



1st Call Plant Ltd

CONDITIONS FOR THE HIRING OF PLANT

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 "Finance Company" is the company having an interest in the owner's specific item of plant under the terms of a finance agreement.
 - (c) 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.
 - (d) "Plant" covers all classes of plant, machinery, equipment and accessories therefore which the owner agrees to hire to the hirer.
 - (e) A "day" shall be 8 hours unless otherwise specified in the Contract.
 - (f) A "week" shall be seven consecutive days.
 - (g) A "working week" covers the period from starting time on Monday to finishing time on Saturday.
- Terms appearing in these conditions which also appear in any Statutory Instrument controlling rates of hire of plant shall have the same meaning as in such instrument whether remaining in operation or not.

2. EXTENT OF CONTRACT

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

3. AVAILABILITY OF PLANT

The Plant is offered subject to being available to the Owner when the Hirer's acceptance of the Contract is received by the Owner.

4. GENERAL CONDITIONS OF HIRE

Plant shall be hired at the Hire Charges or Hire Rates, so far as the same apply to Plant included in the Contract subject to the conditions of hiring provided by any statutory instrument controlling rates of hire of Plant and subject to the following further conditions where not inconsistent therewith.

The Hire Period shall commence on the date on which the Plant leaves the Supplier's depot or place where last employed and shall continue until the Plant is received back at the Supplier's depot or other agreed location.

If the Customer is an Individual Consumer (as defined by the Consumer Credit Act), the maximum hire period shall be 3 months.

5. LOADING AND UNLOADING

The hirer shall be responsible for the unloading and reloading the Plant at site, and any driver, operator or flagman supplied by the Owner shall be deemed to be under the Hirer's control.

6. 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 and in the case of plant supplied without operator, within three working days of the plant being delivered to the site, the Plant shall be deemed to be in good order in accordance with the terms of contract and to the Hirer's satisfaction, provided that where Plant requires to be erected on site, the period above stated shall be calculated from date of erection of plant instead of the date of delivery on site. The Hirer shall be responsible for its safekeeping use in a workmanlike manner within the manufacturer's rated capacity and return on the completion of hire in equal good order (fair wear and tear accepted).
- (b) The Hirer shall when hiring Plant without Owner's operator or driver take all reasonable steps to keep himself acquainted with the state and condition of the Plant. If the 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.
- (c) The current Inspection Report required under the Factories Acts or copy thereof shall be supplied by the Owner if required by the Hirer at the commencement of the hire period and returned on completion thereof.

7. 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 the Plant to travel over or work on.

8. HANDLING OF PLANT

When a Driver or Operator is supplied by the Owner to work the Plant, he 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 be 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 be confirmed in writing.

9. BREAKDOWN

- (a) When the Plant is hired without Owner's Driver or Operator, any breakdown or the unsatisfactory working of any part of the Plant must be notified immediately by the Owner by letter or e-mail.
- (b) Full allowance will be made to the Hirer for any stoppage due to breakdown of Plant caused by the development of an inherent fault or fair wear and tear and for all stoppages for normal running repairs in accordance with the terms of the Contract.

The Hirer shall be responsible for all expense 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. 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.

10. OTHER STOPPAGES

No claims will be admitted (other than those allowed for under Breakdown or for Idle Time, 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 expense of recovering any machine from soft ground.

11. LOSS OF USE OF OTHER PLANT DUE TO BREAKDOWN

Each item of the 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 units of plant working in conjunction therewith, provided that where two or more items of Plant are hired as a unit, such items shall be deemed a unit for the purpose of breakdown.

12. CONSEQUENTIAL LOSSES

The Owner accepts no liability nor responsibility for any consequential loss or damage to or arising from the breakdown or stoppage of the Plant through any cause whatsoever, or through non-arrival arising from accident or breakdown during loading, unloading or transport of the Plant.

13. HIRER'S RESPONSIBILITY FOR LOSS AND DAMAGE

During the continuance of the hire period the Hirer shall make good to the Owner all loss of or damage to the Plant from whatever cause the same may arise. Fair wear and tear accepted and except as provided in Clause 9 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.

