



CONTRACT FOR HIRE PLANTS AND EQUIPMENT
Between
PRO UPLIFTERS LIMITED t/a FLOOR PREP HIRE
And
(Hirer)

HIRER ACKNOWLEDGMENT

I, being the Hirer, acknowledge that I have received a copy of Floor Prep Hire's Terms and Conditions of Hire and agree to the same. Accordingly, I agree to hire the Equipment for the corresponding period and hiring costs as detailed in the Hire Schedule as below:

Equipment Name	Equipment Number	Hire Date and Time	Return Date and time	Total Charge	Return Remarks, Any Additional Charges, Damage, Recovery, etc.
TOTAL HIRE CHARGE:					

Hirer Company Name:

Contact Person:

Signature:

Date:

TERMS AND CONDITIONS OF HIRE

1. DEFINITIONS

1.1 In this Terms and Conditions of Trade, the terms shall be construed to take natural and ordinary meaning with exception to the following terms:

1.1.1 **"Hirer"** means the legal person or entity, including but not limited to a natural person, a business, a company that trades or intends to trade or trades in goods and services with Floor Prep Hire.

1.1.2 **"Equipment"** means any item of value that is intended to be or is or was hired to the Hirer under this Agreement.

1.1.3 **"Services"** means the hiring business of Floor Prep Hire.

1.1.4 **"Trade"** and "Agreement of Trade" means any hiring of Equipment by Floor Prep Hire with any Hirer who intends to enter or is entering into or have entered an agreement.

1.1.5 **"Hire Charge"** – The amounts shown on the Hire Schedule payable by the Hirer to Floor Prep Hire for hiring the Equipment.

1.1.6 **"Hire Period"** means from Commencement until the end of the period shown on the Hire Schedule. The Hire Period may only be extended for one or more definite periods and in each case, this can only be done if the Hirer requests it, and Floor Prep Hire agrees to the request. The final decision as to any extension of Hire Period shall be at the sole discretion of Floor Prep Hire. Floor Prep Hire may issue an amended Hire Schedule for any extension of the Hire Period.

1.1.7 **"Hire Schedule"** means a document in such form as Floor Prep Hire shall require, setting out the terms of the hire of Equipment, including the particulars of the Equipment and the Hire Period and such other information as Floor Prep Hire may decide to include.

1.1.8 **"Hire Date"** means the date and time when the Hirer takes possession of the Equipment.

2. GENERAL TERMS

2.1 Floor Prep Hire reserves the right to amend any or all terms and conditions within this Terms and Conditions of Trade without any prior notification, warning, or publication, subject to the condition in subclauses 2.2 to 2.6.

2.2 If Floor Prep Hire amends any or all the Terms and Conditions of Trade without any prior notification, warning or publication, the said amendments shall apply to all future Hirer who it has not traded with it before.

2.3 If Floor Prep Hire intends the amended Terms and Conditions of Trade to apply to the existing Hirer, it shall provide a copy of the amended Terms and Conditions of Trade to the said Hirer and obtain written consent from the said Hirer before the said amendment would form part of the contractual relationship.

2.4 If Floor Prep Hire provides a copy of the Terms and Conditions of Trade to a Hirer, and the said Hirer accepts the said copy of the Terms and Conditions of Trade, it shall be deemed that the said Hirer has accepted the Terms and Conditions of Trade in its entirety and without any exception or exclusion.

2.5 The rights and obligations of Hirer under that Fair Trading Act 1986 and/or Consumer Guarantees Act 1993 is not affected whatsoever by this Terms and Conditions of Trade.

2.6 The applicable legislative and common law rights and obligations of Floor Prep Hire shall not be affected by this Terms and Conditions of Trade, whatsoever.

3. SUPPLEMENTARY TERMS AND CONDITIONS OF TRADE

3.1 Floor Prep Hire may at its sole discretion include any Supplementary Terms and Conditions of Trade in any dealing with any Hirer.

3.2 If Floor Prep Hire decides to include any Supplementary Terms and Conditions of Trade in a dealing with a Hirer, it will provide a written copy of the said Supplementary Terms and Conditions of Trade to the Hirer prior to obtaining any acceptance of quotation from the said Hirer.

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3.3 If there is any contradiction, incompatibility between the Terms and Conditions of Trade and Supplementary Terms and Conditions of Trade, the later in time, shall take precedence in all circumstances.

