

GENERAL TERMS & CONDITIONS OF RENTAL

1. Definitions

- 1.1 Jungheinrich Lift Truck Malaysia Sdn. Bhd is hereinafter referred to as the "Owner" which expression shall include its successors in title.
- 1.2 The person or entity whose rental order for Equipment (as defined in clause 1.4 below) is accepted by the Owner is hereinafter referred to as the "Hirer" whether or not expressly referred to in other documents of sales, purchase invoices or delivery notes issued by Owner or Hirer.
- 1.3 "Contract" means the agreement made between the Owner and the Hirer and referred to in clause 2.1 herein, for the rental of the Equipment comprising the terms set out in the Owner's offer and these Terms and Conditions.
- 1.4 "Equipment" shall include any equipment, machine, or part thereof and any attachments or fittings or replacements or any other thing rented under this Contract.
- 1.5 "Rules and Regulations" means any written laws, legislation, regulation, by-law, or other similar instrument, including any amendment thereto or re-enactment or replacement thereof.
- 1.6 "Normal working hours" Monday to Friday 0830 to 1730 hours.
- 1.7 "Rental Rate" shall be the rate of rental for the Equipment as provided in the Owner's offer and subject to the provisions of these Terms and Conditions.
- 1.8 "LTR contract", all contracts with a term of more than 12 months are allocated to the long-term-rental (LTR).
- 1.9 "STR contract", covers any rental contract with a maximum contract term of 12 months (STR).
- 1.10 "Terms & Conditions" means these General Terms & Conditions of Rental.

2. Binding Contract

- 2.1 The signed offer by the Hirer or purchase order, whether by letter, attached on an electronic mail, facsimile or other forms of communication for the supply of Equipment shall be construed and deemed as an expressed acceptance of these Terms and Conditions and together shall be known as the "Contract" and in so far as any provision of the Hirer's said order be inconsistent therewith these Terms and Conditions shall be deemed to prevail. These Terms and Conditions likewise apply to all future transactions with the Hirer regarding the products listed in the Owner's offer and signed by the Hirer, and shall always prevail over any differing or additional terms and conditions proposed by the Hirer and not contained in this Contract; including, without limitation, those contained in Hirer's order, acknowledgment of invoice, or additional or any other documents.
- 2.2 Any variations or purported variations of these Terms and Conditions shall not be deemed to take effect unless otherwise agreed in writing in an amendment contract and signed by an Authorised Manager or Director of the Owner. Other terms shall remain in force and the Contract shall be deemed amended accordingly.
- 2.3 In case individual terms of the Contract should become partly or wholly invalid due to governmental law, regulation, order or action, Owner and Hirer shall forthwith try to find a mutually acceptable replacement for the term thus invalidated. If no mutual consent concerning such replacement can be reached, Owner shall have the option to either accept the invalidation thereof and keep the remainder terms of the Contract in force or to terminate the Contract by written notice to the Hirer.

3. Price revision

The Rental fees may be reviewed maximum once in a calendar year following good faith negotiations between the Parties if there are any material changes in circumstances, including but not limited to the leasing volume, service package, inflation, significant fluctuations in raw material prices, transport cost etc. Any changes in Rental fees must be mutually agreed in writing by the Parties

4. Commencement of Rental

- 4.1 Subject to the other provisions of this Contract, the Owner shall supply the Equipment at the site stated in the Owner's offer.
- 4.2 The period of rental and rental charges shall commence on the delivery date unless otherwise stated in the Owner's offer and specified in the rental delivery note.
- 4.3 Responsibility for loss or damage to the Equipment is accepted by the Hirer from the time the Equipment is delivered to the Hirer's site until it is removed from the site by, or on the instructions of the Owner. This responsibility will also apply whilst the Equipment is on site during any period prior to the commencement of the rental period or after its termination whilst the Equipment is awaiting collection or re-delivery to the Owner.

5. Maintenance and Repair

5.1 Owner's Obligations

- 5.1.1 The Owner shall ensure that at the commencement of the rental the Equipment is in good working order and properly maintained and unless notification to the contrary is received by the Owner within 48 hours of delivery to the site, the Equipment shall be deemed to have been delivered in good working order.
- 5.1.2 The Owner shall carry out and provide all necessary repairs and replacements that are the result of fair wear and tear as quickly as reasonably possible. According to clause 5.1.4.
- 5.1.3 The Owner shall be entitled to and have the right to replace the Equipment with an equipment of similar or higher specification, as the Owner may in its sole discretion decide during the rental period, without being liable to the Hirer for any such replacement.
- 5.1.4 Services included during contractual period:
 - 5.1.4.1 All costs related to labour and travelling time during Normal working hours;

