

Terms and Conditions for Hire of Skip or other Plant or Equipment ("TC05")



The Hirer's attention is drawn in particular to Condition 9 Warranties and Limitation of Liability.

1 Definitions and Interpretation

In these conditions, unless otherwise expressly stated;

1. 'Hirer' means the person, company or authority who accepts a quotation of the Owner for the Hire of a Skip, Plant or other Equipment from the Owner, or whose order for a Skip, Plant or other Equipment is accepted by the Owner, strictly in accordance with these Terms and Conditions and;
2. 'Owner' means Sheehan Haulage & Plant Hire Ltd together known as;
3. The 'Parties' or Party if singular;
4. 'Contract' means the contract for the Hire of a Skip, Plant or other Equipment in accordance with these Conditions;
5. 'Conditions' means the terms and conditions for the Hire of a Skip, Plant or other Equipment set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Hirer and the Owner;
6. 'Writing' includes the Owner's website, letter, email or other written communication;
7. 'Price' means the price or rates payable excluding VAT included in the Owner's Quotation, Offer or Proposal ("Quotation"), or as amended and agreed in writing by the Owner;
8. Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time;
9. The headings in these Conditions are for convenience only and shall not affect their interpretation. The singular includes the plural and vice-versa

2 Basis of Hire

- 2.1. The Hirer shall Hire a Skip, Plant or other Equipment in accordance with any written Quotation of the Owner which is accepted by the Hirer, or any order of the Hirer which is accepted by the Owner in its Order Confirmation, subject in either case to these Conditions which shall govern the Contract between the Parties to the exclusion of any and all other terms and conditions. The Hirer understand accepts and agrees that no terms or conditions written upon, delivered with, or contained in any order of the Hirer, specification or similar document will form part of the Contract. Despatch or delivery of the Skip, Plant or other Equipment is deemed acceptance by the Hirer of these Conditions;
- 2.2. Hire of a Skip includes disposal of its contents, subject to the followings terms;
- 2.3. No variation or addition to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Hirer and the Owner;
- 2.4. The Owner's employees or agents are not authorised to make any representations concerning the hire of a Skip, Plant or other Equipment, terms or Conditions unless confirmed by the Owner in Writing. In entering into the Contract, the Hirer acknowledges that it does not rely on, and waives any claim for breach of, any such representations that are not so confirmed;
- 2.5. Any advice or recommendation given by the Owner or its employees or agents to the Hirer or its employees or agents as to the siting, storage, application or use of a Skip, Plant or other Equipment which is not confirmed in Writing by the Owner is followed or acted upon entirely at the Hirer's own risk, and accordingly the Owner shall not be liable for any such advice or recommendation which is not so confirmed;
- 2.6. Any typographical, clerical or other error or omission in any sales literature, Quotation, price list, acceptance of offer, confirmation of Order, invoice or other document or information issued by the Owner shall be subject to correction without any additional or further liability on the part of the Owner;
- 2.7. Commencement, performance or execution by the Owner of any despatch, delivery or variation of a Skip, Plant or other Equipment shall be deemed acceptance by the Hirer to Contract under these Conditions which the Hirer hereby accepts and agrees to;

