

ERNEST DOE & SONS LTD

DOE HIRE DIVISION

GENERAL CONDITIONS FOR THE HIRING OF PLANT

- 1. DEFINITIONS**
 - (a) The "Owner" is the Company, firm or person letting the plant on hire and includes their successors, assigns or personal representatives.
 - (b) 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.
 - (c) "Plant" covers all classes of plant, machinery, equipment and accessories therefore which the owner agrees to Hire to the hirer.
 - (d) A "day" shall be 8 hours unless otherwise specified in the Contract.
 - (e) A "week" shall be seven consecutive days.
 - (f) A "working week" covers the period from starting time on Monday to finishing time on Saturday. Terms appearing in these conditions which also appear in and Statutory Instrument controlling rates of hire of Plant shall have the same meaning as in such instrument whether remaining in operation or not.
- 2. EXTENT OF CONTRACT**

No conditions or warranty other than herein specifically set forth shall be implied or deemed to be incorporated in or to form part of the contract.
- 3. AVAILABILITY OF PLANT**

The plant is offered subject to being available to the owner when the Hirer's acceptance of the contract is received by the Owner.
- 4. GENERAL CONDITIONS OF HIRE**

Plant shall be hired at the Hire Charges or Hire Rates, so far as the same apply to Plant included in the contract subject to the conditions of hiring provided by any Statutory controlling rates if hire of Plant and subject to the following further conditions where not inconsistent therewith.
- 5. LOADING AND UNLOADING**

The Hirer shall be responsible for unloading and reloading the Plant at site, and any Driver, Operator or Flagman supplied by the Owner shall be deemed to be under the Hirer's control.
- 6. DELIVERY IN GOOD ORDER AND MAINTENANCE (Inspection Reports)**
 - (a) Unless notification in writing to the contrary is received by the Owner from the Hirer in the case of plant supplied with an operator, within four working days and in the case of plant supplied without operator within three working days of the plant being delivered to the site, the Plant shall be deemed to be in good order in accordance with the terms of contract and to the Hirer's satisfaction, provided that where Plant requires to be erected on site the period above stated shall be calculated from date of erection of plant instead of the date of delivery on site. The Hirer shall be responsible for its safekeeping, use in a workmanlike manner with the Manufacturer's rated capacity and return on the completion of hire in equal good order (fair wear and tear excepted).
 - (b) The Hirer shall when hiring Plant without Owner's operator or driver take all reasonable steps to keep himself acquainted with the state and condition of the Plant. If the Plant to be continued at work or in use in an unsafe and unsatisfactory state the Hirer shall be solely responsible for any damage, loss or accidents whether directly or indirectly arising therefrom.
 - (c) The current inspection Report required under the Factories Acts or a copy thereof shall be supplied to the Owner if requested by the Hirer at the commencement of the hire period and returned on completion thereof.
- 7. TIMBER MATS OR EQUIVALENTS**

If the ground is soft or unsuitable for the Plant to work on or travel 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 or work on.
- 8. HANDLING OF PLANT**

When a Driver or Operator is supplied by the Owner to work the Plant, he shall be under the direction and control of the Hirer. Such Drivers or Operators 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 who also shall be responsible for all claims arising in connection with the operation of the Plant and by the said Drivers or Operators. The Hirer shall not allow any other person to operate such Plant without the Owner's previous consent to be confirmed in writing.
- 9. BREAKDOWN**

When the Plant is hired without Owner's Driver or Operator any breakdown or the unsatisfactory working of any part of the Plant must be notified immediately to the Owner by telephone.
The Hirer shall be responsible for all expense 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 Plant, whether by the Hirer or his servants, and for the payment of hire at the appropriate idle time rate during the period the Plant is necessarily idle due to such breakdown. The Owner will be responsible for the cost of the repairs to the Plant involved in breakdowns from all other causes and will bear the cost of providing spare parts. If the Plant has been involved in a continuous breakdown of 48 hours or more (excluding Sundays and Bank Holidays) the Owner undertakes to supply a replacement machine of equivalent capacity.
- 10. OTHER STOPPAGES**

