



SFC Hire Order Form

Customer Details:

Company Name: _____

Address: _____

Tel: _____

Fax: _____

Email: _____

Hire Term required: _____

Load rating required: _____

Special requirements / notes: _____

I understand that acceptance of this order by EFFEKTA (UK) LIMITED ('Effekta') is subject to Effekta's Terms and Conditions of Hire, which are attached hereto and which I have read, understand and accept.

Print name: _____

Signed on behalf of the Customer: _____

Please complete and sign this form and return it by fax or post.



Effekta (UK) Ltd, Unit B5, Barton Industrial Estate, Faldo Road, Barton Le Clay, MK45 4RP,
tel: 01582 882332, fax: 01582 645825

email: sales@effekta.co.uk

VAT No: GB78601624 - Registration No: 3765826

TERMS AND CONDITIONS OF HIRE

AGREED TERMS:

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this condition apply in these conditions.

Customer: the person, firm or company who hires Hire Goods from the Company.

Company: EFFEKTA (UK) LIMITED.

Contract: any contract between the Company and the Customer for the hire of any Hire Goods, incorporating these conditions.

Conditions: these Terms and Conditions of Hire.

Delivery Point: the place where delivery and collection of the Hire Goods is to take place under condition 4.

Hire Goods: Any goods (or any part or parts thereof) which the Company has agreed in the Contract to hire to the Customer.

Hire Charge: the Company's charge for the hire of Hire Goods, as applicable from time to time.

Hire Deposit: any payment in addition to the Hire Charge which the Company may request the Customer to pay in the amount stipulated by the Company (and in each case, at the Company's sole discretion), prior to or during the Hire Term.

Hire Term: the time stipulated in the Contract during which the Hire Goods are to be held by the Customer in return for payment of the Hire Charge and any Hire Deposit to the Company.

1.2 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.3 Words in the singular include the plural and in the plural include the singular.

1.4 A reference to one gender includes a reference to the other gender.

1.5 Condition headings do not affect the interpretation of these Conditions.

2. APPLICATION OF TERMS

- 2.1 Subject to any variation under condition 2.3 the Contract shall be on these Conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, specification or other document).
- 2.2 No terms or conditions endorsed on, delivered with or contained in the Customer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.
- 2.3 These Conditions apply to the hire of any and all Hire Goods by the Company and any variation to these Conditions and any representations about any Hire Goods shall have no effect unless expressly agreed in writing and signed by an authorised signatory of the Company. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract. Nothing in this Condition shall exclude or limit the Company's liability for fraudulent misrepresentation.
- 2.4 Each order or acceptance of a quotation for Hire Goods by the Customer from the Company shall be deemed to be an offer by the Customer to hire Hire Goods subject to these Conditions.
- 2.5 No order placed by the Customer shall be deemed to be accepted by the Company until a written acknowledgement of order is issued by the Company.
- 2.6 The Customer shall ensure that the terms of its order and any applicable specification are complete and accurate.
- 2.7 Any quotation is given on the basis that no Contract shall come into existence until the Company despatches an acknowledgement of order to the Customer. Any quotation is valid for a period of 30 days only from its date, provided that the Company has not previously withdrawn it.

3. DESCRIPTION

- 3.1 The quantity and description of the Hire Goods, shall be as set out in the Company's quotation or acknowledgement of order.

- 3.2 The Hire Term shall commence on the date of delivery or deemed delivery of the Hire Goods to the Customer pursuant to the provisions of Condition 4 and shall end on the date set out in the Company's quotation or acknowledgment of order, unless terminated earlier by the Company in accordance with Condition 11.
- 3.3 The Company may, without prejudice to Condition 6.4, recover the Hire Goods on the last day of the Hire Term, subject to earlier recovery if the Hire Term is terminated earlier by the Company in accordance with Condition 11, but no failure or delay in recovering the Hire Goods by or on behalf of the Company at any material time shall limit the Company's right to recover the Hire Goods, either pursuant to this Condition 3.3 or pursuant to the provisions of Condition 6.4, nor shall any such failure or delay as aforesaid subject the Company to any liability whatsoever.
- 3.4 For the avoidance of doubt, the Customer shall be and shall remain liable to pay the full amount of any costs, charges and expenses (including, but not limited to, the Hire Charge and/or the Hire Deposit) which are or may be payable for the duration that the Hire Goods are held by or on behalf of the Customer whether, without limitation, the Hire Goods are so held within or outside the Hire Term and whether, without limitation, the Hire Goods are so held with or without the Company's consent and in any event, notwithstanding any delay or failure to recover the Hire Goods by or on behalf of the Company at any material time.
- 3.5 All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Hire Goods described in them. They shall not form part of the Contract and this is not a sale by sample.

