

## 1. DEFINITIONS

The "Owner" is J.G. Harrison & Sons Ltd, registered at New Brunswick Street, Halifax, West Yorkshire, HX1 5BW, the Company letting the Plant on hire and includes their successors, assigns or personal representatives. The "Hirer" is the Company, firm, person, Corporation or public authority taking the Owner's Plant on hire and includes their successors or personal representatives.

"Plant" covers all classes of Plant, machinery, vehicles, equipment, tools and accessories thereof, which the Owner agrees to hire to the Hirer.

The "Hire Period" shall commence from the time when the plant leaves the Owner's depot or place where last employed and shall continue until the plant is received back at the Owner's depot or other location specified by the Owner.

## 2. EXTENT OF CONTRACT

No conditions other than specifically set forth in the offer and acceptance and herein shall be deemed to be incorporated in 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 particular Plant pursuant to the offer and acceptance. The contract does not create any right enforceable by or purport to confer any benefit on any person not a party to it except that a person who is a successor to or an assignee of the rights of the Owner is deemed to become a party to the contract after the date of succession or assignment (as the case may be).

## 3. ACCEPTANCE OF PLANT

Acceptance of the Plant on site or prior to departure from the Owners depot implies acceptance of all terms and conditions herein unless otherwise agreed in writing. Unless notification in writing to the contrary is received by the Owner from the Hirer, acceptance of these terms and conditions once by the Hirer implies acceptance for future Hire Periods.

## 4. UNLOADING AND LOADING

Where the Owner is delivering or collecting the Plant the Hirer shall be responsible for the unobstructed access and, unless otherwise agreed in writing, for unloading and loading of the Plant 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 Plant be regarded as the servants or agents of the Hirer (but without prejudice to any of the provisions of clause 13) who alone shall be responsible for all claims arising in connection with unloading and/or loading of the Plant by, or with the assistance of, such personnel.

Where the Hirer is collecting the Plant from or delivering the Plant to the Owner's depot or other place the Hirer is responsible for the safe loading and/or unloading of the Plant, any personnel supplied by the owner to assist in such tasks will be deemed servants or agents of the Hirer (but without prejudice to any of the provisions of clause 13) who alone shall be responsible for all claims arising in connection with unloading and/or loading of the Plant by, or with the assistance of, such personnel.

## 5. DELIVERY IN GOOD ORDER AND MAINTENANCE: INSPECTION REPORTS

Unless notification in writing to the contrary is received by the Owner from the Hirer within three hours of the Plant being delivered by the Owner or collected by the Hirer, 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 contract and to the Hirer's satisfaction. The Hirer shall be responsible for its safe keeping, use in a workmanlike manner within the manufacturer's rated limits and return on the completion of the hire in equal good order.

The Hirer shall when hiring Plant take all reasonable steps to keep himself acquainted with the state and condition of the Plant. If such Plant be continued at work or in use in an unsafe and unsatisfactory state or environment, the Hirer shall be solely responsible for any damage, loss or accidents whether directly or indirectly arising therefrom.

The current inspection report required under the relevant legislation, or a copy thereof, shall be supplied by the Owner if requested by the Hirer and returned on completion of hire.

## 6. SERVICING AND INSPECTION

The Hirer shall at all reasonable times allow the Owner, his agents or his insurers to have access to the Plant to inspect, test, adjust, repair or replace the same. So far as responsibly possible, such work will be carried out at times to suit the convenience of the Hirer.

## 7. TIMBER MATS OR EQUIVALENT

If the ground (including any private access road or track) is soft or unsuitable for the Plant to work on, travel, or be transported over without timbers or equivalents the Hirer shall supply and lay suitable timbers or equivalents in a suitable position for the Plant to travel over, work on, or be transported over, including for the purpose of delivery and collection.

Any timber or other material supplied by the Owner for use with outriggers/stabilisers is provided solely to assist the Hirer and expressly not to relieve him of his legal, regulatory or contractual obligations to ensure adequate stability of the equipment or Plant in use.

## 8. HANDLING OF PLANT

When a driver or operator or any person is supplied by the Owner with the Plant, the Owner shall supply a person competent in operating the Plant or for such purpose for which the person is supplied and such person shall be under the direction and control of the Hirer. Such drivers or operators or persons shall for all purposes in connection with their employment in the working of the Plant be regarded as the servants or agents of the Hirer (but without prejudice to any of the provisions of clause 13) who also shall be responsible for all claims arising in connection with the operation of the Plant by the said drivers/operators/persons. Where a driver or operator is supplied by the Owner with the Plant the Hirer shall not allow any other person to operate such Plant without the Owner's previous consent to be confirmed in writing. Where the Plant is supplied without a driver or operator the Hirer is responsible for providing a person competent in the operation of said Plant and of ensuring its safe and responsible use and operation by such persons as authorised by the Hirer. For the avoidance of doubt the Owner accepts no responsibility for the use of the Plant by the Hirer and his representatives and servants.

