



# GENERAL CONDITIONS OF SALE

## 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 Friday.
- (g) 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 equals.

## 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 form part of the Contract.

## 3. ACCEPTANCE OF PLANT

Acceptance of the plant on site implies acceptance of all terms and conditions herein unless otherwise agreed.

## 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 directions of the Hirer.

## 5. 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 of the plant being delivered to the site, 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 the Contract and to the Hirer's satisfaction.
- (b) 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. 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 plant to travel over or work on.

## 7. HANDLING OF PLANT

When a driver or operator is supplied by the Owner with the plant, the Owner shall apply a person competent in operating the plant and such person 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 regarded as the servants or agents of the Hirer who alone shall be responsible for all claims arising in connection with the operation of the plant 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 confirm in writing.

## 8. BREAKDOWN, REPAIRS AND ADJUSTMENT

- (a) 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 not ascertainable by reasonable examination of fair wear and tear and for all stoppage for normal running repairs in accordance with the terms of the Contract.
- (b) 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. Allowance for hire charges and for the reasonable cost of repairs will be made by the Owner to the Hirer where repairs have been authorised.
- (c) 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 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 or damage. The Owner will be responsible for the cost of repairs to the plant involved in breakdown from all other causes and will bear the cost of providing spare parts.

## 9. OTHER STOPPAGES

No claims will be admitted (other than those allowed for under "Breakdown" or "Idle Times", 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 expenses or recovering any plant from soft ground.

#### 10. LOSS OR USE OF OTHER PLANT DUE TO BREAKDOWN

Each item or plant specified in the Contract is hired as a separate unit and the breakdown or stoppage of one or more units or 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 breakdown.

#### 11. CONSEQUENTIAL LOSSES

Save in respect of the Owner's liability if any under Clauses 5, 7 and 8, the Owner accepts no liability nor responsibility for any consequential loss or damage due to or arising through any cause beyond his control.

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

(a) For the avoidance of doubt it is hereby declared and agreed that nothing in this Clause affects the operation of Clauses 5, 7 and 8 of this Agreement.

(b) During the continuance of the hire period the Hirer shall subject to the provisions referred to in 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 expected, and except as provided in Clause 8 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. In the event of loss of or damage to the plant, hire charges shall be continued at idle times rates until settlement has been effected.

#### 13. 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 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.

#### 14. 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.

#### 15. BASIS OF CHARGING

(a) The Hirer shall render to the Owner for each working week in accurate statement of the number of hours the plant has worked each day. Where the plant is accompanied by the Owner's driver or operators, the Hirer shall sign the employee's Time Record Sheets daily or weekly. The signature of the Hirer's representative shall bind the Hirer to accept the hours shown on the Time Record Sheets.

(b) Full allowance will be made for breakdown periods resulting from mechanical or electrical faults or absence of driver or operator supplied by the Owner except where breakdown is due to the Hirer's misuse, misdirection or negligence, subject however to the provisions of Clause 7 of this Agreement.

(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 at "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 periods as maybe mutually agreed between the Owner and the Hirer. 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 of tyres and repairs to punctures will be chargeable as working time up to a maximum of 2 hours for any one stoppage and excess will be treated as breakdown time.

#### 16. COMMENCEMENT AND TERMINATION OF HIRE

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.

#### 17. 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 etc. Act and observance of the Road Traffic Acts should they apply, including the cost of Road Fund Licences and any insurances made necessary thereby, save that if and during such time as the plant is travelling whether for full or part journey from the 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.

#### 18. 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 14 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 except in the event of Government requisition.

(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 or execution 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 pervious default or matter of the same or a like nature), and it shall thereupon 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 to the Owner under the Contract or damages for breach thereof.

## **DAVID WATSON TRANSPORT SPECIAL CONDITIONS APPLICABLE TO LORRY MOUNTED CRANES**

### **A. LIFTING OPERATIONS**

(i) For Contract Lifts, David Watson Transport Ltd takes full responsibility for the planning and carrying out of the lifting operation. The Hirer, however, has a legal duty to supply information on the ground conditions including any underground services, voids or soft ground that may affect the stability of the lorry at its wheels or stabilisers.

(ii) For Hired & Managed Lifts, the Hirer is responsible for all aspects of the lifting operation, including the planning, carrying out risk assessments and writing method statements. David Watson Transport Ltd will supply technical information on the lifting capabilities and the specifications of the lorry loader only. Hired & Managed Lifts may only be undertaken by companies/persons that have sufficient knowledge, experience and understanding of the type of lifting operation to be carried out and the lifting equipment that performs it.

### **B. RESPONSIBILITY FOR LOSS OR DAMAGE TO GOODS BEING HANDLED (CRANE HIRE ONLY):**

Subject to the limitations of clause B below, David Watson Transport Ltd accepts responsibility for the loss or damage to goods being lifted to a maximum of £50,000 per lift, excluding scratching, bruising or denting, the Hirer being responsible for the first £100 of each and every claim. At an additional cost to the Hirer and subject to David Watson Transport Ltd being notified prior to the goods being lifted indemnity in excess of £50,000 can be provided. The foregoing indemnity shall not apply to:

- (i) Any loss or damage caused or contributed to by any defect in the property being handled, or by the application of slings, hooks or any other lifting equipment required.
- (ii) Any loss or damage to brittle objects.

### **C. SLINGS**

(i) It is the responsibility of the Hirer to notify us of any specific lifting requirements. David Watson Transport Ltd will supply their standard selection of slings and no responsibility is accepted for loss or delay if these are found to be unsuitable for the purpose required.

(ii) David Watson Transport Ltd accepts no responsibility for damaged caused during the correct slinging if it can be evidenced that no other method of slinging was appropriate.

### **D. SITE CONDITIONS**

It is the responsibility of the Hirer for the adequacy of the ground conditions to support the vehicle under its wheels or stabilisers. The Hirer shall be responsible for the recovery of the vehicle from soft ground and for further damage as a result of ground failure.

### **E. CONSEQUENTIAL DAMAGE**

David Watson Transport Ltd accepts no responsibility whatsoever for:

- (i) Any consequential loss due to or arising out of any breakdown, stoppage, delay, detention or non arrival of the vehicle through whatsoever or due to or arising out of any defect whatsoever with the vehicle or load.
- (ii) Any damage to property beneath the wheels or to any overhead obstruction.

**LATE PAYMENT OF INVOICES:** Please note all invoices unpaid after the stated terms will incur an 8% charge above the Bank of England base interest rate.