4. DELIVERY AND COLLECTION

- 4.1 The Company only delivers and collects Hire Goods within the United Kingdom, unless otherwise agreed between the Customer and the Company's export department, who will advise the Customer regarding any and all terms and conditions and the carriage charges applicable to export orders.
- 4.2 Unless otherwise agreed in writing by the Company, and without prejudice to Condition 4.1, delivery and collection of the Hire Goods shall take place at the Customer's place of business. All carriage charges, including, without limitation, all costs in relation to transport, insurance and unloading, shall be borne by the Customer.
- 4.3 Any dates specified by the Company for delivery of the Hire Goods are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so

specified, delivery shall be within a reasonable time. Should expedited delivery be agreed, the Company reserves the right to levy an extra delivery charge.

- 4.4 Subject to the other provisions of these Conditions the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Hire Goods (even if caused by the Company's negligence), nor shall any delay entitle the Customer to terminate or rescind the Contract unless such delay exceeds 180 days.
- 4.5 If for any reason the Customer fails to accept delivery of any of the Hire Goods, or the Company is unable to deliver the Hire Goods on time because the Customer has not provided appropriate instructions, documents, licences or authorisations:
- (a) risk in the Hire Goods shall pass to the Customer (including for loss or damage caused by the Company's negligence);
 - (b) the Hire Goods shall be deemed to have been delivered; and
 - (c) the Company may store the Hire Goods until delivery, whereupon the Customer shall be liable for all related costs and expenses (including, without limitation, storage and insurance);or
 - (d) Hire the Hire Goods at the best price readily obtainable and (after deducting any reasonable costs and expenses in connection with the storage and expedited hire of the Hire Goods), charge the Customer for any shortfall below the price for the Hire Goods.
- 4.6 The Customer shall provide at the Delivery Point and at its expense adequate and appropriate equipment and manual labour for loading the Hire Goods.
- 4.7 If delivery involves difficult access to or at the Delivery Point and/or the Delivery Point is located at an unreasonable distance from any feasible vehicular access point, the Company reserves the right to levy an extra delivery charge.
- 4.8 The provisions of Conditions 4.6 and 4.7 shall apply, mutatis mutandis, to the collection of any Hire Goods. In the absence of any instructions from the Company to the contrary, the Customer shall make the Hire Goods available for collection at 3pm on the last day of the Hire Term. The Company reserves the right to require the Customer to pay any reasonable charges, costs or expenses for any failure by the Customer to make any Hire Goods available for collection on the date and at the time stipulated in this Condition 4.8, or on such date and at such time as is otherwise stipulated by the Company. Without limitation, the Company will