4. VARIATION TO THIS TERMS AND CONDITIONS OF TRADE

4.1 There is to be no variation to the Terms and Conditions of Trade stipulated in this document or any Supplementary Terms and Conditions of Trade except as specified in clause 4.2.

4.2 Any variation to the Terms and Conditions of Trade must be mutually agreed between Floor Prep Hire and the Hirer and the said variations must be in writing and signed by an authorised agent of Floor Prep Hire and by Hirer in person or its authorised agent.

5. FLOOR PREP HIRE OBLIGATIONS TO THE HIRER

Floor Prep Hire will:

5.1 Allow the Hirer to take and use the Equipment for the Hire Period.

5.2 Provide the Equipment to the Hirer in clean and in good working order.

6. OBLIGATIONS OF THE HIRER TO FLOOR PREP HIRE

6.1 Collect the Equipment within five working days of being requested to do so.

6.2 Satisfy itself at Commencement that the Equipment is suitable for its purposes.

6.3 Hirers must return the Equipment at their own expense when due back unless they obtain a Hirer pick up number from Floor Prep Hire.

6.4 Return the Equipment to Floor Prep Hire clean and in good- working condition.

6.5 Operate the Equipment safely, strictly in accordance with the law, only for its intended use, and in accordance with any manufacturer's instructions whether supplied by Floor Prep Hire and/or posted on the Equipment and/or on the Floor Prep Hire's website.

6.6 Hirer must promptly advise Floor Prep Hire if they require any further instruction on the operation and safe use of the Equipment and shall not be entitled to reply on Floor Prep Hire's failure or delay to provide any instruction to avoid any liability for any injury or damage to any Equipment to property.

6.7 Indemnify Floor Prep Hire of all injury and/or damage to the extent caused or contributed to by the Hirer to persons and property in relation to the Equipment and its operation and have adequate insurance to cover all liabilities incurred as a result of the use of the Equipment.

6.8 Ensure that any person collecting or taking delivery of Equipment on behalf of the Hirer is authorised by the Hirer to do so and the Hirer will not allege that any such person is not so authorised.

6.9 Ensure that all persons operating or erecting the Equipment are suitably instructed in its safe and proper use and where necessary hold a current Certificate of Competency and/or are fully licensed.

6.10 Conduct a thorough hazard and risk assessment before using the Equipment and comply with all Occupational Health and Safety laws relating to the Equipment and its operation.

6.11 Safely secure all Equipment during transportation and indemnify Floor Prep Hire in respect of any injury and/or damage caused to the Equipment.

6.12 Operate the Equipment with an adequate motor vehicle and/or power source.

6.13 The Hirer must immediately notify Floor Prep Hire of any occurrence of mechanical defect, break down, theft, accident, or damage to the Equipment.

6.14 Subject to clause 6.15 provided that: (a) Floor Prep Hire can replace the Equipment; and (b) the hire period is not affected, the Hirers' obligations to pay charges and any other sums to Floor Prep Hire shall continue despite any mechanical defect, break down, theft, accident or damage caused to the Equipment by the Hirer.

Where replacement Equipment cannot be supplied by Floor Prep Hire and/or the hire period is affected, the charges payable by the Hirer will be adjusted to reflect the reduced hire period.

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6.15 Notwithstanding anything else in the Contract, where any occurrence of mechanical defect, break down, theft, accident or damage to the Equipment is a result of the negligent or reckless acts or omissions of the Hirer, Floor Prep Hire will be under no obligation to replace the Equipment and the Hirers obligations to pay charges and any other sums to Floor Prep Hire shall continue.

6.16 Provide written report and provide full details to Floor Prep Hire of any accident or damage to the Equipment within two working days of the accident or damage to the Equipment.

6.17 Sign any documentation requested by Floor Prep Hire at such intervals as reasonably stipulated by Floor Prep Hire to confirm the Hirer acceptance of these Hire Contract Conditions.

6.18 Assist and co-operate fully and promptly with Floor Prep Hire and/or its insurer in the investigation, settlement or defence of any claim or matter relating to a Hire Schedule on which the Hirer is named.

6.19 Remain responsible for the care and safekeeping of the Equipment until delivered back to Floor Prep Hire.

6.20 The Hirer must NOT:

- a) Tamper with damage or repair the Equipment.
- b) Lose or part with possession of the Equipment.
- c) Rely upon any representation relating to the Equipment or its operation other than those contained in this Contract.
- d) Exceed the recommended or legal load and capacity limits of the Equipment.
- e) Use or carry any illegal, prohibited, or dangerous substance in or on the Equipment.
- f) Exceed the recommended or legal speed limit for the Equipment.

