

EQUIPMENT MASTER RENTAL AGREEMENT – TERMS AND CONDITIONS

1. DEFINITIONS

- (a) The **“Contract”** is the mutual agreement between the Owner and the Hirer for the hire of Equipment, which incorporates the Offer and is governed by these conditions.
- (b) The **“Owner”** is **Dayim Equipment Rental Co.** a company incorporated in the **State of Kuwait**, letting the Equipment on hire and includes their successors, assignees, or personal representatives.
- (c) The **“Hirer”** is the Company, firm, person, Corporation, or public authority taking the Owner’s Equipment on hire and includes their successors or personal representatives.
- (d) The **“Hire Period”** shall commence from the time when the Equipment leaves the Owner’s depot or place where last employed and shall continue until the Equipment is received back at the Owner’s named depot or other agreed location. For the avoidance of doubt the Hire Period includes the time Equipment is left on site during a Holiday Period.
- (e) **“Offer”** is the Owner’s offer to hire the Equipment to the Hirer which will include details of the Equipment to be hired, the Hire Period, relevant hire rates and charges and any supplementary conditions to be incorporated into the Contract.
- (f) **“Equipment”** covers all classes of Equipment, or replacement Equipment, machinery, vehicles, equipment accessories, and any ancillary items, vehicles or equipment therefor, which the Owner agrees to hire to the Hirer, or anything which is supplied by the Owner to effect the hire, and anything supplied by the Owner for the safe operation and routine inspection and maintenance of the Equipment.
- (g) **“Operator”** is a person who operates the equipment as per OEM User manuals.
- (h) A **“Working Day”** shall be minimum 10 hours per day, Saturday to Thursday, unless otherwise specified in the quotation.
- (i) **Monthly rate:** Represents 26 working days of 10 hours per day (260 hours) per month unless otherwise specified in the quotation.
- (j) **Weekly Rate:** Represents 6 working days of 10 hours per day (60 hours) per week unless otherwise specified in the quotation.
- (k) **Daily rate:** Represents 1 working day of 10 continuous hours (10 hours) per day unless otherwise specified in the quotation.

2. EXTENT OF CONTRACT

No terms, conditions, or warranties other than as specifically set forth in the Offer shall be deemed to be incorporated or to form part of the Contract or shall otherwise govern the relationship between the Owner and the Hirer in relation to the hire of any Equipment pursuant to the Offer. This excludes all other terms or conditions which the Hirer may seek to apply under any order or acknowledgement or acceptance or similar document and supersedes all prior negotiations, representations, or agreements, whether written or oral unless and to the extent that they are expressly accepted in writing and signed by the Owner.

3. ACCEPTANCE OF EQUIPMENT

Acceptance of the Equipment on site implies acceptance of all terms and conditions herein unless otherwise previously agreed in writing.

4. UNLOADING AND LOADING

The Hirer shall be responsible for the unobstructed access and egress and, unless otherwise agreed in writing, for unloading and loading of the Equipment at the site; and any personnel supplied by the Owner for such unloading and/or loading shall be deemed to be under the direction and control of the Hirer. Such personnel shall for all purposes in connection with their employment in the unloading and/or loading of the Equipment be regarded as the servants or agents of the Hirer (but without prejudice to any of the provisions of clause 14) who shall be solely responsible for all claims arising in connection with unloading and/or loading of the Equipment by, or with the assistance of, such personnel.

5. DELIVERY IN GOOD ORDER AND MAINTENANCE: INSPECTION REPORTS

- (a) It is the responsibility of the hirer to ensure the safe keeping of the Equipment and its use in a workmanlike manner within the manufacturer’s rated capacity and in accordance with the manufacturer’s and/or the Owner’s recommendations, and its return on the completion of the Hire Period in equal good order (fair wear and tear excepted).
- (b) It is the responsibility of the hirer to ensure its operators/agents and nominated users take all necessary steps to ensure that the equipment is fit for purpose and is in a safe operable condition. If such Equipment is continued at work or in use in an unsafe and unsatisfactory state or environment, the Hirer shall be solely responsible for any damage, loss, cost, expense, or accidents whether directly or indirectly arising therefrom.

