

1. DEFINITIONS

- (a) "The goods" covers all classes of equipment and accessories thereto which the Owners agrees to hire the Hirer.
- (b) A "week" means five working days Monday to Friday.
- (c) A "year" means 52 weeks.
- (d) The hire period means the period for which the Hirer agrees to hire the goods, which period shall begin on the commencement date as stated on page one of the agreement.
- (e) The "hire rate" means such sum as is set out under the heading "Hire Rate" on page one of the agreement subject to any variation under the provisions of clause 24(b) of these Terms and Conditions of hire.
- (f) The "total payment" means the sum arrived at by multiplying the hire rate such as it may be from time to time by the number of weeks in the hire period and shall include the Value Added Tax (if any) payable in respect of the service rendered at the rate prevailing from time to time.

2. EXTENT OF THE AGREEMENT

No condition or warranty other than as is herein specially set out shall be implied as or deemed to be part of this agreement.

3. AVAILABILITY OF GOODS

The goods are offered subject to their being available for hire when the Hirer's acceptance of the Agreement is received by the owner.

4. DELIVERY OF GOODS

Unless notification in writing to the contrary is received by the owner from the Hirer within three working days of delivery of the goods to site, the goods shall be deemed to be in good order and to the Hirer's satisfaction. The Hirer shall be responsible for their safe keeping and their use in a workmanlike manner in accordance with the manufacturer's rated capacity and shall be returned on completion of the hire period in good working order (fair wear and tear excepted).

5. LIABILITY OF THE OWNER

- (a) The owner will accept no responsibility for the loss or damage caused as a result of the misuse or unsafe use or use contrary to the terms and conditions of the Agreement of the Goods by the Hirer its servants or agents.
- (b) The Owner will accept no responsibility for loss or damage suffered by the Hirer as a result of circumstances beyond the Owner's control.
- (c) Each item of the Goods specified in the Agreement is hired as a separate unit and the breakdown or stoppage of one or more units or vehicles included in the Goods through any cause whatsoever shall not entitle the Hirer to compensation or allowance for any loss of working time of any unit or units of fork trucks or other equipment working in conjunction therewith.
- (d) The Owner accepts no liability for any consequential loss or damage suffered by the Hirer arising from the breakdown or stoppage of the Goods from any cause whatsoever or from non-delivery of the Goods arising from accident or breakdown during loading or unloading or transport of the goods.

6. OPERATION OF THE GOODS

Unless otherwise specifically agreed, the operator of the goods shall be provided by the Hirer and shall be 18 years of age or over and shall be authorised to operate the Goods in accordance with the Health and Safety at Work Act 1974 and the Health and Safety Commission Approved Code of Practice 1988.

7. INSURANCE

- (a) Immediately after the signing of this Agreement the Hirer shall insure the Goods and keep the same insured during the continuance of the hiring against loss or damage by accident fire and theft to the full replacement value thereof with some insurance company to be approved by the Owner under a comprehensive policy of insurance free from restriction or excess in the joint names of the Owner and the Hirer or in the name of the Hirer bearing an endorsement recording the Owner's interest in the Goods and stating that no payment is to be made to the Hirer under the policy until the Owner's interest has been discharged and in default of the Hirer so doing the Owner may insure as aforesaid and recover the cost from the Hirer forthwith. The Hirer hereby irrevocably appoints the Owner its agent for the purposes of receiving all monies payable under the said policy (which money shall be applied as provided in Sub-Clause (c) and (d) of this Clause) and giving a discharge therefore.
- (b) The Hirer shall punctually pay all premiums under the said policy and produce the receipts for such payments on demand and do everything necessary to maintain the said policy in full effect and not do anything whereby the said policy will or may be vitiated.
- (c) If any of the Goods shall be damaged during the currency of the hiring and in the opinion of the insurers it is economic that such damage be made good all insurance monies payable under the said policy shall be applied in making good the said damage.
- (d) If any of the Goods shall be lost, stolen or destroyed to such an extent as to be in the opinion of the insurers incapable of economic repair the insurance monies payable under the said policy shall be paid to the Owner. Subject as aforesaid the loss, theft of damage to the Goods shall not discharge this Agreement or affect the Hirer's liability for payment of instalments herein

8. THIRD PARTIES

Where the goods are lost, stolen, destroyed or damaged by the negligence or wrongful act of a third party the Hirer shall immediately notify the Owner thereof and shall not compromise any claims without the consent of the Owner and shall not allow the Owner to take over the conduct of any negotiations (except in relation to claims of the hirer for personal injuries loss of use of Goods or loss of or damage to the property of the Hirer unconnected with the Goods) and shall at its own expense take such proceedings (in the Hirer's sole name or jointly with the Owner) as the Owner shall direct holding all sums recovered (together with any monies received by the Hirer under any policy of insurance taken out by the Hirer pursuant to the provisions of this agreement) on trust for the Owner and paying or applying as the Owner directs such part thereof as is necessary to discharge the Hirer's liability to the Owner at the date of such payment and to compensate the Owner for the loss, theft or destruction of or damage to the Goods any surplus being retainable by the Hirer for its own benefit.

