

General Terms and Conditions of STILL Materials Handling for the hire of forklift trucks

1. Definitions

- a) The company, firm, or person letting the Equipment on hire is hereafter referred to as 'The Company' and this expression includes its successors.
- b) The 'Hirer' is the company, firm, person, corporation, or public authority taking the Company's Equipment on hire and the expression includes his successors or personal representatives.
- c) 'Equipment' shall include any machine or part thereof and any attachments, fittings or replacements or any other thing hired under this contract.
- d) 'Regulations' means any Act of Parliament, Order, regulation, by law or other similar instrument of either national or local, including any amendment thereto or re-enactment or replacement thereof.
- e) 'The Hire Charges' shall be the hire charges for the Equipment at the rate of hire as stated in the Hire Contract and subject to the provisions of these Conditions for the Hiring of Lift Trucks.
- f) 'A Week' shall be 7 consecutive days.
- g) 'A Year' shall be 52 weeks.
- h) The company is

STILL Materials Handling Ltd.

Jacks Way

Hill Barton Business Park

Clyst St.Mary

Exeter

EX5 1FG

2. Acceptance

- a) The Hirer's order, whether oral or in writing, for the supply of Equipment shall be construed as express acceptance of these conditions for the Hiring of Lift Trucks and in so far as any provision of the Hirer's said order be inconsistent therewith, these conditions shall be deemed to prevail save in so far as any provision is expressly accepted by the Company in writing.
- b) The Company does not warrant that the Equipment is fit for any particular purpose save in so the Company informs the Hirer in writing that the Equipment is fit for any purpose made known to the Hirer.
- c) Any variation or purported variations to these conditions shall be deemed to be of no effect unless agreed in writing by the Managing Director or a Director or The Rental Manager of Still Materials Handling Ltd.
- d) On acceptance of hire equipment on site by signature of delivery confirmation, Still Materials Handling Limited Terms and Conditions of hire are also deemed to be accepted. (Unless otherwise stated and agreed in writing)

3. Availability of Lift Trucks

The Equipment is offered subject to being available to the Company when the Company has received the Hirer's acceptance of the Hire Contract.

4. Commencement of Hire

- a) Subject to the other provisions of these conditions, the Company shall supply the Equipment on the delivery date quoted in the Hire Contract and at the site stated therein.
- b) The hire period and the Hire Charges shall commence at the time the Equipment is delivered at the site stated on the Hire Contract and shall continue until the Equipment is removed from the site by or on instructions of the Company.

5. Basis Of Charging

- a) The Hirer shall render to the Company for each working week an accurate statement of the number of the hours the Equipment has worked. The signature of the Hirer of his representative shall bind the Hirer to accept the hours shown on the Time Record Sheets.
- b) Where breakdown time is referred to herein, all breakdown periods are covered which involve the Equipment being inoperative through mechanical breakdown in respect of which the Company will make an allowance against the Hire Charges due under the terms of clause 13(c) hereof.
- c) Breakdown time shall be allowed for not exceeding normal working hours Monday to Saturday less the actual daily hours worked if the hire breakdown shall not be allowed on Sundays.
- d) Equipment shall be hired out for a minimum period of 1 week or such other longer periods as may be mutually agreed between the Company and the Hirer. Odd days at the beginning and at the end of the hire period shall be charged pro rata.
- e) No allowance will be given for stoppage due to routine maintenance, servicing, and inspection.
- f) No allowance will be made for standing time whilst the Equipment is standing available for work to the Hirer's instructions.

6. Payment

- a) The Hirer shall be invoiced in advance for the agreed hire rate relating to the current calendar month.
- b) All payments in respect of the Hire Charges referred to in sub-clause (a) are due within 30 days of the Hirer being invoiced for the same.

7. Variation In Hire Rates

- a) The Hire is based on the usage of the Equipment for the hours specified in any week. If the Equipment is used for over the specified hours in any week, the hire charges for that week shall be increased proportionally.
- b) The Company reserves the right to increase the Hire Charges quoted by the proportional difference between the index of the average weekly earnings of employees (appearing in the Ministry of Labour Gazette under the heading "All Industries Covered") or some equivalent index that shall succeed the same prior to the date of the Hire Contract and the said index published in the month of delivery of the Equipment and thereafter at 12 monthly intervals proportional to the increase (if any) in the said index from the date of the last review or if none the date of the Hire Contract.