- require the Customer to pay an additional late charge, which shall be equivalent to the Hire Charge for the Hire Term indicated in the Company's quotation or acknowledgment of order pursuant to Condition 3.2, if the Customer fails to make any Hire Goods available for collection, pursuant to this Condition 4.8, for any period of time equal to or shorter than the Hire Term indicated as aforesaid and the late charge will be aggregated accordingly for any single or multiple instance of an equivalent or lesser period of time in excess of the Hire Term indicated as aforesaid for which the Customer remains in breach of this Condition 4.8.
- 4.9 If the Company delivers to the Customer a quantity of Hire Goods of up to 10% more or less than the quantity accepted by the Company, the Customer shall not be entitled to object to or reject the Hire Goods or any of them by reason of the surplus or shortfall and shall pay for such Hire Goods at the pro rata Contract rate.
- 4.10 The Company may deliver the Hire Goods by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract.
- 4.11 Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Customer to repudiate or cancel any other Contract or instalment.
- 4.12 Delivery and/ or collection of the Hire Goods other than in accordance with this Condition 4 requires the prior written agreement of the Company.
- 4.13 If the Company agrees to permit the Customer to arrange for the Hire Goods to be transported from and/or to the Company's place of business, then the provisions of these Conditions which relate to delivery, collection and the payment of any and all charges, costs and expenses shall apply, mutatis mutandis, to any such transport arrangements. The Customer shall be solely responsible for ensuring that suitable and adequate insurance is in effect, with respect to any loss or damage that could or might occur to the Hire Goods during, or immediately prior to or after, transit and the Customer shall further fully and promptly indemnify the Company and/ or any third party with respect to any such damage or loss which does so occur.

5. NON-DELIVERY

- 5.1 The quantity of any consignment of Hire Goods as recorded by the Company on despatch from the Company's place of business shall be conclusive evidence of the quantity received

by the Customer on delivery unless the Customer can provide conclusive evidence proving the contrary.

5.2 The Company shall not be liable for any non-delivery of Hire Goods (even if caused by the Company's negligence) unless the Customer gives written notice to the Company of the non-delivery within 3 days of the date when the Hire Goods would in the ordinary course of events have been received.

5.3 Any liability of the Company for non-delivery of the Hire Goods shall be limited to replacing the Hire Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Hire Goods.

6. RISK/TITLE

6.1 The Hire Goods are at the risk of the Customer from the time of delivery. Risk in the Hire Goods will only pass back from the Customer to the Company once the Hire Goods have been collected by the Company, subject always to the provisions of Condition 4.

6.2 Ownership of the Hire Goods shall remain at all times with the Company.

6.3 The Customer's right to possession of the Hire Goods shall terminate immediately if:

- (a) the Customer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Customer or notice of intention to appoint an administrator is given by the Customer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer; or
- (b) the Customer suffers or allows any execution distress or diligence, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between the Company and the Customer, or is unable to pay its debts

within the meaning of section 123 of the Insolvency Act 1986 or a secured lender to the Customer takes any steps to obtain possession of the secured property or otherwise enforce its security or the Customer ceases to trade; or

(c) the Customer encumbers or in any way charges any of the Hire Goods.

- 6.4 The Customer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Hire Goods are or may be stored or otherwise located, but in any event, and without limitation, hereby undertakes to secure access at any time to any such premises for the Company, its agents and employees in order to inspect the Hire Goods, or, where the Customer's right to possession has terminated, to recover them.
- 6.5 Where the Company is unable to determine whether any Hire Goods are the Hire Goods in respect of which the Customer's right to possession has terminated, the Customer shall be deemed to have hired all Hire Goods of the kind hired by the Company to the Customer in the order in which they were invoiced to the Customer.
- 6.6 On termination of the Contract, howsoever caused, the Company's (but not the Customer's) rights contained in this Condition 6 shall remain in effect.

7. PRICE

- 7.1 Unless otherwise agreed by the Company in writing, the amount of any Hire Charge for Hire Goods shall be as set out in the Company's price list published on the date of delivery or deemed delivery.
- 7.2 The amount of any Hire Charge for Hire Goods shall be exclusive of any value added tax and all costs or charges in relation to packaging, loading, unloading, carriage and insurance.

8. PAYMENT

- 8.1 The amount of any Hire Charge for Hire Goods shall be paid by the Customer to the Company, as follows:
- 8.1.1 If the Company has agreed monthly credit terms with the Customer, the Company's invoice must be paid within 14 days following the date of the invoice; or
- 8.1.2 If no credit terms have been agreed, then full payment must be made when the Customer's order is placed or, at the Company's discretion, full cash

payment shall be made upon the delivery of the Hire Goods pursuant to Condition 4.