14. INSURANCE

The Customer shall keep the Plant insured against loss or damage and third party risks for the duration of the hire and upon request shall produce evidence of such insurance to the Supplier, who shall be entitled to withhold delivery until such production.

In the event of theft, damage, write off or such event that renders the Plant unserviceable, the Hire Charge will continue at Idle Time rates until the Supplier's invoice for the Plant has been paid in full, either by the Customer or the Customer's insurers.

In the event of theft or criminal damage, you must notify the Police immediately and obtain a Crime Reference Number.

15. 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 letter or e-mail 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.

16. INSPECTION OF PLANT

At any point during the period of the hire, the owner, finance company or agents acting on their behalf shall be granted access to the plant to carry out an inspection having provided reasonable notice of their intention to do so.

17. SUB-LETTING

The Hirer shall not sub-let or lend the plant or any third party without first receiving the written permission of the Owner.

18. CHANGE OF SITE

The Hirer shall not move the Plant from the site to which it was delivered or consigned unless prior consent be obtained from the Owner, such consent to be confirmed in writing.

19. 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.

20. REPAIRS AND ADJUSTMENTS

Except in the case of repairs undertaken by the Owner's operator or driver, the Hirer shall not repair or attempt to repair the Plant unless specifically authorised by the Owner. No allowance for hire charges or for the cost of repairs will be made by the Owner to the Hirer unless such repairs have been specifically authorised by the Owner. The Owner undertakes to deal with all necessary repairs as quickly as reasonably possible.

21. RETURN OF PLANT FOR REPAIRS

- (1) If at any time after the date of delivery, any item of the Plant, 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 Plant to be sent to a depot and in the latter event the Owner shall be entitled to replace such Plant forthwith with similar Plant the Owner paying all transport charges involved in the removal of such Plant to depot for repair and the delivery of the substituted Plant and the contract shall continue as if the substituted Plant had been the subject thereof, or, alternatively, the Owner's shall be entitled to determine the Contract forthwith in relation to the item of plant involved by giving written notice to the Hirer provided that if such determination shall occur under this Clause:
 - (a) within three months from the date of delivery of such Plant to site the Owner shall be liable for the cost of all transport involved including that for original loading and transport to site and for reloading and return transport of such Plant, or
 - (b) more than three months but less than six months from the date of delivery of such Plant the Owner shall be liable only for the cost of reloading and return transport of such Plant.
Provided always that the Hirer and not the Owner shall be liable for all costs of loading and/or transport or the necessity for such repairs arises from the negligence, misdirection or misuse of such Plant by the Hirer.
- (2) In the event of this Contract being determined as aforesaid in relation to any item of Plant being the principal member of a plant group as so defined or indicated in the Schedule of Plant forming part of this Contract, of which the remaining members are auxiliary to such principal member the determination shall (unless otherwise agreed between the Owner and the Hirer) be in respect of the whole of the members of such group and the expression "such Plant" in Paragraphs (a) and (b) of sub-clause (1) of this clause shall be construed accordingly.

22. BASIS OF CHARGING

- (a) The Hirer shall render to the Owner for each working week an accurate statement of the number of hours the Plant has worked each day and where the Plant is accompanied by the Owner's Driver or 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. If the Hirer signs the Time Record Sheets showing hours engaged in excess of the machine hours worked plus allowed greasing time, the Hirer shall specify in detail how the extra hours are made up, otherwise the excess hours will be charged to the Hirer.
- (b) Where breakdown time is referred to herein, all breakdown periods are covered which involve the Plant being inoperative through mechanical breakdown or absence of driver or 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 8 hours on Monday to Friday and 4 hours on Saturday less the actual daily hours worked, provided that breakdown time shall not be allowed on Sundays.
- (d) Plant shall be hired out as "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 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) Reasonable stoppages due to changing of equipment and ropes shall be charged at idle time rates.
- (f) 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 any access will be treated as breakdown time.
- (g) In the case of Plant which requires to be dismantled for the purpose of transportation, if the Owner agrees to a modification of the hire charge for the period required for assembling on site and dismantling upon completion of hire, such modification of the hire charge and the period for which it shall apply shall be stated on the Hire Contract.