3 Orders and Specification

- 3.1. No order submitted by the Hirer shall be deemed to be accepted by the Owner unless and until confirmed by the Owner's Confirmation of Order, or, if earlier, despatch and/or delivery of the Skip, Plant or other Equipment and subject to the these terms and conditions for the Hire of a Skip, Plant or other Equipment hereto. Any Quotation is given by the Owner on the basis that no Contract will come into existence until the Owner accepts the Hirer's agreement or order to it by either sending a Confirmation of Order to the Hirer or, if earlier, despatch and/or delivery of the Skip, Plant or other Equipment;
- 3.2. The Hirer shall be responsible to the Owner for ensuring the accuracy of the terms of any Order (including any applicable specification) submitted by the Hirer and for giving the Owner any necessary information relating to the Skip, Plant or other Equipment within a sufficient time to enable the Owner to perform the Contract in accordance with these Conditions;
- 3.3. The quantity, quality and description of any Skip, Plant or other Equipment shall be those set out in the Owner's Quotation (if accepted by the Hirer) or the Hirer's order or acceptance (if accepted by the Owner) in its Confirmation of Order;
- 3.4. Any recommendation or suggestion relating to any use, storage or handling of a Skip, Plant or other Equipment made by the Owner either in any sales and technical literature or in response to a specific enquiry is given in good faith but it is strictly for the Hirer to satisfy itself of the suitability of a Skip, Plant or other Equipment for its own particular purposes and the Hirer accepts it makes no reliance on any such recommendation, suggestion or representation;
- 3.5. The Owner reserves the right to make any changes in the specification of a Skip, Plant or other Equipment required to conform with any applicable safety or other statutory requirements or, where the Skip, Plant or other Equipment are to be hired to the Owner's specification, and which do not materially affect their quality, quantity or performance;
- 3.6. Subject to 3.7, no order which has been accepted by the Owner may be cancelled by the Hirer except with the agreement in Writing of the Owner and the Hirer shall indemnify the Owner in full against all loss (including loss of profit) costs (including the cost of all labour and materials used), damages, charges and expenses incurred, without limitation, (including re-stocking), by the Owner as a result of any cancellation;
- 3.7. Without prejudice to the generality of the foregoing, should the Hirer purport without the agreement in Writing of the Owner to cancel any order which has been accepted by the Owner or refuse to accept delivery of a Skip, Plant or other Equipment such action shall constitute a breach of Contract and, at the option of the Owner, the Owner shall be entitled to require the Hirer to pay to the Owner by way of liquidated damages ("damages") an amount equivalent to 50% of the invoice value of the order so purported to be cancelled or 50% of the invoice value of the Skip, Plant or other Equipment delivery of which is so refused (as the case may be). In the event of the Owner so requiring the Hirer to pay damages the Hirer shall pay such amount to the Owner (without any deduction) within 7 days of receiving from the Owner written notification of the amount required to be paid. The Owner and the Hirer hereby agree that such damages amount represents a genuine pre-estimate of the monetary value of the loss and damage likely to be suffered by the Owner as a result of such breach of agreement on the part of the Hirer. For the avoidance of doubt, in the event that the Owner opts to require the Hirer to pay liquidated damages as set out above, and the Hirer duly pays such damages, neither party shall have any further liability to the other in relation to the Skip, Plant or other Equipment in question in respect of which such damages are paid;

4 Price and Payment

- 4.1. The price of the hire of a Skip, Plant or other Equipment shall be the Owner's quoted price. All prices quoted are valid for 30 days only or such lesser period as shall be stated by the Owner on the face of the relevant Quotation or until earlier acceptance by the Hirer, after which time they may be altered by the Owner without giving notice to the Hirer;
- 4.2. The Owner reserves the right by giving notice to the Hirer at any time before delivery to increase the price of a Skip, Plant or other Equipment to reflect any increase in the cost to the Owner which is due to any factor beyond the control of the Owner or to any change in delivery dates, quantities or specifications for a Skip, Plant or other Equipment which is requested by the Hirer, or any delay caused by any instructions of the Hirer or failure of the Hirer to give the Owner adequate information or instructions. The Owner reserves the right to charge the Hirer an

KNIGHTSBRIDGE FARM | YARNTON | OXFORD | OX5 1PH
TEL: 01865 379921 | FAX: 01865 891 216 | enquiry@sheehancontractors.co.uk | www.sheehancontractors.co.uk
Registered Office: 39 BANKSIDE COURT | STATION BUILDINGS | COLINGTON | OXFORD | OX5 1B
INCORPORATED IN ENGLAND NO. 2218991 | V.A.T. REGISTRATION NUMBER: 616561059

The footer contains a blue banner with white text and logos. On the right side, there are two circular logos: one for recycling (a triangle inside a circle) and one for ISO 14001 (a circle with a leaf-like shape).