9. (a) It is hereby agreed and declared that no liability shall attach to the Owner either in contact or in tort (excepting death of bodily injury) sustained by the Hirer or by its employee or by any third party by reason of any defect in the Goods whether such defect be latent or apparent on examination and shall not be liable to indemnify the Hirer in respect of any claim made against the Hirer by a third party for any such loss, injury or damage.
- (b) Without prejudice to the generality of the foregoing if the Goods are involved in any accident resulting in personal injury or damage to property immediate notice must be given by the Hirer to the Owner by telephone and confirmed in writing to the Owner's registered office within 2 days.
- (c) No admission, offer, promise of payment or indemnity in respect of third party claims shall be made by the Hirer without the Owner's consent in writing.

10. ROUTINE MAINTENANCE

- (a) The Hirer shall undertake daily routine maintenance including greasing and lubricating in accordance with the manufacturer's handbook and shall ensure that the engine and hydraulic oil levels, battery and cooling system levels and tyre pressures are correct.
- (b) Where the Goods shall include electric fork lift and reach trucks the Hirer shall ensure that the following battery and charger procedures are strictly adhered to: (i) No electric truck battery shall be discharged and recharged more than once in every 24 hours.
(ii) Acid levels must be checked daily and maintained at the correct level by the addition of pure distilled water only.
(iii)The instruction for use of the charging equipment must be correctly followed. When an equalised charge is given the charger must be switched off after 4 hours since the automatic charger termination relay only operates in the normal battery recharge position.

11. BREAKDOWN

- (a) Any breakdown or unsatisfactory working part of the Goods must notified immediately to the Owner by telephone.
- (b) The Hirer shall be responsible for all expenses involved arising from any breakdown and all loss or damage incurred by the Owner due to the Hirer's negligence, misdirection or misuse of the Goods whether by the Hirer or its servants or agents and for the payment of the hire at the appropriate rate during the period for which the Goods are not in use as a result of such breakdown.

12. LIABILITY OF THE HIRER

- (a) During the continuance of the hiring the Hirer shall make good to the owner all loss of or damage to the Goods from whatever cause (reasonable wear and tear excepted).
- (b) During the continuance of the hiring the Hirer shall fully and completely indemnify the Owner in respect of all claims made by any persons whatsoever for injury to person or property caused by or in connection with or arising out of the Hirer's use of the Goods and is respect of all costs and charges in connection therewith whether arising by statute or at common law.

13. SUITABILITY OF SITE

- (a) The Goods are hired subject to the owner's right to carry out an inspection of the site conditions before delivery. The Hirer shall not move Goods from the site to which they were delivered or consigned, unless prior written consent is obtained from the Owner.
- (b) If the site conditions change so as to affect the safety or manner of use of the Goods then the Hirer shall notify the Owner of such change or changes in writing forthwith and the Owner shall have the right to further inspect the site conditions, and if so advised, demand that the site conditions be changed for the better safety and/or proper use of the Goods.

14. SERVICING AND INSPECTION

The Hirer shall at all times allow the Owner its agents or insurers to have access to the Goods to inspect, test, repair or replace the same

15. REPAIRS AND ADJUSTMENTS

The Hirer shall not repair or attempt to repair the Goods unless specifically authorised in writing by the Owner. The Owner shall deal with those repairs which are the Owners responsibility as quickly as reasonably possible during the normal working hours of 8.30am to 5.00pm or outside these hours on request by the customer for which an out of hours charge will be levied by the Owner to the Customer. If the Goods are fitted with pneumatic tyres then the repair and cost of repair of punctures shall be the responsibility of the Hirer alone. At the commencement of the Hire period the Goods shall be fitted with tyres which are in the opinion of the Owner in reasonable condition. If such tyres wear out or are damaged beyond economic repair during the period of hire the Hirer shall be responsible for the cost of suitable replacement tyres. The hire rate shall also exclude replacement forks and seat.

16. RETURN OF THE GOODS FOR REPAIR

If at any time after the date of delivery any item of the Goods is in the opinion of the Owner in need of repair it may require the Hirer to stop the further use thereof until the necessary repairs have been carried out on site or at an appropriate depot of the Owner's choice as may be appropriate. In the event that the Goods are removed from site then the Owner shall be entitled to replace the Goods forthwith with similar plant and the Agreement shall continue as if the substitute plant had been the subject thereof. Where Goods are removed from site for the purpose of repair where the Owner is liable for the cost of such repairs under the terms of this Agreement then the Owner shall pay all transport charges incurred by the removal of the Goods and the and the Hirer shall pay delivery of the substitute plant. Where the hirer is liable for the cost of repair of the Goods under the terms of this Agreement then the Hirer shall be liable for all costs of loading/unloading and/or transport of the Goods and substitute plant.