- 5.1.4.2 All interval service maintenance jobs pursuant to the maintenance checklist is based on the manufacturer's instructions. The Owner shall be entitled to change the scope of maintenance and the maintenance intervals based on the conditions of use and the equipment condition;
- 5.1.4.3 Use of original spare parts;
- 5.1.4.4 Replacement of tyres / rollers due to operational wear and tear if necessary. This replacement should not exceed one (1) set a year on per truck basis. All additional replacement of tyres subsequently will be charged to the Hirer accordingly, unless stated otherwise in the Owner's offer;
- 5.1.4.5 Visual inspection and repair services of battery;
- 5.1.4.6 Safety check as per local/national legislation.
- 5.1.5 A daily check template can be provided by Owner upon request of Hirer
- 5.2 Hirer's Obligations
 - 5.2.1 The Hirer shall forthwith notify the Owner within 24 hours and in writing if the Equipment breaks down or fails to work properly or if any repairs or replacements are necessary and shall bear the cost when those are based on customer caused damage.
 - 5.2.2 The Hirer shall not repair the Equipment or make replacements or alterations unless authorised to do so by the Owner in writing. Any replacement of parts by the Hirer shall forthwith become the property of the Owner and part of the Equipment unless otherwise agreed in writing.
 - 5.2.3 The Hirer shall allow the Owner or its accredited representatives or its insurers' representatives to have access to the Equipment to inspect, test, adjust, repair, maintain or replace the Equipment. The Owner will inform the Hirer in advance.
 - 5.2.4 The Hirer shall bear the cost of all consumables necessary for the operation of the Equipment such as: fuel, electricity and battery water.
 - 5.2.5 The Hirer shall carry out daily checks to ensure that the Equipment, the charger and the battery are in proper working condition. The correct level of distilled water in the battery shall be maintained. The Hirer shall keep the checking record and allow the Owner to access it if required.

6. Hirer's Liability for Loss or Damage

- 6.1 The Equipment shall be at the sole risk of the Hirer from the moment of delivery to the site whether on or before the date fixed for the commencement of the rental contract period until it is removed from the site by or on behalf of the Owner whether on or after the date of expiry of the period of rental or any extension thereof.
- 6.2 The Hirer will indemnify the Owner against all loss or damage to or destruction of the Equipment during the period referred to under clause 6.1 from whatever cause the same may arise and whether with or without fault on the part of the Hirer.
- 6.3 The Hirer shall be responsible for and shall pay all costs, including the costs of the replacement battery or the charger, where such battery or charger has to be replaced by reason of the Hirer's failure or neglect to maintain the same.
- 6.4 The Hirer shall at the expiry of the rental contract, or any extension thereof make the equipment available to the Owner in the same condition as upon delivery to be removed from the Hirer's site by the Owner. For definitions of conditions refer to Jungheinrich guideline "[Return Conditions for Rental Equipment](#)". The Owner will inspect the Equipment upon return. Any damage, wear and tear beyond fair use, or deviation from the original condition will be rectified at the Hirer's expense.
- 6.5 The Hirer accepts all liability and responsibility in respect of and shall indemnify the Owner against all third party claims and losses howsoever arising in respect of damage to or loss or destruction of any property or in respect of the personal injury or death of any person in any way caused by or relating to the Equipment or its use (including but not limited to the payment of all damages, costs and charges in connection therewith) except insofar as the damage loss destruction injury or death directly results from the negligence of the Owner.
- 6.6 The remedies expressly provided in this Contract are in addition to any other remedies available to the Owner at law or in equity.

7. Payment

- 7.1 Unless otherwise set out in writing and accepted by the parties, the Owner shall render invoices at the beginning of each month for Equipment on hire during that month. The Owner shall also when applicable render invoices at any time for other payments that may be due to the Owner under the Terms and Conditions herein.
- 7.2 Unless otherwise set out in the Owner's offer, the Hirer shall pay all invoices rendered by the Owner under these Terms and Conditions within thirty (30) days of the date of such invoice. Interest as set out in clause 7.4 below shall accrue on any and all payments not made within the said 30 days.
- 7.3 The time for payment of all sums due from the Hirer to the Owner shall be of the essence of this Contract.
- 7.4 The Hirer shall pay interest on all outstanding sums due and owing to the Owner at the rate of 1.5% per month, calculated from the due date till the date of payment.
- 7.5 Rental charges shall continue during any stoppage whether or not the Equipment is returned to the Hirer and whether or not a replacement of the Equipment is supplied for the period of the stoppage save that by agreement with the Hirer. The Owner may give credit against rental charges upon request by Hirer for any stoppage due to a breakdown of the Equipment caused by an inherent fault notified to the Owner by the Hirer under clause 5.2.1, where a temporary replacement truck is not supplied.
- 7.6 Where the agreed maximum annual working hours for the use of the Equipment provided for and set out in the offer is exceeded, the Hirer shall pay for all such excess hours based on the following rate:

$$\text{Excess Hour(s)} \times \frac{\text{Yearly Rate}}{\text{Annual Working Hours}}$$