8. Subletting

The Hirer shall not sublet or lend the Equipment or any part thereof to any third party or part with possession of the Equipment or assign or otherwise deal in its rights and obligations under the Hire Contract without the express written consent of the Company.

9. Maintenance and Repair

Company's obligations:

- a) The Company shall ensure that at the commencement of the Hire Period the Equipment shall be of sound construction and in good working order properly maintained and that at the time all regulations regarding construction, maintenance, testing, and inspection applicable to the Equipment have been complied with. Unless notification to the contrary is received by the Company within 48 hours of delivery to the site, the Equipment shall be deemed to have been delivered in good working order and in accordance with sub clause (a) hereof, save for either an inherent fault or a fault not ascertainable by reasonable examination.
- b) The Company 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) at times to suit the convenience of the Hirer.

Hirer's obligations:

- c) All replacement tyres to be supplied by the Hirer according to the Company's specification.
- d) The Hirer shall take all reasonable steps to keep himself acquainted with the state and conditions of the Equipment. If such equipment be continued at work in an unsafe and unsatisfactory state, the Hirer shall be solely responsible for any damage, loss, or accident whether directly or indirectly arising there from.
- e) The Hirer shall repair all punctures and replace all damaged tyres at his own expense but, save as aforesaid, he shall not repair the Equipment or make replacement or alterations unless authorised to do so by the Company. Any replacements by the Hirer shall forthwith become the property of the Company and part of the Equipment unless otherwise agreed in writing.
- f) The Hirer shall forthwith notify the Company if the Equipment breaks down or fails to work properly, or if any repair or replacement (other than of damaged or punctured tyres) are necessary.
- g) The Hirer shall at all reasonable times allow the Company or its accredited representatives or its' insurers representative to have access to the Equipment to inspect, test, adjust, repair or replace it and shall provide suitable facilities for the Company or his agent to carry out such work in accordance with the Health & Safety at Work Act 1974 and all other relevant statutes and regulations from time in force.
- h) 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 Equipment from damage by frost, including the use of a suitable antifreeze mixture in the proportion specified by the makers of the Equipment, regular cleaning, the maintenance of the correct tyre pressures and the tightening of wheel nuts and

shall comply with all regulations and instructions issued by the Company to the Hire concerning the operation, use and maintenance of the Equipment.

I) 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 Equipment:

1) The battery must be properly charged, must at no time be allowed to operate in discharged condition and must be allowed to cool for at least 2 hours before use. It must not be discharged or recharged more than once in 24 hours.

ii) The battery must be checked daily to ensure the correct electrolyte level is maintained by topping up with distilled water.

iii) Instructions on the charging equipment must be strictly followed and the charger plug must not be disconnected unless the charger is switched off. (Serious battery damage will occur if these points are not supervised).

j) The Hirer shall pay all license duty fees and registration charges payable in respect of the Equipment or the use thereof including (but not limited to) the Health & Safety at Work Act 1974 and all regulations relating to the storage or use of any fuel used in the Equipment.

10. Breakdowns

a) The Company will attend breakdowns as soon as reasonably practicable after notification but only during the Company's normal business hours.

b) The Hirer shall be responsible for all expenses involved arising from any breakdown caused directly by the Hirer's negligence, misdirection, or misuse of the Equipment or that of its servants or agents and for the payment of the Hire Charges at the full rate during the period that the equipment is necessary idle due to such breakdown. The Company will be responsible for the cost of repairs to the Equipment involved in breakdowns from all other causes and will bear the cost of providing spare parts.

c) Any allowance for breakdown time will only be considered from the time of notification to the Company.

11. Loss of Use of Other Equipment Due to Breakdown

Each item of Equipment specified in the Hire Contract is hired as a separate unit and the breakdown or stoppage of one or more units or vehicles (whether the property of the Company or otherwise) through any case 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.

