

# M.J.C. SERVICES

## Materials Handling Equipment Forklift-Repairs-Hire-Sales-Service

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### TERMS OF HIRE AGREEMENT

1. The hiring, delivery of goods and rentals
- 1.01 We agree to hire and you agree to take on hire the goods shown overleaf. The hiring will start on the agreement date and continue for the periods shown overleaf.
- 1.02 You will pay us:-
  - (a) the advance rentals shown overleaf when you sign this agreement; and
  - (b) the rentals shown overleaf or as increased or varied under this agreement on the dates shown overleaf; and Time of payment will be of the essence of this agreement.We reserve the right to increase the rentals shown overleaf at any time after the agreement date on giving you not less than 3 month's notice if our cost of performing our obligations under clause 2.04 shall increase. The amount of the increase in the rentals will not be more than the lesser of the increase in our cost and 15% of the rentals previously payable. We will not increase the rentals more than once a year.
- 1.03 You have selected the goods and you will inspect them on delivery. If the goods are not satisfactory you will tell us of any defect immediately.
2. Care of the goods, maintenance and repair
- 2.01 You will be responsible for any loss or damage to the goods even if this is not your fault. You will keep the goods in good condition. Allowing for fair wear and tear.
- 2.02 You will let us inspect the goods at any reasonable time and you will tell us immediately if you change your address. You will not move the goods from the location shown overleaf without our prior written consent.
- 2.03 You will not use or let anyone use the goods illegally. You will not let anyone obtain any rights over the goods, or let anyone take or threaten to take them to pay any of your debts. You will keep the goods in your possession and under your control and will not sell, transfer, mortgage, lend or give the goods to anyone.
- 2.04 If it is indicated overleaf that maintenance and repair of the goods are to be included in this agreement we or our authorised representative will maintain and repair the goods on the following terms:-
  - (a) we or our authorised representative will not be liable for any loss of business or profit or other consequential loss arising from any defect in or performance of the goods nor for failure to maintain and repair the goods due to causes beyond our or our authorised representative's control;
  - (b) you will in addition to the rentals shown overleaf be charged a rental separately for:-
    - (i) service required outside the hours of 8am to 5.30pm Monday to Friday;
    - (ii) service made necessary by the use of materials other than those approved by us or our authorised representative or by accidental damage or your wilful neglect or misuse of the goods.
  - (c) if you fail to pay us any rental due on time we may without affecting our legal rights stop maintaining and repairing the goods;
  - (d) you will appoint one of your employees to be trained by our authorised representative to use the goods. He must always carry out the Manufacturer's User Instructions for the goods when using them;
  - (e) you will allow us or our authorised representative to enter your premises to inspect, maintain and repair the goods during usual hours of business.
  - (f) where the Hirer enters into a maintenance agreement with the supplier the owner shall be the agent of the supplier for the purpose of collection of the maintenance charge and shall not incur responsibility for the provision of maintenance in respect of the goods.
3. Insurance and total loss
- 3.01 From the date of delivery you will insure the goods for at least their day to day replacement value and against claims for injury, loss or damage caused by the goods or their use.
- 3.02 If the goods are a total loss because they are lost, stolen, destroyed or damaged so badly that the insurer decides they are not worth repairing, you will notify us immediately in writing and:-
  - (a) the amounts which would become payable on termination set out in clause 5.01 (a) and (b) will become immediately due and payable to us; and
  - (b) you will arrange for prompt payment of the insurance money to us.We may enforce our rights to the sums due under (a) above after sending you a written notice.
4. Insolvency; breach; repudiation; default and termination
- 4.01 You will be deemed to commit a breach of this agreement if you die or have a petition for a bankruptcy order presented against you or an application is made for an interim order under the Insolvency Act 1986 or you convene a meeting of or come to any arrangement with your creditors or you have a receiving order made against you or you have a petition for winding-up or an administration order presented against you or you pass a resolution for voluntary winding-up or have a receiver or administrative receiver appointed.
- 4.02 You will be treated as having repudiated this agreement if you:
  - (a) fail to pay any rental or other sum due under this agreement on time; or
  - (b) break any term in clause 2.03 or are deemed to commit a breach under clause 4.01 of this agreement; or
  - (c) break any other term under this agreement and fail to put it right within 14 days.
- 4.03 If you are treated as having repudiated this agreement:-
  - (a) we can terminate this agreement; and
  - (b) we will have the right to take back the goods; and
  - (c) you will have to pay to us immediately all amounts due under clause 5.01.
5. Payments on termination
- 5.01 On any termination of this agreement you will immediately pay to us:-
  - (a) all arrears of rentals and other sums;
