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1. Definitions

360° Service Items	any associated ancillaries, services or optional extras hired or sold by us to you in addition to any Building under the Agreement including, air conditioners, furniture, equipment, generators, toilets and fire extinguishers and related service packages, and subject to any applicable 360° Service Terms.
360° Service Terms	any additional terms applicable to the particular 360° Service Items which are hired or sold by you as referenced or incorporated in the EHQ or the Hire Contract.
Additional Terms	any applicable additional 360° Service Terms, the Hire Contract, the EHQ, and any applicable framework services terms that the parties enter into.
Agreement	has the meaning given in clause 2.
Building	any relocatable or modular building or storage container hired by us to you under the Agreement, but does not include 360° Service Items.
Collection Ready Condition	the condition the Hired Equipment must be in ready for collection, as set out in clause 14.3 (a)-(f).
Data Protection Laws	the Data Protection Act 2018 together with all other data protection laws applicable in the United Kingdom from time to time.
Damage Waiver	the waiver of liability for the costs of damage to and/or destruction of the relevant Hired Equipment (dependent on the Damage Waiver Tier selected and subject to the Exclusions).
Damage Waiver Fee	the fee to be paid by you to us in consideration for Damage Waiver.
Damage Waiver Tier	the level of Damage Waiver selected by you in the Hire Contract.
EHQ	the Elliott Hire Quotation prepared by us for you and which bears a quotation number.
Elliott, we, us, our	Elliott Group Limited.
Exclusions	any loss resulting from a risk which is not an Insured Risk, willful misconduct by you or your employees, agents or contractors, any loss of Hired Equipment revealed only when an inventory is made, loss of generating equipment in or connected to powered Buildings, bodily injury, glass breakage, civil or foreign war, nuclear damage, terrorism, embargo / destruction upon request of government or public authority, wear and tear, theft from an unsecure or unguarded building or Site, fraud, dishonesty, business interruption, indirect damages, loss, damage or re-instatement of ground in or around the Site, losses or damage resulting from the incorrect use and maintenance of the Hired Equipment, and loss occurring outside the UK.
Hire Charges	the hire charges referred to in the Hire Contract at their full-face value without any deduction, counterclaim or set-off whatsoever.
Hire Contract	the hire contract prepared by us for you and which bears a hire contract number.
Hired Equipment	any Buildings or 360° Service Items hired by us to you under the Agreement
Hire Period	the period of time from and including: (i) the Hire Start Date or Practical Completion (if Site Works are applicable); until (ii) the Hired Equipment is returned to us in accordance with the Agreement.
Hire Start Date	the date specified as such in the Hire Contract, or if earlier, delivery of the Hired Equipment to the Site.
Individual	a natural person, a partnership consisting of two or three persons not all of whom are bodies corporate; and an unincorporated body of persons which does not consist entirely of bodies corporate and is not a partnership.
Insured Risk	fire, act of vandalism (by a person other than you, your employees, agents and contractors), and theft from a secure or guarded Site.
Minimum Hire Period	the minimum hire period as referred to in the EHQ or the Hire Contract.
Practical Completion	the date of completion of the Site Works (if applicable) as determined by us at our discretion.
Privacy Policy	our privacy policy as may be updated from time to time, a copy of which can be found at https://www.elliottuk.com/privacy-policy .
Sale Items	any 360° Service Items agreed to be sold to you under the Agreement.
Services	means any services provided by us to you in relation to the 360° Service Items as specified in the Hire Contract or the EHQ.
Site	the site or location set out in the Hire Contract.
Site Works	any installation works to be undertaken by us as set out in the relevant EHQ or the Hire Contract.
You, your	the customer, as referred to in the Hire Contract.

2. The Agreement

- 2.1 The Agreement is comprised of these Standard Conditions of Hire (as may be updated from time to time and found on <https://www.elliottuk.com/terms-conditions>) and the Additional Terms.
- 2.2 If any of the Additional Terms contradict any of these Standard Conditions of Hire, the provision in the Additional Terms will take precedence to the extent of that contradiction.
- 2.3 All orders are subject to acceptance by us and the terms and conditions of the Agreement will apply to any order issued by you to us and will prevail over any other terms and conditions whatsoever that may be issued by you or attached to any order issued by you. For the avoidance of any doubt, we expressly reject any terms and conditions purported to apply to the Agreement (including any Hire Contract) by you. If you do not accept the terms and conditions of the Agreement, including these Standard Conditions of Hire, you must not enter into the Agreement or accept delivery of any Hired Equipment.
- 2.4 We will only accept your order if we are satisfied with your credit worthiness.
- 2.5 **IF YOU ARE ACTING AS A CONSUMER CLAUSE 35 WILL APPLY AND THESE STANDARD CONDITIONS OF HIRE WILL BE SUBJECT TO THE PROVISIONS IN CLAUSE 35.**

3. Lapse of quotation

- 3.1 The EHQ will lapse 30 days from the date of issue and may be withdrawn by us at any time for any reason.
- 3.2 Any Hired Equipment or Services stated in the EHQ are provided subject to the availability of the applicable items and Services immediately before the Hire Period, and we reserve the right to offer alternative items or Services should those included in the EHQ not be available or to withdraw the EHQ in its entirety without liability to you.

4. Completion and programme of Site Works

- 4.1 Clauses 4.2 to clause 4.5 only apply where Site Works are to be performed by us as specified in the Hire Contract.
- 4.2 We will advise you of the programme for the commencement and the completion of the Site Works.
- 4.3 Any date quoted for the completion of the Site Works in the EHQ, the Hire Contract or otherwise, is indicative only and given in good faith. We will use our

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reasonable endeavours to reach Practical Completion by the date quoted; however, completion dates are not binding on us.

- 4.4 The Site Works will be deemed to have achieved Practical Completion if in our reasonable opinion they are fit for occupation or use. If the Site Works are delayed for any reason beyond our control (including unsuitable Site conditions or weather conditions, or our compliance with any instruction or request you make), then the anticipated completion date will be deemed extended for the period of the delay.
- 4.5 In the case of a delay, we will be entitled to be paid reasonable costs, including overhead recovery and abortive and suspension costs, except where the delay was solely caused by us.
- 4.6 Except for Site Works specifically referred to as being our responsibility in the EHQ, then any site works to be performed are entirely your responsibility.