6.21 The Hirer shall, on reasonable notice by Floor Prep Hire, advise them of the whereabouts of hired Equipment and allow Floor Prep Hire reasonable time to inspect and test the Equipment and for such purposes the Hirer gives irrevocable leave and license to Floor Prep Hire to enter any premises where the Equipment or any part of the Equipment may be and take possession of and/or remove the Equipment where

continued use of the Equipment may pose a health and safety risk to the Hirer (to be determined by Floor Prep Hire acting reasonably). Where the hire period is disrupted, and replacement Equipment cannot be provided, the charges payable by the Hirer will be amended to reflect the reduced hire period and where the Hirer has paid in advance for the hire of the Equipment, the Hirer will be entitled to a pro-rated refund.

7. HIRE PERIOD

7.1 Equipment may be hired for Half Day, Daily, Weekly, Monthly; or as otherwise agreed to in writing.

7.2 Certain Equipment may carry minimum hiring periods and maximum usage times, and these will be notified to the Hirer and itemised in the Contract Details at the time the relevant Equipment is hired.

7.3 The "hire periods" and "maximum usage times" are: **"Half Day"** means 4 hours or overnight provided the Equipment is picked up after 4.00 pm and returned by 8.30 am the following day (maximum usage time 4 hours).

"Daily" means 24 hours (maximum usage time 8 hours). **"Weekly"** means 7 days (maximum usage time 40 hours). **"Monthly"** means 28 days (e.g., if pick up occurs on the 1st of a month, return is to be by 4.00 pm on the 28th of the month (maximum usage time 160 hours).

7.4 The hire period begins from the time the Equipment leaves the Floor Prep Hire premises and runs until the Equipment is either returned to the Floor Prep Hire at the place of hire.

8. HIRE PRICE AND DEFAULT PAYMENT

8.1 The price of any Trade shall be the price as stipulated in the official quotation of the Floor Prep Hire and provided to Hirer prior to the execution of the Agreement of Trade.

8.2 On or before Commencement or as otherwise specifically agreed with Floor Prep Hire the Hirer will pay the Hire Charge.

8.3 The Hirer agrees that the Floor Prep Hire may charge extra on a pro-rata basis for any Equipment usage in excess of the agreed hire

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periods or the maximum usage times (in the case of metered Equipment) or otherwise agreed to in writing.

8.4 The Hirer shall pay as invoiced for the following charges itemised in the Contract Details or otherwise notified to the Hirer:

- a) Hire charges for the hire period of all Equipment used.
- b) Bond of 150% of the estimated total charges if applicable
- c) Damage waiver charges (unless Floor Prep Hire has agreed otherwise in writing).
- d) Delivery/removal charges (if applicable).
- e) Excess use charges (if applicable).
- f) Any damage to or loss of the Equipment not covered by the damage waiver (if applicable).
- g) Cleaning fees (if applicable).
- h) Default interest for overdue payment (if applicable)
- i) New price of any Equipment which is for whatever reason not returned to Floor Prep Hire.
- j) Subject only to any express provision of this Contract to the contrary, the Hirer is responsible for loss or theft of the Equipment.
- k) Full cost of repairing any damage to the Equipment caused or contributed to by the Hirer, unless expressly agreed otherwise in this Contract
- l) Costs incurred by Floor Prep Hire in delivering and recovering possession of the Equipment
- m) Any reasonable expenses and legal costs (including commission payable to a commercial agent) incurred by Floor Prep Hire in enforcing this Contract due to the Hirers default.

8.5 Cleaning fees will be assessed and charged if the Hirer returns Equipment that Floor Prep Hire deems (in its sole discretion but acting reasonably) to be excessively dirty. If Floor Prep Hire determines on this basis that the Equipment will require additional cleaning, they will advise the Hirer at the time the Equipment is returned and notify the Hirer of the relevant cleaning fees either: (a) at the time the Hirers return the Equipment; or (b) as soon as reasonably practicable after the Hirer returns the Equipment if assessment of the cost of cleaning cannot be

determined at the time the Hirer returns the Equipment.