  - (b) if termination takes place during the fixed period, by way of liquidated damages, all rentals which would but for termination have become due and payable from the date of termination up to the end of the fixed period less a discount on each rental for accelerated payment at the rate of 3% per annum;
  - (c) the administration fee shown overleaf (if not already due) less a discount thereon for accelerated payment at the rate stated in (b) above; and
  - (d) if demanded, any costs incurred by us in repossessing, repairing, storing, insuring or selling the goods.Your obligations under this clause will be treated as if they had arisen immediately before termination.
6. Exclusions of liability
- 6.01 If you do not obtain direct from the manufacturer or supplier express warranties about the goods we will at your request and cost and our terms transfer to you so far as possible the benefit of any manufacturer's and supplier's express warranties of fitness and performance of the goods given to us.
- 6.02 (a) Except as mentioned in subclause (b) below, since the goods have been chosen by you and have not been inspected by us, we do not make or give any representation or undertaking express or implied as to the condition, description, quality or performance of the goods or as to their fitness for any or any particular purpose. All such representations and undertakings are specifically excluded;  
(b) If in making this agreement you deal as a consumer or if in Scotland this agreement is a consumer contract (within the meanings of Sections 12 and 25 of the Unfair Contract Terms Act 1977) but not otherwise, the goods are hired to you with the benefit of undertakings about title, correspondence with description, fitness for purpose and merchantable quality implied by the Supply of Goods and Services Act 1982;  
(c) No liability (except for death or personal injury resulting from our negligence) will attach to us in contract or in tort, for loss, injury or damage sustained by reason or any defect in the goods whether latent or apparent and however caused.
- 6.03 We will not be obliged to replace the whole or any part of the goods nor be liable for any loss including loss of earnings or profits suffered by you if the goods are or become unusable.
7. Variations in rentals
- 7.01 We have calculated the fixed period rentals shown overleaf, to give us a particular rate of return on this agreement, after allowing for tax. Our calculation assumes (among other things) that:-
  - (a) a 25% writing down allowance will be made to us:
    - (i) in our accounting period in which the agreement date falls on the whole of the expenditure incurred on the purchase of the goods; and
    - (ii) on the balance of the expenditure brought forward in each succeeding accounting period;
  - (b) none of such allowances will be disallowed or withdrawn;
  - (c) that corporation tax is and will continue to be chargeable at the rate of 35%.If any of these assumptions proves to be wrong, we shall be entitled to vary each of the fixed period rentals shown overleaf which are not yet due to the amount which we need to preserve our rate of return. We will send you a notice of the varied rentals. They will be payable instead of the fixed period rentals shown overleaf which are not yet due at the date of our notice. If the last fixed period rental has already been paid, you will pay us within seven days of receipt of notice from us an additional rental, together with VAT, of an amount calculated on the same basis as above. The obligation to pay an additional rental will be deemed to have arisen before termination of this agreement.
- 7.02 You will tell us of any event which may affect our right to writing down allowances.
- 7.03 The amounts of the varied rentals set out in a notice from us to you will be final and binding on you.
8. Return of goods on termination
- Upon the termination of this agreement for any reason, you will at your sole cost and expense:-
  - (a) immediately return the goods to us or to such place as we may direct, by delivering the same to such place in good order and condition; and upon your failure to do so we and our duly appointed agents will have the right to enter upon the premises where the goods may be and take possession of them;
  - (b) complete a vehicle termination form provided at the point of hand-over and give this to us or our agent to confirm:
    - (i) the actual hours of use during the period of the hiring
    - (ii) any vehicle damage or abuse.
9. General
- 9.01 You confirm that the information provided by you and shown overleaf is true
- 9.02 If you fail to pay any sum due on time we have the right to charge daily interest on that sum at the rate of 5% above Finance House Base Rate from time to time. Interest will be charged from the date of payment until actual payment. This clause will apply to this agreement both before and after any court judgment we may obtain against you and will survive and apply after termination.
- 9.03 You will provide us with a surety acceptable to us for your liabilities under this agreement if we require this before this agreement is made.
- 9.04 If you are a partnership each of you separately and all of you jointly will be responsible for carrying out the terms of this agreement.
- 9.05 You will indemnify us if your possession or use of the goods, or our ownership or repossession of the goods under this agreement involves us in any loss or cost.
- 9.06 In negotiation for this agreement only persons expressly authorised in writing by us have had authority to act as our agent. All the terms agreed between us (except terms included by law) are set out in this agreement.
- 9.07 Our rights under this agreement will not be affected by any forbearance or concession made by us to you.
- 9.08 For the purpose of UK taxation and irrespective of the accounting treatment to be adopted by you, you are not entitled to claim capital allowances on the goods.
- 9.09 You must not assign this agreement.