5. Hire Period

- 5.1 Hire of the Hired Equipment will commence on the Hire Start Date and will continue until the expiry of the Hire Period.
- 5.2 At the conclusion of the Minimum Hire Period, unless terminated in accordance with the provisions of Clause 11 below, the Hire Period will continue and such hire will be subject to the Agreement until such time as all Hired Equipment is returned to and accepted by us.
- 5.3 **IF YOU ARE AN INDIVIDUAL THEN, NOTWITHSTANDING ANYTHING ELSE IN THE AGREEMENT, THE HIRE PERIOD WILL NOT EXCEED 3 MONTHS. ACCORDINGLY INDIVIDUALS WILL RETURN THE EQUIPMENT TO THE HIRER OR OTHERWISE MAKE THE EQUIPMENT AVAILABLE FOR COLLECTION BY THE HIRER ON OR BEFORE THE LAST DAY OF SUCH THREE MONTH PERIOD.**

6. Hire Charges and Terms of Payment

- 6.1 You will pay us the Hire Charges for the duration of the Hire Period.
- 6.2 We may adjust the Hire Charges on an annual basis to our then prevailing rates in our absolute discretion, excluding any consumable goods (such as fuel) which will be subject to variation as set out in the Hire Contract.
- 6.3 If you terminate the Agreement or return Hired Equipment prior to the expiry of the Minimum Hire Period for whatever reason, then you will pay us all monies owing at the time of termination or return, plus all amounts that would have been due for the balance of the Minimum Hire Period.
- 6.4 Notwithstanding clause 6.2, if you retain Hired Equipment beyond the Minimum Hire Period, the Agreement will continue to apply, save that you will be considered to be renting the Hired Equipment on a rolling month to month basis and we may in our absolute discretion immediately adjust the Hire Charges to our then prevailing rates for hires, and monthly thereafter .
- 6.5 We may at our discretion agree in writing credit facilities for you subject to satisfactory credit checks undertaken by us from time to time. You consent to us conducting relevant credit searches, whether company and/or personal, as we deem necessary from time to time. We reserve the right to decline, withdraw or amend your credit terms at any time prior to or during the term of the Agreement, including requesting advance, part or full payment of the Hire Charges or requiring you to pay a deposit, as stated in the Hire Contract or EHQ which may be applied by us against any amounts due and payable by you.
- 6.6 Prior to delivery of the Hired Equipment and whether or not credit is provided in accordance with the Agreement, we may require certain costs to be paid in advance, including one month of Hire Charges together with any quoted delivery, installation, site works and any other specific charges. We reserve the right to increase the amount of Hire Charges payable in advance if we choose to do so based on our credit assessment of you or other factors which we consider to be relevant.
- 6.7 Where it is agreed that you will make a single payment to cover the Minimum Hire Period, the amount must be paid prior to the Hire Start Date. If such a hire continues after the Minimum Hire Period, invoicing and payment terms will be as otherwise set out in these Standard Conditions of Hire.
- 6.8 We will endeavour to comply with your reasonable requests for postponement of delivery but we will be under no obligation to do so. If delivery of the Hired Equipment is delayed by you for any reason (including if the Site conditions are unfit for delivery), then the Hire Charges will become payable from the Hire Start Date stated in the Hire Contract even though the Hired Equipment may not be delivered to you until after the stated Hire Start Date.
- 6.9 Invoices will be issued by us every 28 days during the term of the Agreement unless otherwise stated in the Hire Contract. You will pay VAT where applicable and this will be itemised on invoices.
- 6.10 You will pay invoices in full within 30 days of the date of the invoice, or as otherwise stated in the Hire Contract. If requested to do so by us, you will pay invoices by Direct Debit.
- 6.11 If you think we have made a mistake in the amount of an invoice you must, within 14 days of the date of the invoice, notify us, and give us all relevant information to support your claim. If we agree with you, we will make an adjustment to your invoice as necessary.
- 6.12 You will pay all of our costs in collecting outstanding Hire Charges and any other payments due and payable by you pursuant to the Agreement.
- 6.13 You are not permitted to deduct or set-off any amounts owed to us whatsoever.
- 6.14 If you fail to pay an amount due and owing to us under the Agreement by the due date for payment, you must also pay us interest on the unpaid amount at a rate equal to the prevailing base rate of Barclays Bank plc plus 4%, calculated daily from the next day after the due date up to and including the date of payment. You will also be required to pay any costs incurred by us in the collection of any overdue amount.

7. Damage Waiver programme

- 7.1 It is a condition of the Agreement that you must have in place and maintain hired in plant insurance (HIPI) to cover the Hired Equipment for the duration of the Hire Period at least to the full new replacement value (as set out in the relevant EHQ or Hire Contract, or as otherwise notified to you from time to time) satisfactory to us (acting reasonably), or you must pay the Damage Waiver Fee.
- 7.2 When entering into the Hire Contract, you will be given the option to select a Damage Waiver Tier and pay the associated Damage Waiver Fee.
- 7.3 In consideration for payment of the Damage Waiver Fee, Damage Waiver will operate to release you from the costs associated with any damage to, and/or destruction of, the Hired Equipment, exclusive of VAT, up to the limits in the Damage Waiver Tier selected and subject to the Exclusions.
- 7.4 All other liability and risk associated with the Hired Equipment (i) in excess of the Damage Waiver Tier selected or (ii) which are Exclusions, will remain with you.
- 7.5 If you do not provide proof of HIPI satisfactory to us before the provision of the Hired Equipment, and if you do not select a Damage Waiver Tier, then the top tier of Damage Waiver Fee relating to the highest Damage Waiver Tier, plus VAT, will be automatically charged in addition to the Hire Charges, until a valid insurance certificate is provided by you to us demonstrating that you have obtained HIPI in an amount satisfactory to us.
- 7.6 The parties acknowledge and agree that the Damage Waiver in this clause 7 is not an insurance and therefore does not cover any general liability incurred by you (including any loss or injury to third parties) or your or any third party's use of the Hired Equipment, any consequential loss incurred by you or any third party, or any of the Exclusions.
- 7.7 Without prejudice to this clause 7, if you decline the Damage Waiver or are not current in your payment in full of the applicable Damage Waiver Fee, you will be required to insure the Hired Equipment in accordance with clause 8.

