

# TERMS & CONDITIONS - Hire agreement regulated by the Consumer Credit Act 1974

1. The conditions of this Agreement apply to any contract between the Hirer and HML for the sale of products to Hirer ("Contract"). Please note that by ordering any of our products, you agree to be bound by these terms and other documents expressly referred to in it. Interpretation In these Conditions: apply to any contract between the Hirer and HML for the sale of products to Hirer ("Contract"). Please note that by ordering any of our products, you agree to be bound by these terms and other documents expressly referred to in it.

- 1.1 'Hirer' means the person whose order for the Services is accepted by HML, and is identified in the Contract in box 1 page 1
- 1.2 'Guarantor.' **If required:** A Guarantor will be required where the hirer will be 75 before the end of the contract and means the person identified in box 5 on page 1
- 1.3 'Conditions' means the standard terms and conditions of supply set out in this document;
- 1.4 'Contract' the Hirer's order form which has been completed online at the Website or by telephone and HML acceptance of it, which will be subject to these Conditions at all times;
- 1.5 'Variations' to these terms and conditions will only be acceptable when in written format, no verbal variations on product or terms will have influence on them;
- 1.6 'Duration' means the duration of the Contract shown in the box 3 page 1 on the first page of this Contract;
- 1.7 'Equipment' means a wheelchair of the specification and model notified by HML, which HML is to supply in accordance with the Contract; pursuant to these Conditions; Identified in box 2 page 1
- 1.8 'Services' means the hire of Equipment by HML to the Hirer for the Duration, subject at all times to these Conditions
- 1.9 'Working Days' means all days excluding weekends and public holidays as well as the period between Christmas Eve and New Year's Day in the country in which the Hirer is domiciled for the purposes of this Contract.
- 1.10 'Working Hours' means the hours of 9.00am to 5.00pm
- 1.11 Words in the singular shall include the plural and vice versa.
- 1.12 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.13 A person includes a natural person, corporate or unincorporated body (whether or not having a separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.
- 1.14 Where the words 'include(s)', 'including' or 'in particular' are used in these Conditions, they are deemed to have the words 'without limitation' following them and where the context permits, the words 'other' and 'otherwise' are illustrative and shall not limit the sense of the words preceding them.

## 2. Parties to this agreement:

- 2.1 Hirer: As shown in the box titled Hirer, box 1 page 1 on the order form
- 2.2 Owner: Horizon Mobility Limited. Trading address: Mobility House, Formal Industrial Park, Tewkesbury. GL20 8GY ("HML")
- 2.3 Guarantor: A Guarantor will be required where the hirer will be 75 before the end of the contract; as shown in box 5 on page 1 of this contract

## 3. Information about HML

- 3.1 HML operates the website [www.mobilityhire.com](http://www.mobilityhire.com) ("Website"). HML is Horizon Mobility Ltd, a company registered in England and Wales under company number 05928981 and with our registered office at Waterside Court, Falmouth Road, Penryn, Cornwall, TR10 5AW.
- 3.2 Our main trading address is Mobility House, Formal Industrial Park, Tewkesbury. GL20 8GY. HML's VAT number is. GB928 2202 38 To contact HML, please see its Contact Us page [www.mobilityhire.com/contactus.html](http://www.mobilityhire.com/contactus.html)

## 4. Basis of Contract

- 4.1 After placing an order via the Website or Telephone, the Hirer will receive an email from HML acknowledging receipt. However, please note that this does not mean that the order has been accepted.
- 4.2 The Contract with HML commences once the Hirer places its order and gives its authorization to process payment for the Contract, subject to any notification of non-acceptance from HML.
- 4.3 HML will confirm its acceptance to the Hirer by accepting the payment and either sending the Hirer an email that confirms acceptance of the order, or by confirming the order by telephone ("Order Confirmation").
- 4.4 If HML are unable to supply a product, for example because that product is not in stock or is no longer available or because of an error in the price on the Website, HML will inform the Hirer of this either by email or telephone and HML will refund the Hirer the full amount as soon as possible.
- 4.5 By placing an order with HML, the Hirer warrants that he or she is:

- (a) legally capable of entering into contracts;
- (b) at least 18 years old; and
- (c) resident in England, Scotland or Wales.