12. Hirer's Liability for Loss or Damage

a) Subject to clause 13 and sub clause (d) hereof, the Hirer shall be responsible for any loss of or damage to the Equipment including (but without prejudice to the generality of the foregoing) misdirection or misuse of the equipment from the time the Equipment leaves the Company's depot or place where last employed until the Equipment is received back at the Company's named depot or equal. This responsibility will also apply in the event of the Equipment being on site during any period prior to the commencement of the hire period or after its termination whilst the Equipment is awaiting collection.

b) The Hirer accepts all liability and responsibility in respect thereof, and shall fully and completely indemnify the Company 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 Equipment its use or possession (including but not limited to the payment of all damages, costs and charges in connection therewith).

c) Where by agreement between the Company and the Hirer, the Hirer arranges his own transportation of the Equipment to or from the site, responsibility for loss or damage to the Equipment is accepted by the Hirer during the course of such transportation.

d) Notwithstanding the above, the Company shall accept liability for damage, loss, destruction, injury, or death arising:

I) Prior to delivery of any Equipment to the site of the Hirer where the Equipment is in transit by transport of the Company or is otherwise under control of the Company.

ii) After the Equipment has been removed from the site and is in transit on to the Company by transport of the Company or is otherwise under control of the Company.

13. Notice Of Accidents

If the Equipment is involved in any accident resulting in injury to persons or damage to property, immediate notice must be given to the Company and such notice must be confirmed in writing to the Company's office. In respect of any claim, which is not or may not be within the Hirer's agreement for indemnity, no admission, offer, promise, payment or indemnity shall be made by the Hirer without the Company's consent in writing.

14. Handling Of Equipment

a) The Equipment shall remain the property of the Company but shall (subject to clause 22 hereof) at all times during the hire period be under the direction or control of the Hirer only. The Hirer is fully responsible to the Company for the use of the Equipment only for purposes and in places for which it is suitable and for his own and in a skilful safe and workmanlike manner and in accordance with the regulations and instructions contained or referred to in clause 9(h) and (i) hereof. If the equipment should for any reason require recovery, then the Hirer shall be responsible for all costs incurred.

b) The Hirer shall employ a competent driver (not being less than 18 years of age) to operate the Equipment in a safe and proper manner. The Hirer shall not allow any person other than the driver provided by the Hirer to operate the Equipment without the Company's prior consent in writing.

c) The Hirer shall not use or cause or permit any other person to use the Equipment on any public roads without having first obtained the consent in writing of the Company and where such consent is given the Hirer shall ensure that the driver holds a current British driving license applicable to the Equipment and shall insure the Equipment in accordance with the Road Traffic Acts. The Company shall on or on or before giving such consent, license the Equipment at the Hirer's expense.

15. Changes Of Site

The Hirer shall not move nor permit the Equipment to be moved from the site specified in the Hire Contract without the Company's prior consent in writing and the Hirer shall ensure that the Company shall have proper access to any new site for the purposes of inspecting it. Any concern given by the Company is without prejudice to all other obligations of the Hirer under the contract.

16. Company's Plates

The Company may affix his plate or mark on the Equipment and it shall not be removed, mutilated, or obliterated by the Hirer.

17. Protection Of Company's Rights

The Hirer shall not release, sell, mortgage, charge, pledge, part with possession or otherwise deal with the Equipment except as provided in clause 10 hereof and shall protect the same against distress execution or seizure and shall indemnify the Company against all losses, damages, costs, charges and expenses that may be occasioned by any failure to observe and perform this condition except in the event of government requisition.

18. Allowances And Liability

a) Save in respect of the Company's liability if any under clause 12(a) hereof the Company the Company accepts no liability nor responsibility for any consequential loss or damage due to or arising from the operation of the Equipment.

b) The Company shall not be liable to the Hirer for any loss or damage caused by delay in delivery of the Equipment or by failure to repair or replace the Equipment in accordance with its obligations in these conditions if such non-delivery, non-availability or delay is caused by an industrial dispute (including but not limited to strikes and lockouts) by force majeure, by non-availability of spare parts or other circumstances beyond the Company's control, provided that:

I) The Company shall make no allowance to the Hirer against the Hire Charges due in respect of the period of the delay.

ii) If the period of such delay shall extend for a period of more than 2 months, the Hirer shall be entitled to terminate the hire contract forthwith by notice in writing and the Company shall be responsible for transporting the Equipment at its cost from the site.

