its own expense any Equipment wherein any defect arises due to breach of the foregoing warranty, provided that Customer returns the defective Equipment to Mabey. This is the exclusive remedy for a breach by Mabey of its warranty in relation to Equipment. In case of sale Equipment, this warranty applies during the above noted warranty period only.

Mabey further warrants that any Services will be performed with reasonable skill and care. Mabey is not liable for and Customer assumes all risk of, inaccurate or unsuitable specifications, site conditions or information provided, selected or designated by Customer or any third party.

In respect of any part or parts not manufactured by Mabey, it will insofar as it is entitled so to do give to the Customer the benefit of any warranty which may have been given to Mabey by the supplier of such part or parts in respect thereof.

Where Mabey is selling used Equipment, the warranties in this Agreement do not apply and the Customer agrees that Equipment is sold by Mabey on an "as is" basis without warranty. Except as set out in this Agreement no other warranties (whether express or implied) apply.

9. **Price and Payment:** The price for the Equipment and/ or Services (Price) is set out in the Quotation or as otherwise agreed with the Customer in writing by Mabey. In addition to the Price, the Customer is to pay VAT which is added at the time of invoice. Unless otherwise specified in the Quotation, the Price is exclusive of all costs in relation to loading, unloading, installation or erection, transportation, all of which amounts are chargeable as extra. All payments are to be made in full in Pounds Sterling, without set off or retention. Where Equipment is hired, unless agreed otherwise in the Quotation and subject to prior approval of the Customer's credit application, Mabey may invoice the Customer for Equipment monthly in arrears for the duration of the hire period, except for early invoice for minimum hire period (noted below), which will be included in the first invoice. Customer must pay all the invoices in full within thirty (30) days of the date of invoice. Where Equipment is sold, unless agreed otherwise in the Quotation and subject to prior approval of the Customer's credit application, Mabey may invoice the Customer for Equipment on or at any time following completion of delivery and the payment is due within thirty (30) days of the date of invoice.

Provided that the Equipment and/or Services have already been provided for a period of 12 months (being 12 months from the date of the Quotation and if no Quotation was provided then from the date of delivery), the price/hire charges for the Equipment shall be increased automatically and with immediate effect on 1 October each year to reflect any increases (not decreases) as indicated by any percentage increase (not decrease) in the Retail Prices Index during the previous year.

Mabey may also automatically and with immediate effect increase the price/hire charges between the expiry of the above mentioned 12 months from the date of the Quotation (if no Quotation was provided then from the date of delivery) and the next 1 October (the "interim period") again to reflect any increases (not decreases) as indicated by any percentage increase (not decrease) in the Retail Prices Index during the 12 months before the start of the interim period.

10. **Hire Period:** Minimum hire period for Equipment is two weeks. Hire charge is computed from the date of first delivery and will continue until all Equipment is returned to a Mabey depot by the Customer or where Mabey is collecting, until all Equipment is ready for collection and Mabey is notified that all Equipment can be collected. Where only part of Equipment is ready for collection at the time of collection by Mabey, the charges for the uncollected Equipment will continue to apply until such Equipment is made ready for collection by Mabey and Mabey is notified of its availability for collection.
11. **Inspection:** Unless Customer notifies full description of any defects in writing to Mabey at the time of delivery, Equipment is deemed to be in good order in accordance with the Terms. In order for Mabey representative(s) to inspect any defective Equipment, Customer will arrange timely and suitable access to the job site. Customer must not make any effort to repair any damaged or defective Equipment as any resulting damage will not be covered by Mabey's warranty to repair or replace the Equipment.
12. **Customer's Responsibility:** Customer has complete responsibility for the Equipment while it is in its possession. Customer is not to use Equipment in an unskilled manner or for any unsuitable purpose nor overload nor overwork the same. Customer is not to deface, remove or obscure any identifying mark or packaging on or relating to the Equipment. The hire Equipment should not be moved from one site to another, nor can the Equipment be loaned or leased to any third party or permanently fixed to any premises. Customer will insure the hire Equipment to its full value, against loss by fire, theft and other insurable hazards. Customer will protect and hold Mabey harmless from and against any losses and liabilities arising as a result of any cause of action brought against Mabey that relates to Customer's use of the Equipment.
13. **Limitation of Liability:** Mabey's maximum aggregate liability to the Customer under or in connection with the Agreement (howsoever arising), for all claims, shall not exceed the Price paid by the Customer in the twelve months immediately preceding the claim. Mabey shall not be liable to the Customer for any indirect or consequential losses or loss of income, profits, business, reputation, savings, in each case howsoever arising. These limits shall apply howsoever the liability arises, including, without limitation, a liability arising by breach of contract, arising by tort (including, without limitation, the tort of negligence) or arising by breach of statutory duty. Nothing in this Agreement excludes or in any way limits Mabey's liability to the Customer for: (i) fraud; (ii) death or personal injury caused by its negligence; (iii) any liability to the extent the same may not be excluded or limited as a matter of law.
14. **Force Majeure:** Mabey cannot control and so is not liable for any delays in delivery of the Equipment or Services caused by any event beyond its reasonable control. In the event of any delay caused as aforesaid, the delivery will be extended for a period equal to any such delay. If the delays continue beyond 4 weeks, the parties can terminate the Agreement by mutual agreement.
15. **Mabey's Intellectual Property:** All rights, including any copyright, design right or other intellectual property rights in or related to Equipment and any related specifications (eg, drawing, catalogues or other related information or material) belong to Mabey. Customer has a non-transferable, non-exclusive license to use the Equipment or any related specification provided by Mabey. Customer will not copy or disclose design of Mabey's Equipment or otherwise misuse any intellectual property of Mabey.
16. **Termination:** Mabey can terminate the Agreement where the Customer is in material breach of the Terms (including for eg non-payment) or fails to take delivery of Equipment, or if Mabey believes the Customer is in financial difficulty and is incapable of paying its debts. Upon termination, Mabey may exercise any one or more of the following remedies or any other remedy provided at law or in equity:  
(a) recovery of any unpaid amounts by the Customer, which amounts will become due and payable to Mabey immediately; (b) without notice or demand, Mabey may make entry and take possession of the hire Equipment or the sale Equipment to the extent it has not been paid for; and (c) any other legal or equitable remedies. Such of these Terms which are expressly or by implication intended to come into or remain in force on or after the termination of the Agreement will remain in full force and effect.