## 9. BREAKDOWN, REPAIRS AND ADJUSTMENTS

Any breakdown or the unsatisfactory working of any part of the Plant must be notified immediately to the Owner. Any claim for breakdown time will only be considered from the time and date of notification.

Full allowance for the hire charges and for the reasonable cost of repairs that have been authorised by the Owner will be made to the Hirer for any stoppage due to breakdown of Plant caused by the development of either an inherent fault or a fault not ascertainable by reasonable examination or fair wear and tear for all stoppages for normal running repairs in accordance with the terms of the contract.

The Hirer shall not, except for the repair of tyres, wheels or punctures, repair the Plant without written authority of the Owner. The repair of any tyre, wheel or puncture is however the responsibility of the Hirer who should arrange for them to be changed/repared without awaiting authority from the Owner. The Hirer is responsible for all costs incurred in the changing, repair or replacement of any tyre or wheel or repair of any puncture. Any repair or replacement part must be of equal or higher standard than that which existed prior to the damage.

The Hirer shall be responsible for all expense involved arising from any breakdown and all loss and damage incurred by the Owner due to the Hirer's negligence, misdirection or misuse of the Plant whether by the Hirer or his servants, and for the payment of the hire during the period the Plant is necessarily idle due to such breakdown, loss or damage. The Hirer is responsible for the cost of spares, repairs and replacement due to theft, loss or vandalism of the Plant. The Owner will be responsible for the cost of repairs, inclusive of the cost of spares, to the Plant involved in breakdown from all other causes.

## 10. OTHER STOPPAGES

No claims will be admitted (other than those allowed for under "breakdown" as herein provided) for stoppages through causes outside the Owner's control, including bad weather or ground conditions nor shall the Owner be responsible for the cost or expense of recovering any Plant from soft ground. If the Owner is required to recover any Plant from soft ground the Hirer will be charged at an hourly rate of £100 from the time the Owner leaves the depot until the time the Owner returns to said depot or other location specified by the Owner.

## 11. LOSS OF OTHER PLANT DUE TO BREAKDOWN

Each item of Plant specified in the contract is hired as a separate unit and the breakdown or stoppage of one or more units or vehicle's (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 Plant working in conjunction therewith, provided that where two or more items of Plant are expressly hired together as a unit such items shall be deemed a unit for the purpose of breakdown.

## 12. LIMITATION OF LIABILITY

Except for liability on the part of the Owner which is expressly provided for in the contract (including these clauses):

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.

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 Plant 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 whenever the contract (including these clauses) provides that any allowance is to be made against hire charges, such allowances 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 the hire charges which would otherwise be or become due if the allowance in question had not been made.

## 13. HIRER'S RESPONSIBILITY FOR LOSS AND DAMAGE

For the avoidance of doubt it is hereby declared and agreed that nothing in this clause affects the operation of clauses 4, 5, 8, 9, 12 and 13 of this agreement.

During the continuance of the hire period the Hirer shall make good to the Owner all loss or damage to the Plant from whatever cause the same may arise, and except as provided in clause 9 herein shall also fully and completely indemnify 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 Plant during the continuance of the hire period, and in respect of all costs and charges in connection therewith whether arising under statute or common law. In the event of loss or damage to the Plant hire charges shall be continued until settlement has been effected.

Notwithstanding the above the Hirer shall not be responsible for damage, loss or injury due to or arising: Prior to delivery of any Plant to the site (or, where the site is not immediately adjacent to a highway maintainable at the public expense, prior to it's leaving such highway) where the Plant is in transit by transport of the Owner or as otherwise arranged by the Owner.

During the erection and/or dismantling of any Plant where such Plant requires to be completely erected/dismantled on site, always provided such erection/dismantling is under the exclusive control of the Owner or his agent.

After the Plant 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. Where Plant 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 after it has joined such highway) under its own power with a driver supplied by the Owner.

For the avoidance of doubt the Hirer must ensure that all Plant is fully insured against accident and theft, including employer's liability and public liability insurance. The Hirer is responsible for all aspects of safe use, misuse, damage, loss or theft howsoever it arises.

## 14. NOTICE OF ACCIDENTS

If the Plant is involved in any accident resulting in injury to persons or damage to property, immediate notice must be given to the Owner by telephone and confirmed in writing to the Owners office. In relation to any claim in respect of which the Hirer is not bound fully to indemnify the Owner, no admission, offer, promise of payment or indemnity shall be made by the Hirer without the Owner's consent in writing.

## 15. RE-HIRING ETC.

The Plant or any part thereof shall not be re-hired, sub-let, or lent to any third party without the written permission of the Owner.

## 16. CHANGE OF SITE

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

## 17. RETURN OF PLANT FOR REPAIRS

If during the hire period the Owner decides that urgent repairs to the Plant are necessary he may arrange for such repairs to be carried out on site or at any location of his nomination. In that event the Owner shall be obliged to replace the Plant with similar Plant if available, the Owner (but without prejudice to any of the provisions of clause 9 and/or 13) paying all transport charges involved. In the event of the Owner being unable to replace the Plant he shall be entitled to determine the contract forthwith (but without prejudice to any of the provisions of clause 9 and/or 13) by giving written notice to the Hirer. If such determination occurs: within three months from the commencement of hire, the Owner (but without prejudice to any of the provisions of clause 9 and/or 13) shall pay all transport charges involved, or, more than three months from the commencement of hire, the Owner (but without prejudice to any of the provisions of clause 9 and/or 13) shall be liable only for the cost of reloading and return transport.