- 8.2 The amount of any Hire Deposit shall be immediately paid in full by the Customer to the Company upon request by the Company.
- 8.3 Time for payment shall be of the essence.
- 8.4 No payment shall be deemed to have been received until the Company has received cleared funds. In the event that the Customer tenders payment by cheque and said cheque is returned unpaid to the Company, the Customer shall reimburse the Company for any bank charges incurred by the Company.
- 8.5 All payments payable to the Company under the Contract shall become due immediately on its termination despite any other provision.
- 8.6 The Customer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Customer.
- 8.7 If the Customer fails to pay the Company any sum due pursuant to the Contract, the Customer shall be liable to pay interest to the Company on such sum from the due date for payment at the annual rate of 8 % above the base lending rate from time to time of HSBC Bank, accruing on a daily basis until payment is made, whether before or after any judgment. The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998. The Customer shall reimburse the Company for any and all costs incurred by the Company in recovering payment pursuant to this Condition 8.

9. WARRANTIES

- 9.1 The Company shall repair or, at the Company's option, replace Hire Goods which are proved to the reasonable satisfaction of the Company to be damaged or defective due to faulty materials. This obligation will not apply if the damage or defect arises because the Customer is in breach of any of its obligations in Condition 12.
- 9.2 Except as set out in 10.1 below, this Condition is the Company's sole obligation and is accepted by the Customer in substitution for all express or implied representations, conditions

or warranties, statutory or otherwise, as to the satisfactory quality, fitness for purpose or performance of any Hire Goods and all such representations, conditions and warranties are excluded.

10. LIMITATION OF LIABILITY

10.1 The Company does not exclude its liability to the Customer:

10.1.1 For personal injury or death arising as a result of the Company's negligence;

10.1.2 For fraud or fraudulent misrepresentation; or

10.1.3 For any matter which it would be illegal for the Company to exclude or to attempt to exclude its liability.

10.2 Except as provided in Conditions 9 and 10.1, the Company will be under no liability to the Customer whatsoever (whether in contract, tort, (including negligence), breach of statutory duty, restitution or otherwise) for any injury, death, damage or direct or indirect or consequential loss (all of which terms include, without limitation, pure economic loss, loss of profits, loss of business, loss of use, loss of data, computer downtime, depletion of goodwill, business interruption, increased purchasing or manufacturing costs, loss of opportunity, or loss of contracts and like loss) howsoever caused.

10.3 The Company hereby excludes to the fullest extent permissible at law all conditions, warranties and stipulations, express (other than those set out in these Conditions) or implied, statutory, customary or otherwise which but for such exclusion, would or might subsist in favour of the Customer.

10.4 Save as set out in Condition 10.1 the Company's total liability in contract, tort, (including negligence), breach of statutory duty, misrepresentation or otherwise shall be limited to repairing or replacing Hire Goods or, at the Company's option, refunding any monies already paid.

11. TERMINATION

11.1 The Company may, (without prejudice to any other rights or remedies it may have against the Customer) exercise any remedy available to it up to and including termination of the Contract, if:

11.1.1 the Customer is in breach of any Condition which is incapable of remedy; or

11.1.2 the Customer is in breach of any Condition which is capable of remedy, but fails to remedy such breach within 14 days of receipt of a written notice giving full particulars of the breach and requiring it to be remedied; or

11.1.3 any one or more of the events set forth in Condition 6.3 occurs.

11.2 Notwithstanding the exercise of any remedy by the Company in accordance with Condition 11.1 above, and for the avoidance of any doubt, the Customer shall remain liable to pay and shall pay the Company at the Contract rate, any and all payments subsisting at the relevant time.