Without affecting any other right or remedy available to it, Mabey may terminate this Agreement at any time by giving no less than 28 days' notice to the Customer.

17. **Priority:** In the event of any inconsistency between these Terms and any supplemental documentation forming part of the Agreement, Mabey Hire Limited of Scout Hill, Ravenshorpe, Dewsbury, WF133EJ

the more stringent terms will prevail to the extent of the inconsistency.

18. **General:** This Agreement is non-assignable and no third party has any rights under it. Any notice under this Agreement should be given in writing delivered by first class recorded post to the registered address of either party. Notice is deemed delivered on the next business day from the date recorded on the postal receipt. The Agreement in all respects is subject to and construed in accordance with English law and the English courts have sole jurisdiction in all matters arising out of this Agreement.
19. **Anti-Bribery and corruption:** Customer will in relation to this agreement comply with all applicable UK anti-corruption laws and regulations.
20. **Sanctions:** Customer confirms that it and its owners, officers, employees and agents are not individually or jointly the subject of any financial or trade sanctions imposed by the UK Government from time to time in force and shall indemnify and hold harmless Mabey for any and all claims, losses, liabilities, expenses and costs of whatever nature, (including reasonable legal costs and expenses) arising directly or indirectly out of this Agreement with the Customer in relation to any breach of any such trade or financial sanctions.
21. **Pandemic:** Mabey reserves the right to revisit and revise the proposal, quotation and/or scheme specific assumptions within the Agreement during the quotation validity period or hire period including, but not limited to, delivery, mobilisation, removal and/or collection dates and periods relating to the Equipment and/or the Services if:

20.1 legislation or other relevant guidance is issued by the UK Government or other relevant authority (including but not limited to the Scottish Government or the Welsh Government where relevant) relating to the Coronavirus (COVID-19) pandemic (and such other variants of the same pandemic) or any future pandemics that affect the Agreement; or

20.2 delays occur in the securing of labour, goods, equipment and/or materials needed for Mabey's proposals or Quotation where the cause of such delay is due to the consequences of the Coronavirus (COVID-19) pandemic (and such other variants of the same pandemic) or any future pandemics.

Mabey do not accept liability for liquidated and ascertained damages or termination costs in the event of disruption or delay during the quotation validity period or hire period that relate to the Coronavirus (COVID-19) pandemic (and such other variants of the same pandemic) or any future pandemics. The Customer acknowledges that during the period of the Coronavirus (COVID-19) pandemic (and such other variants of the same pandemic) or any future pandemics Mabey may not be able to commence hire and/or services until Mabey is satisfied that reasonable and appropriate safety measures are in place to protect the health and wellbeing of Mabey employees and contractors in accordance with relevant Governmental and sector legislation and/or guidance.

In the event of any delay caused by the Coronavirus (COVID-19) pandemic (and such other variants of the same pandemic) or any future pandemics, the completion of delivery of the Equipment or the Services will be extended for a period equal to any such delay. If the delays continue for a period beyond [four (4)] weeks, the parties can terminate the Agreement by mutual agreement.

End

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