## 5. Delivery

- 5.1 The Hirer's order will be fulfilled by the estimated delivery date set out in the Order Confirmation, unless there is an Event Outside Our Control. If HML are unable to meet the estimated delivery date because of an Event Outside Our Control, HML will contact the Hirer with a revised delivery date.
- 5.2 The Hirer shall pay the costs of delivery, such costs to be included in the invoice.
- 5.3 Delivery will be completed when HML delivers the products to the address the Hirer provided to HML when making its order.
- 5.4 If no one is available at the address to take delivery, HML will leave the Hirer a note that the products have been returned to HML's premises, in which case, please contact HML to rearrange delivery.
- 5.5 The products will be the Hirer's responsibility from the completion of delivery.

## 6. Rental period

- 6.1 This hire agreement is for a period as specified on the order form and commences on the date of delivery of the product ("Primary Term").
- 6.2 Upon expiry of the Primary Term the contract will automatically renew unless and until it is terminated by the Hirer giving 7 days' notice to HML ("Secondary Term")
- 6.3 Frequency and period of payments are listed in box 3 page 1. Payments in the Secondary will be at a reduced level to be notified before the end of the Primary Term
- 6.4 Hirer must return the product on time at the conclusion of the Primary Term if not requiring to continue on the Secondary Term.
- 6.5 Failure by the Hirer to make available the product for return beyond this agreed date then the Hirer is responsible for continued hire payments until such return is made.
- 6.6 The product must be made available for collection at the original delivery address, unless Hirer has notified HML of a change of address, which HML has agreed in writing.

## 7. Hirer's right to cancel the agreement

- 7.1 Provided that the Hirer hires the product for an Initial Term which is one week or longer, the Hirer shall have the right to terminate the contract by giving notice to HML within 14 working days from the date of Order Confirmation
- 7.2 The Hirer will lose their right to 14 days cancellation on this Contract for a full refund should the Hirer request deliver to be made in less than 14 working days from commencement of the Contract
- 7.3 Hirer shall have the right to terminate this agreement once 50% of the hire payments are paid but this termination shall not mitigate any outstanding hire payments which have not been paid up to date of termination, nor liabilities in the clauses below.
- 7.4 In the event of the death of the hirer, then on the return of the goods this agreement shall be terminated but this termination shall not mitigate any outstanding hire payments, nor any liabilities as set out in the clauses below.

## 8. Hirer's responsibilities

- 8.1 The Hirer will provide adequate delivery and collection access to enable HML to deliver the products. The Hirer shall sign a delivery note to acknowledge receipt of the product.
- 8.2 The Hirer shall at all times keep the products properly stored, protected and insured in accordance with clause 14. The Hirer shall make available to HML the certificate of insurance policy for inspection upon request by HML. Where appropriate HML will provide fully comprehensive insurance on powered wheelchairs and mobility scooters
- 8.3 Hirer must look after the product and keys, where fitted keeping the product in good repair. Where appropriate, Hirer must always lock the product when not using it, and will incur a charge of £15.50 for replacement of any lost key.
- 8.4 Hirer must ensure that the documents, user manual and tools supplied with the product are returned in clean condition. Failure to do so will result in a charge for replacement of £20.00
- 8.5 Where Appropriate Hirer must use any security device fitted to or supplied with the product, and hirer must ensure that he keeps the product fully charged where electrical batteries are fitted.
- 8.6 Hirer must ensure that the goods are stored in a safe fashion, out of the elements, which includes a weather resistant storage cover on items that can be stored outdoors. Wheelchairs must be stored indoors.
- 8.7 Hirer must not sell, rent or dispose of the product or any of its parts. Hirer must not give anyone any legal rights over the product.
- 8.8 Hirer must not let anyone work on the product without first having obtained HML's written consent. Hirer will immediately notify HML of any breakdown or if the product is defective or damaged in any way and without any attempt to repair.