17. FUEL, OILS, DISTILLED WATER AND GREASE - Fuel, oils, distilled water and grease shall be supplied by the Hirer at the Hirer's cost.

18. OWNERS PLATES –

The Owner may affix its plates or mark on the Goods indicating that it is its property and the Hirer shall not remove, deface or cover up the same.

19. USE ON THE PUBLIC HIGHWAY - The Goods must not be used by the Hirer its servants or agents on the public highway unless

- (a) The Owner's previous consent in writing is obtained and
- (b) All necessary licences for such use are obtained by the Hirer at the Hirer's expense and
- (c) Arrangements for all insurances required by law in respect of such use are made by the Hirer at the Hirer's expense and
- (d) The operator of the Goods holds a licence entitling him to drive them on the public highway. Where Road Fund Licences are arranged by the Owner the net cost shall be chargeable to the Hirer in addition to the hire rate.

20. STATUTORY REQUIREMENTS, REGULATIONS AND BYLAWS

The Hirer will be responsible for compliance with all regulations issued by HM Government or Local Authorities including Building (Safety Health & Welfare) Regulations and observance of the Road Traffic Act should they apply and any special insurances made necessary thereby.

21. DEALING WITH THE GOODS - The Hirer shall not sub-let, lend or part with possession or otherwise deal with the Goods or any part thereof or create or allow to be created any lien on the Goods whether for repairs or otherwise and in the event of any such breach of this clause by the Hirer the Owner shall be entitled (but shall not be bound) to pay to any third party such sum as is necessary to procure the release of the Goods from any encumbrance or lien and shall further be entitled to recover such sum from the Hirer forthwith.

22. COSTS

The Hirer shall pay the Owner all expenses (including all legal costs on a full indemnity basis) incurred by or on behalf of the Owner in ascertaining the whereabouts of taking possession of preserving, insuring and storing the Goods and of any legal proceedings taken by or on behalf of the Owner to enforce the provisions of the Agreement.

23. AUTOMATIC TERMINATION OF THE AGREEMENT - Upon the happening of any of the following events;

- (i) The Hirer's failure to make payment of any of the sums payable under this Agreement for a period of more than 7 days after the same shall have become due or
- (ii) The Hirer's failure to observe or perform any of the other terms and conditions of this Agreement whether express or implied or
- (iii) The Hirer's failure to comply with any demand made by the Owner pursuant to Clause 12(b) hereof or
- (iv) The Hirer becoming insolvent or committing an act of bankruptcy or being subject to an order of winding-up or having a receiving order made against it or making any arrangements with its creditors or if distress or execution shall be levied or threatened upon any of the Hirer's property or any judgement against the Hirer shall remain unsatisfied for more than 14 days or of the Hirer shall abandon the Goods the agreement shall automatically and without notice determine and thereafter the Hirer shall be deemed no longer to be in possession of the Goods with the Owner's consent and the Owner shall be entitled without notice to retake possession of the Goods and for that purpose by itself, its servants or agents enter upon any land or premises on or in which the Goods are or believed by the Owner to be situated and the Hirer shall pay to the Owner the amount of the total payment defined in Clause 1(f) of these terms and conditions of hire less the sums previously paid under the Agreement.

24. STATEMENTS OF EXTENT OF USE

The Hirer shall render to the Owner each week an accurate statement of the number of hours each unit of the Goods has been in use the previous week where such use is in excess of 40 hours.

25. BASIS OF CHARGING

- (a) The Owner reserves the right to increase the hire rate payable under the Agreement during the hire period in line with any increase in the Retail Price Index at the end of each year of the hire period. Such increase shall be notified to the Hirer by the Owner in writing and shall take effect from the next yearly anniversary date of the Agreement after service of the Notice.
- (b) The Goods shall be hired for a minimum period of one week or any such longer period as may mutually be agreed between the Owner and the Hirer from time to time during the continuance of the Agreement. Odd days at the beginning and end of the hire period shall be charged pro-rata.
- (c) All fork truck units will be fitted with a time clock or hour meter. The hire rate over is based on an agreed truck use per week. Any hours worked over and above this are charged at the stated excess hourly charge.
- (d) The weekly hire rate is exclusive of collection and delivery charges. The Hirer shall pay all collection and delivery charges save as provided in Clause 16 of the Agreement.

26. It is hereby agreed and declared that no dealer or supplier through whom this Agreement was negotiated or by whom the Goods were supplied is or is deemed to be the Agent of or acting on behalf of the Owner for any conditions, warranties or representatives made by such dealer or supplier or person in the employ of such dealer or supplier.

27. SUB-HEADINGS

The sub-headings are inserted for convenience of reference only and shall not in any way affect the construction means or effect of anything herein contained nor govern the rights of the parties hereto. 8/6/2021