6. SERVICING AND INSPECTION

The Hirer shall at all reasonable times allow the Owner, his agents, or his insurers to have access to the Equipment to inspect, test, adjust, repair, or replace the same. The Hirer shall allow such access during the Working Day/Hours.

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7. INSURANCE.

- (a) Both the Owner and the Hirer must ensure that they are fully covered by insurance against the risks involved in the hire of the Equipment and Equipment under these Terms and Conditions. Hirer needs to make sure Hirer's insurance covers Equipment.
- (b) The risk of loss, theft, damage, or destruction of the Equipment shall pass to the hirer from the moment that the Equipment passes into the possession, custody and/or control of the Equipment. The Equipment shall remain at the sole risk of the Hirer throughout the Hire Period and any further term as agreed between the parties until such time that the Equipment is accepted back by The Owner, or its authorized representative as confirmed by owner.
- (c) Throughout the Hire Period (and any extension thereof) the Hirer shall, at its own expense, obtain the insurance cover for loss, damage, fire, flood, terrorism, or theft to a value of not less than 100% of the Equipment value; third party and public liability insurance; transportation of the Equipment (for when the Equipment is in transit); and any and all other insurance related to the hiring and utilization of the Equipment as required by local law.
- (d) The Hirer shall be responsible for paying any deductible or excess due on any claims under such insurance policies.
- (e) On or before the start date of the Hire Period, the Hirer shall furnish The Owner with a copy of the relevant insurance policies outlined in clause (c)

8. GROUND AND SITE CONDITIONS

- (a) Its responsibility of the Hirer to have knowledge of the site or the property or land where the Equipment is to be delivered and the Hirer warrants that the condition of the site or place of delivery of the Equipment is suitable for the use of such Equipment.
- (b) If, in the opinion of the Hirer, the ground (including any private access road or track) is soft or unsuitable for the Equipment to work on, travel over, be transported over, be unload or dismantled on without support, the Hirer shall supply and lay suitable support in a suitable position for the Equipment to travel over, work on, be transported over, be loaded, or unloaded, including for the purpose of delivery and collection.
- (c) Any support material supplied by the Owner is provided solely to assist the Hirer under their duties within clause 8 (b) and expressly not to relieve him of his legal, regulatory, or contractual obligations to ensure adequate stability of the Equipment.
- (d) The Hirer is responsible for the protection of, and liable for any damage to, any underground, surface or above ground services and utilities including, but not limited to cables, ducts, water pipes and gas lines, and any pavements, bridges, tunnels, and roadways on or adjacent to the site and the Hirer shall liaise as necessary and comply with all requirements of the relevant statutory authority or similar body.

9. HANDLING OF EQUIPMENT

- (a) When a driver or operator or any person is supplied by the Owner with the Equipment, it is responsibility of the hirer to ensure the operator is operating the Equipment as per OEM User Manual. Such drivers or operators or persons shall for all purposes in connection with their employment in the working of the Equipment be regarded as the servants or agents of the Hirer (but without prejudice to any of the provisions of clause 14) and the Hirer shall be solely responsible for all claims arising in connection with the operation of the Equipment by the said drivers / operators / persons.
- (b) The Hirer shall not allow any other person to operate such Equipment without the Owner's prior written consent.
- (c) Such drivers or operators or persons shall not operate any other Equipment or machinery or undertake work other than that for which they are supplied by the Owner unless previously agreed in writing between the Owner and the Hirer.

10. BREAKDOWN, REPAIRS AND ADJUSTMENT

- (a) Any breakdown or the unsatisfactory working of or damage to any part of the Equipment must be notified immediately to the Owner and confirmed in writing. Any claim for breakdown time will only be considered from the time and date at which written notification is received and acknowledged by the Owner.
- (b) Full allowance for the hire charges set out in the Offer will be made to the Hirer for any stoppage due to breakdown of the Equipment caused by the development of either an inherent fault or a fault not ascertainable by reasonable examination or fair wear and tear and for all stoppages for normal running repairs in accordance with the terms of the Contract.
- (c) The Hirer shall not (except for repair of punctures), repair, modify or alter the Equipment without the prior written permission of the Owner. The changing of any tyre and repair of punctures are however the responsibility of the Hirer who should arrange for them to be changed / repaired. The Hirer is responsible for all costs incurred in the changing or replacement of any tyre (which must be of an equivalent specification) as approved by the Owner and for the repair of any puncture.

