	<b>WES LTD Hire Terms and Conditions of Hire</b>		
	WQF360	Status	Approved for Use
	Owner	Les Bunce	

## 1 INTERPRETATION

### 1.1 In these conditions the following words have the following meanings:

“Contract” means a contract which incorporates these conditions and made between you and us for the hire of Hire Goods.

“Force Majeure” means any event outside a party’s reasonable control including but not limited to acts of God, war, flood, fire, labour disputes, strikes, sub-contractors, lock-outs, riots, civil commotion, malicious damage, explosion, terrorism, governmental actions and any other similar events;

“Hire Goods” means any equipment, together with any accessories specified in a Contract which are hired to you.

“Hire Period” means the period commencing when you hold the Hire Goods on hire (including Saturdays Sundays and Bank Holidays) and ending upon the happening of any of the following events: (i) the physical return of the Hire Goods by you into our possession; or (ii) the physical repossession or collection of Hire Goods by us;

“Liability” means liability for any and all damages, claims, proceedings, actions, awards, expenses, costs and any other losses and/or liabilities.

“Rental” means our charging rate for the hire of the Hire Goods which is current from time to time during the Hire Period.

“Services” means the services and/or work (if any) to be performed by us for you in conjunction with the hire of Hire Goods including any delivery and/or collection.

“We” or “us” means any member company of the WES Ltd Group, as specified in the Contract and will include its employees, agents and/or duly authorised representatives.

“You” means the person, firm, company or other organisation hiring Hire Goods, and “your” shall be construed accordingly;

## 2 PAYMENT

2.1 You shall pay to us the Rental, charges for any Services, and/or any other sums payable under the Contract at the time and in the manner agreed. Our prices are, unless otherwise stated, exclusive of any applicable VAT which you shall also be liable to pay.

2.2 Payments by you on time are an essential condition of the Contract. Payment shall not be deemed to be made until we have received either cash or cleared funds in respect of the full amount outstanding.


2.3 We may set a reasonable credit limit for you. We reserve the right to terminate or suspend the Contract if allowing it to continue would result in you exceeding your credit limit or the credit limit is already exceeded.

## 3. RISK OWNERSHIP AND INSURANCE

3.1 Risk in the Hire Goods will pass immediately to you when they leave our physical possession or control.

3.2 Risk in the Hire Goods will not pass back to us until they are back in our physical possession. This shall apply even if we have agreed to cease charging the Rental.

3.3 Ownership of the Hire Goods always remains with us. You have no right, title or interest in the Hire Goods except that they are hired to you.

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3.4 You must not deal with the ownership or any interest in the Hire Goods. This includes but is not limited to selling, assigning, mortgaging, pledging, charging, securing, hiring, withholding, exerting any right to withhold, disposing of and/or lending

3.5 We may require you to insure the Hire Goods on such reasonable terms and for such reasonable risks as we may specify. The proceeds of any such insurance shall be held by you in trust for us and be paid to us on demand. You must not compromise any claim in respect of the Hire Goods and/or any associated insurance without our written consent.

#### **4 DELIVERY, COLLECTION AND SERVICES**

4.1 Where we agree to deliver or collect the Hire Goods to and/or from you, we will do so at our quoted delivery cost and such delivery and/or collection will form part of the Services.

4.2 Where we provide Services the persons performing the Services are deemed to be your servants or agents and they are under your direction and control. You shall be solely responsible for any instruction, guidance and/or advice given by you to any such person and for any damage which occurs as a result of such person following your instructions, guidance and/or advice except to the extent that such person is negligent.

4.3 You will allow and/or procure sufficient access to and from the relevant site and sufficient unloading space, facilities, equipment and access to power supplies and utilities for our employees, sub-contractors and/or agents to allow them to carry out the Services. You will ensure that the site where the Services are to be performed is, where necessary, cleared and prepared before the Services are due to commence.

4.4 If any Services are delayed, postponed and/or cancelled due to you failing to comply with your obligations you will be liable to pay our additional standard charges from time to time for such delay, postponement and/or cancellation except where you are acting as a consumer and the delay is due to a Force Majeure event.

4.5 Where collection is agreed, all goods must be emptied of all chemical, flushed through and cleaned evidence of this may be requested prior to collection being carried out. Failure to remove chemicals or clean equipment to the required standard will result on the equipment remaining on hire to you until such point the equipment is cleaned to the required standard. Any costs or charges incurred as a result in failure to clean the equipment will be passed on to the hirer for payment.

#### **5 CARE OF HIRE GOODS**

5.1 You shall: -

5.1.1 not remove any labels from and/or interfere with the Hire Goods, their working mechanisms or any other parts of them and take reasonable care of the Hire Goods and only use them for their proper purpose in a safe and correct manner in accordance with any operating and/or safety instructions provided or supplied to you;

5.1.2 notify us immediately after any breakdown, loss and/or damage to the Hire Goods.


