

BENNIE EQUIPMENT CONDITIONS FOR THE HIRING OF FORK TRUCKS

1. DEFINITIONS

- (a) The “Owner” is the Company, firm or person letting the Fork Trucks on hire and includes their successors assigns or personal representatives.
- (b) The “Hirer” is the Company, firm, person, Corporation or public authority taking the Owners’ fork Trucks on hire and includes their successors or personal representatives.
- (c) “Fork Trucks” covers all classes of equipment and accessories therefore which the Owner agrees to hire to the hirer.
- (d) A “week” shall be seven consecutive days.
- (e) A “year” shall be 52 weeks.

2. EXTENT OF CONTRACT

No conditions or warranty other than herein specifically set forth shall be implied or deemed to be incorporated in or from part of the contract.

3. AVAILABILITY OF FORK TRUCKS

The Fork Trucks are offered subject to being available to the Owner when the Hirer’s acceptance of the contract is received by the Owner.

4. LOADING AND UNLOADING

The Hirer shall be responsible for unloading and reloading the Fork Trucks at site, and any Driver or Operator supplied by the Owner shall be deemed to be under the Hirer’s control.

5. DELIVERY IN GOOD ORDER AND MAINTENANCE

- (a) Unless notification in writing to the contrary is received by the Owner from the Hirer within three working days of the Fork Trucks being delivered to the site, the Fork Trucks shall be deemed to be in good order in accordance with the terms of contract and the Hirer’s satisfaction. The Hirer shall be responsible for their safe keeping, use in a workmanlike manner within the manufacturer’s rated capacity and return on the completion of the hire in equal order. (Fair wear and tear accepted)
- (b) The Hirer shall when hiring the Fork Trucks without an Owner’s operator take all reasonable steps to keep himself acquainted with the state and condition of the Fork Trucks. If the Fork Trucks are continued to work or used 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) Unless otherwise agreed or stated the trained operator shall be provided by the Hirer.

6. HANDLING OF PLANT

When an operator is supplied by the Owner to work the Fork Trucks, he shall be under the direction and control of the Hirer. Such Operators shall be for all purposes in connection with their employment in the working plant being 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 Fork Trucks by the said operators. The Hirer shall not allow any other person to operate such Fork Trucks without the Owner’s previous consent to be confirmed in writing.

7. ROUTINE MAINTENANCE

- (a) The Hirer is required to undertake daily routine maintenance including greasing and lubricating in accordance with the manufacturer’s handbook, and to ensure the Engine and Hydraulic oil levels, Battery and Cooling System levels and tyre pressure are correct.
- (b) Electric Fork Lift and Reach Trucks
The Hirer is also responsible for ensuring the following traction battery and charger procedures are strictly adhered to:-
 - (i) No electric truck battery shall be discharged more than once in 24 hours.
 - (ii) Acid levels must be checked daily and maintained at the correct level by the addition of pure distilled water only.
 - (iii) Instructions on the charging equipment must be correctly followed as failure to observe these instructions would result in irreparable damage. When an equalizing charge is given the charge must be switched off after 4 hours, as the automatic charge termination relay only operates in the normal battery recharge position.

8. BREAKDOWN

- (a) When the Fork Trucks are hired without the Owner’s Operator any breakdowns or the unsatisfactory working of any part of the Plant must be notified immediately to the Owner by telephone. Any claim for breakdown time will only be considered from the time of such notification by telephone.
- (b) Full allowance will be made to the Hirer for any stoppage due to breakdown of the Fork Trucks caused by the development of an inherent fault or wear and tear. The Hirer shall be responsible for all expense involved arising from any breakdown and loss or damage incurred by the Owner due to the Hirer’s negligence, misdirection or misuse of the Fork Truck, whether by the Hirer or his servants, and for the payment at the appropriate rate during the period the Fork Trucks are necessarily idle due to such breakdown. The Owner will be responsible for the cost of repairs to the Fork Trucks involved in breakdowns from all other causes and will bear the cost of providing spare parts.



