Java Jons – Terms & Conditions of Trade

1. Definitions

1.1 "Java Jons" means Java Jons 2012 Limited T/A Java Jons, its successors and assigns or any person acting on behalf of and with the authority of Java Jons 2012 Limited T/A Java Jons.

1.2 "Customer" means the person/s buying the Goods (and/or hiring Equipment) as specified in any invoice, document or order, and if there is more than one Customer is a reference to each Customer jointly and severally.

1.3 "Goods" means all Goods or Services supplied by Java Jons to the Customer at the Customer's request from time to time (where the context so permits the terms 'Goods' or 'Services' shall be interchangeable for the other).

1.4 "Equipment" means all Equipment including any accessories supplied on hire by Java Jons to the Customer (and where the context so permits shall include any supply of Services). The Equipment shall be as described on the invoices, quotation, authority to hire, or any other work authorisation form provided by Java Jons to the Customer.

1.5 "Minimum Hire Period" means the Minimum Hire Period as described on the invoices, quotation, authority to hire, or any other forms as provided by Java Jons to the Customer.

1.6 "Price" means the Price payable for the Goods/Equipment hire as agreed between Java Jons and the Customer in accordance with clause 6 below.

2. Acceptance

2.1 The Customer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Customer places an order for or accepts delivery of the Goods/Equipment.

2.2 These terms and conditions may only be amended with Java Jons' consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Customer and Java Jons.

2.3 Where the Customer requesting or organising Java Jons to provide Services is acting with or on behalf of any third party and that third party is intended to be responsible for the payment (or any part thereof) of the Price then in the event that the third party does not pay for the Services when due, the Customer acknowledges that they shall be liable for the payment of the Price as if they had contracted the Services on their own behalf.

2.4 The Customer accepts and acknowledges that Java Jons cannot guarantee the supply of Loan Machines while repairs are being made.

2.5 The Customer accepts and acknowledges that at Java Jons' sole discretion an inspection fee of a minimum of fifty six dollars and twenty-five cents ($56.25) will apply for all repair requests.

3. Electronic Transactions Act 2002

3.1 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 22 of the Electronic Transactions Act 2002 (insert year) or any other applicable provisions of that Act or any Regulations referred to in that Act.

4. Change in Control

4.1 The Customer shall give Java Jons not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer and/or any other change in the Customer's details (including but not limited to, changes in the Customer's name, address, contact phone or fax number/s, or business practice). The Customer shall be liable for any loss incurred by Java Jons as a result of the Customer's failure to comply with this clause.

5. Authorised Representatives

5.1 Unless otherwise limited as per clause 5.2 the Customer agrees that should the Customer introduce any third party to Java Jons as the Customer's duly authorised representative, that once introduced that person shall have the full authority of the Customer to order any Goods or Services on the Customer's behalf and/or to request any variation to the Services on the Customer's behalf (such authority to continue until all requested Services have been completed or the Customer otherwise notifies Java Jons in writing that said person is no longer the Customer's duly authorised representative).

5.2 In the event that the Customer's duly authorised representative as per clause 5.1 is to have only limited authority to act on the Customer's behalf then the Customer must specifically and clearly advise Java Jons in writing of the parameters of the limited authority granted to their representative.

5.3 The Customer specifically acknowledges and accepts that they will be solely liable to Java Jons for all additional costs incurred by Java Jons (including Java Jons' profit margin) in providing any works, materials, Services or variation/s requested by the Customer's duly authorised representative (subject always to the limitations imposed under clause 5.2 (if any)).

6. Price and Payment

6.1 At Java Jons' sole discretion the Price shall be either:
(a) as indicated on any invoice provided by Java Jons to the Customer; or
(b) Java Jons' quoted price (subject to clause 6.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.

6.2 Java Jons reserves the right to change the Price if a variation to Java Jons' quotation is requested. Any variation from the plan of scheduled Services or specifications of the Goods (including, but not limited to, any variation as a result of increases to Java Jons in the cost of taxes, levies, materials and labour or where additional Services are required due to the discovery of hidden or unidentifiable difficulties including, but not limited to, obscured machine defects, safety considerations, availability of parts or prerequisite work by any third party not being completed etc which are only discovered on commencement of the Services) will be charged for on the basis of Java Jons' quotation and will be shown as variations on the invoice.