5.1.3 take adequate and proper measures to protect the Hire Goods from theft, damage and/or other risks.

5.1.4 notify us of any change of your address and upon our request provide details of the location of the Hire Goods.

5.1.5 permit us at all reasonable times to inspect the Hire Goods including procuring access to any property where the Hire Goods are situated.

5.1.6 be responsible for the conduct and cost of any testing, examinations and/or checks in relation to the Hire Goods required by any legislation, best practice and/or operating instructions except to the extent that we have agreed to provide them as part of any Services;

5.1.7 not continue to use Hire Goods where they have been damaged and will notify us immediately if the Hire Goods are involved in an accident resulting in damage to the Hire Goods, other property and/or injury to any person;

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5.1.8 where the Hire Goods require an electrical supply you will ensure that the correct voltage is used and that, where appropriate, the Hire Goods are properly installed by a qualified and competent person; and

5.1.9 ensure that any employees, agents or contractors that operate the Hire Goods are, if applicable, adequately and sufficiently qualified and trained to operate the Hire Goods in accordance with all current and applicable legislation.

5.2 The Hire Goods must be returned by you in good working order and condition, and in a clean condition. All chemicals must be removed, and equipment cleaned by a suitable agent, Documentation will be supplied

## 6 BREAKDOWNS

6.1 Allowance will be made in the Rental for any non-use of the Hire Goods due to breakdown caused by an inherent fault and/or fair wear and tear on condition that you inform us as soon as practicable of the breakdown and we are unable to repair or replace the Hire Goods within a reasonable time.

6.2 You shall be responsible for all expenses, loss (including loss of Rental) and/or damage suffered by us arising from any breakdown of the Hire Goods due to your negligence, misdirection and/or misuse of the Hire Goods.

6.3 We will at our cost carry out all routine maintenance and repairs to the Hire Goods during the Hire Period and all repairs which are required due to fair wear and tear and/or an inherent fault in the Hire Goods. You will be responsible for the cost of all repairs necessary to Hire Goods during the Hire Period which arise otherwise than as a result of fair wear and tear, an inherent fault and/or our negligence while carrying out routine maintenance and/or repairs.

6.4 You must not repair or attempt to repair the Hire Goods unless authorised to do so by us in writing.

6.5 Any breakdown caused as a result of the equipment being used for the storage, pumping or dosing or any chemical not mentioned in the original proposal, will be charged to the hirer.

## 7 LOSS OR DAMAGE TO THE HIRE GOODS

7.1 If the Hire Goods are returned in damaged, unclean and/or defective state except where due to fair wear and tear, you shall be liable to pay us for the cost of any repair and/or cleaning required to return the Hire Goods to a condition fit for re-hire and to pay the Rental, in accordance with clause 8.3, until such repairs and/or cleaning have been completed.

7.2 You will pay to us the new replacement cost of any Hire Goods, which are lost, stolen and/or damaged beyond economic repair during the Hire Period less the amount paid to us under any policy of insurance taken out in accordance with these conditions.


7.3 You shall pay the Rental up to and including the date you notify us that the Hire Goods have been lost, stolen and/or damaged beyond economic repair. From that date until we have replaced such Hire Goods you shall pay, as a genuine pre-estimate of lost rental profit, a sum as liquidated damages equal to two thirds of the Rental that would have applied for such Hire Goods for that period. We shall use our reasonable commercial endeavours to purchase replacements for such Hire Goods as quickly as possible

## 8 TERMINATIONS BY NOTICE

8.1 If the Hire Period has a fixed duration, neither we nor you may terminate the Contract before the expiry of that fixed period unless you and we agree.

8.2 If the Hire Period does not have a fixed duration either you or we may terminate the Contract upon giving to the other party any agreed period of notice.

8.3 If no period of notice has been agreed or specified you may terminate the Hire Period by the physical return of the Hire Goods to us and we may terminate the contract by giving not less than 14 days' notice to you.

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## 9 DEFAULT

9.1 If you: -

9.1.1 fail to make any payment to us when due without just cause.

9.1.2 breach the terms of the Contract and, where the breach is capable of remedy, have not remedied the breach within 14 days of receiving notice requiring the breach to be remedied.

9.1.3 persistently breach the terms of the Contract.

9.1.4 provide incomplete, materially inaccurate or misleading facts and/or information in connection with the Contract.