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- additional charge where (i) delivery of a Skip, Plant or other Equipment is required outside of normal working hours, (ii) delivery of a Skip, Plant or other Equipment is required in part loads, (iii) for any reason the delivery vehicle is unable to discharge its load within 10 minutes of arrival at the Hirer's point of despatch and (iv) the Hirer purchases quantities of a Skip, Plant or other Equipment which are substantially different from any quantity specified in the Owner's quotation;
- 4.3. Except as otherwise stated under the terms of any quotation or in any price list of the Owner, and unless otherwise agreed in Writing between the Hirer and the Owner, all prices are given by the Owner are exclusive of carriage charges;
- 4.4. The price is exclusive of any applicable value added tax or other taxation that the Hirer shall be additionally liable to pay to the Owner.
- 4.5. Subject to any special terms agreed in Writing between the Hirer and the Owner the Owner shall be entitled to invoice the Hirer for the price of a Skip, Plant or other Equipment at any time before or after delivery of a Skip, Plant or other Equipment in the following proportions;
- 4.5.1. 100% on receipt of the Owner's advice a Skip, Plant or other Equipment, or part thereof, are ready for delivery;
- 4.6. All Invoices are payable on a pro-forma basis, unless credit facilities have been approved, in which case Invoices are payable not later than 30 days from the date of invoice. The Hirer shall pay all invoices without any deductions notwithstanding that delivery may not have taken place and the property in a Skip, Plant or other Equipment has not been passed to the Hirer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request;
- 4.7. If the Hirer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Owner, the Owner shall be entitled to;
- 4.7.1. cancel the contract or suspend any further deliveries to the Hirer;
- 4.7.2. appropriate any payment made by the Hirer to such of a Skip, Plant or other Equipment (or a Skip, Plant or other Equipment supplied under any other contract between the Hirer and the Owner) as the Owner may think fit (notwithstanding any purported appropriation by the Hirer) and
- 4.7.3. charge the Hirer interest (both before and after any judgment) on the amount unpaid, in accordance with the Late Payment of Commercial Debts (Interest) Act 1998, or any re-enactment of, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest);
- 4.8. In the event that the Owner shall cancel the contract under the provisions of Clause 4.7.1 above the Hirer shall indemnify the Owner in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Owner as a result of such cancellation. Without prejudice to the generality of the foregoing, at the option of the Owner, the Owner shall be entitled to require the Hirer to pay to the Owner by way of liquidated damages an amount equivalent to 50% of the invoice value of the contract so cancelled. In the event of the Owner so requiring, the Hirer shall pay such amount to the Owner (without any deduction) within seven days of receiving from the Owner written notification of the amount required to be paid. The Owner and the Hirer hereby agree that such amount represents a genuine pre-estimate of the monetary value of the loss and damage likely to be suffered by the Owner as a result of such cancellation.
- 4.9. In the event of any breach of the Contract and/or the Conditions by the Hirer, or dispute between the Parties relating to this Contract or any other contract between them, the Owner shall be entitled to suspend, withdraw or terminate any discount or rebate agreement between the Parties, affecting this Contract or any other contract between them.
- 5. Description**
- 5.1. Any description given or applied to a Skip, Plant or other Equipment is given by way of identification only and the use of such description shall not constitute a sale by description. For the avoidance of doubt, the Hirer hereby affirms that it does not in any way rely on any description when entering into the Contract.
- 6. Delivery**
- 6.1. Delivery of a Skip, Plant or other Equipment shall be made by the Hirer collecting a Skip, Plant or other Equipment at the Owner's premises at any time after the Owner has notified the Hirer that a Skip, Plant or other Equipment are ready for collection or, if some other place for delivery is agreed by the Owner, by the Owner delivering a Skip, Plant or other Equipment to that place. Delivery is deemed to have taken place either, on discharge into or onto to the Hirer vehicle or on discharge from the Owner's vehicle at the Hirer's site or as otherwise agreed by the parties;