7.7 The Owner may, at its sole discretion and based on the Hirer's credit report from a credit agency, set, vary or withdraw the Hirer's credit limit at any time. Unless otherwise provided in the Owner's offer, if the Hirer fails to make full payment on the due date or if the Hirer's outstanding balance (including undue invoiced amounts) exceeds or would exceed its credit limit if the Owner proceeds with the supply, the Owner may, without prejudice to any other right or remedy available to it, be entitled to cancel the Contract or suspend any further deliveries or services to the Hirer and the Hirer agrees that no further claim shall be made against the Owner for these actions. Upon termination, Clauses 13.6 and 13.7 shall apply.

8. Ownership

- 8.1 The Equipment shall remain the sole and absolute property of the Owner.
- 8.2 The Owner will make the equipment identifiable with an internal Rental Number (R Number), which shall not be removed by the Hirer.
- 8.3 The Hirer shall not remove, mutilate, obscure, obliterate or otherwise interfere with any markings on or plates affixed to the Equipment whether the same be for the purpose of identification or other whatsoever.

9. Subletting

The Hirer shall not without the written consent of the Owner, assign, sub-let, mortgage, charge, pledge, part with possession of or otherwise deal with the Equipment.

10. Handling of Equipment

- 10.1 After delivery to the Hirer's site, the Equipment shall be under the responsibility, direction, or control of the Hirer only. The Hirer is fully responsible to the Owner for the use of the Equipment, in places for which it is suitable, for his own business, in a skilful safe, workmanlike manner and in accordance with all the Rules and Regulations.
- 10.2 The Hirer shall assign a trained operator to operate the Equipment in a safe and proper manner. The operator shall participate in the product orientation if agreed and provided by the Owner during the Equipment delivery and handover process. The Hirer is responsible to ensure that the operator holds a valid forklift license for all counterbalance models.
- 10.3 The Hirer shall not use, cause or permit any other person to use the Equipment on any public road without having first obtained the consent in writing from the Owner and where such consent is given, the Hirer shall ensure that all applicable Rules and Regulations are complied including obtaining and having in place at the Hirer's costs adequate insurance for the use of the Equipment on public roads.
- 10.4 The Hirer shall not allow and prevent any unauthorized usage of the Equipment to an untrained or uncertified personnel.

11. Location of Equipment

The Hirer shall not move nor permit the Equipment to be moved from the site specified in the rental delivery document without the Owner's prior consent in writing. Any consent given by the Owner will be without prejudice to all the other obligations of the Hirer under this Contract.

12. Cancellation

Hirer shall not cancel the order or contract described herein except with the express prior written consent of the Owner. In the event of a cancellation, the Hirer shall be liable to and shall pay the Owner a cancellation charge equal to:

- Cancellation within 5 working days upon reception of order from Hirer: 30% of the total contract Net value.
- After 5 working days upon reception of order from Hirer or early termination of a contract after delivery: 75% of the total contract Net value

Except that nothing herein shall limit any other remedies available to the Owner hereunder or at law.

13. Termination and Expiration of Rental Contracts

- 13.1 Subject to clause 15, in the case of a fixed term contract, the rental of the Equipment may only be early terminated by the Hirer applying clause 12.
- 13.2 In all cases of fixed term contract, the rental contract will end at the expiration date.
- 13.3 Without prejudice to the other provisions of this Contract should the Owner rescind the contract if Hirer:
- 13.3.1 fail to make payment of the Rental charge as detailed in clause 7.2 hereof; or
- 13.3.2 fail to observe and adhere to any of the terms and conditions of this Contract; or
- 13.3.3 do or cause to be done, permit or suffer anything whereby the Owner's rights in the Equipment are prejudiced or put into jeopardy; or
- 13.3.4 commit any act of bankruptcy or have a receiver or judicial manager appointed or make any arrangement or composition with its creditors, or being a company go into Judicial Management, liquidation whether compulsory or voluntary; or
- 13.3.5 suffer any distress or execution upon his property; or
- 13.3.6 use the Equipment in conditions which in the opinion of the Owner are unfit for its safe operation and/or likely to result in damage to the Equipment, then in any such case the Owner may, forthwith terminate the Contract and seize and remove the Equipment for which purpose it shall be lawful for the Owner to enter into any premises or site where the Equipment may be.
- 13.4 When the rental is terminated it shall be the responsibility of the Hirer to handover the Equipment for Owner's collection. If the Equipment is not collected on termination of the rental, the Hirer shall continue to accept full responsibility and liability as set out in this Contract until it is collected.
- 13.5 In the event, the Hirer terminates the Contract prematurely, the Hirer shall inform the Owner in writing 3 months prior the intended termination date for LTR contract or 1 month prior to the intended termination date for STR contract, and pay to the Owner all Rental charge then accrued and due and a sum in the conditions under clause 12; such payment shall become

immediately due on the date of the termination of the Contract and interest for all payment shall accrue at the rate set out at clause 7.4.