6.3 At Java Jons' sole discretion a deposit may be required.

6.4 Time for payment for the Goods/Equipment being of the essence, the Price will be payable by the Customer on the date/s determined by Java Jons, which may be:
(a) on delivery of the Goods/Equipment;
(b) for certain approved Customer's, due twenty (20) days following the end of the month in which a statement is posted to the Customer's address or address for notices;
(c) the date specified on any invoice or other form as being the date for payment; or
(d) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Customer by Java Jons.

6.5 Payment may be made by cash, cheque, bank cheque, electronic/on-line banking or by any other method as agreed to between the Customer and Java Jons.

6.6 Unless otherwise stated the Price does not include GST. In addition to the Price the Customer must pay to Java Jons an amount equal to any GST Java Jons must pay for any supply by Java Jons under this or any other agreement for the sale of the Goods/hire of the Equipment. The Customer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Customer pays the Price. In addition the Customer must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.

7. Delivery of Goods/Equipment

7.1 Delivery ("**Delivery**") of the Goods/Equipment is taken to occur at the time that:
(a) the Customer or the Customer's nominated carrier takes possession of the Goods/Equipment at Java Jons' nominated address; or
(b) Java Jons (or Java Jons' nominated carrier) delivers the Goods/Equipment to the Customer's nominated address even if the Customer is not present at the address.

7.2 At Java Jons' sole discretion the cost of delivery is in addition to the Price.

7.3 The Customer must take delivery by receipt or collection of the Goods/Equipment whenever they are tendered for delivery. In the event that the Customer is unable to take delivery of the Goods/Equipment as arranged then Java Jons shall be entitled to charge a reasonable fee for redelivery and/or storage.

7.4 Any time or date given by Java Jons to the Customer is an estimate only. The Customer must still accept delivery of the Goods/Equipment even if late and Java Jons will not be liable for any loss or damage incurred by the Customer as a result of the delivery being late.

8. Call Out Fee

8.1 The Customer shall notify Java Jons of any request to change the time or date of Services no later than 3pm on the day before the Services is due to take place. Java Jons reserves the right to charge a Call-Out Fee if the Customer fails to notify Java Jons by the prescribed time.

8.2 The Customer accepts and acknowledges that Java Jons reserves the right to charge a Call-Out Fee for any Services requested to take place afterhours.

8.3 Call-Out Fee shall mean all costs (including, but not limited to, hourly rates, travel or parts) incurred by Java Jons due to:
(a) Java Jons not being able to access the worksite at the prescribed time; or
(b) the Customer failing to notify Java Jons before 3pm on the day before the repairs of a request to change the time or date of the repairs.

9. Risk to Goods

9.1 Risk of damage to or loss of the Goods passes to the Customer on Delivery and the Customer must insure the Goods on or before Delivery.

9.2 If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Customer, Java Jons is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by Java Jons is sufficient evidence of Java Jons' rights to receive the insurance proceeds without the need for any person dealing with Java Jons to make further enquiries.

9.3 If the Customer requests Java Jons to leave Goods outside Java Jons' premises for collection or to deliver the Goods to an unattended location then such Goods shall be left at the Customer's sole risk.

9.4 The Customer acknowledges and accepts that the supply of Goods/Equipment for accepted orders may be subject to availability and if, for any reason, Goods/Equipment are not or cease to be available, Java Jons reserves the right to vary the Price with alternative Goods/Equipment as per clause 4.2. Java Jons also reserves the right to halt all Services until such time as Java Jons and the Customer agree to such changes.

9.5 Where Java Jons gives advice or recommendations to the Customer, or the Customer's agent, with specific instructions regarding the use of the Goods and such advice or recommendations are not acted upon then Java Jons shall not be liable in any way whatsoever for any damages or losses that occur after any subsequent commencement of the Services.

9.6 Where Java Jons is required to install the Goods the Customer warrants that the structure of the premises or equipment in or upon which these Goods are to be installed or erected is sound and will sustain the installation and work incidental thereto and Java Jons shall not be liable for any claims, demands, losses, damages, costs and expenses howsoever caused or arising in connection with the installation and work incidental thereto.

9.7 Java Jons shall not be held responsible for any damage to the Goods or delays to delivery caused by outside agents. Where the Customer requests Java Jons to repair such damage then Java Jons reserves the right to charge the Customer for any costs incurred in rectifying such damage.