23. PLANT HIRED ON A DAILY BASIS WITHOUT QUALIFICATION AS TO HOURS

The full rate will be charged on a daily basis irrespective of the hours worked except in the case of breakdown for which the Owner is responsible, when the actual hours worked will be charged pro rata to the average working day. No hire charge shall be made for Sunday unless the Plant is actually worked on that day.

24. PLANT HIRED BY THE WEEK OR MONTH WITHOUT QUALIFICATION AS TO HOURS

The weekly or monthly rate shall be charged irrespective of the number of hours worked, except in the case of breakdown for which the Owner is responsible when an allowance at the rate of two-elevenths of the agreed weekly rate or one twenty fourth of the agreed monthly rate will be made for each full working day broken down calculated to the nearest half working day. No allowance will be made for breakdowns on Sundays.

25. PLANT HIRED BY THE WEEK OR THE HOUR FOR A MINIMUM OF 40 HOURS PER WEEK OR A DAY OF 8 HOURS

If no breakdown occurs, the full hire rate 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. Allowance will be made for breakdowns up to 8 hours for a week day and 4 hours for Saturday, 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. No breakdown allowance will be made for Sundays and only actual time worked charged. The minimum week of 40 hours shall be reduced by 8 hours Monday to Friday, 4 hours on Saturday for each day's Statutory holiday occurring in such week, provided that the Plant be not worked on the holiday.

26. "ALL-IN" RATES

The Owner may, by arrangement with the Hirer, charge "all-in" rates covering Operator's wages and insurances, holiday pay, lubricating oil, grease and consumable stores (e.g. ropes, etc) on the basis of the minimum period. If this method be adopted time in excess of the minimum period will be charged pro rata plus extra wages properly paid to Operators at overtime rates.

27. COMMENCEMENT AND TERMINATION OF HIRE (Transport of Plant)

- (a) The hire period shall commence from the time when the Plant leaves the Owner's named depot or equal, but an allowance shall be made of not more than one day's hire charge each way for travelling time. If the Plant be used on day of travelling, full hire rates shall be paid for the period of use on that 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 Rate shall be paid from the date of despatch to the date of return to the Owner's named depot or equal.
- (b) Idle Time rates shall be paid from the time spent in travelling to a site other than that specified in the Contract where consent to such transfer has been given by the Owner under Clause 16, provided that the Plant is moved by means other than under its own power.
- (c) Where a road roller or other Plant travels under its own power, time properly and unavoidably spent in travelling shall be paid for as working time at full Hire Rates.

28. NOTICE OF TERMINATION OF CONTRACT

Where the period of hire is defined, the contract shall be terminated at the end of the defined period.

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. In the event of the Hirer desiring to terminate the Contract and failing to give such notice, hire for the period of the seven days' notice shall be chargeable at the Idle Time rates in lieu. 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.

For reasons connected with the funding of this Agreement, this Agreement is subject to a Head Finance Agreement. The hiring of any equipment/plant and machinery will automatically cease on termination for any reason of the Head Finance Agreement and the Finance Company shall be entitled to take immediate possession of the equipment/plant and machinery from the Hirer. Any maintenance provided as part of this contract would terminate immediately.

29. IDLE TIME

When Plant works for any time during a guaranteed minimum period, then the whole of that guaranteed minimum period shall be charged as working time. If the Plant is idle for the whole of a guaranteed minimum period, the charge shall be two thirds of the hire rate. In any case, no period less than one day shall be reckoned as Idle Time.

30. WAGES OF DRIVERS AND OPERATORS OF PLANT

Wages of Plant or Operators for a working week, including overtime but excluding breakdown time, shall be charged and payable weekly at net cost or an agreed estimate of net cost in which case breakdown time will be deducted pro rata. In addition to such wages the Hirer shall bear the cost of weekly stamps under the holidays with pay schemes. The wages and expenses of any flagmen for Road Rollers provided by the Owner shall be charged to the Hirer.