- 13.6 The Hirer shall return the Equipment to the Owner on termination of this Contract, in the event the Hirer fails to do so, this Contract shall be deemed to continue on a monthly basis until the equipment is returned. In the event of such deemed continuance of the Contract, the Owner will continue charging the Hirer and will be at liberty to revise the Rental Rate upwards. Same Terms and conditions will apply, Hirer shall provide any related document, including but not limited to Purchase Order to facilitate continuous payment.
- 13.7 With the termination of the rental contract, the Equipment or any part thereof cannot be removed from the Hirer's site owing to an industrial dispute (including but not limited to strikes and lockouts) affecting the Hirer or the site terms set in clause 13.6 shall apply.

14. Liability

- 14.1 The Hirer shall be fully liable to the Owner for any breach of this Contract.
- 14.2 The Owner shall not be liable to the Hirer for any consequential or indirect loss or damage (including loss of revenue, profits or business) arising out of any accident or damages howsoever caused. The Owner's entire liability in respect of the rental of the Equipment under the Contract shall in any case be limited to the total value of the Contract in respect of which damages are claim.
- 14.3 The Owner shall not be liable to the Hirer in respect of any damages to or loss or destruction of the property of the Hirer or any third party nor in respect of the personal injury or death of any person in any way caused by or relating to the Equipment or its use except insofar as any such damages, loss, destruction, injury or death directly results from the negligence of the Owner.

15. Force Majeure

The Owner is entitled to defer the delivery of the Equipment or to reduce the number of Equipment ordered or to cancel or terminate the Contract without being liable to the Hirer, if the Owner is prevented from or delayed in the carrying on of its business due to circumstances beyond their reasonable control or by events of force majeure. Events of such force majeure shall include but not limited to acts of God, war, riot, fire, explosion, accident, flood sabotage, pandemic, lockdowns as ordered by authorities or government, inability to obtain fuel, power, raw material, labour, containers or transportation facilities, breakage or failure of machinery or apparatus, governmental law, regulation, order or action, national defence requirements or any other event beyond the reasonable control of Owner or in the event of labour disputes, strike, lockouts, or injunction, any of which events prevent the manufacture or dispatch of a shipment of the Equipment or a material which the manufacture of the Equipment is dependent. If due to such event Owner is unable to supply part or all of the Equipment contracted under the Contract, Owner shall not be liable to the Hirer or be deemed to be in breach of the Contract and shall be exempted to such extent from its obligations with respect to the particular delivery upon giving prompt notice of such event to Hirer, but the Contract shall otherwise remain in force.

16. Insurance

- 16.1 The Hirer shall at the Hirer's expense effect and maintain with an insurer sufficient and suitable insurance (including but not limited to public risk insurance) in respect of its liability under the indemnities given under this Contract. Such policies of insurance shall contain a provision whereby the insurer waives all rights of subrogation, which the insurer may have against the Owner. The Hirer shall ensure that the aforesaid insurance shall cover:
- 16.1.1 the Equipment as described in the Owner's offer against loss or damage or destruction howsoever arising;
- 16.1.2 subject to clause 10.3 above, in respect of the Hirer's liability to third parties relating to the Equipment or its use.
- 16.2 The Hirer shall:
- 16.2.1 produce the policy or policies effected hereunder for inspection by the Owner on demand and;
- 16.2.2 hold the proceeds of any claim under clause 16.1.1 above to the order of the Owner.

17. Governing Laws

This Contract shall be governed by and construed in accordance with the laws of Malaysia ("Law"), excluding any conflict of laws principle that would refer to the laws of another jurisdiction.

18. Arbitration

Any dispute arising out of or in connection with the Contract or these Terms & Conditions or any matters described hereunder, including any question regarding its existence, validity, interpretation or termination, whether or not during the term of this Contract or thereafter and whether before or after any termination of the Contract, shall be referred to and finally resolved by arbitration in Kuala Lumpur- Malaysia, in accordance with the Asian International Arbitration Centre (the "AIAC Rules") for the time being in force, which rules are deemed to be incorporated by reference to this clause. The tribunal shall consist of a sole arbitrator and the language of the arbitration shall be in English.

19. Taxes

Rental Fees are exclusive of Sales and Services Tax, Goods and Services Tax, Value Added Taxes, or similar taxes ("Taxes") now or hereafter imposed. Taxes shall be charged separately and paid by the Hirer upon receipt of a valid tax invoice, in accordance with applicable Law. Failure to pay shall constitute a material breach, and the Hirer shall indemnify the Owner against all resulting liabilities.