8. Insurance

- 8.1 Subject to clause 7.1, you will throughout the duration of the Agreement and until the Hired Equipment is returned to our control (without prejudice to any liability of you to us) at your own expense insure the Hired Equipment with a reputable insurance company against all risks, loss or damage including all risks

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- of third party and public liability arising out of ownership presence or use of the Hired Equipment in an amount not less than the full new replacement value of the Hired Equipment.
- 8.2 You will, promptly on request, supply copies of the relevant insurance policies or other insurance confirmation acceptable to us and proof of premium payment to us to confirm the insurance arrangements. If you fail to effect or maintain any of the insurances required under the Agreement, we will be entitled to effect and maintain the same, pay such premiums as may be necessary for that purpose and recover the same as a debt due from you to us and to be paid on demand.
- 8.3 Our interest in the Hired Equipment will be noted on your insurance policy which will:
- name Elliott Group Limited as loss payee;
 - not be capable of cancellation or amendment by the insurers (at your request or otherwise) other than by giving us 30 days' prior notice; and
 - provide that the insurers will waive any breach of warranty under the policy of insurance as against us.
- 8.4 You will irrevocably authorise the insurers to pay on an indemnity basis to us all monies payable under your insurance policy in respect of any loss or damage to all or any part of the Hired Equipment.
- 8.5 You will not use or allow the Hired Equipment to be used for any purpose not permitted by the terms and conditions of any policy of insurance for the time being relating to the Hired Equipment nor do or allow to be done any act or thing which may cause such insurance to be invalidated.
- 8.6 In the event of any loss of or damage to all or any part of the Hired Equipment you will give us immediate notice, you will make or assist in the making of any appropriate claim or claims under the insurance policy in such manner as we may require and you will not in any manner settle or compromise any such claim without our the prior written authority.
- 8.7 You will promptly reinstate or repair at your own expense Hired Equipment which has not become a total loss or a constructive total loss and you will continue to pay Hire Charges in respect of the Hired Equipment during such reinstatement or repair. All insurance monies received in respect of any such loss will be applied (at our discretion) in or towards payment to us of any amounts for the time being due and outstanding from you to us under the Agreement; and in or towards reimbursing you for the costs of such reinstatement of repairs.
- 8.8 If during the term of the Agreement any item of the Hired Equipment (the **Destroyed Equipment**) becomes a total loss or a constructive total loss (whether as a result of its being lost, destroyed, damaged beyond repair, confiscated or otherwise) the hire of the Destroyed Equipment under the Agreement will cease, but the Hire Charges will remain due and owing for the remainder of the Hire Period and subject to the terms of the Agreement. We may, at our discretion, apply any insurance proceeds received towards the replacement of the Destroyed Equipment and/or towards the payment of Hire Charges (whether or not due) and all other monies due and owing to us by you. Any surplus insurance proceeds received from your insurers by us after the application of this clause 8.8 will be paid to you.

9. Transport, loading and unloading charges

You will pay all costs (at our current rates from time to time) of loading, transporting and unloading of the Hired Equipment relating to delivery and collection of the Hired Equipment to and from your Site.

10. Delivery

- 10.1 Delivery of the Hired Equipment or Sale Item (as applicable) is made either:
- by you collecting the Hired Equipment or Sale Item from our premises once we have notified you that it is ready for collection; or
 - if a place of delivery is specified in the Hire Contract, by us delivering the Hired Equipment or Sale Item to that place.
- 10.2 Any date or time quoted for the delivery of the Hired Equipment or Sale Item, or performance of any Service, in the EHQ, the Hire Contract or otherwise, is indicative only. We will use our reasonable endeavours to deliver the Hired Equipment or Sale Item by the Delivery Date and, if applicable, carry out the Services as soon as reasonably practicable, however, delivery dates or times are not binding on us and time is not of the essence.
- 10.3 We are not liable for any delay, failure or inability to deliver the Hired Equipment or Sale Item, or perform the Services, howsoever caused.
- 10.4 If you fail to:
- take delivery of the Hired Equipment or Sale Item (including when you postpone delivery of the Hired Equipment);
 - provide us with satisfactory and unrestricted access to the Site, provide suitable Site conditions for delivery of the Hired Equipment each by the delivery date, and, if applicable, provide a Site suitable for the Site Works, by the date intended for the start of such Site Works; or
 - give us adequate instructions (including any documents, licenses, permits or authorisations required for the delivery of the Hired Equipment);
 - notify us of adverse weather conditions making it unsuitable (in our opinion) to deliver, unload and install the Hired Equipment;
- in respect of (a), (b) and (c) within 30 minutes of arrival at Site, and in respect of (d) prior to any transportation leaving its depot, then we may charge you for our reasonable costs associated with such failure and for abortive delivery costs and the storage and redelivery of the Hired Equipment or Sale Item and additionally, in the case of postponement of delivery by you, you will be liable for all Hire Charges from the date of the intended date of delivery and we may terminate the Agreement by giving you three working days' notice.