9. OTHER STOPPAGES

No claim will be admitted other than those allowed for under Breakdown, as herein provided, for stoppages through causes outside the Owner's control.

10. LOSS OF USE OF OTHER FORK TRUCKS DUE TO BREAKDOWN

Each item of the Fork Trucks 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 Fork Trucks working in conjunction herewith.

11. CONSEQUENTIAL LOSSES

The Owner shall not be responsible for consequential loss or damage of any kind howsoever caused.

12. HIRER'S RESPONSIBILITY FOR LOSS AND DAMAGE

- (a) During the continuance of the hire period the Hirer shall make good to the Owner all loss of or damage to the Fork Trucks from whatever cause the same may arise, fair wear and tear excepted and except as provided in Clause 8 herein.
- (b) During the continuance of the hire period the Hirer shall 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 Fork Trucks and in respect of all costs and charges in connection therewith whether arising under statute or common law.
- (c) During the continuance of the hire period the Hirer shall be responsible for all expenses arising from any loss of or damage to the Fork Trucks from whatever cause such loss or damage may arise fair wear and tear excepted and except as provided in Clause 8 herein.

13. NOTICE OF ACCIDENT

If the Fork Trucks are 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, or promise of payment or indemnity shall be made by the Hirer without the Owner's consent in writing.

14. SUB-LETTING

The Hirer shall not sub-let or lend the Fork Lifts or any part hereof to any third party without first receiving written permission of the Owner.

15. SUITABILITY OF SITE

Each Fork Truck is offered subject to the owners possible request for prior inspection of site conditions. The Hirer shall not move the Fork Trucks from the site to which they were delivered or consigned unless prior written consent be obtained from the Owner.

16. SERVICING AND INSPECTION

The Hirer shall at all reasonable times allow the Owner, his agents or his insurers to have access to the Fork Lifts 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, who will provide suitable facilities for this purpose.

17. REPAIRS AND ADJUSTMENTS

Except in the case of repairs undertaken by the Owner's operators, the Hirer shall not repair or attempt to repair the Fork Trucks unless specifically authorised by the Owner. The Owner undertakes to deal with all necessary repairs as quickly as reasonable possible. If the Fork Truck is fitted with Pneumatic Tyres, punctures shall be responsible of the Hirer.

18. RETURN OF FORK TRUCKS FOR REPAIRS

If at any time after the date of delivery any item of the Fork Trucks, 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 a Fork trucks to be sent to a depot and in the latter event the Owner shall be entitled to replace such Fork Trucks forthwith similar plant, the Owner paying all transport charges involved in the removal of such Fork Trucks to depot for repair and the delivery of the substituted Plant and the contract shall continue as if the substituted Fork Trucks had been the subject thereof. The Hirer and not the Owner shall be liable for all costs of loading and/or transport if the necessity for such repairs arises from the negligence, misdirection or misuse of such Fork Trucks by the Hirer. For such repairs that arise from the negligence, misdirection or misuse of such Fork Trucks by the Hirer, the Owner reserve the right to remove the truck from site and complete the required repairs, with all repair cost passed on to the Hirer, all chargeable repairs responsible to the hirer will be paid in full upon receipt of the Owners invoice and prior to delivery of the equipment back to Hirers site.

19. BASIS OF CHARGING

- (a) The Hirer shall render to the Owner for each working week an accurate statement of the number of hours the Fork Trucks have worked each week and where the Fork Trucks are accompanied by the Owner's operator, shall sign the Employee's Time Record Sheets daily or weekly if so requested by the Owner. The

signature of the Hirer or 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 Fork Trucks being inoperative through mechanical breakdown or absence of operator supplied by the Owner except where breakdown is due to the Hirer's misuse, misdirection or negligence.
- (c) Breakdown time shall be allowed for not exceeding normal working hours Monday to Saturday less the actual daily hours worked provided that breakdown time shall not be allowed on Sundays.
- (d) Fork Trucks shall be hired out for a minimum period of one day or such other longer periods as may be mutually agreed between the Owner 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 stoppages due to routine maintenance servicing or inspection.
- (f) No allowance will be made for standing time whilst the Fork Truck is standing available for work the Hirer's instructions.

