

ME PLANT HIRE LIMITED

CONDITIONS FOR THE HIRING OF PLANT AS SPECIFIED IN SCHEDULE

- 1) **DEFINITIONS**
- (a) The "owner" is ME Plant Hire Limited Crag Avenue, Clondalkin Industrial Estate, Clondalkin, Dublin 22.
- (b) The "Hirer" is the Limited Liability Company, person, public authority or partnership taking the owners plant on hire and includes their successors or personal representatives.
- (c) "Plant" covers all classes of plant, machinery, equipment and accessories of any sort whatsoever which the owner agrees to hire to the hirer.
- (d) A "Day" shall be 8 hours unless otherwise specified in writing by the parties.
- (e) A "Week" shall be 5 consecutive days.
- (f) A "Working week" covers the period from 8:00am on Monday to 17:00 pm on Friday.
- (g) The hire period shall commence from the time when the plant leaves the "Owner" depot or place where the plant was last employed and shall continue until the plant is received back at the "Owners" premises at Crag Avenue, Clondalkin Industrial Estate, Clondalkin, Dublin 22.
- 2) **EXTENT OF CONTRACT**
- No conditions other than those specifically set forth in the order form, the acceptance, thereof, the price list of ME Plant Hire limited from time to time, the price quoted to the hirer before receipt of the plant and herein shall be deemed to be incorporated in or form part of the contract between the parties.
- 3) **ACCEPTANCE OF THE PLANT**
- Acceptance of plant on site implies acceptance of all terms and conditions herein unless otherwise agreed in writing between the parties.
- 4) **UNLOADING AND LOADING**
- The hirer shall be responsible for unloading and loading the plant at site and any personnel supplied by the owner shall be deemed to be under the hirer's control and shall comply with all direction of the hirer.
- 5) **DELIVERY IN GOOD ORDER AND MAINTENANCE INSPECTION REPORTS**
- (a) When the plant is hired with or without the owners driver 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 and to the hirer's satisfaction save for either an inherent fault or a fault not ascertainable by reasonable examination. The hirer shall be responsible for the safe keeping of the plant, the use in a workmanlike manner within the manufacturers rated capacity of same and for the return on completion of the plant in equal good order fair wear and tear excepts. The hirer shall when hiring plant without the owner's operator or driver 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, the hirer shall be solely responsible for any damage loss or accidents whether directly or indirectly arising there from.
- 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 reasonably possible, such work will be carried out at times to suit the convenience of the hirer.
- 7) **BREAKDOWNS, REPAIRS AND ADJUSTMENTS.**
- When the plant is hired without the owners driver or operator any breakdown or the unsatisfactory working of any part of the plant must be notified immediately in writing to the owner. Any claim for breakdown time will only be considered from the time and date of notification in writing. Full allowance 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 and for all stoppages for normal running repairs. The hirer shall not, except for punctures, repair the plant without the written authority of the owner. Punctures are however the responsibility of the hirer. Allowances for hire charge for reasonable cost of repairs will be made by the owner to the hirer where repairs have been authorized. The hirer shall be responsible for all expenses involved arising from any breakdown and all loss or damage incurred by the owner due to the hirers negligence, misdirection or misuse of the plant, whether by the hirer or his servants and for the payment of hire at the appropriate rate during the period the plant is necessarily idle due to such breakdowns or damage. The owner will be responsible for the cost of repairs to the plant involved in breakdowns from all other causes and will bear the cost of providing spare parts for the plant.
- 8) **OTHER STOPPAGES**
- No claims will be admitted (Other than those referred to in clause 7 above), for stoppages through causes outside the owners control including bad weather or ground conditions nor shall the owner be responsible for the cost of expense in recovering any plant from soft ground.
- 9) **LOSS OF USE 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 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 together as a unit, such item shall be deemed a unit for the purpose of breakdowns.
- 10) **CONSEQUENTIAL LOSS**
- Save in respect of the owner liability if any under clauses 5 and 9, the owner accepts no liability nor responsibility for any consequential loss or damage due to or arising through any cause beyond his control.
- 11) **HIRER'S RESPONSIBILITY FOR LOSS AND DAMAGE**
- (a) For the avoidance of doubt it is hereby declared and agreed that nothing in this clause effects the operation of clause 5 and 9 of this agreement.
- (b) During the continuance of the hire period the hirer shall subject to the provision referred to sub-paragraph (a) 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, (except as provided in clause 7 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 all cost and charges in connection therewith whether arising under statute or common law or otherwise in the event of loss or damage to the plant, hire charges shall be continued at idle time rates until settlement has been effected.
- (c) Damage to tyres and tubes and frost damage to machines is the responsibility of the hirer, and such repairs must be carried out at no cost to the owner. Termination of the hire should be notified by telephone immediately and confirmed in writing by first available post.
- (d) Notwithstanding the above the owner shall accept liability for damage, loss or injury due to or arising in the following manner.