11. Termination and off hire

- 11.1 The Agreement may be terminated by either party in accordance with the applicable Notice Period set out in clause 11.7, provided that any notice served by you will not be effective to terminate the Agreement until the expiry of the Minimum Hire Period and the termination of the Agreement will not be effective until the Hired Equipment is returned to our control.
- 11.2 You may give notice to terminate the Agreement in writing (including by email) to us (using the details provided in the Hire Contract), requesting that the Hired Equipment is taken off hire at the end of the applicable Notice Period (**Off Hire Notice**). Following receipt of the Off Hire Notice, we will notify you of the date on which the Notice Period will expire and the date we intend to collect the Hired Equipment (**Collection Date**).
- 11.3 The date for dismantling and collection of the Hired Equipment is approximate only and we will not be liable for any delay in the dismantling or collection of the Hired Equipment howsoever caused.
- 11.4 You are liable for all Hire Charges until the earlier of the end of the Notice Period or the end of the day on the Collection Date.
- 11.5 Notwithstanding the notified Collection Date, you are required to comply with your insurance obligations and to protect the Hired Equipment from damage and loss until the Hired Equipment is returned to our control.
- 11.6 You will make the Hired Equipment available to us at the Site without impediment on the Collection Date within 30 minutes of the collection vehicle arriving at Site. Any impediment (including adverse weather conditions not notified by you to us prior to any transportation leaving its depot) to the collection of the Hired Equipment on the scheduled Collection Date may result in additional charges to you for any costs (including costs in relation to transport, labour, and crane hire) incurred by us. If you do not make the Hired Equipment available for collection on the scheduled Collection Date (including if the Hired Equipment is not in a Collection Ready Condition), we will contact you to reschedule the Collection Date. In such case you will be liable for Hire Charges until the date on which the Hired Equipment is returned to our control even if that is after the originally scheduled Collection Date plus any costs incurred as a result of the failed collection.

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11.7 Subject to clause 11.1, the applicable notice periods (each, a **Notice Period**) are as follows:

- (a) in the case of Hired Equipment which comprises our modular equipment, not less than 3 months' notice in writing or 10 weeks' notice where the Hirer is an Individual;
- (b) in the case of Hired Equipment which comprises our Moduflex equipment, not less than 1 month notice in writing for 100 bays or fewer; 6 weeks' notice in writing is required for buildings of more than 100 bays; or
- (c) in the case of any other type of Hired Equipment and any associated Service where an Off Hire Notice is issued by you or notice to terminate is served by us, not less than 7 days' notice in writing.

11.8 Notwithstanding any other provisions of the Agreement, if you:

- (a) fail to pay any Hire Charges or other sums due and payable under the Agreement in full by the due date;
- (b) commit a breach that we consider in our absolute discretion to be a material or repeated breach of the Agreement (other than failure by you to pay the Hire Charges) and, if such breach is remediable, you fail to remedy it within 7 days after receiving a notice from us specifying the breach and requiring remedy of it;
- (c) being a Company or other entity:
 - i. have a petition presented for your winding up;
 - ii. pass a resolution for voluntary winding up (other than for the purpose of a bona fide amalgamation or reconstruction);
 - iii. enter into a voluntary arrangement with your creditors;
 - iv. become subject to an administration order;
 - v. have a receiver appointed for all or any of your assets; or
 - vi. are subject to any other analogous process in any jurisdiction;
- (d) being an individual or firm:
 - i. become bankrupt or insolvent, or
 - ii. enter into voluntary arrangements with your creditors; or
- (e) are subject to any other analogous process in any jurisdiction,

then we have the right in our absolute discretion to (i) suspend all or any further deliveries or any Service under the Agreement or any other contract between the parties, and/or (ii) terminate the Agreement immediately by notice to you, and/or (iii) enter (or appoint an agent to enter) any premises of yours or of any third party where the Hired Equipment and any unpaid Sale Items are stored, in order to recover them.

11.9 Upon termination of the Agreement pursuant to clause 11.8, all Hire Charges (including Hired Equipment collection and any other charges) and any sums payable in relation to any other 360° Service Items, including Services performed to the date of termination, will become due immediately regardless of any provision of the Agreement to the contrary.

11.10 You do not have the right to terminate the Agreement before the end of the Minimum Hire Period, but if we, in our absolute discretion, agree to permit such termination, it will be strictly on condition that we may issue an invoice for the Hire Charges and Service charges (if applicable) for the unexpired portion of the Minimum Hire Period and the costs of the dismantling and collection of the Hired Equipment at our then current rates which will be paid in accordance with clause 6.10, or as otherwise agreed in writing, in addition to any amounts then currently due.

11.11 In the case of Hired Equipment which comprises our Moduflex equipment or Fireflex equipment, the following amounts will be due and payable by you if you cancel the Hire Contract before the Hire Start Date:

- (a) between 4 to 6 weeks before the Hire Start Date, 6 weeks of Hire Charges or, if the Minimum Hire Period is less than 6 weeks, Hire Charges in an amount equal to the Hire Charges payable for the Minimum Hire Period;
- (b) between 2 and 4 weeks before the Hire Start Date, 13 weeks of Hire Charges or, if the Minimum Hire Period is less than 13 weeks, Hire Charges in an amount equal to the Hire Charges payable for the Minimum Hire Period;
- (c) between 1 to 2 weeks before the Hire Start Date, 26 weeks of Hire Charges or, if the Minimum Hire Period is less than 26 weeks, Hire Charges in an amount equal to the Hire Charges payable for the Minimum Hire Period; or
- (d) less than 1 week before the Hire Start Date, 26 weeks of Hire Charges or, if the Minimum Hire Period is less than 26 weeks, Hire Charges in an amount equal to the Hire Charges payable for the Minimum Hire Period,
plus any customisation costs incurred by us for the purposes of the Hire Contract and, in the case of paragraph (d) above, any other preparatory costs including haulage, craneage and modular preparation.

11.12 Termination of all or part of the Agreement for whatever cause and however it arises, will not affect either of the parties' rights and remedies that have accrued as at the date of termination, including the right to claim damages or any other remedy in respect of any breach of the Agreement that existed at or before the date of termination.

11.13 Any provision of the Agreement that expressly or by implication is intended to come into or continue in force on or after the date of termination will remain in full force and effect after the date of termination.

12. Your obligations

12.1 You, at your own cost, will assume all responsibility for all conditions of the Site above and below the surface including all environmental matters as may be applicable to the Site.

12.2 You warrant that you have sought and obtained all necessary consents, licenses and approvals required for the delivery, collection, movement, loading, unloading, siting, installation and use of the Hired Equipment, and you will be deemed to have made all necessary due inspections, risk assessments, made all inquiries of all matters pertaining to the Site and any access to the Site required by us.