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- (d) The Hirer shall be responsible for all expense involved arising from any breakdown, unsatisfactory working of or damage to any part of the Equipment due to the Hirer's negligence, misdirection, or misuse of the Equipment, whether by the Hirer or his employees or operator. The Hirer is responsible for the cost of spares and/or repairs due to theft, loss, or vandalism of the Equipment.
- (e) Any breakdowns will be repaired by Owner, on site. In case of a breakdown that requires more than 48 hours, Owner will replace the unit, subjected to availability. Hirer will bear all expenses for replacement of Equipment in case of breakdown due to Hirer's negligence, misdirection, or misuse of the Equipment.

11. OTHER STOPPAGES

No claims will be admitted (other than those allowed for under "Breakdown" (clause 10) as herein provided), for stoppages through causes outside the Owner's control, including but not limited to bad weather and/or ground conditions, public holidays nor shall the Owner be responsible for the cost or expense of recovering any Equipment from soft or unsuitable ground, or a hazardous environment. For the avoidance of doubt, the Hirer shall be responsible for the cost and expense of recovering any Equipment from soft or unsuitable Site/location/Project or a hazardous environment.

12. LOSS OF OTHER EQUIPMENT DUE TO BREAKDOWN

Each item of Equipment specified in the Contract is hired as a separate unit and the breakdown or stoppage of one or more units or vehicles (whether the property of the Owner or otherwise) through any cause whatsoever, shall not entitle the Hirer to compensation or allowance for the loss of working time by any other unit or units of Equipment working in conjunction therewith, provided that where two or more items of Equipment are expressly hired together as a unit, such items shall be deemed to be one unit for the purpose of breakdown.

13. LIMITATION OF LIABILITY

- (a) Except for liability on the part of the Owner which is expressly provided for in the Contract (including these clauses):
- (b) the Owner shall have no liability or responsibility for any loss, or damage of whatever nature due to or arising through any cause beyond his reasonable control; and
- (c) the Owner shall have no liability or responsibility, whether by way of indemnity or by reason of any breach of the Contract, breach of statutory duty or misrepresentation or by reason of the commission of any tort (including but not limited to negligence) in connection with the hire, for any of the Hirer's loss of profit, loss of use of the Equipment or any other asset or facility, loss of production or productivity, loss of contracts with any third party, liabilities of whatever nature to any third party, and/or any other financial or economic loss or indirect or consequential loss or damage of whatever nature; and
- (d) whenever the Contract (including these clauses) provides that any allowance is to be made against hire charges, such allowance shall be the Hirer's sole and exclusive remedy in respect of the circumstances giving rise to the allowance, and such remedy shall be limited to the amount of hire charges which would otherwise be or become due if the allowance in question had not been made.
- (e) For the avoidance of doubt, nothing in these conditions limits or seeks to exclude the Owner's liability for claims of death or personal injury caused by the Owner's negligence, fraud or for any other liability for which it is not permitted to seek to limit or exclude by operation of law.

14. HIRER'S RESPONSIBILITY FOR LOSS AND DAMAGE

- (a) For the avoidance of doubt, it is hereby declared and agreed that nothing in this clause affects the operation of clauses 4, 5, 9 and 10 of these conditions.
- (b) For the duration of the Hire Period which for the avoidance of doubt includes the time Equipment is left on site), the Hirer shall, subject to the provisions referred to in sub paragraph (a) make good to the Owner all loss of or damage to the Equipment from whatever cause the same may arise, fair wear and tear excepted, and except as provided in clause 10 herein, and shall also fully and completely indemnify the Owner and any personnel supplied by the Owner in respect of all claims by any person whatsoever for injury to person or property caused by or in connection with or arising out of the storage, transit, transport, unloading, loading or use of the Equipment during the continuance of the Hire Period, and in connection therewith, whether arising under statute or common law. In the event of loss of or damage to the Equipment, hire charges shall be continued at contractual rates until the settlement has been agreed.
- (c) Notwithstanding the above the Hirer shall not be responsible for damage, loss, or injury:
 - i. Prior to delivery of any Equipment to the site (or, where the site is not immediately adjacent to a highway maintainable at the public expense, prior to it leaving such highway) where the Equipment is in transit by transport of the Owner or as otherwise arranged by the Owner,

