

1. DEFINITIONS

- (a) The Company firm or person letting the Plant on hire is hereinafter referred to as the "Owner" and this expression includes his successors.
- (b) The "Hirer" is the Company firm or person taking the Owner's Plant on hire and this expression includes his successors or personal representatives.
- (c) "Plant" shall include any machine or part thereof and any attachments or fittings or replacements or any other thing hired under this Contract.
- (d) "Regulations" means any Act of Parliament, Order, regulation, bye-law or other similar instrument whether national or local, including any amendment thereto or re-enactment or replacement thereof.
- (e) "Hire Rate" shall be the rate of hire for the Plant as provided overleaf and subject to the provisions of these General Terms and Conditions of Hire.

2. ACCEPTANCE

- (a) Unless otherwise agreed, the Hirer's order, whether oral or in writing, for the supply of Plant shall be construed as an expressed acceptance of these General Terms and Condition of Hire, and in so far as any provisions of the Hirer's said order be inconsistent therewith, these General Terms and Conditions of Hire shall be deemed to prevail.
- (b) Any variations or purported variations of these General Terms and Conditions shall be deemed to be of no effect unless otherwise agreed in writing signed by director or principal of the Owner.
- (c) Unless notification in writing to the contrary is received by the Owner from the Hirer within three working days of the Plant being delivered to the site, the Plant shall be deemed to be in good order, save for either an inherent fault or a fault not ascertainable by reasonable examination, in accordance with the terms of the Contract and to the Hirer's satisfaction. The Hirer shall be responsible for its safekeeping, use in a workmanlike manner within the Manufacturer's rated capacity and return on the completion of the hire in equal good order (fair wear and tear excepted).

3. COMMENCEMENT OF HIRE

Subject to the provisions of this Contract, the Owner shall supply the Plant on the delivery date and at the site stated overleaf. The period of hire shall start on such delivery. Hire charges shall commence on delivery unless otherwise stated on the face of this Contract. Responsibility for loss or damage to the Plant is accepted by the Hirer from the time the Plant is delivered to the site until it is removed from the site by, or on the instructions of the Owner. This responsibility will also apply whilst the Plant is on site during any period prior to the commencement of the hire period or after its termination whilst the Plant is awaiting collection.

- 4. The Hirer undertakes that where the purpose for which the Plant shall be utilised shall be one which qualifies the Owner to obtain the appropriate Government Grant or any similar grant, the Hirer agrees that he will not take any action which may disqualify the Owner from obtaining such Grant similar grant and will compensate the Owner to the full extent of any refund which the Owner is required to make to the Department of Trade and as a result of any such disqualification.

5. MAINTENANCE AND REPAIR

Owner's Obligations

- (a) The Owner shall ensure that at commencement of the hire Plant shall be of sound construction and in good working order and properly maintained and that at that time all Regulations regarding construction, maintenance testing and inspection applicable to the Plant have been complied with.
- (b) The Owner shall (save as hereinafter provided) carry out and provide all necessary repairs and replacements as quickly as reasonably possible, and so far as reasonably possible and during normal working hours. Cab equipment, lights, alarms, and attachments are not included **Hirer's Obligations**
- (a) The Hirer shall repair all punctures and replace all damaged tyres at his own expense. Should the truck be on hire for a period longer than 12 weeks. The Hirer shall replace any worn tyres at his own expense subject to a discount. Should the truck be on hire for a period longer than six months, the full cost for replacement tyres shall be met by the Hirer, but save as aforesaid he shall not repair the Plant or make replacement or alterations unless authorised to do so by the Owner parts must be of the same standard. Any replacements by the Hirer shall forthwith become the property of the Owner, and part of the Plant unless otherwise agreed in Writing.
- (b) The Hirer shall forthwith notify the Owner if the Plant breaks down or fails to work properly, or if any repairs or replacements are necessary.
- (c) The Hirer shall at all reasonable times allow the Owner or its accredited representative or its insurers representatives to have access to the Plant to inspect, test, adjust, repair or replace the same.
- (d) The Hirer shall provide fuel, oil, and grease and shall carry out a daily check to ensure that the correct engine, hydraulic, transmission and cooling system levels are maintained, and shall take steps to ensure the protection of the Plant from damage by frost, including the use of a suitable anti-freeze mixture in the proportion specified by the makers of the Plant, regular cleaning, the maintenance of the correct tyre pressures and the tightening of wheel nuts.
- (e) Without prejudice to the generality of the foregoing the Hirer shall cause the following steps to be taken to maintain any traction battery forming part of the Plant.
 - (i) Battery must be properly charged, must at no time be operated in a discharged condition and must be allowed to cool for at least an hour before use.
 - (ii) Battery must be checked daily to ensure the correct level of distilled water is maintained, and the battery must be cleaned and kept free of all corrosion.
- (f) It is the Hirer's responsibility to have the equipment examined for insurance purposes and to fulfil any statutory obligations laid down in law. It is also the Hirer's responsibility to meet all costs involved in this throughout the period of hire.