9.8 The Customer acknowledges that Java Jons is only responsible for parts that are replaced by Java Jons and that in the event that other parts/Goods, subsequently fail, the Customer agrees to indemnify Java Jons against any loss or damage to the Goods, or caused by the Goods, or any part thereof howsoever arising (including, but not limited to, flooding and/or damage to any materials).

10. Accuracy of Customers Plans and Measurements

10.1 Java Jons shall be entitled to rely on the accuracy of any plans, specifications and other information provided by the Customer. The Customer acknowledges and agrees that in the event that any of this information provided by the Customer is inaccurate, Java Jons accepts no responsibility for any loss, damages, or costs however resulting from these inaccurate plans, specifications or other information.

10.2 In the event the Customer gives information relating to measurements and quantities of the Goods required to complete the services, it is the Customer's responsibility to verify the accuracy of the measurements and quantities, before the Customer or Java Jons places an order based on these measurements and quantities. Java Jons accepts no responsibility for any loss, damages, or costs however resulting from the Customer's failure to comply with this clause.

11. Access

11.1 The Customer shall ensure that Java Jons has clear and free access to the work site at all times to enable them to undertake the Services. Java Jons shall not be liable for any loss or damage to the site (including, without limitation, damage to pathways, driveways and concreted or paved or grassed areas) unless due to the negligence of Java Jons.

12. Title to Goods

12.1 Java Jons and the Customer agree that ownership of the Goods shall not pass until:
(a) the Customer has paid Java Jons all amounts owing to Java Jons; and
(b) the Customer has met all of its other obligations to Java Jons.

12.2 Receipt by Java Jons of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.

12.3 It is further agreed that:
(a) until ownership of the Goods passes to the Customer in accordance with clause 12.1 that the Customer is only a bailee of the Goods and must return the Goods to Java Jons on request.
(b) the Customer holds the benefit of the Customer's insurance of the Goods on trust for Java Jons and must pay to Java Jons the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed.
(c) the Customer must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Customer sells, disposes or parts with possession of the Goods then the Customer must hold the proceeds of any such act on trust for Java Jons and must pay or deliver the proceeds to Java Jons on demand.
(d) the Customer should not convert or process the Goods or intermix them with other goods but if the Customer does so then the Customer holds the resulting product on trust for the benefit of Java Jons and must sell, dispose of or return the resulting product to Java Jons as it so directs.
(e) the Customer irrevocably authorises Java Jons to enter any premises where Java Jons believes the Goods are kept and recover possession of the Goods.
(f) Java Jons may recover possession of any Goods in transit whether or not delivery has occurred.
(g) the Customer shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of Java Jons.
(h) Java Jons may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Customer.

13. Personal Property Securities Act 1999 ("PPSA")

13.1 Upon assenting to these terms and conditions in writing the Customer acknowledges and agrees that:
(a) these terms and conditions constitute a security agreement for the purposes of the PPSA; and
(b) a security interest is taken in all Goods/Equipment previously supplied by Java Jons to the Customer (if any) and all Goods/Equipment that will be supplied in the future by Java Jons to the Customer.

13.2 The Customer undertakes to:
(a) sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which Java Jons may reasonably require to register a financing statement or financing change statement on the Personal Property Securities Register;
(b) indemnify, and upon demand reimburse, Java Jons for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register or releasing any Goods/Equipment charged thereby;
(c) not register a financing change statement or a change demand without the prior written consent of Java Jons; and
(d) immediately advise Java Jons of any material change in its business practices of selling Goods which would result in a change in the nature of proceeds derived from such sales.

13.3 Java Jons and the Customer agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these terms and conditions.

13.4 The Customer waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129, 131 and 132 of the PPSA.

13.5 Unless otherwise agreed to in writing by Java Jons, the Customer waives its right to receive a verification statement in accordance with section 148 of the PPSA.

13.6 The Customer shall unconditionally ratify any actions taken by Java Jons under clauses 13.1 to 13.5.

14. Security and Charge

14.1 In consideration of Java Jons agreeing to supply the Goods/Equipment, the Customer charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Customer either now or in the future, to secure the performance by the Customer of its obligations under these terms and conditions (including, but not limited to, the payment of any money).

14.2 The Customer indemnifies Java Jons from and against all Java Jons' costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising Java Jons' rights under this clause.