- 8.9 Hirer must let HML know as soon as he/she becomes aware of any defect(s) in the product. Hirer should use all reasonable endeavours to notify HML of defects within 7 days of the date of delivery.
- 8.10 Hirer will be liable for cosmetic damage to the product including bodywork and will be liable for the reasonable costs of repair.
- 8.11 Damages to batteries and tyres where the damage is as a result of misuse, such as failing to keep the batteries charged, which results in irrecoverable battery failure, will result in the Hirer being charged for the costs of repair by HML.
- 8.12 Punctures in the tyres, or damage caused by driving with poorly inflated tyres will result in the Hirer being charged for the costs of repair by HML.
- 8.13 Hirer will have to pay for repairs if the Hirer does not make a successful claim for accidental damage on the insurance in accordance with clause 8, or any portion of the claim that the insurance will not meet.
- 8.14 The Hirer will accept the responsibility for any product supplied to them during the course of this contract as a temporary or long term loan or replacement while their product is with HML.
- 8.15 The Hirer is responsible for ensuring that when using the product he/she complies with all relevant legislation and health and safety requirements.

## 9. Horizon Mobility Ltd responsibilities

- 9.1 HML will maintain the product to at least the manufacturer's recommended standard. HML undertakes that the product is roadworthy if relevant and suitable for hire at the start of the hire period. HML can only be accountable for any maintenance problems if notified by the Hirer, continued use by the Hirer once notification has been made will be the total responsibility of the Hirer. The Hirer accepts all liability in this instance.
- 9.2 If the Hirer notifies HML of a breakdown or defect in accordance with clause 8 above, HML will endeavour to send an engineer to the Hirer to inspect and repair or replace the product within 7 days of notification by the Hirer, at no additional cost to the Hirer, provided that the breakdown or damage is not a result of the misuse or negligence of the Hirer.

## 10. Property

HML is not responsible for loss or damage to property left in or on the product. Risk shall transfer to the Hirer on the date of delivery of the product and shall end on the date of collection by HML.

## 11. Conditions for using the product

- 11.1 The product must only be used by the person(s) named in the Agreement, or by anyone HML authorises in writing.
- 11.2 Hirer or any authorised user must not:
- Resell, hire or lend the product.
  - Use the product for any illegal purpose.
  - Use the product for any purpose for which it was not designed.
  - Pledge or in any way charge by way of security for any indebtedness of any of the products.
- 11.3 Use the product following a notification of a defect to HML until such time as HML visits the Hirer and effects repairs or replaces the product.

## 12. Collection or Return of Products

- 12.1 For any collection or return of products (whether as a result of the Hirer's cancellation of the contract, termination of the contract, for any other reason, for the purpose of repair, replacement or repossession of the product or otherwise):
- 12.2 the Hirer is responsible for storing the reusable delivery box in which the product is sent. The Hirer shall also be responsible for securely packaging the product in this box before handing it over to HML or its employees or agents for collection;
- 12.3 the Hirer grants HML, its agents and employees an irrevocable licence to enter any premises where the product is stored on reasonable prior notice for the purpose of collecting the product;
- 12.4 HML will use reasonable endeavours to collect the product on the next working day following the Hirer's request;
- 12.5 HML will issue a 'collection reference number' in acknowledgement but the Hirer shall remain responsible for the product until actual collection;
- 12.6 the Hirer will remain liable for on-going hire charges until the product is collected by HML or its employees or agents; and
- 12.7 the costs of collection will be paid by the Hirer.

## 13. Charges

Hirer will pay the following charges:

- The hire charge.
- Any charge for loss or damage resulting from non-compliance with Clause 4.
- The cost of repairing or replacing the product if it is damaged or stolen whilst in the care or responsibility of the Hirer (even if it is not the fault of Hirer).
- Hirer may not have to pay the whole of the cost of repairing or replacing the product if Hirer has an insurance claim accepted by the insurance on the product.

