

IRISH INDUSTRIAL LIFT TRUCKS LIMITED
GENERAL CONDITIONS FOR THE HIRE OF FORKLIFT TRUCKS

1. DEFINITIONS

- (a) The "Owner" is Irish Industrial Lift Trucks Limited, the Company letting the Fork Trucks on hire and includes its 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 its Successors or personal representatives.
- (c) "Fork Trucks" is the Fork Truck or Fork Trucks owned by the Owner and hired by the Hirer and includes 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

- (a) All terms and conditions relating and incidental to this Contract are contained herein and this Contract supersedes, rescinds and entirely replaces any other Agreement, term, condition, representation or statement made or agreed upon between the parties hereto relating to the Contract unless such Agreement, term, condition or representation is expressly incorporated herein.
- (b) If at any time any provision of this Contract is or becomes invalid or illegal in any respect, such provision shall be deemed to be severed from the Contract but the validity, legality and enforceability of the remaining provisions of the Contract shall not be affected or impaired thereby.
- (c) Any implied warranty or condition whether Statutory or otherwise and whether as to quality, state, condition or fitness for any particular purpose of the fork truck or other equipment or accessories, as to the owners right to transfer possession of or give quite possession thereof or as to any other matter or thing whatsoever by the Owner is hereby expressly excluded from this contract.

3. AVAILABILITY OF FORK TRUCKS

The Fork Trucks are offered subject to being available to the Owner and 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 the Contract and to the Hirer's satisfaction. The Hirer shall be responsible for their safekeeping, use in a workmanlike manner within the Manufacturers rated capacity and return on the completion of the hire in equal order; fair wear and tear excepted. For the avoidance of doubt, what constitutes fair wear and tear is described in the Owner's "Fair Wear & Tear Standards" (furnished hereto or available on request) and the condition of the returned Fork Truck(s) shall be inspected and evaluated in accordance with same.
- (b) The Hirer shall, when hiring Fork Trucks without Owner's operator, take all reasonable steps to remain familiar with the state and condition of the Fork Trucks. If Fork Trucks continue to work or be in use in an unsafe and unsatisfactory state the Hirer shall be solely responsible for any damage, loss or injury whether directly or indirectly arising therefrom.
- (c) Unless otherwise agreed the operator shall be provided by the Hirer.

6. ROUTINE MAINTENANCE

- (a) The Hirer is required to undertake daily routine maintenance including greasing and lubricating the Fork Trucks in accordance with the manufacturer's handbook, and to ensure the Engine and Hydraulic oil levels, battery and cooling system levels and tyre pressures 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 and recharged 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 will result in irreparable damage. When an equalizing charge is given the charger must be switched off after 4 hours, as the automatic charge termination relay only operates in the normal battery recharge position.

7. BREAKDOWN

- (a) When the Fork Trucks are hired without the Owners operator, any breakdown or the unsatisfactory working of any part of the Fork Trucks 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) The Hirer or his servants or Agents shall be responsible for all expenses involved (including the cost of repairs and cost of spare parts) arising from any breakdown and all loss or damage incurred by the Owner due to the Hirer's negligence, misdirection or misuse of the Fork Trucks whether by the Hirer, his servants or agents and for the payment of hire 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 of the Fork Trucks involved in breakdown from all other causes and will bear the cost of providing spare parts.

8. 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 or working time by any other unit or units of Fork Trucks working in conjunction therewith.

9. CONSEQUENTIAL LOSSES

The Owner accepts no liability nor responsibility for any consequential loss or damage due to or arising from the breakdown or stoppage of the Fork Trucks through any cause whatsoever, or through non-arrival arising from accident or breakdown during loading, unloading, or transport of the Fork Trucks or for any damage whatsoever or howsoever caused below ground level.

10. HIRER'S RESPONSIBILITY FOR LOSS AND DAMAGE

- (a) The Hirer shall at his own expense insure the Fork Trucks for the full replacement value against loss or damage by accident, fire or theft and all risks which can be covered by an insurance in the type of business/activity for which the Fork Truck is being used and to cover any driver who shall drive the Fork Trucks at any time.
- (b) The Hirer shall insure the Fork Trucks with a reputable insurer under a Comprehensive Policy of Insurance, and that the policy so effective shall be produced to the Owner on the signing of this Agreement. The insurance shall record the Owner's interest in the Fork Trucks. The Hirer shall irrevocably instruct the Insurers to make any payments under the policy to the Owner in respect of any loss or damage to all or any of the Fork Trucks. The Hirer should punctually pay all premiums (and other sums) required to keep the said insurance effective and shall produce to the Owner all receipts for the premium on demand, and if the Hirer fails to do so, the Owner shall be entitled at the Hirer's expense to insure the Fork Truck and recover the cost thereof from the Hirer.
- (c) 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 and as provided in Clause 7 herein.
- (d) During the continuance of the Hire period, the Hirer shall fully indemnify and keep the Owner fully indemnified against all claims made or brought against the Owner and all damages, losses, costs, charges and expenses suffered or incurred by the Owner from the Hirer's use or misuse of the Fork Trucks.

11. NOTICE OF ACCIDENTS

- (a) 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 confirmation in writing to the Owners registered office within fourteen days of the Hirer, his or it's servants or agents, becoming aware of such accident, and such telephone call and notice within fourteen days shall be Conditions Precedent to the Owners having any liability to the Hirer in respect of such accident.
- (b) 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.

12. SUB-LETTING

The Hirer shall not sub-let or lend the Fork Trucks or any part hereof to any third party without the Owner's prior written permission.

13. SUITABILITY OF SITE

Each Fork Truck is offered subject to the Owner's 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 is obtained from the Owner.