VAT Registered No. 614 830 651

RETENTION OF GOODS

All goods remain the property of

M.J.C. Materials Handling until paid for in full

**TERMS. STRICTLY 30 DAYS NETT**



FORK LIFT TRUCKS



FORK LIFT TRUCKS



FORKLIFT TRUCKS

# GENERAL CONDITIONS FOR THE HIRING OF EQUIPMENT

## 1. DEFINITIONS AND LAW

The complete contract is the document or document that set out these terms and conditions and all other details relevant to a particular agreement and is hereinafter referred to as the "Contract". The Hired Item(s) are those stated in the relevant contract and are hereinafter referred to as the "Equipment". The "Hirer" is the person, firm, company, corporation or public authority taking the Supplier's Equipment on hire. The parties to the Contract are the Supplier of the Equipment and the Hirer named in the Contract.

This Contract shall be governed by and construed in accordance with the law of England.

## 2. BASIS OF CHARGING

The Hirer will pay the hire charge stated in the Contract. Hire charges will commence from the time stated in the Contract and will continue during the period of hire until the Equipment is restored to the Supplier in a clean and serviceable condition against the Supplier's receipt. All time is chargeable, including Saturday, Sunday, Bank Holidays etc. All charges are payable on demand. If payment is not made on due date the Supplier shall be entitled to interest on the amount that is overdue at the contemporary base rate of the National Westminster Bank PLC plus 4% calculated on a day to day basis. This shall be without prejudice to any other rights or remedies of the Supplier. Any legal charges incurred in the recovery of money or Equipment will be paid by the Hirer.

## 3. CARRIAGE CHARGES

Hire charges do not including carriage. Any expenses incurred by the Supplier in delivering or recovering Equipment or attempting the same, will be paid by the Hirer. Where carriage charges are quoted by the Supplier such charges will include a charge for a maximum 30 minutes attendance by the Supplier's vehicle at the address specified by the Hirer. Further time will be paid for by the Hirer.

## 4. MAXIMUM PERIOD OF AGREEMENT (If Hirer is not a Limited Company)

If the Hirer is an individual or partnership (including an unincorporated body of persons) and not a Limited Company the Contract will terminate not later than 3 months from the commencing date of the period of hire, in such circumstances the Hirer shall by not later than close of business on the penultimate day of the said 3 months restore the equipment to the Supplier. Equipment not restored to the Supplier will be subject to a charge equating to the financial loss to the Supplier.