6. HIRER'S LIABILITY FOR LOSS OR DAMAGE

- (a) The Hirer accepts full responsibility to the Owner for loss or damage to or destruction of the Plant suffered during the period of hire from whatever cause the same may arise (fair wear and tear or Owner's negligence excepted) and is fully responsible to the Owner for the safekeeping of the Plant and its return in equal order to the Owner at the end of the hire (fair wear and tear excepted).
- (b) The Hirer accepts all liability and responsibility in respect of, and shall fully and completely indemnify the Owner against, all third party claims and losses howsoever arising in respect of damage to or loss or destruction of any property or in respect of the personal injury or death of anybody in any way caused by or relating to the Plant or its use (including but not limited to the payment of all damages costs and charges in connection therewith) except insofar as the damage, loss, destruction, injury or death directly results from the negligence of the Owner its employees or agents.

7. PAYMENT

- (a) Unless otherwise set out overleaf the Owner shall pay invoices (to include where applicable the price of transport to and from the site and insurance and licensing effected by the Owner pursuant to Clause 10(c) hereof) at the commencement of hire for the Plant, the Hirer shall pay by standing order all rentals monthly in advance on commencement of the hire contract, failure to pay by standing order will incur an increase of 10% on the weekly hire rate.
- (b) Immediately upon the hiring being terminated by the Owner in accordance with sub-Clause 13(b) hereof the Hirer shall pay to the Owner (in addition to any compensation payable hereunder) all moneys then accrued due under this Contract and any moneys which the Owner may be liable to pay to any third party by reason of any seizure and removal.
- (c) The Hirer shall pay the Owner forthwith for all repairs and replacements to the Plant, except for repairs and replacements arising from fair wear and tear or from notification (given under the proviso to paragraph (a) of the Owners obligations) under Clause 5 hereof.

8. VARIATION IN HIRE RATES

The Owner reserves the right to increase the Hire Rate quoted by the proportional difference between the Retail Price Index most recently published by the Department of Trade and Industry (or any successor, Ministries or Departments) prior to the date of this Quotation/Contract and the Retail Price Index published in the month of delivery of the equipment and thereafter at twelve monthly intervals. The Hire is based on the use of the Plant for up to 40 hours in any week unless otherwise set out overleaf. Any additional hours will be charged at £3.00 per hour

9. SUBLETTING

The Hirer shall not without consent of the Owner assign, sub-let, mortgage, charge, pledge, part with possession of or otherwise deal with Plant.

10. HANDLING OF PLANT

- (a) The Plant shall remain the property of the Owner buy shall at all times after delivery to the site be under the direction or control of the Hirer only. The Hirer is fully responsible to the Owner for the use of the Plant only for purposes and in places for which it is suitable and for his own business and in a skilful safe and workmanlike manner and in accordance with the Regulations. If the Plant should become bogged down or should for any other reason require recovery, then the Hirer shall be responsible for all costs incurred.
- (b) The Hirer shall employ a driver who has received proper training (not being less than 18 years of age) to operate the Plant in a safe and proper manner. Where however the Owner provides the services of a driver with the Plant, such driver will be competent and shall work under the supervision and instruction of the Hirer or the Hirer's representative. For the duration of the hire the driver shall be deemed to be a servant of the Hirer who alone shall be responsible for his actions as though he were in the Hirer's direct employ. The Hirer shall not allow any person other than the driver provided by the Hirer or the Owner to operate the Plant without the Owner's prior consent in writing.
- (c) The Hirer shall not use or cause or permit any other person to use the Plant on any public road without having first obtained the consent in writing of the Owner and where such consent is given the Hirer shall ensure that the driver holds a current British driving licence applicable to the Plant, the Owner shall, on or before giving such consent, license the Plant at the Hirer's expense and the Hirer shall, at his own expense, insure the Plant in accordance with the requirements of the Road Traffic Act. The Hirer shall notify the Owner immediately in the event of any accident loss or damage arising and in any way caused by or relating to the use of the Plant howsoever caused. Oral notification shall be confirmed in writing to the Owner as soon as reasonably possible.
- (d) The Hirer shall not use or cause or permit any other person to use the Plant on any public road without having first obtained the consent in writing of the Owner and where such consent is given the Hirer shall ensure that the driver holds a current British driving licence applicable to the Plant, the Owner shall, on or before giving such consent, license the Plant at the Hirer's expense and the Hirer shall, at his own expense, insure the Plant in accordance with the requirements of the Road Traffic Act. The Hirer shall notify the Owner immediately in the event of any accident loss or damage arising and in any way caused by or relating to the use of the Plant howsoever caused. Oral notification shall be confirmed in writing to the Owner as soon as reasonably possible.