- Any published or notified rates for delivering and collecting the product.
- On demand, HML costs, including reasonable legal fees where permitted by law, incurred in collecting payments due from Hirer under the Agreement.
- Value added tax and all other taxes and levies on any of the charges listed above, as appropriate.
- Hirer is responsible for all charges, even if he has asked someone else to be responsible for them.
- The Hirer shall make available a credit or debit card to allow such charges to be collected and gives HML permission to use this card

## 14. Payment Terms

- 14.1 All payments for products shall be made by debit or credit card.
- 14.2 Payments for products and all applicable delivery and collection charges shall be made weekly in advance. HML will not charge the Hirer's debit or credit card until HML despatches the Hirer's order.
- 14.3 If the Hirer fails to make any payment on the due date then, without prejudice to any other right or remedy available to HML, HML shall be entitled to:
- cancel the contract and suspend any further supply of services to the Hirer until such time as the Hirer has paid in full including any interest under these conditions;
  - recover any products already delivered to the Hirer for which payment has not been received;
  - utilise any payment made by the Hirer to HML against payment due under this contract (even if this payment has been made under any other contract between the Hirer and HML) as HML may think fit; and
  - charge the Hirer interest (both before and after any judgement) on the amount unpaid, at the rate of 8% per cent per annum above Barclay's Bank plc's base lending rate from time to time, calculated on a daily basis, until payment in full is made and will be liable for reasonable legal charges incurred by HML in the recovery of amounts due.
- 14.4 The Hirer shall not be entitled to withhold any payment (or part thereof) or make any deduction from the amount invoiced by HML in respect of any set-off or counterclaim unless such deduction or withholding is agreed in advance by HML in writing.

## 15. Warranty

- 15.1 HML warrants that the product will correspond in all material respects with its description given on the Website at the time of delivery and for the duration of the contract.
- 15.2 The warrant in clause 15.1 does not apply where the defect arises from wilful damage, negligent use of the product, abnormal usage conditions, failure to follow HML's instructions (whether oral or in writing), misuse or alteration or repair of the product without HML's prior approval while the product is in the responsibility of the Hirer in accordance with the terms of this contract.
- 15.3 Nothing in any contract or these conditions shall exclude or limit either party's liability for death or personal injury caused by negligence, for fraudulent misrepresentations or for any other liability which cannot be legally excluded or limited.
- 15.4 Where any valid claim in respect of any product which is based on any defect in the quality, condition or quantity of the product is notified to HML in accordance with these conditions, HML shall be entitled to replace the product (or part of the product) free of charge, but this shall be the Hirer's sole remedy and HML shall have no further liability to the Hirer in this respect.
- 15.5 HML will not be liable or responsible for any failure to perform, or delay in performance of, any of its obligations under the contract that is caused by an Event Outside Our Control. An Event Outside Our Control is defined below in clause 15.6.
- 15.6 An "Event Outside Our Control" means any act or event beyond our reasonable control, including without limitation strikes, lock-outs, or other industrial action by third parties, civil commotion, riot, invasion, terrorist attack, war (whether declared or not) or threat or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster, or failure of public or private telecommunications networks or impossibility of the use of railways, shopping, aircraft, motor transport or other means of public or private transport.
- 15.7 If an Event Outside Our Control takes place that affects the performance of HML's obligations under a contract:
- HML will contact the Hirer as soon as reasonably possible to notify the Hirer; and
  - HML's obligations under the contract will be suspended and the time for performance of HML's obligations will be extended for the duration of the Event Outside Our Control. Where the Event Outside Our Control affects HML's delivery of products to the Hirer, HML will arrange a new delivery date with the Hirer after the Event Outside Our Control is over.

## 16. Title

All goods for hire purposes remain the property of HML. If payment (or part) is overdue, we reserve the right to remove the goods and may enter upon the hirer's premises for that purpose. The Hirer grants HML the right to enter his/her premises in this instance.

## 17. Risk Protection

Where appropriate the hire charges under the Agreement include insurance for the goods. Hirer is bound by and agrees to the terms and conditions of the insurance policy. (Terms are available on request or by following the insurance links on our website) An insurance policy will be supplied by the insurance company within 14 days of the delivery of the goods on hire.