31. SUBSISTENCE ALLOWANCE

The weekly subsistence allowance where paid by the Owner to his operator shall be charged in full and is not dependent on or subject to adjustment for hours worked (subject to Clause 31 (a)).

32. GREASING AND CLEANING TIME

Operators Greasing and Cleaning Time shall be paid for and be chargeable to the Hirer at Standard flat rates as follows:

Tractors alone, or with Scrapers, Bulldozers, Angle dozers, etc- 10hrs per Week

Excavators	10	hours	per	week
Mechanical Trenchers	10	“	“	“
Dumpers	6	“	“	“
Compressors	6	“	“	“

(Subject to Clause 31(a)).

33. TRAVELLING TIME AND FARES

Reasonable daily travelling time and fares for Operators, similar expenses incurred at the beginning and end of the hire period and where appropriate, the Operators return fare to his home every six weeks will be chargeable at net cost. No charges will be made by the Owner for any such expenses incurred by other employees of the Owner for the purposes of servicing, repair or maintenance of plant, unless necessitated by the Hirer's negligence, misdirection or misuse of the Plant. (Subject to Clause 31(a))

- (a) Where plant is broken down for seven or more consecutive days, no charge shall be made under Clauses 29, 30 or 31 in respect of a driver or operator during period of breakdown unless alternative temporary employment be provided by the Hirer for such driver or operator.

34. LABOUR ON REPAIRS

The cost of labour on repairs performed by the Owner's Operators in excess of normal greasing time shall be borne by the Owner except where such repairs are necessitated by the Hirer's negligence, misdirection or misuse of the Plant.

35. FUEL, OIL AND GREASE

Fuel, oil and grease shall, when supplied by the Owner, be charged at net cost or an agreed estimate of net cost, and when supplied by the Hirer, shall be of a grade or type specified by the Owner.

36. SHARPENING OF DRILLS

Where drills or road-breakers are included with Plant hired under the contract the Hire Rate is based upon the condition that the Hirer shall sharpen drills or road-breakers as required at his own expense.

37. CONSUMABLE STORES

Consumable stores will be charged at net cost or at an agreed estimate thereof.

38. TRANSPORT

The Hirer shall pay the cost of and if required by the Owner, arrange transport of, the Plant from the Owner's depot or equal to the site and return to named depot or equal on completion of the hire period.

39. INSURANCE

The cost of the Owner's proportion of National Insurance Contributions for the Operators supplied, and of cover against Common Law liability shall be charged at net cost or an agreed estimate thereof.

40. 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.

41. GOVERNMENT REGULATIONS

The Hirer will be responsible for compliance with all regulations issued by the Government or Local Authorities, including Regulations under the Factories Acts 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, save that if and during such time as the plant is travelling, whether for full or part journey from owner to 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.

42. 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 15 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 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 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 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 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 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 Owner to recover from the Owner under the Contract or damages for breach thereof.

43. 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 of the Owner or the Hirer such dispute, difference or question shall be referred pursuant to the Arbitration Act 1950, or the Arbitration (Scotland) Act 1894 as the case may 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 by the President for the time being of the Institution of Mechanical Engineers.

44. PROVISIONS FOR 5-DAY WEEK OR CHANGES OF NORMAL WEEK

The foregoing provisions having been framed upon the basis of the Hirer working a 5½ day week of 44 hours it is hereby agreed that in the event of: -

- (a) there being any change in the normal weekly working 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 44 hours or such number of hours as may constitute the normal working week in the said industry).

Clauses 1 (d) and (f), 20 (c) and (d), 22, and (in regard to breakdown allowance and reduction for statutory holidays) 23, shall be deemed to be modified conformably and in the event of an alteration in the normal weekly working hours in the said Industry the "Hire Rates and Terms" of Plant hired for a minimum weekly or daily period shall be varied pro rata.

In the event of any 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 there under 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 therefore 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 notwithstanding the provisions of Clause 40 hereof such Employer shall be entitled to permit the use thereof by any other contractor employed by him for the purpose of completing the works or buildings comprised in such Contract.