

Terms and Conditions of Hire

1. DEFINITIONS

- (a) Gwynedd Forklifts Ltd. is hereinafter referred to as the "Owner" and this expression includes its successors.
- (b) The 'Hirer' is the Company, firm, person, Corporation, or public authority 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) 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 Conditions of Hire, and in so far as any provision of the Hirer's said order be inconsistent therewith, these General Terms and Conditions of Hire shall be deemed to prevail.
- (b) Any variations in this Contract shall be in writing.
- (c) Save where any particular purpose or work in any particular place had been made known in writing to the Owner, the Hirer warrants to the Owner that no representations have been made to him concerning the Plant and that entering into this Contract the Hirer does not rely upon any such representation and in particular shall bring no proceedings for misrepresentation
whether under the Misrepresentation Act 1967 or otherwise.

3. COMMENCEMENT OF HIRE

- (a) Subject to the other 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.
- (b) Hire charges shall commence on delivery unless otherwise stated on the face of this Contract.
- (c) 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. GOVERNMENT GRANT

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 or 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 Industry as a result of any such disqualification.

5. MAINTENANCE AND REPAIR

(i) Owners Obligations.

(a) The Owner shall ensure that at the commencement of the hire the 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, provided that unless notification to the contrary is received by the Owner as soon as reasonably practicable, (oral notification to be confirmed in writing), the Plant shall be deemed to have been delivered in good working order.

(b) The Owner shall (save to 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) at times to suit the convenience of the Hirer.

(ii) Hirer's Obligations.

(a) The Hirer shall repair all punctures and replace all damaged tyres at his own expense; but save as aforesaid he shall not repair the Plant or make replacements or alterations unless authorised to do so by the Owner. 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 (other than no damage on punctured tyres) are necessary.

(c) The Hirer shall at reasonable times allow the Owner or its accredited representative or its insurers' representative 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 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 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.

(a) 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 discharge condition and must be allowed to cool for at least half an hour before use.

(ii) Battery must be checked daily to ensure the correct level of distilled water is maintained.

(iii) An equalising charge must be carried out every four weeks.

(Serious battery damage will occur if these points are not supervised.)

6. HIRER'S LIABILITY FOR LOSS OR DAMAGE

(a) The Hirer accepts full responsibility to the Owner for loss of 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 accepted) and is fully responsible to the Owners for safe keeping of the Plant and its return in equal order to the Owner (fair wear and tear expected) at the end of the Hire.

(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 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 in so far as any such damage loss destruction injury or death directly results from the wilful neglect of the Owners its employees or agents.

(c) The Owner shall not be liable to the Hirer in respect of any damage to or loss or destruction of the property of the Hirer nor in respect of personal injury or death of the Hirer or his employees or contractors or other person in anyway caused by or relating to the Plant or its use except in so far as any such damage loss destruction injury or death directly results from the wilful neglect of the Owner its employees or agents.

7. PAYMENT

(a) Unless otherwise set overleaf the Owner shall render invoices (to include where applicable the price of transport to and from the sire and insurance and licensing effected by the Owner pursuant to Clause 10(c) hereof) at the end of each month for Plant on hire during than month; the Hirer shall pay within 30 days of presentation of invoices or by bankers' order as stated overleaf.

(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 monies then accrued due under this contract and any monies 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 on from notification given under the proviso to paragraph (a) of the Owners obligations under Clause 5 hereof.

8. VARIATION IN HIRE RATES

(a) 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 for 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.

(b) The Hire rate is based on the use of the Plant for up to 40 hours in any 5 day week. If the Plant is used for over 40 hours in any week then the Hire Rate for that week shall be increased by the following percentages.

Numbers of Hours used Percentage increase on

In any Week Hire Rate

41 hours - 50 hours 12½%

51 hours - 60 hours 25%

61 hours - 70 hours 37½%

71 hours - 100 hours 50%

Over 100 hours 75%

9. SUBLETTING

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

10. HANDLING OF PLANT

(a) The Plant shall remain the property of the Owner but shall always 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 year 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, he shall work under the supervision and instruction of the Hirer or the Hirer's agent or his 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 Hirers 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, licence and insure the Plant in accordance with the requirements of the Road Traffic Act on the hirers expense.

(d) 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 other obligations of the Hirer under this Contract.

12. OWNER PLATES

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

13. TERMINATION OF HIRE

(a) Except in the case of a fixed term contract the hire of the Plant maybe terminated by either party giving the other party not less than four day's notice.

(b) Without prejudice to the other provisions of this Contract, should the Hirer

(i) withhold payment of the hire charges 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 prejudice 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 on 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 maybe.
(c) When the hire is terminated it shall be the responsibility of the Owner to collect the Plant from the site; but until the Plant is collected 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 until it is so collected.

(d) Any fuel/extra charges will be provided on the next invoice and [if available] can be provided earlier within a reasonably timed manor if requested from the hirer. Gwynedd Forklifts are entitled to notify the hirer of these charges within a 30-day period.

14. ALLOWANCES 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) The Owner shall not be liable to the Hirer for any consequential or indirect loss or damage (whether or not loss of profits) arising out of any accident or damage, howsoever caused.

(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 it 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 Owners 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 the Owner will give credit against hire charges for any stoppage due to a breakdown of the Plant caused by an inherent fault of fair wear and tear notified to the Owner by the Hirer under Clause 5 hereof and not rectified within twelve working hours of such notification.

(5) 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 Owners 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 Hirers 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 Hirers 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 Hirers 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.

16. TIME OR INDULGENCE

Any time or other indulgence granted by the Owner shall not affect the strict rights of the Owner under this contract.

N.B. Clause headings are included for ease of reference only.

Date: 04/01/2021