- 1) Prior to delivery of the plant to the site of the hirer where and only where the plant is in transit by transport of owner or as otherwise arranged by the owner.
- 2) During the erection of any plant, where such plant requires to be completely erected on the site, where and only where such erection is under the exclusive control of the owner or his agent.
- 3) During the dismantling of the plant, where plant requires to be dismantled after use prior to removal of site, where and only where such dismantling is under the exclusive control of the owner or his agent.
- 4) After the plant has been removed from the site where and only where same is in transit by transport of the owner or otherwise arranged by the owner.
- 5) Where plant is travelling from a site under its own power with a driver supplied by the owner.
- 12) **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 hirers own insurers and the owner of the plant by telephone and confirmed in writing to the owners office by first available post and in respect of any claim made not within the hirers agreement for indemnity no admission, offer, promise of payment or indemnity shall be made by the hirer without the owners consent in writing.
- 13) **RE-HIRING, ETC.**
- The plant or any part thereof, shall not be re-hired, sub-let, lent or given to any third party without the written permission of the owner.
- 14) **CHANGE OF SITE**
- The plant shall not be moved from the site to which it was delivered or consigned without the authority of owner, such authority to be confirmed in writing.
- 15) **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 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 by furnishing a letter to that effect in writing to the hirer. If such determination occurs, within three months from the commencement of hire the owner shall pay all transport charges involved, or More than three months but less six months from the commencement of hire, the owner shall be liable only for the cost of reloading and return transport.
- 16) **BASIS OF CHARGING**
- (a) The Hirer shall render to the owner for each working week an accurate statement in writing of the number of hours the plant has worked each day.
- (b) Full allowance will be made for breakdown periods resulting from mechanical or electrical faults where breakdown is due to the hirer's misuse, misdirection or negligence.
- (c) Breakdown time shall be allowed for not exceeding 8 Hours each day on Monday to Friday less the actual daily hours worked.
- (d) Plant shall be hired out "Per Day" or "Per Week" or "Per Hour" for a minimum period, for a day of 8 hours, or for a week of 40 Hours, or such other period as may be agreed in writing between the hirer and the owner. 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.
- (e) Stoppages due to changing tyres and repairs to punctures will be chargeable as working time.
- 17) **PLANT HIRED ON A DAILY BASIS WITHOUT QUALIFICATION AS TO HOURS.**
- The full daily rate will be charged on a daily basis irrespective of the hours worked except in the case of breakdowns for which the owner is responsible, when the actual hours worked will be charged pro rata the average working day. No hire charge shall be made for Saturday or Sunday unless the plant is actually worked.
- 18) **PLANT HIRED BY THE WEEK OR MONTH WITHOUT QUALIFICATION AS TO HOURS**
- The Weekly or monthly rate shall be charged irrespective of the hours worked except in the case of breakdowns which the owner is responsible when an allowance at the rate of one fifth of the agreed weekly rate or one twentieth of the agreed monthly rate will be made for each working day broken down and calculated to the nearest half working day. No allowance will be made for breakdowns on Saturday or Sunday.
- 19) **PLANT HIRED BY THE WEEK OR THE HOUR FOR A MINIMUM OF 40 HOURS PER WEEK OR A DAY OF 8 HOURS**
- If no breakdowns occurs, the full hire for the minimum period in the contract will be charged and an additional pro rata charge will be made for hours worked in excess of such minimum period. The stipulated minimum number of hours can be worked at any time during the minimum period of a week. Allowances will be made for breakdowns up to 8 hours providing always that where the actual hours worked are in excess of the minimum period less breakdown time, the actual hours worked shall be chargeable. Idle time for this purpose shall be treated as actual working time. The minimum week of 40 hours shall be reduced by 8 hours Monday to Friday for each day's statutory holiday occurring in such week, provided that the plant does not work on the day of the said statutory holiday.
- 20) **"ALL-IN" RATES**
- Where "All-in" Rates are charged by agreement in writing the minimum period shall be as defined in the contacts and in accordance with the hire rates and terms contained therein.
- 21) **COMMENCEMENT AND TERMINATION OF HIRE (TRANSPORT OF PLANT)**
- (a) The hire period shall commence from the time the plant leaves the owner's depot or place where the plant was last employed and shall continue until the plant is received back at the Owner's premises at Crag Avenue, Clondalkin Industrial Estate, Clondalkin, Dublin 22, but an allowance shall be made of not more than one day hire charge each way for travelling time. If the plant is used on the day travelling, full hire rates shall be paid for the period of use on the day. If more than one day be properly and unavoidably occupied in transporting the plant, a hire charge at idle time rates shall be payable for such extra time provided that where plant is hired for a total period of less than one week the full hire rates shall be paid from the date of dispatch to the date of return to the owners premises at Crag Avenue, Clondalkin Industrial Estate, Clondalkin, Dublin 22.