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- ii. After the Equipment has been removed from the site and is in transit on a highway maintainable at the public expense (or where the site is not immediately adjacent to a highway maintainable at the public expense after it has joined such highway) to the Owner by transport of the Owner or as otherwise arranged by the Owner,
- iii. Where the Equipment is travelling to or from a site on a highway maintainable at the public expense (or, where the site is not immediately adjacent to a highway maintainable at the public expense, prior to its leaving or after it is joining such highway) under its own power with a driver supplied by the Owner.

15. NOTICE OF ACCIDENTS

If the Equipment is involved in any accident resulting in injury to persons or damage to property, immediate notification must be given by the Hirer to the Owner by telephone and confirmed in writing to the Owner no later than 12 hours after such telephone notification (including of incident report, pictures, and in case of road accident then police report must be provided). In relation to any claim in respect of which the Hirer is not bound to fully indemnify the Owner, no admission of liability, offer, promise of payment or indemnity shall be made by the Hirer without the Owner's prior written permission.

16. RE-HIRING ETC.

Neither the Equipment nor any part thereof shall be re-hired, sub-let, or lent to any third party without the prior written permission of the Owner.

17. CHANGE OF SITE

The Equipment shall not be moved from the site to which it was delivered or consigned without the prior written permission of the Owner.

18. RETURN OF EQUIPMENT FOR REPAIRS

If during the Hire Period, the Owner decides that urgent repairs to the Equipment are necessary then he may arrange for such repairs to be carried out on site or at any location of his nomination. In the event that urgent repairs to the Equipment are necessary the Owner shall be obliged to replace the Equipment with similar Equipment subject to availability, the Owner (but without prejudice to any of the provisions of clauses 10 and/or 14) paying all transport charges involved. In the event of the Owner being unable to replace the Equipment owner shall be entitled to terminate the Contract forthwith (but without prejudice to any of the provisions of clauses 10 and/or 14) by giving written notice to the Hirer. If such termination occurs the Owner shall be liable only for the cost of return transport.

19. BASIS OF CHARGING

- (a) Minimum Hire Charges – The standard hire period is for one month. This represents a minimum of 10 continuous working hours per day, 26 days per month. For hire periods that exceed one month, the monthly rate will apply, and any partial month will be calculated on a pro rata basis based on the number of days on hire. Any use less than 10 hours per day regardless of reason, except for valid breakdowns will be charged at the daily rate and there will be no reduction for any other reason whatsoever. This includes, public or national holidays and any other times where working hours may be reduced.
- (b) Any additional hours will be charged on a pro rata basis, or in the event of an additional shift the double shift rate will apply as specified in the quotation. These charges are applicable regardless of the actual machine hours.
- (c) If the hire was originally planned for one month but does not exceed one month then the weekly rate will apply. If the weekly rate has not been specified in the quotation, then the weekly rate is calculated as the monthly rate divided by 3.
- (d) If the hire was originally planned for a week but does not exceed one week then the daily rate will apply. If the daily rate has not been specified in the quotation, then the daily rate is calculated as the weekly rate divided by 4
- (e) It is the responsibility of the hirer to repair and change tyres and no reduction in hire charge will be made for this period.
- (f) Except for equipment supplied with Operator, the Owner does not accept any timesheets that are maintained by the hirer as a basis of invoice submission, invoice approval and payment. Payment terms will remain as per our Standard T&C's of rental.
- (g) From time to time the hirer may request for additional services from the Owner such as but not limited to Calibration, Certification, Voltage Changes, site surveys and such services that incur additional costs will be charged at an agreed rate with the hirer. Where Equipment is on hire, during such a time, the full hire charges will be applicable.
- (h) The hirer warrants that it shall pay all taxes and encumbrances which may now or hereafter be imposed upon the renting or use of equipment or any other charges, including without limiting the generality of the foregoing, any and all taxes at whatever rates that are currently or may be in effect with respect to sales tax, value added tax and/or goods and services tax or any other applicable taxes, duties and levies.