c) No claims shall be admitted of allowance made against the Hire Charge due (other than those allowed under clause 13(a) Breakdowns and sub-clause (b) hereof) for stoppage through any cause outside the Company's control including bad weather, the conditions of the site, industrial disputes (including but not limited to strikes and lockouts) affecting the Hirer.

d) The Hirer shall remain liable for the Hire Charges in respect of any period whether before or after the termination of the hire contract during which the Equipment or any part thereof cannot be removed from the site to the Company's depot or other location of his nomination owing to an industrial dispute (including but not limited to strikes and lockouts) affecting the Hirer on the site.

e) In the event of loss or damage to the Equipment for which the Hirer is liable hereunder the Hire Charges shall be continued until settlement has been effected.

19. Transport of Plant

The Company shall arrange at the cost of the Hirer transport of the Equipment from the Company's depot or equal to the site (unless the parties shall otherwise agree) and its return to the Company's depot equal on completion of the hire period.

20. Return Of Lift Trucks For Repair

If at any time after the date of delivery of the Equipment it is in the opinion of the Company in need of repairs he may stop the further use of the Equipment until such repairs have been carried out on site or he may arrange for such repairs to be carried out at any location of his nomination, in that event, provided that the repairs are not necessitated by the Hirer's negligence, misdirection, or misuse of the Equipment the Company shall be obliged to replace the Equipment with similar equipment if available, the Company paying all transport charges involved. In the event of the Company being unable to replace the Equipment or the said repairs being necessitated by the fault of the Hirer as aforesaid, he shall be permitted to determine the hire contract forthwith by giving written notice to the Hirer, the Company paying all charges involved in transporting the Equipment from the site save where the said repairs are necessitated by the fault of the Hirer as aforesaid in which event the Hirer shall be responsible for such charges.

21. Termination Of Hire Charges

- a) Except in the case of a fixed term, the hire contract for the Equipment may be terminated by either party giving to the other party no more than 7 days notice in writing.
- b) Without prejudice to the other provisions of these conditions should the Hirer:
 - i) Fail to pay any Hire Charges within 14 days of their falling due
 - ii) Fail to observe and perform any of the other terms and conditions of the hire contract and (if remedial) fail to remedy the same within 14 days of receiving notice from the Company to do so
 - iii) Do or cause to be done or permit or suffer anything to be done whereby the Company's rights in the Equipment are prejudice or put in jeopardy, or
 - iv) Commit any act of bankruptcy or have a receiver appointed over any of its assets or make any arrangements or composition with the 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 such case the Company may determine the hiring forthwith by the service of notice in writing and seize and remove the Equipment for which purpose it shall be lawful for the Company to enter into or upon any premises or site where the Equipment may be.
- c) When the Hire is terminated it shall be the responsibility of the Hirer (unless otherwise agreed) to deliver the Equipment to the Company's depot or equal and the Hire Period shall continue (the Hirer thus remaining responsible for the Equipment and liable for Hire Charges in connection with the Equipment) until it is delivered.
- d) Immediately upon the hiring being terminated by the Company in accordance with sub clause 21(b) hereof, the Hirer shall pay to the Company (in addition to any compensation payable under the hire contract) all moneys then accrued due under the hire contract and any moneys which the Company may be liable to pay to any third party by reason of any seizure and removal.

22. Time Or Indulgence

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

23. Arbitration

If during the continuation of the hire contract or at any time thereafter any dispute, difference or question shall arise between the Company and the Hirer in regard to the hire contract or the construction of these conditions or anything therein contained or the rights or liabilities of the Company or the Hirer, such dispute, difference or question shall be referred pursuant to the Arbitration Act 1960, or the Arbitration (Scotland) Act 1894 as the case may be or any statutory modification thereof to a sole Arbitrator to be agreed upon by the Company and the Hirer and failing agreement to be appointed at the request of either the Company or the Hirer by the President for the time being of the institution of Mechanical Engineers.

N.B.: The titles to the clauses of these conditions are for ease of reference only and do not constitute part of the conditions for the hire of Equipment.

Notes

Please read clauses 8 & 9 - Hirers' liability for maintenance, loss & damage. The hirer must cover by insurance the indemnity given to the owner in clause 9.

Your attention is drawn to clause 16 - Termination of Hire, whereby you are required to give 7 days notice in writing.