## 18. What to do in case of accident or theft

If hirer has an accident he must immediately notify HML and the insurance company. Hirer should get the names and addresses of everyone involved, including witnesses. Hirer should also: make the product secure; tell the police immediately if anyone is injured or there is a disagreement as to the facts. Hirer must then fill in insurers incident report form (which must also be filled in if the product is stolen) and send it to the address given as soon as practically possible. Hirer shall remain liable irrespective of whether he has completed this form. PLEASE NOTE If the incident happens whilst with an Airline in flight or terminal, you have to note this to the airline whilst at the terminal and this is then covered by The Montreal Agreement. Read our site info.

## 19. HML's Right to Vary these Terms

HML may update these conditions periodically by giving the Hirer at least 30 days' advance notice in writing ("**Notice Period**") to the Hirer's email address. If HML makes a change to the contract which would reasonably be regarded as being to the Hirer's material detriment, the Hirer may terminate the contract by giving HML written notice within 14 days of receipt of notice of the change from HML, such termination to take effect on expiry of the Notice Period

## 20. Guarantee

For the purposes of this clause 20 the following definition shall apply:

- (a) **Guaranteed Obligations:** all monies, debts and liabilities of any nature from time to time due or owing from or incurred by the Hirer to HML.
- (b) In consideration of HML entering into this agreement, the Guarantor guarantees to HML that whenever the Hirer does not pay any of the Guaranteed Obligations as and when they fall due the Guarantor shall make due and punctual payment to HML on demand of the Guaranteed Obligations.
- (c) If the Guaranteed Obligations are, or become, unenforceable, invalid or illegal, the Guarantor agrees to indemnify and keep indemnified HML in full and on demand from and against all and any losses, costs and expenses suffered or incurred by HML arising out of, or in connection with, any failure of the Hirer to perform or discharge the Guaranteed Obligations.
- (d) The Guarantor as principal obligor and as a separate and independent obligation and liability from its obligations and liabilities

under clause 19.2 agrees to indemnify and keep indemnified HML in full and on demand from and against all and any losses, costs and expenses suffered or incurred by HML arising out of, or in connection with, any failure of the Hirer to perform or discharge the Guaranteed Obligations.

- (e) This guarantee is and shall at all times be a continuing security and shall cover the ultimate balance of all monies payable under this agreement, irrespective of any intermediate payment or discharge in full or in part of the Guaranteed Obligations.
- (f) The liability of the Guarantor under this guarantee shall not be reduced, discharged or otherwise adversely affected by:
  - i) any act, omission, matter or thing which would have discharged or affected the liability of the Guarantor had it been a principal debtor instead of a Guarantor or indemnifier;
  - ii) anything done or omitted by any person which, but for this provision, might operate or exonerate or discharge the Guarantor or otherwise reduce or extinguish its liability under this guarantee.
- (g) The Guarantor waives any right it may have to require HML (or any trustee or agent on its behalf) to proceed against or enforce any other right to claim for payment against any person before claiming from the Guarantor under this clause 20.

## 21. Information

HML will maintain the personal information on the Agreement as part of HML records to assist it to maintain and improve its administration and management.

## 22. Governing law

The Agreement is governed by the laws of England. Any dispute may be submitted to the non-exclusive jurisdiction of the English courts. If any provision of this Agreement is or becomes invalid or unenforceable the remaining provisions shall not be affected.

## IMPORTANT – YOU SHOULD READ THIS CAREFULLY

### YOUR RIGHTS

The Consumer Credit Act 1974 covers this agreement and lays down certain requirements for your protection which must be satisfied when the agreement is made. If they are not, the owner cannot enforce the agreement against you without a court order.

The Act also gives you a number of rights. You can end this agreement by writing to the person you make your payments to and giving at least 1 months' notice. In order to do this the agreement must have been allowed to run for at least 12 months 50% of the number of payments from due from the date of the original agreement though this may include the period of notice. You will have to make all payments and pay any amounts you owe until the date the agreement comes to an end. If you would like to know more about your rights under the Act, contact either your local Trading Standards Department or your nearest Citizens Advice Bureau.

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