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20. EQUIPMENT HIRED ON A DAILY BASIS WITHOUT QUALIFICATION AS TO HOURS

The full daily rate will be charged on a daily basis irrespective of the hours worked except in the case of breakdown for which the Owner is responsible, when the actual hours worked will be charged pro rata of the average Working Day. No hire charge shall be made for Friday unless the Equipment is actually worked or if the Contract is for open hours.

21. EQUIPMENT HIRED BY THE WEEK OR MONTH WITHOUT QUALIFICATION AS TO HOURS

The weekly or monthly rate shall be charged irrespective of the number of hours worked, except in the case of breakdown for which the Owner is responsible when an allowance pro rata of the agreed weekly rate or pro rata of the agreed monthly rate will be made for each full Working Day. In case of Early off hires, then without prejudice Owner will charge based on clause 19(g).

22. COMMENCEMENT AND TERMINATION OF CONTRACT (TRANSPORT OF EQUIPMENT)

- (a) The Hire Period shall commence from the time when the Equipment leaves the Owner's depot or place where last employed and shall continue until the Equipment is received back at the Owner's named depot or other agreed location.
- (b) If the Equipment is not made available for collection as agreed between the parties in written, such Equipment shall remain on hire. The Hirer shall be responsible for the safekeeping of the Equipment and for all the reasonable costs and expenses incurred by the Owner in seeking to collect such Equipment.
- (c) Upon the completion of the Hire Period, the Hirer shall clean and where necessary, decontaminate the Equipment. All fuel and contaminants will be removed from bunds, storage tanks and bowsers. The Hirer shall be liable for any costs, liabilities and expenses incurred by the Owner should the Hirer fail to comply with this clause.

23. HIRER'S LIABILITY DURING THE NOTICE OF TERMINATION OF CONTRACT

- (a) Where the Hire Period is indeterminate or having been defined becomes indeterminate the Contract shall be terminable by seven days' notice in writing given by either party to the other except in cases where the Equipment has been lost or damaged. Notwithstanding that the Owner may have agreed to accept less than 7 days' notice of termination, the Hirer's obligations under clause 14 shall continue until the Equipment is returned to the Owner in accordance with clause 28 or until the Owner has collected the Equipment within the 7 days following the acceptance of short notice. Oral notice given by the Hirer to the Owner or Owner's driver, or operator or representative shall not be deemed to constitute compliance with the provisions of this clause.
- (b) Without prejudice to clause 23(a), should the Hirer fail to make the Equipment available for collection by the Owner before the end of the 7-day notice, the Hirer's obligations under clause 14 shall continue for a further 3 days or until such time as the Equipment is made available for collection and the Owner has collected the Equipment. For the avoidance of doubt, where the Hirer gives a notice pursuant to clause 23(a) but subsequently and with the consent of the Owner, withdraws such notice, the obligations of clause 14 shall continue to apply and the requirements of clause 23(a) will apply to any later termination of the Contract.
- (c) If the Hirer terminates the Contract before the Hire Period commences, then the Hirer is liable for all reasonable costs and charges incurred by the Owner or to which the Owner is committed at the time of termination.

24. OTHER CHARGEABLE ITEMS RELATING TO DRIVERS AND OPERATORS OF EQUIPMENT

All chargeable items (Food, Accommodations, transportation, and all out of pocket expenses) shall be paid by the Hirer at the rates set out in the Contract.

25. TRAVELLING TIME AND FARES

No charge shall be made by the Owner for any such expenses incurred by the Owner's employees or representatives for the purpose of servicing, repair, or maintenance of Equipment, unless necessitated by the Hirer's negligence, misdirection, or misuse of the Equipment.

26. FUEL, OIL AND GREASE

Fuel and oil, when supplied by the Owner, will be charged/not charged as per the agreed Contract, and when supplied by the Hirer, shall be of a grade or type specified by the Owner. The Hirer shall be solely responsible for all damages, losses, costs, and expenses incurred by the Owner if the Hirer uses the wrong fuel, oil, or grease.

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27. OWNER'S NAME DECALS

The Hirer shall not remove, deface, or cover up the Owner's name decals or mark on the Equipment indicating that it is his property, without the prior written permission of the Owner. Owner reserves the right to charge hirer for the making good of the equipment back to its original condition.

