



## **CJ JH Plant & Tools Ltd: TERMS OF CONDITIONS – PLANT HIRE v1.02.2021**

### **Definitions & General**

1. The owner means CJ JH Plant & Tools Ltd and includes its successors or assigns.
2. The hirer means the company, firm, person or public authority shown on the Hire Agreement Form taking the owners plant on hire and includes their successors or personal representatives . “plant” means all classes of plant and machinery, which the owner agrees to hire to the hirer.
3. The term “owners employee” shall mean an employee of the owner whose job is either to drive or operate the plant or to provide any other services in connection with the plant.
4. Hire rates are at the owner’s current rates unless otherwise agreed.
5. Weekly rates are on a 40-hour 5-day week.
6. These terms and conditions shall apply to the hire of all plant by the owner to hirer and shall not be overridden or varied by any other terms or amended terms unless agreed by the owners managing director.
7. Acceptance of the plant on site by the hirer or its delivery on site in accordance with the Hirer’s instructions signifies acceptance of these terms and conditions unless otherwise agreed in writing.
8. “Hire Agreement Form” or “HAF” is the form which the hirer signs accepting delivery and these terms and conditions.
9. Insofar as the hirer is a consumer the terms shall be modified in such a way that they do not affect the hirers statutory rights.

### **Basis Of Charging and the Agreement**

The Plant is hired to the hirer subject to these terms and conditions and to the terms set out on an accepted Hire Agreement Form. These documents constitute the whole agreement between the parties and supersede all previous agreements between the parties relating to its subject matter. The hirer acknowledges that in entering into this agreement it has not relied on and shall have no right or remedy in respect of any statement representation assurance or warranty (whether made negligently or innocently) other than as expressly set out in this agreement, save always that nothing in this clause shall limit or exclude any liability for fraud or for fraudulent misrepresentation. The hirer agrees to pay the hire charges which will commence from the time and the rates shown on the HAF and will continue until the plant is returned or collected by the owner and a receipt is issued by the owner. Telephone off hires will not be accepted unless validated by an off hire number notified to the hirer by the owner.

### **Other Charges**

Hire charges relate solely to the hire of the plant. They do not include charges in relation to the owner’s employee or any other costs incurred by the owner, all which will be charged separately to the owner. When the owner quotes carriage charges, such charges will include a charge for a maximum of 30 minutes attendance by the owner’s vehicle at the address specified by the hirer. The hirer will pay for further time.

### **Wages and other charges relating to the owner’s Employees**

The hirer shall pay the agreed hourly rates for each owner’s employee supplied with the plant and such rates are payable whether or not the owners employee is actually engaged in operating the plant providing any other service in connection with the plant. The hirer shall sign the time record sheets of the owner’s employee hourly, daily or weekly as required. The signature of the hirer’s representative shall bind the hirer to these charges.

### **Payment terms**

All charges are payable on demand except that payment terms for authorised credit customers are 14 days net from the date of invoice. The owner shall be entitled to charge interest at 5% per month from the due date until settlement. Should the hirer fail to settle any invoice by the due date without the consent of the owner, then all other invoices become payable immediately by the hirer.

### **Loading and unloading plant**

The hirer shall be responsible for loading and unloading at the hirer's site, and at the owner's premises.

#### **Responsibility for owner's employees**

When an owner's employee is supplied by the owner with the plant, the owner shall supply a competent person but such person shall be under the direction and control of the hirer. The owner's employee shall for all purposes connected with such employment be regarded as the servant of the hirer who alone shall be responsible for all claims arising in connection with delivery, preparation or operation of the plant. The owner shall have no liability for any loss or damage caused by any act or omission whatsoever of an owner's employee or the consequences thereof. The hirer shall fully and completely indemnify the owner in respect of all claims by any person whatsoever for (i) injury to person or (ii) loss or damage to property or (iii) economic loss however caused and on whatever basis arising out of or in connection with any act or omission of the owner's employee whilst the hirer is responsible for him.

#### **Advice**

If the owner or any of the owner's employees give any advice it is provided strictly for guidance only, and without any responsibility being accepted. The onus is on the hirer to verify for accuracy and/or appropriateness of such advice and to accept or reject accordingly. Accordingly the owner accepts no liability arising out of any advice given, whether negligently or not.

#### **Responsibility for person signing**

The person signing the HAF warrants he has the authority of the hirer to make the contract on the hirer's behalf. The owner shall be entitled to treat the hirer as contractually bound by these terms and conditions unless the hirer can demonstrate that there were no reasonable grounds for the owner to believe that such person had authority to bind the hirer.

#### **Delivery in good order**

The person signing the HAF has been afforded an opportunity to inspect the plant, which is deemed to be in good working order and wholly free from damage at the time of the signature. Any shortages or damages must be notified to the hirer in writing to the owner within 24 hours and acceptance must be obtained in writing by the hirer of the owner.

#### **Lost, Non-Returned and damaged plant**

The hirer must immediately notify both the owner and the police of any loss or theft of the plant. The hirer accepts that when an item of plant is lost or is returned damaged or incomplete the owner is unable to hire it out unless or until this is rectified. The only way the owner can be sure of immediately obtaining a replacement item of plant or replacement parts is new from the manufacturer. Accordingly, both parties acknowledge that the following liquidated damage provisions represent a fair pre-estimate of the loss the owner will suffer in such situations.