12.3 Unless otherwise expressly agreed in writing between the parties, you warrant that the Site Works are capable of being performed on the Site; and the Site and site access (including ground conditions and weather conditions) are suitable for the safe and effective delivery, collection, movement, loading, unloading, siting, installation and operation of the Hired Equipment and performance of the Services and Site Works.

12.4 You will at all times ensure that we have sufficient access to the Site to do all things required to be done under the Agreement including delivery and unloading, of the Hired Equipment and any Sale Items, reloading and recovery of the Hired Equipment and performance of the Services. You will provide adequate facilities at the Site including vehicular off loading, secure storage for our Hired Equipment and facilities to enable us to safely undertake the Site Works and the Services.

12.5 You will pay all costs (at our rates current from time to time) relating to the loading, transporting and unloading of the Hired Equipment and Sale Items upon delivery and collection of the Hired Equipment to and from your Site or other place of delivery.

12.6 You will unless otherwise stated in sufficient time and at your own expense provide suitable foundations and ensure the Site is levelled, graded, compacted and free from debris, structures and obstructions for the Hired Equipment, and such foundations will conform to any instruction, specification or drawing,

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- which may be supplied by us.
- 12.7 Unless the parties agree otherwise in writing, you will be responsible for any personnel supplied by us who will be deemed to be acting as your agent and under your control.
- 12.8 Without prejudice to any other claim or remedy available to us, we will be entitled to be paid by you on demand for any costs, losses and expenses incurred by us as a result of your failure to comply with clause 12.1 to clause 12.6, including any overhead recovery, abortive suspension and delay costs and charges, and costs in relation to transport labour storage and crane hire.
- 12.9 Unless we have agreed in writing to the contrary with you:
- (a) we will not be under any obligation to provide any additional plant lifting gear or special apparatus, other than that carried by the delivery or collection vehicle, required for siting any Hired Equipment;
 - (b) we will not be under any obligation to provide power or labour, other than that carried by the delivery or collection vehicle;
 - (c) you warrant that any special appliances required for siting the Hired Equipment, which are not carried out by the delivery or collection vehicle, will be provided by you or on your behalf;
 - (d) we will be under no liability whatever to you for any damage whatever or however caused, if we are instructed to load or unload any Hired Equipment requiring special appliances, which in breach of the warranty in 12.9(b) above, have not been provided by you or on your behalf; and
 - (e) you will make available to us upon provision of the vehicle competent personnel to fully manage the lifting operation associated with the loading and unloading undertaken by the vehicle, having previously planned the predicted lifting operation in accordance with BS7121: Part 1:1989 and Part 4:1997.
- 12.10 You will bear the full cost of any additional plant lifting gear or special apparatus hired by us for the purpose of siting or removing the Hired Equipment.
- 12.11 We may provide additional plant lifting gear by entering into a contract under the Contractors Plant Association Model Conditions for the Hiring of Plant (or any other conditions reasonably acceptable to us) with a contractor (the **Contractor**) who will undertake the lifting operation on our behalf in accordance with BS 7121 – Safe Use Of Cranes, Part 1:1989 and Part 4:1997 where applicable, and you will indemnify us in full for all costs, damages, losses or liabilities arising out of or connected with the entering into and performance of the contract with the Contractor.
- 12.12 The Contractor will be responsible for the management and planning of the lifting operation notwithstanding your responsibilities under BS 7121.
- 12.13 Where, in our opinion, the ground in and around the Site (including all private roadways accesses main pipes manholes weighbridges or approaches under through or over which we, our servants, agents or contractors might have to pass in the performance of any obligation) is soft or otherwise unsuitable you will in sufficient time and at your own expense supply and lay a surface in a suitable position for the Hired Equipment to travel over or stand on during the loading and unloading at the Site.
- 12.14 Connection and disconnection of mains services on Site and the suitability of those services are the responsibility of you unless otherwise agreed between the parties in writing.
- 12.15 You will be responsible for obtaining any necessary permissions, consents or authorisation from any owner or occupier of the Site or any other land where access is required for the entry into the Site and the siting of the Hired Equipment or Sale Item on the Site.
- 12.16 You authorise us to accept the signature on delivery and collection of the Hired Equipment or Sale Item of any person reasonably holding themselves out to be your representative whether such person be so authorised or not.
- 12.17 You will indemnify us in full for all costs, damages, losses and liabilities incurred by us as a result of a claim made by any person firm or company (including us) arising out of or in connection with this clause 12, except where such costs, damages, losses and liabilities arise solely and directly from our negligent act or omission.

13. Subcontracting

We may subcontract any part of our obligations under the Agreement.

14. Maintenance, alterations, repairs, testing and inspections, loss and damage

- 14.1 You will at your own expense, service, clean and maintain the Hired Equipment in good and substantial repair and condition (including cosmetic), fair wear and tear excepted. We will not be obliged to repair or replace any Hired Equipment due to fair wear and tear (including cosmetic) except to the extent that such fair wear and tear adversely impacts the safe use of the Hired Equipment.
- 14.2 In the case of Buildings:
- (a) the respective responsibilities of both parties for repairs are set out in the document entitled “Modular Equipment Maintenance Responsibility” provided with the Agreement and you will carry out such repairs or works that are identified as being your responsibility; and
 - (b) where the Minimum Hire Period is 3 years or more, you will redecorate and refurbish the Hired Equipment in a manner and in the time specified by us.
- 14.3 You will ensure that at collection the Hired Equipment is in Collection Ready Condition as described below, otherwise we may charge you additional charges and/or additional Hire Charges:
- (a) the Hired Equipment must be in a clean state;
 - (b) the Hired Equipment must be disconnected from all utilities;
 - (c) any effluent tanks must have been emptied and flushed through;
 - (d) all of our 360° Service Items and other accessories must be laid down or otherwise secured. You will be responsible for any damage to 360° Service Items or accessories that occurs in transit resulting from failure to comply with this requirement;
 - (e) all items or materials which are not Hired Equipment must be removed from the Hired Equipment. Any items or materials left in the Hired Equipment after collection may be disposed of by us. If we dispose of, store and/or return items or materials to you, you will be subject to additional charges at our then current rates; and
 - (f) all supplied keys must be returned to us on collection, otherwise a charge will be automatically applied to cover our costs of replacing keys and locks at our then current rates.
- 14.4 If the Hired Equipment is not maintained in accordance with clauses 14.1 and 14.2 or returned in the condition described in 14.3, as applicable, then you will pay our reasonable costs for cleaning the Hired Equipment and rectifying any damage to the Hired Equipment.
- 14.5 You are responsible for the safe keeping and operation of Hired Equipment during the Hire Period and for its return to us at the termination of the Hire Period. If you fail to return the Hired Equipment for whatever reason you will be liable to us and agree to indemnify us for:
- (a) the full replacement value of equivalent new equipment to that of the Hired Equipment, together with all losses, costs or expenses arising therefrom; and
 - (b) the Hire Charges (or relevant proportion) until payment of the costs under clause 14.5(a).
- 14.6 We will be entitled to inspect, maintain and service the Hired Equipment at any time with reasonable notice and if the Hired Equipment is damaged, we may (at our sole discretion) repair the Hired Equipment at your expense or repossess the Hired Equipment and charge you for any repair; or recover from you the full replacement value of equivalent new equipment, and you agree to indemnify us for the full new replacement value of the Hired Equipment and against all losses, costs or expenses incurred as a result of such damage to the Hired Equipment.