- 6.2. The Hirer must provide a safe and adequate access to the point of delivery or discharge of a Skip, Plant or other Equipment including any required manoeuvring space and for ensuring the Owner's employees or agents are safe on the Hirer's site. Failure to comply with this Condition shall entitle the Owner to refuse to make delivery and to charge the Hirer for any costs and/or losses incurred. The Owner does not accept any liability whatsoever, under any circumstances, howsoever arising, for damage to any private property by the Owner's vehicles when required by the Hirer to leave or exit the public highway in order to make delivery;
- 6.3. The Hirer shall indemnify the Owner and its drivers against any damage or injury caused by the acts and/or omissions of the Hirer, its employees, sub-contractors or agents while the delivery vehicle is present on or accessing the Hirer's site;
- 6.4. Any dates quoted for delivery of a Skip, Plant or other Equipment are approximate only and the Owner shall not be liable for any delay in delivery of a Skip, Plant or other Equipment howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Owner in writing. A Skip, Plant or other Equipment may be delivered by the Owner in advance of the quoted delivery date upon giving reasonable notice to the Hirer. The Owner shall be entitled to make part delivery of a Skip, Plant or other Equipment at any time;
- 6.5. Where a Skip, Plant or other Equipment are delivered in instalments, each delivery shall constitute a separate contract and failure by the Owner to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Hirer in respect of any one or more instalments shall not entitle the Hirer to treat the Contract as a whole as repudiated;
- 6.6. If the Owner fails to deliver a Skip, Plant or other Equipment for any reason, other than any cause beyond the Owner's reasonable control or due to any fault of the Hirer, the Owner's liability shall be limited to the excess (if any) of the cost to the Hirer (in the cheapest available market) of similar to replace those not delivered over the price of a Skip, Plant or other Equipment supplied;
- 6.7. If the Hirer fails to take delivery of a Skip, Plant or other Equipment or fails to give adequate delivery instructions at the time stated for delivery (other than by reason of the Owner's fault) then, without prejudice to any other right or remedy available to the Owner, the Owner may on delivery, howsoever effected, require the Hirer to (i) satisfy itself as to the condition of a Skip, Plant or other Equipment, (ii) allow unhindered delivery of a Skip, Plant or other Equipment, (iii) sign the delivery note, (iv) sign any record produced by the Owner or its drivers in respect of any delay after the arrival of a Skip, Plant or other Equipment at the Hirer's site, including standing time, or other records. If the Hirer fails in any of the above, then a Skip, Plant or other Equipment will be either;
- 6.7.1. Deemed to have been delivered; or
- 6.7.2. The Owner may store a Skip, Plant or other Equipment until actual delivery and charge the Hirer for the reasonable costs (including insurance) of storage; or
- 6.8. Any damages, shortages, over deliveries and/or duplicated orders should be reported to the Owner within 2 days of delivery to enable replacement or refund.
- 7. General Terms – Skip Hire**
- 7.1. The Hirer shall ensure that no waste to which Section 3(l) of the Deposit of Poisonous Waste Act 1972 applies including any insulation foam board unless it is accompanied with a Certificate declaring it is free from CFC's, asbestos, toxic waste, refrigeration units, batteries, fluorescent tubes, gas bottles, containers which have any form of hazardous chemicals, oil drum or gripfill tubes, (full or empty), pesticides, fertilisers or their empty containers, paint tins, (full or empty, plasterboard, televisions, computers and computer screens, tyres, railway sleepers, telegraph poles, waste wood from hydraulic engineering, waste wood from industrial applications, waste wood from boats, carriages and trailer beds, waste wood treated with creosote or upholstered domestic seating containing POP's ("items of contravention") will be placed in the