20. COMMENCEMENT AND TERMINATION OF HIRE

The hire period shall commence from the time when the Fork Trucks arrive at the Hirer's site and shall continue until the Fork Trucks are received back at the Owners named depot or equal.

21. INSURANCE

- a) The Hirer shall at the Hirer's expense fully insure the following with a reputable insurance company and note the Owner's interest on the policy:
 - (i) The plant as described overleaf for the value shown, against loss or damage or destruction howsoever arising:
 - (ii) In respect of all the Hirer's liability (or responsibility or indemnity) to the Owner within clauses 9, 10 and 14 above:
- b) The hirer shall:
 - (i) Produce the policy or policies effected hereunder for inspection by the Owner on demand and
 - (ii) Hold the proceeds of any claim under sub-clause a) above on trust for the Owner.

22. NOTICE OF TERMINATION OF CONTRACT

Where the period of hire is indeterminate of having been defined becomes indeterminate the Contract shall be determinable by 24hrs notice in writing given by either party to the other. 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. VARIATION IN HIRE RATES

All quotations are based upon wage rates and prices current at the date of quotation. Should increases in these occur during the currency of the hiring, the rate payable hereunder shall increased by such proportions as the index of average weekly earning of employees under the heading 'All industries and Services Covered' in the Ministry of Labour Gazette published on any date subsequent to the date of quotation may have increased from the corresponding figure shown in such index in the last issue of the said Gazette published before the date of such quotation.

24. FUEL, OIL AND GREASE

Fuel, Oil and Grease shall be supplied by the Hirer, unless otherwise Stated.

25. 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.

26. USE ON THE PUBLIC HIGHWAY

Fork Trucks hired hereunder must not be used on the public highways unless:-

- (a) The Owners previous consent in writing is obtained, and
- (b) All necessary licences for such use are obtained by the Hirer's and
- (c) Arrangements for all insurances required by law in respect of such use are made by the Hirer, and
- (d) The driver of the truck holds a licence entitling him to drive it on the public highway.

Where Road Fund licences are arranged by the Owner, the nett cost shall be chargeable to the Hirer extra to the hire rate.

27. GOVERNMENT REGULATIONS

The Hirer will be responsible for compliance with all regulations issued by the Government or Local Authorities, including Building (Safety, Health and Welfare) Regulations and observance of the Road Traffic Acts should they apply, including the cost of Road Fund Licences and any special additional insurances made necessary thereby.

28. PROTECTION OF OWNERS RIGHTS

- (a) The Hirer shall not rehire, self mortgage charge pledge part with possession of or otherwise deal with the Fork Trucks 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 that may be occasioned by any failure to observe and perform this condition except of Government requisition.

- (b) If the Hirer shall make default in punctual payment of all sums due to the Owner for Hire of Fork Trucks 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 members voluntary liquidation) or shall do or shall cause to be done or permit of suffer any act of thing whereby the Owner's rights in the Fork Trucks maybe prejudiced or put into jeopardy, this Agreement shall forthwith be determined (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 Owner to retake possession of the said Fork Trucks and for that purpose to enter into or upon any premises where the same maybe and the determination of the hiring under this Condition shall not affect the right of the owner to recover from the Hirer any moneys due to the Owner under the contract or damages for breach thereafter.

29. 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 these Conditions or anything therein contained or the rights or liabilities if the Owner or the Hirer such dispute differences or questions shall be referred pursuant to the Arbitration Act 1950 or the Arbitration (Scotland) Act 1894 as the case may be or any Statuary modification thereof to a sole Arbitrators to be arranged 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 Institute of Mechanical Engineers.