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- 14.7 The Hired Equipment will not be altered or repaired (other than as set out in clause 14.1) in any way by you unless we agree in advance in writing.
- 14.8 We will be entitled to charge you all reasonable costs incurred in attending the Site to undertake any maintenance or repairs to Hired Equipment unless such costs result solely from the fair wear and tear of the Hired Equipment or our negligence.
- 14.9 You will be responsible throughout the Hire Period for carrying out all statutory inspection tests in accordance with any appropriate regulations. This includes but is not limited to electrical, PAT, gas and water services and electrical appliance testing. You will indemnify us in full for all cost, damage, loss or liability howsoever caused arising out of or connected with your failure to comply with any such statutory inspection tests or regulations.
- 14.10 You will be responsible for all acts and omissions of, and any injury or damage caused by, your employees, agents and contractors in the handling, use, presence in or occupancy of any Hired Equipment. You will indemnify us for any claims made by or against, or costs, losses or liabilities incurred by, us as a result of any act or omission of you, your employees, agents or contractors in connection with this Agreement.

15. 360° Service Items

- 15.1 We will use reasonable endeavours to meet any performance dates for the Services specified in the Hire Contract or the EHQ, but any such dates will be estimates only and time will not be of the essence.
- 15.2 We warrant to you that the Services will be provided using reasonable care and skill, during normal working hours.
- 15.3 You must promptly notify us of any changes which affect or may affect your systems or working environment at the Site; for example, changes to the fabric of the building or changes to internal layout. We will be entitled to inspect the Site and perform additional works (at your cost) required to ensure the 360° Service Items to which a Service relates continue to properly function.
- 15.4 All wiring and cable infrastructure, components, spares or refills required as part of the Service will, unless otherwise agreed in the Hire Contract, or if spare parts and/or refills are included but required as a result of neglect, tampering, misuse or discharge of any 360° Service Items, will be supplied by us at your cost and charged at our then current rates.
- 15.5 All 360° Service Items will be deemed to be complete, in good order and condition and to your satisfaction unless notification of any defect is received by us within 48 hours of the relevant 360° Service Item being delivered to Site.
- 15.6 To the extent we are responsible under the Agreement for any malfunction, defect, failure or poor performance of the 360° Service Items or performance of the Services, our liability will be limited to repairing or replacing the 360° Service Items or relevant part or re-performing or completing the Service (as applicable).
- 15.7 Save as provided below, we only warrant 360° Service Items to the extent of and subject to any limitations and exclusions (to the extent permitted at law) in any warranty provided to us for your benefit by the manufacturer or supplier for the relevant 360° Service Item.
- 15.8 We warrant that on delivery all Sale Items will conform in all material respects with their description as supplied by us and be free from material defects in design, material and workmanship.
- 15.9 We will not be liable for the 360° Service Item's failure to comply with the warranty in clause 15.8 if:
- (a) you make any further use of such 360° Service Item after giving a notice in accordance with clause 15.5;
 - (b) the defect arises because you failed to follow our oral or written instructions as to the storage, installation, commissioning, use or maintenance of the 360° Service Item or (if there are none) good trade practice;
 - (c) you alter or repair such 360° Service Item without our written consent;
 - (d) the defect arises as a result of fair wear and tear, willful damage, negligence, or abnormal working conditions;
 - (e) the 360° Service Item differs from its description as a result of changes made to ensure they comply with applicable statutory or regulatory standards; or
 - (f) if you fail to comply with any other applicable provision of the Agreement.
- 15.10 The terms of clause 15.7 to 15.9 will apply to any repaired or replacement 360° Service Items supplied by us under clause 15.6.
- 15.11 The price for Sale Items will be the price set out in the Hire Contract. We will invoice you after completion of delivery and such invoice will be paid in accordance with clause 6.10.
- 15.12 All other warranties, including warranties implied by law, are expressly excluded from the Agreement (unless such exclusions are not permitted by law).

16. Notice of accidents

If any Hired Equipment is involved in any accident resulting in injury to persons or damage to property (including the Hired Equipment), you must immediately notify us by telephone with confirmation in writing to accidentandincident@as.elliottuk.com and entitled "Important Legal Notice of Accident", and no admission, offer, promise of payment or indemnity will be made by you to any third party without our written consent.

17. Compliance with law, regulations and third party consents

- 17.1 You are solely responsible for applying for, obtaining and complying with all obligations imposed by any law, Act of Parliament, statutory instrument, statutory regulations, and all third party consents or obligations in relation to the delivery, loading, unloading, installation, use and removal of the Hired Equipment or Sale Item including all building regulations derived from the Building Act 1984, the Offices Shops and Railway Premises Act 1963, The Health and Safety at Work etc. Act 1974, the Town and Country Planning Acts, Regulatory Reform (Fire Safety) Order 2005 and all obligations and third party rights relating to the purposes for which the Hired Equipment or Sale Item is used, or to its condition, delivery, siting or removal. You will comply with all instructions issued by us or any of our authorised employees, agents or subcontractors.
- 17.2 You will not use the Hired Equipment for any unlawful purpose.
- 17.3 Without limiting our other rights and remedies, any breach of this clause 17 by you will be deemed to be a material breach not capable of remedy and will give us the right to terminate the Agreement immediately by notice to you.
- 17.4 You will indemnify us in full for all costs, damages, losses or liability howsoever caused arising out of or connected with the failure by you to comply with this clause 17.