#### **Liquidated Damages**

When the plant is not returned the owner will provide to the hirer an invoice for the current manufacturer's list price for the missing item of plant. Where the plant is returned incomplete the owner will provide to the hirer an invoice for the current manufacturer's list price for the missing part from the item of plant. In the event that there is no applicable current manufacturer's list price, the owner will instead provide to the hirer an invoice for the price which would be charged by the owner to a customer who wished to purchase such an item of plant or part. In the event that an item of plant or any part of it is returned damaged the owner will provide to the hirer an invoice for the estimated cost of carrying out the repair, whether by the owner or by a third party. The owner will send any invoice under this clause to the hirer as soon as reasonably practicable. The hirer will continue to be liable to pay hire charges on the lost, non-returned or damaged plant until any invoice has been paid, or until the expiry of 16 weeks from the date of notification of loss, or until the expiry of 16 weeks from the return of the damaged or incomplete plant, whichever is earlier, such period being that which is reasonable to enable the owner to fund the replacement or repair of plant. All invoices provided under this clause shall be payable on the same basis as ordinary hire invoices rendered under the 'Payment Charges' section above.

#### **Maintenance of plant and breakdown procedures**

The hirer shall ensure that the plant remains safe, serviceable and clean. Any breakdown or any unsatisfactory working of plant must be immediately notified to the owner. Under no circumstances shall the hirer repair the plant, unless authorised by the owner. Such plant must be returned to the owner's premises for examination or when rectification elsewhere is requested, the hirer agrees to pay carriage if required by the owner.

#### **Safe use of the plant**

The hirer confirms that it has the necessary knowledge and experience to operate and use the plant. The hirer will not misuse the plant. The hirer will not allow any person to use the plant that is not properly instructed in its use and will ensure that all applicable health and safety rules and regulations are observed. When plant comprises of electrical equipment a qualified electrician must connect it to the correct supply. The hirer is responsible for supplying a suitable three phase and earth supply to the base of each item plant. The hirer is at all times responsible for maintaining the hired plant, which includes servicing and re-calibration.

#### **Security of the plant**

The hirer shall not sell or otherwise part with possession and/or control of the plant and shall remain responsible for the plant and its safe keeping during the hire period. Plant must not be removed without the authority of the owner from the site specified by the hirer if the hirer collects the plant, or from the address to which the owner has delivered the plant. The hirer shall keep the site at which the plant is located safe and secure. The hirer shall not suffer or permit the plant to be confiscated seized or taken out of its possession or control under any distress execution or other legal process but if the equipment is so confiscated seized or taken the hirer shall notify the owner and the hirer shall at its sole expense use its best endeavours to procure an immediate release of the plant and shall indemnify the hirer on demand against all losses, costs, charges, damages and expenses incurred as a result of such confiscation.

#### **Access and ground conditions**

The hirer is responsible for the provision of free and suitable access to and from the site (including the removal and reinstatement of local obstructions) and for insuring suitable ground conditions for the erection, operation and dismantling of plant. No responsibility will be accepted by the owner for damage to any surface over which the plant has been moved to reach its intended position of use and the hirer should therefore take steps to provide surfaces (paving slabs, soft ground etc) before delivery of the plant. The reinstatement of any fixing holes drilled in buildings is the responsibility of the hirer.

#### **Hirers' responsibilities – Third parties**

The hirer shall fully and completely indemnify the owner in respect of all claims by any person whatsoever for (i) injury to person or loss or (ii) damage to property or (iii) economic loss however caused including all costs and charges in connection therewith and arising from or in connection with the use of the plant howsoever arising.

#### **Losses**

The owner shall not be liable for any loss of profits loss of revenue loss of business or consequential losses whatsoever caused by, or arising out of, the late delivery, non-delivery, unsuitability, or repossession of the plant, or any breakdown or defect in the plant.

#### **Insurance and notification**

The hirer shall be responsible for obtaining all prudent insurance cover, including third party liability and cover against loss or damage to the plant. The hirer shall produce on demand to the owner a copy of the policy or policies. The hirer shall hold on trust for the owner all policy proceeds in or towards satisfaction of the hirers obligations under paragraph 'Lost, Non-Returned and damaged plant'. If the plant is involved in any accident resulting in injury to persons or damage to property immediate notice to the owner by telephone and confirmed in writing. The hirer shall not admit any liability or compromise any claim relating to the plant without the consent in writing of the owner.

#### **Period and determination of hire**

If the hirer is an individual within the meaning of the Consumer Credit Act 1974 the maximum period of hire shall be three months. If this is not the case, the hire will be deemed as permanent & continuous until the hirer receives an off hire number AND signed off hire documentation from the owner. The owner shall be entitled at any time or for any reason whatsoever and without explanation to terminate with immediate the hire contract and to repossess the plant.

#### **Right of access**

The hirer shall allow the owner access to the plant at all reasonable times for the purpose of inspection, maintenance, replacement or repossession.

#### **Invalidation**

Should any clause or sub-clause of these terms and conditions be held to be invalid such invalidation will not affect the validity of the remaining terms and conditions

Sign

Print

Date