11.3 The Customer may not terminate the Contract under any circumstances other than those set forth in Condition 14.

12. CUSTOMER OBLIGATIONS

12.1 The Customer hereby agrees that with respect to any Hire Goods, it shall:-

12.1.1 take reasonable care of the Hire Goods and ensure that they are correctly installed and used properly and only for their intended purpose, in accordance with the instructions contained in the Installation and Operating Manual provided to the Customer and in conjunction with appropriate input and output cables (which are to be supplied by the Customer at the Customer's cost, unless otherwise agreed in advance with the Company in writing); and

12.1.2 notify the Company in advance, of any inrush currents (e.g. motors, compressors, etc); and

12.1.3 insure the Hire Goods on such terms as the Company may require, the proceeds of such insurance to be held by the Customer in trust for the Company and to be paid to the Company on demand; and

12.1.4 permit the Company upon reasonable notice to inspect the Hire Goods; and

12.1.5 notify the Company immediately, following the discovery of any defect or shortage in, loss of, theft of, damage to, and/or malfunction or breakdown of, the Hire Goods; and

12.1.6 be responsible for and shall fully compensate the Company for any and all expenses, costs, losses (including loss of Hire Charges) and/or damage incurred by or against the Company (or likely to be so incurred), arising from any defect or shortage in, loss of, theft of, damage to, and/or malfunction or breakdown of the Hire Goods attributable to the Customer's negligence (which, without limitation, shall include anything resulting from any failure by the Customer to keep the Hire Goods in a condition consistent with normal and reasonable use for the duration of the Hire Term, excluding fair wear and tear) and/or any incorrect installation and/or misuse of the Hire Goods; and

12.1.7 indemnify, keep indemnified and hold the Company harmless against any and all losses, lost profits, damages, claims, costs, actions and any other losses and/or liabilities suffered by or threatened against the Company (and, without limitation, the Customer, any other person and the property of any of the aforesaid), arising from or due to any breach of contract, tortious act and/or omission and/or any breach of statutory duty by the Customer.

12.2 The Customer hereby further agrees that with respect to any Hire Goods, it shall not:

12.2.1 attempt to repair or alter the Hire Goods without the prior written consent of the Company; or

12.2.2 omit to follow any instructions of the Company for the installation, use, storage or maintenance of the Hire Goods; or

12.2.3 attempt to sell, hire, assign, charge, pledge, or otherwise lend or dispose of the Hire Goods or any interest therein; or

12.2.4 without limitation, do or omit to do anything (or permit anything to be done or omitted to be done) which may invalidate any policy of insurance related to or otherwise relevant to the Hire Goods; or

12.2.5 without limitation, operate or attempt to operate the Hire Goods in an excessively dusty, damp, or otherwise unsuitable environment, or subject the Hire Goods to any outdoor use.

12.3 For the avoidance of doubt, the provisions of Conditions 12.1.6 and 12.1.7 shall apply, without limitation, in the event that the Customer breaches any or all of its obligations in Condition 12.2.

12.4 The Customer acknowledges and agrees that the Company reserves the right to refuse to refund all or part of any Hire Deposit to the Customer and may retain all or part of any Hire Deposit, at the sole discretion of the Company and without any liability whatsoever to the Customer, in the event that the Customer breaches, or is, in the reasonable opinion of the Company, likely to breach, any or all of its obligations, without limitation, in this Condition 12.

13. ASSIGNMENT

13.1 The Company may assign the Contract or any part of it to any person, firm or company.

13.2 The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

14. FORCE MAJEURE

The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of Hire Goods ordered by the Customer (without liability to the Customer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period in excess of 180 days, the Customer shall be entitled to give notice in writing to the Company to terminate the Contract.

15. GENERAL

- 15.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.
- 15.2 The Company and the Customer shall each keep confidential any and all information which has been expressed to be confidential or could reasonably be supposed to be confidential and which has been obtained or disclosed as a result of the relationship of the respective parties under the Contract
- 15.3 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 15.4 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 15.5 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Customer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 15.6 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 15.7 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

16. COMMUNICATIONS

- 16.1 All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax:
- (a) (in case of communications to the Company) to its registered office or such changed address as shall be notified to the Customer by the Company; or
 - (b) (in the case of the communications to the Customer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Customer

16.2 Communications shall be deemed to have been received:

- (a) if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or
- (b) if delivered by hand, on the day of delivery; or
- (c) if sent by fax on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.

Communications addressed to the Company shall be marked for the attention of Mr. Kevin Brown.