No claims will be admitted 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 machine from soft ground.
- 11. LOSS OF USE OF OTHER PLANT DUE TO BREAKDOWN**

Each item of the Plant specified in the contract is hired as a separate unit and the breakdown or stoppage of one or more units of vehicles (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 hired as a unit, such items shall be deemed a unit for the purpose of breakdown.
- 12. CONSEQUENTIAL LOSSES**

The Owner accepts no liability nor responsibility for consequential loss or damage due to or arising from the breakdown or stoppage of the Plant through any cause whatsoever, or through non-arrival arising from accident or breakdown during loading, unloading or transport of the Plant.
- 13. HIRER'S RESPONSIBILITY FOR LOSS AND DAMAGE**

During the continuance of the hire period the Hirer shall make good to the Owner all loss of or damage to the Plant from whatever cause the same may arise, fair wear and tear excepted and except as provided Clause 9 herein, and 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 use of the Plant and in respect of all costs and charges in connection therewith whether arising under statute or common law.
- 14. NOTICE OF ACCIDENTS**

If the Plant is involved in any accident resulting from injury to persons or damage to property, immediate notice must be given to the Owner by telephone and confirmed in writing to the Owner's Office, and in respect of any claim not within the Hirer's agreement for indemnity, no admission, offer promise of payment or indemnity shall be made by the Hirer without the Owner's consent in writing.
- 15. SUB-LETTING**

The Hirer shall not move the Plant or any part thereof to any third party without first receiving the written permission of the Owner.
- 16. CHANGE OF SITE**

The Hirer shall not move the Plant from the site to which it was delivered or consigned unless prior consent be obtained from the Owner, such consent to be confirmed in writing.
- 17. SERVICE 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 reasonably possible, such work will be carried out at times to suit the convenience of the Hirer.
- 18. REPAIRS AND ADJUSTMENTS**

Except in the case of repairs undertaken by the Owner's operator or driver, the Hirer shall not repair or attempt to repair the Plant unless specifically authorised by the Owner. No allowance for hire charges or for the cost of repairs will be made by the Owner to the Hirer unless such repairs have been specifically authorised by the Owner. The Owner undertakes to deal with all the necessary repairs as quickly as reasonably possible.
- 19. RETURN OF PLANT FOR REPAIRS**
 - (a) If at any time after the date of delivery any item of the Plant the subject of this contract is in the opinion of the Owner in need of repairs, he may stop the further use thereof until such repairs have been carried out on site, or the Owner may arrange for such Plant, to be sent to a depot and in the latter event the Owner shall be entitled to replace such Plant forthwith with similar Plant the owner paying all transport charges involved in the removal of such Plant to depot for repair and the delivery of the substituted Plant and the contract shall continue as if the substituted Plant had been the subject thereof, or, alternatively, the Owner shall be entitled to determine the contract forthwith in relation to the item of Plant involved by giving written notice to the Hirer provided that if such determination shall occur under this clause:
 - (i) within three months from the date of delivery of such Plant to site, the Owner shall be liable for the cost of all transport involved including that for original loading and transport to site and for reloading and return transport of such Plant, or
 - (ii) more than three months but less than six months from the date of delivery of such Plant the Owner shall be liable only for the cost of reloading and return transport of such Plant.
 - (b) In the event of this contract being determined as aforesaid in relation to any item of Plant being the principal member of a plant group as so defined or indicated in the Schedule of Plant forming part of this contract, of which the remaining members are auxiliary to such principal member the determination shall (unless otherwise agreed between the Owner and the Hirer) be in respect of the whole of the members of such group and the expression "such Plant" in Paragraphs (i) and (ii) of sub-clause (a) of this clause shall be construed accordingly.
- 20. BASIS OF CHARGING**
 - (a) Plant shall be hired out as "per week" for a minimum period of four weeks. In the case of Plant hired "per week" for a minimum period, odd days at the beginning and at the end of the hire period shall be charged pro rata.
 - (b) In the case of Plant which requires to be dismantled for the purpose of transportation, if the Owner agrees to a modification of the hire charge for the period required for assembling on site and dismantling upon completion of hire such modification of the hire charge and the period for which it shall be stated on the Hire Contract.
- 21. PLANT HIRED BY THE WEEK WITHOUT QUALIFICATION AS TO HOURS**