28. TRANSPORT

The Hirer shall pay the cost of and if required by the Owner, arrange transport of the Equipment from the Owner's depot or other agreed location to the site and return to the Owner's named depot or other agreed location on completion of the Hire Period. Hirer is responsible for arranging at Hirer's cost, all Gate/Site passes, and all security requirements that Owner will need to provide the Services. Any Delay in loading and offloading will charged at cost plus 10%

29. GOVERNMENT REGULATIONS

- (a) The Hirer will be responsible for compliance with relevant regulations issued by the Government or Local Authorities.
- (b) The Hirer shall indemnify the Owner against any charges or fines that the Owner may become liable for as a result of the operation of the Equipment during the Hire Period.

30. PROTECTION OF OWNER'S RIGHTS

- (a) The Hirer shall not re-hire, sell, mortgage, charge, pledge, part with possession of or otherwise deal with the Equipment except as provided under clause 17 and shall protect the same against distress, execution or seizure and shall indemnify the Owner against all losses, damage, costs, charges, and expenses arising as a direct result of any failure to observe and perform this condition except in the event of Government requisition.
- (b) The Owner may terminate the Contract forthwith by written notice to the Hirer if one or more of the following events occur:
 - i. The Hirer defaults in punctual payment of any sum due to the Owner for hire of Equipment or other charges payable pursuant to these conditions.
 - ii. The Hirer fails to observe and perform the terms and conditions of the Contract.
 - iii. The Hirer suffers, or the Owner reasonably believes that the Hirer shall suffer, any distress or execution to be levied against him.
 - iv. The Hirer makes or proposes to make any arrangement with his creditors or becomes insolvent or any amendment or re-enactment thereof for the time being in force; or
 - v. The Hirer does or causes to be done or permit or suffer any act or thing whereby the Owner's rights in the Equipment may be prejudiced or put into jeopardy.
- (c) In the event of termination under sub-paragraph (b) above:
 - i. The Hirer must give the Owner or his agents, immediate unobstructed access to recover the Equipment.
 - ii. The Owner shall be entitled to claim the hire charges outstanding as at the date of termination of the hire under this clause and return transport charges under clause 28.
- (d) The rights under sub-paragraph (b) and (c) above:
 - i. May be exercised notwithstanding that the Owner may have waived some previous default or matter of the same or a like nature.
 - ii. Shall not affect the Owner's right to claim damages for breach of Contract or recover any sums due under the Contract as a debt.
- (e) If the Hirer does not make payment of a sum by the final date on which payment is due to be made, the Owner has the right to suspend performance of its obligations under the Contract. The right to suspend may not be exercised without first giving to the Hirer at least 7 day's notice in writing of the Owner's intention to suspend performance, stating the ground or grounds on which the Owner intends to suspend performance. The right to suspend performance will cease when the Hirer makes payment in full of the amount due.

31. DISPUTE RESOLUTION

- (a) If the site is situated within the **State of Kuwait**, then the court whose jurisdiction covers the site will have exclusive jurisdiction and interpretation of the law for this Contract. If the original site is not situated within the **State of Kuwait**, then the relevant jurisdiction and interpretation of the law of the Contract will be governed by the country where the Owner's head office is located.

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- (b) Both parties to the Contract have a right to refer any difference or dispute arising under or in connection with the Contract to adjudication and the procedure set out by **State of Kuwait** (or any amendment or re-enactment thereof for the time being in force) will apply.

32. LATE PAYMENTS

The Owner reserves the right to charge the Hirer for the costs associated with the late payment of any outstanding invoices, such as

- (a) Administrative Charges
- (b) Legal Charges
- (c) Hire Charges: Charges will be applied for each hire from the time the equipment leaves the Owner's depot until it is returned back to the Owner's depot. Invoices will be raised on a regular basis and payment must be received in the agreed currency by the Owner within the allowed payment terms as stipulated in the contract.
- (d) For any invoices that remain unpaid beyond the agreed credit period, an administration charge of two percent of the invoice value will be added every month until full payment is received.

33. SEVERABILITY

If any of these clauses are held to be unlawful, void, or unenforceable, then that clause will be deemed severable and will not affect the validity and enforceability of the remaining clauses, to the extent permitted by law.