18. Variations

We will only perform a variation on written instruction from you and only after you have agreed in writing to any price variation notified by us to you within seven days of receipt by us of your request to perform a variation.

19. Title and risk

- 19.1 The Hired Equipment will at all times remain our property and you will have no right, title or interest in or to the Hired Equipment (except for the right to possession and use under the Agreement).
- 19.2 We retain the right to affix a mark or plate on any Hired Equipment identifying it as our property (or that of our subcontractors, suppliers or lessors) and you will not remove, deface or cover up the same.
- 19.3 You will not be permitted to affix any mark or plate on any Hired Equipment unless prior written consent has been given by us. If such consent is given, you will be responsible for the cost of rectification or reinstatement at the termination of the Hire Period.

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- 19.4 You will ensure all Hired Equipment is safe at all times and without risk to health.
- 19.5 The risk of loss, theft, damage or destruction of the Hired Equipment will pass to you from the delivery of such Hired Equipment to the Site and will remain at your sole risk for the duration of the Hire Period and until the Hired Equipment is returned to our control.

20. Limitation of liability

- 20.1 Without prejudice to clause 20.2, our maximum aggregate liability for breach of the Agreement (including any liability for the acts or omissions of our employees, agents and subcontractors), whether arising in contract, tort (including negligence), misrepresentation or otherwise, will in no circumstances exceed the aggregate amount received by us by way of Hire Charges under the Agreement during the 12 months prior to the occurrence of such cause.
- 20.2 Nothing in the Agreement will exclude or in any way limit:
- (a) either party's liability for death or personal injury caused by its own negligence; or
- (b) either party's liability for fraud or fraudulent misrepresentation.
- 20.3 The Agreement sets out the full extent of our obligations and liabilities in respect of hiring the Hired Equipment, the provision of any Service and the sale of any Sale Item. There are no conditions, warranties or other terms, express or implied, including as to quality, fitness for a particular purpose or any other kind whatsoever, that are binding on us except as specifically stated in the Agreement. Any condition, warranty or other term concerning the Hired Equipment, Sale Item or any Service which might otherwise be implied into or incorporated within the Agreement, whether by statute, common law or otherwise, is expressly excluded to the fullest extent permitted by law.
- 20.4 Without prejudice to clause 20.2, we will not be liable under the Agreement for any loss of profit, loss of revenue, loss of business, or for any indirect or consequential loss or damage, in each case, however caused, even if foreseeable.
- 20.5 If you have any claim against us under the Agreement you must give us notice as soon as reasonably practicable after the claim first arises.

21. Specification and Copyright

- 21.1 The specifications, drawings, data, literature and statements as to dimensions, suitability, performance or otherwise issued by us in connection with the Hired Equipment are offered in good faith but are intended to be approximate only and the Hired Equipment is supplied subject to no conditions nor will it carry any guarantee or warranty as to dimensions, quality, fitness, performance or suitability.
- 21.2 You are responsible for the correct selection of the Hired Equipment and while we may supply drawings, make recommendations or provide assistance, you will not rely on us and will rely solely on such expertise as may be available to you from your own or other technical sources.
- 21.3 The copyright in drawings, data and literature relating to the Hired Equipment and our goods and services will remain our property and such drawings, data and literature and our manufacturing and operating techniques and our pricing will not be disclosed or used except as necessary for the purpose of application and use by you of the Hired Equipment and for compliance with the Agreement.

22. Force Majeure

- 22.1 We will not be in breach of the Agreement nor liable for delay in performing, or failure to perform, any of our obligations under the Agreement if such delay or failure result from events, circumstances or causes beyond our reasonable control (such as war, acts of terrorism, extreme weather conditions, earthquakes, fire, floods, traffic congestion, mechanical breakdown (including of machinery, equipment and vehicles), any public or private road being blocked, or industrial action (including by our own or our agents' or sub-contractors' workforce)).
- 22.2 We will aim to tell you promptly about any event of force majeure as described in clause 22.1 which affects our performance of the Agreement and will try to mitigate the effect of such event on the performance of our obligations.
- 22.3 If we are unable to perform our obligations for a continuous period of four weeks, we may terminate the Agreement or such part of the Agreement that relates to the affected Hired Equipment, Sale Item or Service (as applicable) immediately by giving notice to you.

23. No assignment, sale or transfer

- 23.1 You will not, without our consent in writing, assign your rights under the Agreement or subcontract any part of the performance of the Agreement.
- 23.2 You will not, without our written consent, sell or offer for sale, assign, part with possession, or re-hire/sub-hire, mortgage, pledge or otherwise deal with the Hired Equipment and you will indemnify us in full against all losses, damages, costs, charges and expenses that may result from your failure to comply with this clause 23.2.
- 23.3 You will not remove the Hired Equipment from the Site without our prior written consent.

24. Repossession and indemnity

- 24.1 If you are in material or repeated breach of the Agreement (as determined by us in our sole discretion) or if the Agreement is terminated by either party in accordance with clause 11, then we can repossess the Hired Equipment.
- 24.2 You will indemnify us in full against all claims, losses or liabilities whatsoever as a result of or in connection with us repossessing the Hired Equipment.
- 24.3 You agree that we may at any time without notice enter your premises or any other premises leased or otherwise occupied by you in order to repossess the Hired Equipment pursuant to the Agreement.