14.3 The Customer irrevocably appoints Java Jons and each director of Java Jons as the Customer's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 14 including, but not limited to, signing any document on the Customer's behalf.

15. Customer's Disclaimer

15.1 The Customer hereby disclaims any right to rescind, or cancel any contract with Java Jons or to sue for damages or to claim restitution arising out of any inadvertent misrepresentation made to the Customer by Java Jons and the Customer acknowledges that the Goods are bought relying solely upon the Customer's skill and judgment.

16. Consumer Guarantees Act 1993

16.1 This agreement is subject to the provisions of the Consumer Guarantees Act 1993 in all cases except where the Hirer is contracting within the terms of a trade/business (which cases are specifically excluded).

17. Defects

17.1 The Customer shall inspect the Goods/Equipment on delivery and shall within three (3) days of delivery (time being of the essence) notify Java Jons of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Customer shall afford Java Jons an opportunity to inspect the Goods/Equipment within a reasonable time following delivery if the Customer believes the Goods are defective in any way. If the Customer shall fail to comply with these provisions the Goods/Equipment shall be presumed to be free from any defect or damage. For defective Goods/Equipment, which Java Jons has agreed in writing that the Customer is entitled to reject, Java Jons' liability is limited to either (at Java Jons' discretion) replacing the Goods/Equipment or repairing the Goods/Equipment. Goods/Equipment will not be accepted for return for any reason other than those specified in clause 17.1 above (or in the case of Equipment hire, normal termination of Equipment hire in accordance with the full terms and conditions herein).

18. Warranty

18.1 For Goods not manufactured by Java Jons, the warranty shall be the current warranty provided by the manufacturer of the Goods. Java Jons shall not be bound by nor be responsible for any term, condition, representation or warranty other than that which is given by the manufacturer of the Goods.

18.2 In the case of second hand Goods, the Customer acknowledges that he has had full opportunity to inspect the same and that he accepts the same with all faults and that no warranty is given by Java Jons as to the quality or suitability for any purpose and any implied warranty, statutory or otherwise, is expressly excluded. Java Jons shall not be responsible for any loss or damage to the Goods, or caused by the Goods, or any part thereof however arising.

19. Default and Consequences of Default

19.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at Java Jons' sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.

19.2 If the Customer owes Java Jons any money the Customer shall indemnify Java Jons from and against all costs and disbursements incurred by Java Jons in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, Java Jons' collection agency costs, and bank dishonour fees).

19.3 Without prejudice to any other remedies Java Jons may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these terms and conditions Java Jons may suspend or terminate the supply of Goods/Equipment to the Customer. Java Jons will not be liable to the Customer for any loss or damage the Customer suffers because Java Jons has exercised its rights under this clause.

19.4 Without prejudice to Java Jons' other remedies at law Java Jons shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to Java Jons shall, whether or not due for payment, become immediately payable if:
(a) any money payable to Java Jons becomes overdue, or in Java Jons' opinion the Customer will be unable to make a payment when it falls due;
(b) the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
(c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

20. Dispute Resolution

20.1 All disputes and differences between the Customer and Java Jons touching and concerning this agreement shall be referred to arbitration under a single arbitrator agreed upon by both parties, or failing agreement, by two arbitrators (one to be appointed by each party) and their umpire (appointed by them prior to arbitration), such arbitration to be carried out in accordance with provisions of the Arbitration Act 1996.

21. Cancellation

21.1 Java Jons may cancel any contract to which these terms and conditions apply or cancel delivery of Goods/Equipment at any time before the Goods/Equipment are delivered by giving written notice to the Customer. On giving such notice Java Jons shall repay to the Customer any money paid by the Customer for the Goods/Equipment. Java Jons shall not be liable for any loss or damage whatsoever arising from such cancellation.

21.2 In the event that the Customer cancels delivery of Goods/Equipment the Customer shall be liable for any and all loss incurred (whether direct or indirect) by Java Jons as a direct result of the cancellation (including, but not limited to, any loss of profits).

21.3 Cancellation of orders for Goods/Equipment made to the Customer's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

22. Privacy Act 1993

22.1 The Customer authorises Java Jons or Java Jons' agent to:
(a) access, collect, retain and use any information about the Customer;
(i) (including any overdue fines balance information held by the Ministry of Justice) for the purpose of assessing the Customer's creditworthiness; or
(ii) for the purpose of marketing products and services to the Customer.
(b) disclose information about the Customer, whether collected by Java Jons from the Customer directly or obtained by Java Jons from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Customer.