KNIGHTSBRIDGE FARM | YARLTON | OXFORD | OX5 1PH
TEL: 01865 379921 | FAX: 01865 891 216 | e:enquiry@sheehancontractors.co.uk | www.sheehancontractors.co.uk
Registered Office: 39 BANKSIDE COURT | 51A, KENNELS | COLINGTON | OX5 1B
INCORPORATED IN ENGLAND NO. 2218991 | V.A.T. REGISTRATION NUMBER: 626565059

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- Skip without the prior written consent of the Owner. Any such materials found within a Skip when collected will be made available for the Hirer to collect forthwith. If the Hirer fails to collect the items of contravention by 3.00pm on the day advised, the Owner shall charge the Hirer £75.00 per item plus VAT in addition to the disposal cost and advise the Environmental Agency of each item of contravention. In this event, the Hirer accepts and agrees that such charge or charges shall be treated as a debt to the Owner.
2. In the event the Hirer has the prior agreement of the Owner to permit plasterboard, in a Skip, the Hirer shall ensure that any Plasterboard is separated into 1 ton bags or hire a separate Skip for the purpose of plasterboard only;
 3. Drivers are instructed not to drive over footpaths, drives, grass verges, etc. and not to lift a Skip over walls/fences etc. or on to raised embankments. Should the Hirer request the driver to do so any damage caused shall be at the liability of the Hirer. Should damage be caused to the Owner's vehicle we reserve the right to hold the Hirer responsible. Hirer's are advised to protect all surface finishings, pavings; manhole covers and the like etc., as no protection is provided by the Owner. The Hirer undertakes to direct, at his sole discretion, the driver where to deposit a Skip, the driver being for the purpose of such deposit the agent of the Hirer;
 4. Except as specifically otherwise agreed in writing the Owner shall be under no obligation to deposit a Skip elsewhere than on a highway;
 5. The Hirer shall save harmless and keep the Owner indemnified against any claim, demand or penalty arising out of the presence of the Skip on the site;
 6. The Hirer shall direct the driver where to deposit or pick up a Skip;
 7. Where the driver is directed to deposit or pick up the Skip on or from a site which is off a highway the Owner shall be under no liability whatsoever to the Hirer for any damage howsoever caused whilst the vehicle is off the highway other than such as might have been caused by negligent driving on the part of the driver. Without prejudice to the generality of Condition 4.2 the Hirer shall subject as above save harmless and keep the Owner indemnified against any claim or demand which could not have been made had the driver not been so directed. The Hirer will compensate the Owner for any damage to the vehicle or the Skip which would not have occurred had the driver not been so directed and which is not due to any negligent driving on the part of the driver;
 8. The time allowed for depositing or picking up a Skip is 15 minutes. If the vehicle is kept waiting longer than this after the arrival the Hirer shall be liable for waiting time at £90 per hour;
 9. The Owner reserves the right to charge the Hirer for all expenses incurred as a consequence of a cancellation or variation of the whole or significant part of an order and all other resulting loss;
 10. The Hirer shall ensure that all permissions required before Skips can lawfully be deposited on the site, including the permission required under the Highways Act 1971, have been or will be obtained before he directs the driver to deposit the Skip. The Owner can organise permits at an additional cost to the Hirer;
 11. The Hirer shall not move the Skip from the site without the consent of the Owner. The responsibility for the Skip remains with the Hirer until collected by the Owner's vehicle. Any Skips which are removed whilst in the control of the Hirer will be charged at the entire replacement value;
 12. The Hirer shall ensure that from the time the Skip is deposited until it is picked up again by the Owner that:
 - 12.1. it is properly sited in accordance with any permission given;
 - 12.2. it is properly illuminated during the hours of darkness;
 - 12.3. no fires are lit in any Skip. The Hirer shall reimburse the Owner for any loss or damage caused to a Skip or container by fire, or any other accidental damage howsoever caused prior to collection;