The weekly rate shall be charged irrespective of the number of hours worked.
- 22. COMMENCEMENT AND TERMINATION OF HIRE (TRANSPORT OF PLANT)**
 - (a) 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 named depot or equal. If the Plant be used on day of travelling, full hire rates shall be paid for the period of use on that day.
 - (b) Where a road roller or other plant travels under its own Power, time properly and unavoidably spent in travelling shall be paid for at full Hire Rates.
- 23. NOTICE OF TERMINATION OF CONTRACT**

Where the period of hire is indeterminate or having been defined becomes indeterminate the Contract shall be determinable by seven day's notice in writing given by either party to the other. In the event of the Hirer desiring to terminate the Contract and failing to give such notice, hire for the period of seven day's notice shall be chargeable. 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.
- 24. LABOUR ON REPAIRS**

The cost of labour on repairs performed by the Owner's Operators shall be borne by the Owner except where such repairs are necessitated by the Hirer's negligence, misdirection or misuse of the Plant.
- 25. FUEL, OIL AND GREASE**

Fuel, Oil and Grease shall, when supplied by the Owner, be charged at retail or an agreed estimate of retail, and supplied by the Hirer, shall be of a grade or type specified by the Owner.
- 26. CONSUMABLE STORES**

Consumable stores will be charged at retail or at an agreed estimate thereof.
- 27. TRANSPORT**

The Hirer shall pay the cost of if required by the Owner, arrange transport of, the Plant from the Owner's depot or equal to the site and return to named depot or equal on completion of the hire period.
- 28. OWNER PLATES**

The Owner may affix his plate or mark on the Plant indicating that it is his property and the Hirer shall not remove, deface or cover up the same.
- 29. GOVERNMENT REGULATIONS**

The Hirer will be responsible for compliance with all regulations issued by the Government or Local Authorities, including Regulations under the Factories Acts and observance of the Road Traffic Acts should they apply, and any special additional insurances made necessary thereby, save that if and during such time as the plant is travelling, whether for full or part journey from owner to site and site to owner under its own power with a driver supplied by the Owner, the Owner and not the Hirer shall be responsible as aforesaid.
- 30. PROTECTION OF OWNER'S RIGHTS**
 - (a) 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 that may be occasioned by any failure to observe and perform this condition, except in the event of Government requisition.
 - (b) If the Hirer make default in punctual payment of all sums due to the Owner 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 being a Company, shall go into liquidation (other than a member's voluntary liquidation, or shall do or shall 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 Agreement shall forthwith be terminated (without any notice or other act on the part of the Owner) and notwithstanding that the Owner may have waived some previous default or matter 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 to the Owner under the contract or damages for breach thereof.
- 31. ARBITRATION**

If during the Continuance of the Contract or at any time thereafter any dispute, difference or question shall arise between the Owner and the Hirer in regard to the Contract or the construction of the Conditions or anything therein contained or the rights or liabilities of the Owner or the Hirer such dispute, difference or question shall be referred pursuant to the Arbitration Act 1950, or the Arbitrations (Scotland) Act 1894 as the case may be or any Statutory modification thereof, to a Sole Arbitrator to be agreed upon by the Owner and the Hirer and failing agreement to be appointed at the request of either the Owner or the Hirer by the President for the time being of the Institution of the Mechanical Engineers.