22.2 Where the Customer is an individual the authorities under clause 22.1 are authorities or consents for the purposes of the Privacy Act 1993.

22.3 The Customer shall have the right to request Java Jons for a copy of the information about the Customer retained by Java Jons and the right to request Java Jons to correct any incorrect information about the Customer held by Java Jons.

23. Unpaid Sellers's Rights

23.1 Where the Customer has left any item with Java Jons for repair, modification, exchange or for Java Jons to perform any other service in relation to the item and Java Jons has not received or been tendered the whole of any moneys owing to it by the Customer, Java Jons shall have, until all moneys owing to Java Jons are paid:
(a) a lien on the item; and
(b) the right to retain or sell the item, such sale to be undertaken in accordance with any legislation applicable to the sale or disposal of uncollected goods.

23.2 The lien of Java Jons shall continue despite the commencement of proceedings, or judgment for any moneys owing to Java Jons having been obtained against the Customer.

24. Loan Machine

24.1 The Loan Machines shall at all times remain the property of Java Jons and are returnable on demand by Java Jons.

24.2 The Loan Machine may only be operated during the period of loan by the Customer or any other person that Java Jons agrees may operate the Loan Machine.

24.3 The Customer shall;
(a) ensure that all reasonable care is taken in handling and operating the Loan Machine.
(b) keep the Loan Machine in the Customer's own possession and control and shall not allow the use of the Loan Machine by any third party.
(c) not alter or make any additions to the Loan Machine including but without limitation altering, make any additions to, defacing or erasing any identifying mark on the Loan Machine or in any other manner interfere with the Loan Machine.
(d) keep the Loan Machine, complete with all parts and accessories, clean and in good order as delivered, and shall comply with any maintenance schedule as advised by Java Jons to the Customer. In the event that the Loan Machine is not returned in clean condition then Java Jons reserves the right to charge the Customer for all costs Java Jons incurs in cleaning the Loan Machine.

24.4 The Customer acknowledges and agrees that they shall not permit any form of charge to be applied in relation to the Loan Machine and further agrees that they shall not be entitled to any form of lien over the Loan Machine.

24.5 The Customer, by signing this agreement, accepts that they shall be liable to Java Jons for any loss of, or damage to, the Loan Machine and consequential loss to the full extent of any insurance excess (where applicable). In the event insurance is rendered invalid by any action of the Customer then the Customer shall be liable to Java Jons for the full cost of repairing or replacing the Loan Machine (whichever is the lesser).

25. General

25.1 The failure by Java Jons to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect Java Jons' right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

25.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the courts of Tauranga.

25.3 Java Jons shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by Java Jons of these terms and conditions (alternatively Java Jons' liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods/Equipment hire).

25.4 The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by Java Jons nor to withhold payment of any invoice because part of that invoice is in dispute.

25.5 Java Jons may license or sub-contract all or any part of its rights and obligations without the Customer's consent.

25.6 The Customer agrees that Java Jons may amend these terms and conditions at any time. If Java Jons makes a change to these terms and conditions, then that change will take effect from the date on which Java Jons notifies the Customer of such change. The Customer will be taken to have accepted such changes if the Customer makes a further request for Java Jons to provide Goods/Equipment to the Customer.

Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.

The Customer warrants that it has the power to enter into this agreement and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that this agreement creates binding and valid legal obligations on it.

Additional Terms & Conditions Applicable to Hire Only

26. Hire Period

26.1 Hire charges shall commence from the time the Equipment is collected by the Customer from Java Jons' premises and will continue until the return of the Equipment to Java Jons' premises, and/or until the expiry of the Minimum Hire Period, whichever last occurs.

26.2 If Java Jons agrees with the Customer to deliver and/or collect the Equipment, hire charges shall commence from the time the Equipment leaves Java Jons' premises and continue until the Customer notifies Java Jons that the Equipment is available for collection, and/or until the expiry of the Minimum Hire Period, whichever last occurs.