 - 12.4. a Skip is not filled higher than the top of its sides;
 - 12.5. 10yd and 35yd Skips are only to be filled with light materials, filling these with concrete or soil or other dense materials will result in them being too heavy to be legally and safely transported. The Owner reserves the right to decline collection of overloaded Skips
- and any expenses incurred due to overloading (including wasted journeys) will be passed on to the Hirer. Excess charges will be levied in the event of any overloading;
- 12.6. Once placed on site; the Skip is not to be moved without prior consent of the Owner. The movement of Skips on site could result in the inability to collect the Skip;
 13. Notwithstanding the terms of these Conditions it shall be the Hirer's responsibility to ensure compliance with any condition imposed by a highway authority relating to the marking of the Skip with reflective paint;
 14. Except as specifically otherwise agreed in writing the Hirer shall fill the Skip within the period of hire and shall inform the Owner in good time of its readiness for collection or replacement;
 15. The Owner shall ensure that the Skip is clearly and indelibly marked with his name and telephone number or address;
 16. The Owner will remove or reposition the Skip if required at any time to do so by a Highway Authority or a constable in uniform under Section 32 of the Highway Act 1971;
 17. Except as specifically otherwise agreed in writing the Owner agrees to dispose of the contents of the Skip;
 18. Consumer Credit Act 1974, the period of hire under this contract shall be for such period not exceeding twelve weeks as may be agreed between the Owner and the Hirer and in default of agreement, at the termination whereof the Skip will be re-possessed by the company without notice;
 19. **Non account terms:** Payment on delivery. Hire charges include up to 7 days rental, thereafter the Owner is at liberty to charge £ 10.00 per day rental on the Skip, unless otherwise agreed. No Skip will be removed from site until payment in full has been received;
 - 7.20 **Account Terms:** The maximum rental period is 14 days unless by prior agreement with the Owner. It is the responsibility of the Hirer to request the collection within this time. Failure to do so will result in an unannounced collection and/or rental charges being incurred.
- ## 8. Risk and Property
1. Risk of damage to or loss of the Skip, Plant or other Equipment shall pass to the Hirer:
 - 1.1. in the case of a Skip, Plant or other Equipment delivered to the Hirer's premises, at the time of delivery: or
 - 1.2. in the case of a Skip, Plant or other Equipment to be delivered other than at the Hirer's premises, at the time of delivery or, if the Hirer fails to take delivery of a Skip, Plant or other Equipment, the time when the Owner tendered delivery of the Skip, Plant or other Equipment;
 2. Notwithstanding delivery and the passing of risk in a Skip, Plant or other Equipment to the Hirer, or any other provision of these Conditions, the property in the Skip, Plant or other Equipment shall not at any time pass to the Hirer;
 3. Until such time as the Skip, Plant or other Equipment is returned to the Owner, the Hirer shall hold the Skip, Plant or other Equipment as the Owner's fiduciary agent and bailee and shall keep the Skip, Plant or other Equipment separate from those of the Hirer and third parties and properly stored protected and insured and identified as the Owner's property;
 4. Until such time as the Skip, Plant or other Equipment is returned to or collected by the Owner, the Owner shall at any time on demand be entitled to require the Hirer to give access to and release the Skip, Plant or other Equipment for collection. If the Hirer fails to do so forthwith, the Owner may enter any premises of the Hirer or any third party where the Skip, Plant or other Equipment is stored and repossess the Skip, Plant or other Equipment;
- ## 2. Warranties and Limitation of Liability
- 2.1. Subject to the conditions set out below the Owner warrants that the Skip, Plant or other Equipment hired will be equal or an alternative to that ordered. The Owner shall not at any time be liable for any all loss or damage suffered by the Owner in excess of the contract price;
 - 2.2. The above warranty is given by the Owner subject to the following conditions:



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- 2.2.1. the Owner shall be under no liability in respect of any defect in the Skip, Plant or other Equipment hired by the Hirer arising after delivery;
- 2.2.2. the Owner shall be under no liability under the Contract or the above warranty (or any other warranty, condition or guarantee) if the total price for the hire of a Skip, Plant or other Equipment has not been paid by the due date for payment and then only to the extent of the price;
- 2.3. No warranty or representation is given that the Skip, Plant or other Equipment hired are suitable for any particular purpose or application and all warranties, conditions and other terms implied by statute or common law, are, to the fullest extent permitted by law, excluded from this Contract;
- 2.4. Any sampling and testing shall be carried out in accordance with such British Standard or European Standard or specification as is accepted by the Owner to be appropriate. Compliance with such Standard or specification shall be discharged by the Owner at the Hirer's cost and expense on the basis that the Owner is the supplier and not the user of the Skip, Plant or other Equipment;
- 2.5. Any claim by the Hirer which is based on any defect in the quality or condition of the Skip, Plant or other Equipment hired must be notified to the Owner in Writing within 2 days from the date of delivery. If delivery is not refused, and the Hirer does not so notify the Owner accordingly, the Hirer shall not be entitled to reject the Skip, Plant or other Equipment and the Owner shall have no liability for such defect or failure, and the Hirer shall be bound to pay the price as if the Skip, Plant or other Equipment had been delivered in accordance with the Contract;
- 2.6. Where any valid claim in respect of the hire of any of Skip, Plant or other Equipment which is based on any defect in the quality or condition of the Skip, Plant or other Equipment is notified to the Owner in accordance with these Conditions the Owner shall be entitled to replace the Skip, Plant or other Equipment or (refund the Hirer the price of the Skip, Plant or other Equipment) (or a proportionate part of the price), and the Owner shall have no further liability whatsoever to the Hirer including any and all, without limitation, consequential costs, loss, damage and/or expense of the Hirer. The maximum liability of the Owner arising under Condition 9, shall not exceed the Price of the Skip, Plant or other Equipment hired and established to be defective. The Hirer shall be under a strict duty to mitigate and minimise the adverse consequences arising from the hire of any Skip, Plant or other Equipment established to be defective;
- 2.7. Except in respect of death or personal injury caused by the Owner's negligence, the Owner shall not be liable to the Hirer, whether in contract, tort (including negligence of statutory duty) or otherwise by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract for any consequential loss or damage (whether for loss of profit or otherwise) costs, expenses or other claims for consequential compensation whatsoever including liquidated or unliquidated damages (and whether caused by the negligence of the Owner, its employees or agents or otherwise) which arise out of or in connection with the hire of the Skip, Plant or other Equipment or their use by the Hirer, except as expressly provided in these Conditions;
- 2.8. The Hirer acknowledges it bears the risk of all additional expenses costs losses damages and liabilities which are incurred as a result of the hire of any Skip, Plant or other Equipment. The Hirer acknowledges it can obtain insurance to cover such potential expenses, costs, losses, damages and liabilities, any premium for which is at the Hirer's liability and expense.
- 2.9. The Owner shall not be liable to the Hirer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Owner's obligations in relation to the hire of any Skip, Plant or other Equipment if the delay or failure was due to any cause beyond the Owner's reasonable control.
- 3. Insolvency of the Hirer**
- 3.1. This clause applies if:
- 3.1.1. the Hirer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
- 3.1.2. an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Hirer; or
- 3.1.3. the Hirer ceases, or threatens to cease, to carry on business; or
- 3.1.4. the Owner reasonably apprehends that any of the events mentioned above is about to occur in relation to the Hirer and notifies the Hirer accordingly.
- 3.2. If this clause applies, then, without prejudice to any other rights or remedy available to the Owner, the Owner shall be entitled to cancel the Contract and/or suspend any further deliveries under it without any liability to the Owner, and if any Skips, Plant or other Equipment have been delivered, but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary and the Owner may immediately recover the Skip, Plant or other Equipment hired and recover any unpaid amounts as a debt.
- 4. Notices**
- 4.1. Any notice request or consent required or permitted to be given or made pursuant to these Conditions shall be in writing and sent to the last known address of the receiving party.
- 4.2. A party may change address by giving the other Party notice of its change of address.
- 5. Intellectual Property**
- 5.1. All Intellectual Property Rights produced from or arising as a result of the performance of this Contract shall, so far as not already vested, become the absolute property of the Owner, and the Hirer shall do all that is reasonably necessary to ensure that such rights vest in the Owner by the execution of appropriate instruments or the making of agreements with third parties.
- 6. Severability**
- 6.1. If any term or provision of these Conditions is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if these Terms and Conditions had been agreed, with the invalid, illegal or unenforceable provision eliminated.
- 7. Set off and Counterclaim**
- 7.1. Whether in relation to this Contract or any other contract/s between the parties, the Hirer shall not under any circumstances withhold payment of any invoice or other amount due to the Owner by reason of any purported right of deduction, set off or counterclaim which the Hirer may have or allege to have or for any reason whatsoever.
- 7.2. The Owner shall be entitled to set-off, deduct or withhold, and without notice to the Hirer, any liability of the Hirer to the Owner, whether arising under this Contract or any other contract between the parties.
- 8. Waiver**
- 8.1. No delay, act or omission by the Owner under the Contract in exercising any right or remedy or under any applicable law on any occasion shall be deemed or construed to be deemed a waiver of or bar to the exercise of such right or remedy or any other right or remedy upon any other occasion.
- 9. Assignment/Third Party Rights**
- 9.1. The benefit of this Contract may not be assigned by the Hirer but is fully assignable by the Owner. Nothing in this Contract is intended to, nor shall it confer any right/s on a third party.
- 10. Entire Agreement**
- 10.1. This Contract represents the entire understanding and agreement between the Parties and supersedes any and all previous negotiations and understandings between the Parties including any letter/s of intent with respect to its subject matter. Further, this Contract supersedes all previous agreements between the parties with regard to its subject matter and those agreements are now terminated and of no further effect.
- 11. Applicable Law**
- 11.1. This Contract is subject to the law of England and the parties shall submit to the exclusive jurisdiction of the English courts.

KNIGHTSBRIDGE FARM | YARLTON | OXFORD | OX5 1PH
TEL: 01865 379921 | FAX: 01865 891 216 | enquiry@sheehancontractors.co.uk | www.sheehancontractors.co.uk
Registered Office: 39 BANKSIDE COURT | 51A, KENNELS | 2 COLINGTON | OX5 1B
INCORPORATED IN ENGLAND NO. 2249991 | V.A.T. REGISTRATION NUMBER: 62656539