## 18. BASIS OF CHARGING

Plant shall be hired out on a daily or weekly basis without any qualification as to minimum hours. Daily hire shall commence from the time Plant leaves the Owner's depot or place where last employed and shall continue at twenty four hour intervals from such time. If the hire period does not complete a full 24 hour cycle the full daily rate will still apply to the last portion of time used, save for breakdowns as set out in this clause. Weekly hire shall commence from the time Plant leaves the Owner's depot or place where last employed and shall continue at intervals of seven days from such time, odd days at the end of the hire period shall be charged pro rata.

Stoppages due to changing of tyres and repairs to punctures will be chargeable as working time.

Full allowance will be made for breakdown periods resulting from mechanical or electrical faults except where breakdown is due to acts or omissions of third parties and/or the Hirer's misuse, misdirection or negligence, subject however to the provisions of clause 8 of this agreement.

Breakdown time in respect of such periods shall be allowed for not more than 8 hours Monday to Friday less the actual hours worked.

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. Hire charges shall be made Saturday and Sunday.

Where Plant is on hire at the end of a calendar month the Owner reserves the right to charge for outstanding Hire or other charges.

## 19. PLANT HIRED BY THE DAY OR WEEK WITHOUT QUALIFICATION AS TO HOURS

The daily or weekly 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 working day broken down calculated to the nearest half working day.

## 20. COMMENCEMENT AND TERMINATION OF HIRE (TRANSPORT OF PLANT)

The Hire Period shall commence from the time when the plant leaves the Owner's depot or place where last employed and shall continue until the plant is received back at the Owner's depot or other location specified by the Owner.

## 21. NOTICE OF TERMINATION CONTRACT

Where the period of hire is indeterminate or having been defined becomes indeterminate the contract shall be determinable by seven days notice in writing given by either party to the other except in cases where the Plant has been lost or damaged. Notwithstanding that the Owner may have agreed to accept less than 7 days notice of termination, the Hirer's obligation under clause 13 shall continue until the Plant is returned to the Owner in accordance with clause 24 or until the Owner has collected the Plant within the 7 days following the acceptance of short notice. Oral notice given by the Hirer to the Owner's driver or operator shall not be deemed to constitute compliance with the provisions of this clause.

## 22. FUEL, OIL AND GREASE

Fuel, oil and grease shall, when supplied by the Owner, be charged at net cost or an agreed estimate of net cost, and when supplied by the Hirer, shall be of a grade or type specified by the Owner.

## 23. OWNER'S NAME PLATES

The Hirer shall not remove, deface or cover up the Owner's name plate or mark on the Plant indicating that it is his property.

## 24. TRANSPORT

The Hirer shall pay the cost of and if required by the Owner, arrange transport of, the Plant from the Owner's depot or other agreed location to the site and return to named depot or other agreed location on completion of the hire period.

## 25. GOVERNMENT REGULATIONS

The Hirer will be responsible for compliance with relevant regulations issued by the Government or Local Authorities, including regulations under the Factories Acts, Health and Safety at work act etc. and observance of the Road Traffic Acts should they apply, including the cost of road fund licences and any insurances made necessary thereby.

## 26. PROTECTION OF OWNER'S RIGHTS

The Hirer shall not re-hire, sell, mortgage, charge, pledge, part with possession of or otherwise deal with the Plant except as provided under clause 15 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.

If the Hirer makes default in punctual payment of any sum due to the Owner for hire of Plant or other charges or shall fail to observe and perform the terms and conditions of this contract, or if the Hirer shall suffer any distress or execution to be levied against him or make or propose to make any arrangement with his creditors or becomes insolvent within the meaning of section 113 of the Housing Grants, Construction and Regeneration Act 1996 or any amendment or re-enactment thereof for the time being in force; or shall do or cause to be done or permit or suffer any act or thing whereby the Owner's rights in the Plant may be prejudiced or put into jeopardy, this contract may forthwith be determined by notice from the Owner to the Hirer (notwithstanding that the Owner may have waived some previous default or matter of the same or like nature). The contract shall thereupon be deemed determined by reason of the Hirer's breach and it shall be lawful for the Owner to retake possession of the said Plant and for that purpose enter into or upon any premises where the same may be and the determination of the hiring under this condition shall not affect the right of the Owner to recover from the Hirer any monies due under the contract or any of the Owner's rights and remedies. In particular, without limitation, the Owner shall be entitled to claim the hire charges outstanding as at the date of determination of the hire under this clause, return transport charges under clause 24, and damages for the Hirer's actual or deemed breach of the contract under this clause.

## 27. LAW

The proper law of the contract shall be English law.