11. CHANGES OF SITE

The Hirer shall not move nor permit the Plant to be moved from the site specified overleaf without the Owner's prior consent in writing. Any consent given by the Owner is without prejudice to all the other obligations of the Hirer under this contract.

12. OWNER PLATES

These may be affixed or marked on the Plant by the Owner and shall not be removed, mutilated or obliterated by the Hire.

13. TERMINATION OF HIRE

- (a) On the completion of the minimum period of hire, the hire of the Plant may be terminated by either party giving to the other party not less than seven days notice for a contract period of up to 6 weeks, 21 days for a contract period of up to 3 months, 30 days for a contract period of up to 1 year and 90 days for a contract period over 12 months.
- (b) Without prejudice to the other provisions of this Contract should the Hirer:
 - (i) withhold payment of the hire charge for fourteen days, or
 - (ii) fail to observe and perform any of the other terms and conditions of this Contract, or
 - (iii) do or cause to be done or permit or suffer anything whereby the Owner's rights in the Plant are prejudiced or put into jeopardy, or
 - (iv) commit any act of bankruptcy or have a receiver appointed or make any arrangement or composition with his creditors, or being a company go into liquidation whether compulsory or voluntary (except for reconstruction or amalgamation only) or
 - (v) suffer any distress or execution upon his property, then and in any such case the Owner may determine the hiring and seize and remove the Plant for which purpose it shall be lawful for the Owner to enter into or upon any premises or site where the Plant may be.
- (c) At the end of a fixed long-term contract the hire of the Plant may be terminated by either party, giving to the other party not less than three months notice in writing unless otherwise stated in the contract terms and conditions.
- (d) When the hire is terminated it shall be the responsibility of the Hirer to deliver the Plant back to AM Forktrucks; but if the Plant is not delivered back at the termination of the hire the Hirer shall continue to accept full responsibility and liability as set out in Clause 6 of this Contract and to pay hire until it is so delivered at our short-term hire rate.

14. ALLOWANCE AND LIABILITY

- (a) Without prejudice to the provisions for payment hereinbefore set out, the Hirer shall be fully liable to the Owner for damages for any breach of this Contract.
- (b) Without prejudice to any liability assumed under Clause 2(c), the Owner shall not be liable to the Hirer for any consequential or indirect loss or damage (including loss of profits) arising out of any accident or damages howsoever caused, provided always that nothing in this sub-clause shall protect the Owner against liability arising from a fundamental breach of contract on its part.
- (c) The Owner shall not be liable to the Hirer for any loss or damage caused by delay in delivery or non delivery of the Plant or by delay in repairing or replacing the Plant if such delay or non-delivery is caused by an industrial dispute (including but not limited to strikes and lockouts), by force majeure, by non-availability of spare parts or by other circumstances beyond the Owner's control.
- (d) Hire charges shall continue during any stoppage whether or not the Plant is returned to the Hirer's Works and whether or not a replacement of the Plant is supplied for the period of the stoppage save that by agreement with the Hirer the Owner may give credit against hire charges for any stoppage due to a breakdown of the Plant caused by an inherent fault or fair wear and tear notified to the Owner by the Hirer under Clause 5 hereof.
- (e) The Hirer shall be liable for hire charges at the "Hire Rate" in respect of any period after the termination of this Agreement during which the Plant or any part thereof cannot be removed from the site to the Owner's depot owing to an industrial dispute (including but not limited to strikes or lockouts) affecting the Hirer or the site.

15. INSURANCE

- (a) The Hirer shall at the Hirer's expense fully insure with a reputable insurance office.
 - (i) the Plant as described overleaf for the value shown, against loss or damage or destruction howsoever arising
 - (ii) in respect of all the Hirer's liability (or responsibility and indemnity) to the Owner within sub-Clause 6(b) above and
 - (iii) subject to Clause 10(c) above, in respect of the Hirer's liability to third parties relating to the Plant or its use.
- (b) The Hirer shall
 - (i) produce the policy or policies effected hereunder for inspection by the Owner on demand and
 - (ii) hold the proceeds of any claim under sub-clause (I) above in trust for the Owner.