25. On-Hire / cross-hire of Hired Equipment

- 25.1 Except as expressly agreed in the Hire Contract, you must not on-hire or cross-hire the Hired Equipment to a third party without our prior written consent, which we may withhold in our absolute discretion, and any consent given by us will be on the condition that you protect our title in the Hired Equipment in such manner as we may reasonably require.
- 25.2 The on-hiring or cross-hiring of the Hired Equipment does not relieve you from any liability or obligation under the Agreement and you remain liable to us for the acts and omissions of any sub-hirer or cross-hirer (as the case may be), and employees and agents of any sub-hirer or cross-hirer as if they were your acts or omissions.
- 25.3 You will indemnify us in full for any claims made by or against, or costs losses or liabilities incurred by, us as a result of any act or omission of you, your employees, agents or contractors in connection with any on-hiring or cross-hiring (with or without our consent) of the Hired Equipment.

26. Hired Equipment not for sale

The Hired Equipment is not for sale to you.

27. Confidentiality and Data Protection

- 27.1 You undertake that you will not at any time disclose to any person any confidential information concerning our business, affairs, customers, clients or suppliers, except as permitted by clause 27.2.
- 27.2 You may disclose our confidential information:
- (a) to your employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out your obligations under the Agreement. You will ensure that your employees, officers, representatives, subcontractors or advisers to whom you disclose our confidential information comply with this clause 27; and

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- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 27.3 You will not use our confidential information for any purpose other than to perform your obligations under the Agreement.
- 27.4 For the purpose of this clause 27 “confidential information” means all information in respect of our business and financing including, but not limited to, any ideas, business methods, finance, prices, financial marketing development or manpower, plans, drawings, market opportunities, product information, design rights, customer information, trade secrets, details, computer systems and software know-how on any medium and software listings of any party and other matters connected with the products or services manufactured, marketed, provided or obtained by us.
- 27.5 You will not disclose personal data to us other than to the extent necessary for the performance of the Agreement. We will process any such personal data as a data controller in compliance with Data Protection Laws and in accordance with our Privacy Policy.

28. Interpretation, governing law and jurisdiction

- 28.1 These Standard Conditions of Hire will be interpreted without reference to their headings. In the Agreement any reference to “include”, “including”, “such as” or “in particular” or any similar term will be construed without limitation. A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted. A reference to a URL is a reference to that URL as amended from time to time. Unless otherwise stated, a reference to a day means a calendar day. Notices must be given in writing. Any reference to “writing” or “written” includes communication by email.
- 28.2 The Agreement and any dispute or claim arising out of or in connection with its subject matter or formation (including non-contractual disputes or claims) will be governed by and construed in accordance with English law. You irrevocably submit to the exclusive jurisdiction of the English courts.

29. Waiver and amendment

- 29.1 A party’s failure or delay to exercise a power or right does not operate as a waiver of the power or right. A waiver is not effective unless in writing.
- 29.2 We may change the terms of these Standard Conditions of Hire (other than clause 6.2) by giving notice to you and/or by publishing such changes on our website. We will notify you of any changes which we believe to be significant at least 30 days before the changes take effect.
- 29.3 Other than changes permitted by clause 29.2, no other provision of the Agreement will be amended in any way unless agreed by both parties in writing.

30. Severability

If any provision or part-provision of the Agreement is or becomes invalid, illegal or unenforceable, it will be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision will be deemed deleted. Any modification to or deletion of a provision or part-provision pursuant to this clause will not affect the validity and enforceability of the rest of the Agreement.

31. Entire agreement

The Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party agrees that it will have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Agreement.

32. Notices

Any written communication between the parties will be effective and will be sufficiently served if sent by letter whether delivered by pre-paid post, as an email or delivered by hand to the address of the other party as referred to in the Hire Contract and will be deemed to have been received: (a) if sent by post 2 working days after posting; (b) if sent by email 1 business day after transmission; and (c) if delivered by hand at the date of delivery.

33. Third party rights

Unless expressly stated to the contrary, the Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to any third party who is not a party to the Agreement to enforce any term of the Agreement.

34. Disputes

- 34.1 The parties will attempt, in good faith, to resolve any dispute arising out of or in connection with the Agreement (**Dispute**) promptly by negotiation which will be conducted as follows: (a) if a Dispute arises in the opinion of either party, the party in question may give notice to the other party that the dispute has arisen (**Dispute Notice**); (b) the Dispute will be referred, by the referring party, first to the operational managers of each of the parties for resolution; and (c) if the Dispute cannot be resolved by the operational managers of the parties within 14 days after the Dispute has been referred to them, either party may refer the Dispute to the senior managers or directors for resolution.
- 34.2 If, within 28 days of the Dispute Notice, the parties have failed to agree on a resolution, either party may refer the Dispute for mediation.
- 34.3 Notwithstanding clause 34.2, or if and to the extent that the parties do not resolve any Dispute or any issue in the course of any mediation, either party may commence or continue court proceedings in respect of such unresolved Dispute or issue.
- 34.4 Nothing in this clause 33 will prevent either party from instigating legal proceedings where an order for an injunction, disclosure or legal precedent is required.

35. CONSUMER – THIS CLAUSE APPLIES TO CONSUMERS ONLY

- 35.1 Where you are acting as a consumer under the Consumer Rights Act 2015 (a consumer is an individual acting for purposes which are wholly or mainly outside that individual’s trade, business, craft or profession), the terms of the Agreement will only apply to the extent legally permitted.
- 35.2 We do not exclude or limit our liability where it is unlawful to do so.
- 35.3 We are responsible to you for foreseeable loss and damage caused by us. If we fail to comply with the Agreement, we are responsible for the loss or damage you suffer that is a foreseeable result of us not complying with the Agreement or arises from us failing to use reasonable care and skill, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if both parties knew it might happen at the time the Agreement was made or it was obvious that it would happen.
- 35.4 Should any defect occur in the Hired Equipment, other than one for which you are responsible, we will at our option either, replace or repair the Hired Equipment (at no charge to you) as soon as is reasonably practicable. We will not replace, repair or service any Hired Equipment until any outstanding Hire Charges have been paid in full and cleared funds.
- 35.5 For further information about your statutory rights and other legislation, contact your local authority Trading Standards Department or Citizens Advice Bureau.
- 35.6 LATE OR MISSED PAYMENTS – Not making payments or paying late could have serious implications and may make it more difficult for you to obtain credit.