## 5. EXTENT OF CONTRACT

The Contract will come into being between the Hirer and the Supplier when the Hirer has placed an order, detailing his requirements and agreeing to be bound by three Conditions, and the Supplier has accepted the order.

## 6. RESPONSIBILITIES OF THE HIRER AND PERSON SIGNING

The person signing the Contract warrants that he has authority of the Hirer to make this Contract on the Hirer's behalf and hereby agrees to indemnify the Supplier against all losses and costs that may be incurred by the Supplier if this is not so. The said person hereby acknowledges that he has been instructed in the safe and proper operation of the Equipment. The said person and Hirer jointly and severally hereby undertake to ensure that no-one uses the Equipment who is not properly instructed and to ensure that every user is in possession of instructional (if any) material supplied by the Supplier and shall not allow the Equipment to be misused.

## 7. WHEN SIGNATURE FOR RECEIPT OF EQUIPMENT BECOMES OPERATIVE

Where, for administrative convenience, the hirer or his agent is requested by the Supplier to sign a Contract before the goods are handed over the Hirer or his agent agrees to examine the goods at the time of the physical hand-over and the effect of such signature will not become operative until immediately after the physical hand-over.

## 8. RESPONSIBILITY OF HIRER OR HIS AGENT

- (i) The Hirer or his agent shall be responsible for the loading and unloading of the Equipment at the address specified by the Hirer, and likewise at the Supplier's premises when transported by the Hirer, or his agent, and any person supplied by the Supplier shall be deemed to be an employee of the Hirer or his agent at such times.
- (ii) The Hirer's responsibility for the Equipment commences on the receipt of the Equipment by the Hirer or his agent or on delivery as requested and ends when the Hirer is in possession of the Supplier's unqualified receipt for all the Equipment. The Hirer will not sell or otherwise part with control of the Equipment.
- (iii) The Hirer shall at all times and in all respects indemnify the Supplier against and from, any and every expense, liability, financial loss, Claim or proceedings whatsoever in respect of any personal injury whatsoever (including but not limited to the generality of the foregoing, injury to the Hirer and injury to any servant, employee or agent of the Hirer) and in respect of damage to or loss of any property whatsoever (including Equipment indemnity as determined by conditions 13) arising out of or in connection with or consequent upon the hire, delivery, use, misuse, non-use, repossession, collection, return or non-return of the Equipment or any part thereof. This sub clause shall not apply in the case of a person, dealing as a consumer as defined by the Unfair Contracts Terms Act 1977 where the expenses, liability, financial loss or claim or processing or damage or loss of any property aforesaid results from the breach of contract or the negligence of the Supplier.

## 9. ELECTRICAL EQUIPMENT

Where the Equipment is electrical in part or in whole the same should normally be used with plugs and/or sockets as fitted but if temporary replaced with other suitable plugs or sockets, this must be carried out by a competent person who must also reinstatement to original condition. It will be the Hirer's responsibility at all times to arrange a suitable supply of electricity for the use with the equipment. Under no circumstances should electrical Equipment be used without it being correctly earthed unless it is of double insulated specification.

## 10. MAINTENANCE OF EQUIPMENT AND BREAKDOWN PROCEDURES

The Hirer shall keep himself acquainted with the state and condition of the Equipment and ensure that it remains safe, serviceable and clean. Any breakdown or any unsatisfactory working of Equipment must be immediately notified to the Supplier. Under no circumstances shall the Hirer repair or attempt to repair the Equipment unless authorised by the Supplier. Such Equipment must be returned to the Supplier's premises for examination or when rectification elsewhere is requested, the Hirer agrees to pay carriage if required by the Supplier.