26.3 The date upon which the Customer advises of termination shall in all cases be treated as a full day's hire.

26.4 No allowance whatsoever can be made for time during which the Equipment is not in use for any reason, unless Java Jons confirms special prior arrangements in writing. In the event of Equipment breakdown provided the Customer notifies Java Jons immediately, hiring charges will not be payable during the time the Equipment is not working, unless the condition is due to negligence or misuse on the part of or attributable to the Customer.

27. Risk to Equipment

27.1 Java Jons retains property in the Equipment nonetheless all risk for the Equipment passes to the Customer on delivery.

27.2 The Customer accepts full responsibility for the safekeeping of the Equipment and indemnifies Java Jons for all loss, theft, or damage to the Equipment howsoever caused and without limiting the generality of the foregoing whether or not such loss, theft, or damage is attributable to any negligence, failure, or omission of the Customer.

27.3 The Customer will insure, or self insure, Java Jons' interest in the Equipment against physical loss or damage including, but not limited to, the perils of accident, fire, theft and burglary and all other usual risks and will effect adequate Public Liability Insurance covering any loss, damage or injury to property arising out of the Equipment. Further the Customer will not use the Equipment nor permit it to be used in such a manner as would permit an insurer to decline any claim.

27.4 The Customer accepts full responsibility for and shall keep Java Jons indemnified against all liability in respect of all actions, proceedings, claims, damages, costs and expenses in respect of any injury to persons or damage to property arising out of the use of the Equipment during the hire period however arising and whether or not arising from any negligence, failure or omission of the Customer or any other persons.

28. Title to Equipment

28.1 The Equipment is and will at all times remain the absolute property of Java Jons.

28.2 If the Customer fails to return the Equipment to Java Jons then Java Jons or Java Jons' agent may (as the invitee of the Customer) enter upon and into land and premises owned, occupied or used by the Customer, or any premises where the Equipment is situated and take possession of the Equipment, without being responsible for any damage thereby caused.

28.3 The Customer is not authorised to pledge Java Jons' credit for repairs to the Equipment or to create a lien over the Equipment in respect of any repairs.

29. Customer's Responsibilities

29.1 The Customer shall:
(a) notify Java Jons immediately by telephone of the full circumstances of any Java Jonsal breakdown or accident. The Customer is not absolved from the requirements to safeguard the Equipment by giving such notification;
(b) satisfy itself at commencement that the Equipment is suitable for its purposes;
(c) operate the Equipment safely, strictly in accordance with the law, only for its intended use, and in accordance with any manufacturer's instruction whether supplied by Java Jons or posted on the Equipment;
(d) ensure that all persons operating or erecting the Equipment are suitably instructed in its safe and proper use;
(e) comply with all occupational health and safety laws relating to the Equipment and its operation;
(f) on termination of the hire, deliver the Equipment complete with all parts and accessories, clean and in good order as delivered, fair wear and tear accepted, to Java Jons;
(g) keep the Equipment in their own possession and control and shall not assign the benefit of the hire contract nor be entitled to lien over the Equipment;
(h) not alter or make any additions to the Equipment including but without limitation altering, make any additions to, defacing or erasing any identifying mark, plate or number on or in the Equipment or in any other manner interfere with the Equipment;
(i) employ the Equipment solely in its own work and shall not permit the Equipment of any part thereof to be used by any other party for any other work;
(j) not exceed the recommended or legal load and capacity limits of the Equipment;
(k) not use or carry any illegal, prohibited or dangerous substance in or on the Equipment;
(l) not fix any of the Equipment in such a manner as to make it legally a fixture forming part of any freehold;
(m) indemnify and hold harmless Java Jons in respect of all claims arising out of the Customer's use of the Equipment.

29.2 Immediately on request by Java Jons the Customer will pay:
(a) the new list price of any Equipment that is for whatever reason destroyed, written off or not returned to Java Jons;
(b) all costs incurred in cleaning the Equipment;
(c) all costs of repairing any damage caused by the ordinary use of the Equipment up to an amount equal to ten percent (10%) of the new list price of the Equipment;
(d) the cost of repairing any damage to the Equipment caused by the negligence of the Customer or the Customer's agent;
(e) the cost of repairing any damage to the Equipment caused by vandalism, or (in Java Jons' reasonable opinion) in any way whatsoever other than by the ordinary use of the Equipment by the Customer.

Please note that a larger print version of these terms and conditions is available from Java Jons on request.

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