- (b) An allowance of not more than one days travelling time shall be allowed when the plant is travelling to a site other than that specified in the contract provided that:
- (1) Consent to such transfer has been given by the owner under clause 14, and
- (2) The plant is moved by means other than under its own power and
- (3) The plant shall have been on the site specified in the contract or on any other site to which consent to transfer has been given under clause 14, for a period of at least 14 days.
- 22) **NOTICE OF TERMINATION OF CONTRACT**
- Where a 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 (except in case where the plant has been lost or damaged). Verbal 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.
- 23) **FUEL, OIL AND GREASE**
- Fuel, Oil and Grease shall, when supplied by the owner, be charged at nett cost or an agreed estimate of nett cost, and when supplied by the hirer shall be a grade or type specified by the owner.
- 24) **OWNERS NAME PLATES**
- The hirer shall not remove, deface or cover up the owners nameplate or mark on the plant indicating that it is his property.
- 25) **TRANSPORT**
- The hirer shall pay the cost of and if required by the owner, arrange transport of the plant from the owners premises at Crag Avenue, Clondalkin Industrial Estate, Clondalkin, Dublin 22 to the site and return to the owners premises at Crag Avenue, Clondalkin Industrial Estate, Clondalkin, Dublin 22 on completion of the hire period.
- 26) **GOVERNMENT REGULATIONS**
- The hirer will be responsible for compliance with relevant regulation issued by the government or local authorities, including regulations under the Health & Safety in Industry Acts or any statutory modification thereof and observance of the Road Traffic Acts should they apply, including the cost of Road Fund Licenses and any insurance's 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 and with a driver supplied by the owner, the owner and not the hirer shall be responsible as aforesaid.
- 27) **PROTECTION OF OWNERS 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 13 and shall protect the same against distress, execution or seizure and shall indemnify the owner against all losses, damage, cost, charges and expenses arising as a direct result of any failure to observe and perform this condition.
- (b) If the hirer make default in punctual payment of all sums 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 and or execution to be levied against him or make or propose to make arrangements with his creditors or bring 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 automatically 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 same or a like nature, and it shall thereupon be lawful for the owners to retake possession of the said plant and for that purpose enter into or upon any premises where the same may be and 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 damage for breach thereof.
- 28) **CHANGES IN NORMAL WORKING WEEK**
- The foregoing provisions have been framed upon the basis of the hirer working a 5 day week of 40 hours It is hereby agreed that in the event of:
- (a) There being any change in the normal weekly hours in the industry in which the hirer is engaged or
- (b) The contract being made with reference to a 5 day week being worked by the hirer either of 40 hours or such number of hours as may constitute the normal working week in the said industry; Clauses 1 (d) and (f), 16 (c) and (d), 18 and 19 shall be deemed to be modified accordingly and in the event of an alteration in the normal weekly working hours in the said industry the "hire rates and terms" of plant hire for a minimum weekly daily period shall be varied pro rate.
- 29) **ENFORCEMENT TRANSFERENCE OF CONTRACT**
- In the event of any item or items of the plant comprised in this hire contract being used by the Hirer on or in connection with a contract for the construction of works or buildings and of a forfeiture of such contract being made by the Employer thereunder, the owner will upon request in writing made by the Employer within seven days after the date when such forfeiture has become effective and on such Employer undertaking to pay all hire charges therefrom from such last mentioned date, hire such item or items to such Employer for the remainder of the period during which such item or items were hired to the Hirer upon the same terms in all respects as are herein contained save that such employer shall be entitled to permit the use thereof by any other contractor employed by him for the purpose of completing the work or building comprised in such contract.
- 30) **PAYMENTS**
- All monies owed to the owner shall be paid promptly and in strict accordance with the terms of the contract between the parties and if not paid on time, interest will be payable to the owner at the AA Bank of interest from the time the monies become payable until it is paid. The monies owed (whether paid on time or not) shall be held in trust by the hirer for the owner but without obligation to invest.
- 31) **ARBITRATION**
- If during the continuance of the contract work 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 or any thing 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, 2010 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 in writing by the president for the time being of the Construction Industry Federation.
- 32) **General**
- (a) If any provision in these conditions is held by any competent court of law to be invalid or unenforceable in whole or in part, the validity of the other provision of these conditions and the remainder of the provision in question shall not be adversely affected thereby.
- (b) ME Plant Hire limited shall not be liable to the Hirer, nor be deemed to be in breach of any of these conditions by reason of any delay in performing or failure to perform, any obligation of these conditions due to any of the following causes, which are beyond its control. Act of God, explosion, flood, tempest, fire to accident.
- (c) War or treat of war, sabotage, insurrection, civil disturbance or requisition or act of terrorism
- (d) Acts, restriction, bye-laws, regulations, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority
- (e) Strikes, Lockouts, or other trade disputes
- (f) Difficulties in obtaining new plant, labour, fuel spare parts or machinery
- (g) Power Failure or breakdown in machinery.
- (h) This contract shall be governed by the laws of the republic of Ireland.