## 11. REMOVAL OF EQUIPMENT

Equipment must not be removed from the site specified by the Hirer when the Equipment was collected, without the authority of the Supplier or from any subsequently authorised site, or from the address to which the Supplier delivered the equipment.

## 12. CONSEQUENTIAL LOSSES

The Supplier shall not be liable for any consequential loss to the Hirer including any expense, liability, loss, claim or proceeding, whatsoever caused by, or arising out of, the late delivery, non-delivery, unsuitability, or lawful repossession of the Equipment, or any part thereof or any breakdown or stoppage of same. Nothing in this clause shall affect the statutory rights of a person dealing as a consumer as defined by the Unfair Contracts Terms Act of 1977.

## 13. INDEMNITY FOR LOST, STOLEN OR DAMAGED EQUIPMENT

The Hirer agrees either to insure the Equipment against loss, theft or damage beyond economic repair on a "new for old" basis or alternatively indemnify for the Supplier in a similar amount. All monies received by the Hirer from the insurance company or from any other source in settlement of such claims shall be held in trust by the Hirer and paid to the Supplier on demand. The Hirer shall not compromise any claim without the express consent of the Supplier.

## 14. NOT RETURNED, LOST, STOLEN, DAMAGED OR UNCLEAN EQUIPMENT

- (i) The Hirer accepts full responsibility for the care and safekeeping and return in good order of the Equipment.
- (ii) The Hirer will pay to the Supplier all costs incurred by the Supplier in rectifying the condition of any Equipment returned damaged or unclean. Additionally, the Hirer will pay to the Supplier a charge equating to the financial loss to the Supplier until such rectification is complete.
- (iii) In the case of Equipment which is lost or stolen or damaged beyond economic repair the Hirer shall in all cases meet the Hirer's obligations under Condition 13. Additionally, in any case where the loss, theft or damage aforesaid results from any breach of contract or negligence on the part of the Hirer, the Hirer accepts liability to pay for all financial loss to the Supplier until the indemnity referred to in Condition 13 is paid. The Hirer's liability under this Condition shall be without prejudice to any other rights of the Supplier.

## 15. DETERMINATION OF HIRE

The Supplier shall be entitled at any time if the Hirer is in breach of this Contract to terminate this Contract (such termination to be effective immediately) and to repossess the Equipment or any part thereof.

## 16. RIGHTS OF ACCESS

The Hirer hereby authorises the Supplier (upon production of this document) to enter upon any premises where the Supplier reasonably believes any Equipment, or any part thereof to be, and if, and in so far as, the Supplier in his absolute discretion deems necessary, to inspect, test, repair, replace or repossess the same.

## 17. RIGHTS RESERVED

Any failure by the Supplier to enforce any or all of these conditions shall not be construed as a waiver of any of the Supplier's rights hereunder.

## 18. SEPARATE TERM VALIDITY

Should any term in this Contract be held to be invalid such invalidation will not affect the validity of the remaining terms.

## 19. TERMS OF CONTRACT

These conditions have effect in substitution for, and to the exclusion of, any conditions put forward by the Hirer.

7th revision August 1986

## 20. PARTS AND GOODS NOT COVERED FOR FORKLIFT HIRE BY MJC SERVICES

- |                            |                         |
|----------------------------|-------------------------|
| (i) Hydraulic pipes, hoses | (iii) Load Forks        |
| (ii) Wheels and tyres      | (iv) Forklift transport |

### LPG (GAS) POWERED FORKLIFTS

Any part of the gas system will NOT be covered or maintained by MJC SERVICES, unless MJC SERVICES supply LPG (GAS) BOTTLES

21. The Hirer is responsible for the safe operation of the machine and personal safety of operators.

22. The Hirer is responsible for the well being of the machine and is liable for any damage sustained by the machine while on hire.

23. MJC SERVICES DO NOT accept responsibility for machine damage or personal injuries.

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