14. SERVICING AND INSPECTION

The Hirer shall at all reasonable times allow the Owner, his agents, or his insurers to have access to the Fork Trucks to inspect, test, adjust, repair or replace 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.

15. REPAIRS AND ADJUSTMENTS

Except in the case of repairs undertaken by the Owners operator, the Hirer shall not repair or attempt to repair the Fork Trucks unless specifically authorized by the Owner. The Owner undertakes to deal with all necessary repairs as quickly as reasonably possible. If the Fork Truck is fitted with pneumatic tyres, punctures shall be the responsibility of the Hirer. When the Fork Truck is fitted with pneumatic tyres or puncture proof tyres and in the event the Owner undertakes to replace an agreed specified set(s) of tyres over the period of hire, the replacement costs of the pneumatic or puncture proof tyres in excess of specified sets herein are the responsibility of the Hirer. When the Fork Truck is fitted with Forks, and in the event the Owner undertakes to replace up to specified set(s) of forks over the period of hire, the replacement costs of the forks in excess of specified sets herein are the responsibility of the Hirer.

16. RETURN OF FORK TRUCK 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 Fork Trucks to be sent to a depot and in the latter event the Owner shall be entitled to replace such Fork Trucks forthwith with a similar fork truck, the Owner paying all transport charges involved in the removal of such Fork Trucks to depot for repair and the delivery of the substituted fork truck 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.

17. BASIS OF CHARGING

- (a) Normal rates are for a 40 hour week single shift, unless otherwise stated if at any time after the commencement of the Contract the Hirer wishes to use the truck for double or treble shift work he shall notify the Owner in writing at least seven days before such work starts.
- (d) Fork Trucks shall be hired out for a minimum period of one week 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 periods shall be charged pro rata.
- (e) For the avoidance of doubt full charging rates will apply notwithstanding the occurrence of any of the following:
- stoppages due to routine maintenance, servicing or inspection.
 - standing time whilst the Fork Truck is standing available for work to the Hirer's instruction.
 - standing time or non use of Fork Trucks due to Industrial Disputes.

18. COMMENCEMENT AND TERMINATION OF HIRE

Subject to any specific hire date being agreed between the Hirer and the Owner, 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 Owner's named depot or other agreed destination.

19. 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 days 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.

20. VARIATION OF HIRE RATES

All quotations are based on prices and conditions obtained at the date of quoting and should any alterations subsequently occur the Owner reserves the right to apply to the Hirer for a variation in the hire rates. If such right is exercised and no agreement is reached either the Hirer or the Owner shall have the option to:

- (a) Terminate the hire on one month's notice if the Fork Truck has commenced hire or
- (b) Cancel the Contract if the Fork Truck has not commenced hire.

21. OWNERS 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.

22. USE IN THE PUBLIC PLACE

Fork Trucks hired hereunder must not be used in the public place unless:

- (a) The Owners previous consent in writing is obtained and
- (b) All necessary licences for such use are obtained by the Hirers 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 license entitling him to drive it in the public place. Where Road Fund Licences are arranged by the Owner, the Net Cost shall be chargeable to the Hirer extra to the hire rates.

23. GOVERNMENT REGULATIONS

The Hirer will be responsible for compliance with all regulations and directives issued by the European Community, the Government or Local Authorities, including the Safety Health and Welfare at Work (General Application) Regulations, 1993, and the Construction (Safety, Health and Welfare) Regulations, 1975 and observance of the Road Traffic Acts and Regulations in so far as they be applicable including the cost of Road Fund Licences and any special additional insurances made necessary thereby.

24. PROTECTION OF OWNER'S RIGHTS

- (a) The title to the Fork Trucks shall be and will always remain with the Owner, and the Hirer shall not by reason of this Contract acquire any right, title or interest in or to the Fork Trucks other than as Hirer thereof upon the subject to the terms and conditions herein contained.
- (b) The Hirer shall not rehire, sell, mortgage, charge, pledge part with possession of or otherwise deal with the Fork Trucks 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 requisitions.
- (c) 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 members 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 Fork Trucks 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 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 may be and the determination of the hiring under this Condition shall not effect the right of the Owner to recover from the Hirer any monies due to the Owner under the contract or damages for breach thereof.

25. 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 construction, condition or anything therein contained or the rights or liability of the Owner or the Hirer such dispute difference or question shall be referred pursuant to the Arbitration Acts 1954 to 1998 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 Mechanical Engineers.

26. NOTICES

Any notice, demand, consent or approval required, authorized or permitted to be given by the Owner under this Contract shall be in writing and may be signed by an authorized Officer of the Owner and may be served by leaving the same at or posting the same in a pre-paid letter addressed to the Hirer at the Hirer's address as stated in this Contract or to the Registered Office of the Hirer. Any such Notice or Demand posted as aforesaid shall be deemed to be served on the Hirer if left as aforesaid at the time of such leaving, or if posted as aforesaid five business days following the day of such postage. In the case of there being more than one Hirer a document served upon any one shall be deemed served on both or all.

27. WAIVER

All the original rights and powers of the Owner under this Contract whether expressed or implied shall remain in full force not withstanding any neglect, forbearance in the delay or enforcement thereof, or the granting of time or any other indulgence and nothing done or omitted to be done by the Owner shall operate as a waiver of the Hirer's right except to the extent indicated by the Owner in writing whether with respect to a continuing recurrent or subsequent breach by the Hirer or otherwise.

28. VALUE ADDED TAX

All sums referred to herein are exclusive of V.A.T. which shall additionally be payable by the Hirer to the Owner.

29. APPLICABLE LAW

This Contract shall be governed and construed by the laws of Ireland and the parties agree to submit to the exclusive jurisdiction of the Irish Courts.