9.1.5 pledge, charge or create any form of security over any Hire Goods, or cease or threaten to cease to carry on business, or propose to compound with your creditors, create a trust deed for your creditors, apply for an interim moratorium in respect of claims and/or proceedings, any distress/diligence, execution or other legal process is levied on any of your property, have a Bankruptcy Petition/Petition for Sequestration presented against you or you take or suffer any similar action in any jurisdiction;

9.1.6 being a company, cease or threaten to cease to carry on business, enter into voluntary or compulsory liquidation, have a receiver, administrator or administrative receiver or in the Republic of Ireland an examiner appointed over all or any of your assets, any attachment order/arrestment is made against you, any distress, execution or other legal process is levied on any of your property or you take or suffer any similar action in any jurisdiction;

9.1.7 appear reasonably to us due to your credit rating to be financially inadequate to meet your obligations under the Contract; and/or

9.2 If any of the events set out in clause 9.1 above occurs in relation to you then: -

9.2.1 except where you are acting as a consumer we may enter, without prior notice, any of your premises (or premises of third parties with their consent) where Hire Goods may be and repossess any Hire Goods.

9.2.2 we may withhold the performance of any Services and cease any Services in progress under this and/or any other Contract with you.

9.2.3 we may immediately cancel, terminate and/or suspend without Liability to you the Contract and/or any other contract with you; and/or

9.2.4 \*all monies owed by you to us shall immediately become due and payable.

9.3 Any repossession of the Hire Goods shall not affect our right to recover from you any monies due under the Contract and/or any damages in respect of any breach which occurred prior to repossession of the Hire Goods.


9.4 Upon termination of the Contract you shall immediately:

9.4.1 return the Hire Goods to us or make the Hire Goods available for collection by us as requested by us; and

9.4.2 pay to us all arrears for Rentals, charges for any Services, and/or any other sums payable under the Contract.

## 10 LIMITATIONS OF LIABILITY

10.1 \*All warranties, representations, terms, conditions and duties implied by law relating to fitness, quality and/or adequacy are excluded to the fullest extent permitted by law.

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10.2 \*If we are found to be liable in respect of any loss or damage to your property the extent of our Liability will be limited to the retail cost of replacement of the damaged property.

10.3 Any defective Hire Goods must be returned to us for inspection if requested by us before we will have any Liability for defective Hire Goods.

10.4 \*We shall have no Liability to you if, without just cause, any monies due in respect of the Hire Goods and/or the Services has not been paid in full by the due date for payment.

10.5 We shall have no Liability for additional damage, loss, liability, claims, costs or expenses caused or contributed to by your continued use of defective Hire Goods and/or Services after a defect has become apparent or suspected or should reasonably have become apparent to you.

10.6 You shall give us a reasonable opportunity to remedy any matter for which we are liable before you incur any costs and/or expenses in remedying the matter. If you do not do so we shall have no Liability to you.

10.7 \*We shall have no Liability to you to the extent that you are covered by any policy of insurance arranged as a result of the Contract and you shall ensure that your insurers waive any and all rights of subrogation they may have against us.

10.8 We shall have no Liability to you for any of the following losses (whether direct or indirect): -

10.8.1 \*consequential losses (including loss of profits and/or damage to goodwill).

10.8.2 economic and/or other similar losses.

10.8.3 special damages and indirect losses; and/or

10.8.4 business interruption, loss of business, contracts and/or opportunity.

10.9 \*Our total Liability to you under and/or arising out of any Contract shall not exceed 5 times the amount of the Rental and charges for Services (if any) under that Contract or the sum of £1,000 (or Euro equivalent) whichever is the higher. To the extent that any Liability of us to you would be met by any insurance held by us then our Liability shall be extended to the extent that such Liability is met by such insurance.

## 11 GENERAL


**11.1 Equipment is charged for the duration of the hire and is based on a time out basis.**

**11.2 Equipment is charged to you on -**

11.2 Each hire of an item of Hire Goods shall form a distinct Contract which shall be separate to any other Contract relating to other Hire Goods.

11.3 You shall be liable for the acts and/or omissions of your employees, agents, and/or subcontractors as though they were your own acts and/or omissions under this Contract.

11.4 \*You agree to indemnify and keep indemnified us against any and all losses, lost profits, damages, claims, costs (including legal costs on a full indemnity basis), actions and any other losses and/or liabilities suffered by us and arising from any breach of contract, any tortious/deliction act and/or omission and/or any breach of statutory duty by you.

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11.5 \*No waiver by us of any breach of this Contract shall be considered as a waiver of any subsequent breach of the same or any other provision. If any provision is held by any competent authority to be unenforceable in whole or in part the validity of the other provisions and the remainder of the affected provision shall be unaffected and shall remain in full force and effect.

11.6 We shall have no Liability to you for any delay and/or non-performance of a Contract to the extent that such delay is due to any Force Majeure event. If we are affected by any such event, then time for performance shall be extended for a period equal to the period that such event delayed such performance.