8.6 The price of any good and/or service shall be inclusive of Good and Service Tax and any other relevant tax unless expressly stated otherwise on the Floor Prep Hire quotation.

8.7 Floor Prep Hire will periodically provide the Hirer with an invoice.

8.8 All invoices must be strictly paid by the date specified on the invoice and if no due date is specified on the invoice, the due date shall be 10 days from the date of issue of that invoice.

8.9 All Hirer queries or issues with invoiced amounts must be raised with Floor Prep Hire within one month of the date on the relevant invoice so that any such queries or issues can be promptly reviewed and resolved.

9. RIGHT TO TERMINATE

9.1 The Hirer may terminate the Contract by notice with immediate effect if Floor Prep Hire fails to comply with any term of the Contract, in which case the Hirer will be entitled to receive a refund of charges paid to Floor Prep Hire which may be pro-rated to reflect the reduced hire period.

9.2 Floor Prep Hire may terminate the Contract by notice with immediate effect if:

- a) The Hirer fails to comply with any material term of the Contract.
- b) Floor Prep Hire believes on reasonable grounds that hired Equipment may be at risk for any reason whatsoever, including the manner of its use by the Hirer, adverse weather or work conditions, or the Hirer is unable to, or might be unable to pay any charge, cost, purchase price or fee in connection with the Equipment under these Consumer Conditions.
- c) It becomes apparent that for any reason (including through the resignation of a Guarantor) there will be no personal guarantees given in respect of the Hirer's obligations under the Contract.

9.3 Where Floor Prep Hire terminates the Contract pursuant to clause 9.2 the Hirer indemnifies Floor Prep Hire against, and shall pay to Floor Prep Hire upon demand, any cost (including legal costs), claim, damage, expense, or liability suffered or incurred by the

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Floor Prep Hire whether arising directly or indirectly from the Hirer.

9.4 Upon termination of this Contract the Hirer shall forthwith deliver up any hired Equipment to Floor Prep Hire and shall pay to Floor Prep Hire:

- a) All hire charges and other moneys due to at the date of termination.
- b) The balance of all hire charges yet to accrue from the date of termination to the expiry of the term of the Contract discounted for early payment in such amount as Floor Prep Hire at its sole discretion allows, provided that Floor Prep Hire has terminated the Contract:
 - i) due to the negligent or reckless acts or omissions of the Hirer or breach by the Hirer of the Contract; and
 - ii) such acts, omissions or breach resulted in the Floor Prep Hire not being able to hire the Equipment out to other Hirers.

9.5 Termination of the Contract by the Floor Prep Hire is without prejudice to any rights that the Floor Prep Hire may have under this Contract.

10. HIRE DAMAGE WAIVER

10.1 Damage Waiver is not insurance but is an agreement by Floor Prep Hire that the Hirer's liability for damage to the Equipment can be limited in some circumstances only, to an amount called the Damage Waiver Excess. NOTE TO HIRER: Damage Waiver does NOT cover the costs of recovery of the Equipment, which are always payable by the Hirer.

10.2 Subject to the provisions of this Section 10, Damage Waiver applies to each incident occurring in all hires, for no additional fee. The Damage Waiver Excess is the actual repair cost of the Equipment, or 20% of the current replacement cost of the Equipment as reasonably determined by Floor Prep Hire using supplier's list prices, whichever is the lesser amount.

10.3 Damage waiver does not apply and will not limit the Hirer's liability in the following circumstances.

- a) where the Equipment is lost or stolen.
- b) where the operator is not suitably licensed.
- c) where the operator is affected by drugs and/or alcohol.

10.4 A Damage Waiver Excess must be paid by the Hirer for each and every separate incident which may occur in any Hire Period, where any Damage Waiver is applicable.

10.5 A Theft Waiver Excess must be paid by the Hirer for each incident which may occur in any Hire Period, where any Theft Waiver is applicable.

10.6 If any damage is caused by the Hirer to any property or goods whatsoever owned by a third party as a result of or during the use of Floor Prep Hire Equipment, and if the Hirer has breached any provision of this Contract or if any of the circumstances described in this clause have occurred, the Hirer will be liable for the full cost of that third party property damage to the extent caused by the Hirer.

11. LIMITATION OF LIABILITY, INJURY OR DAMAGE TO HIRER, THIRD PERSON OR PROPERTY

11.1 If the Hirer is a natural person (being a consumer), the Hirer is entitled to certain rights and remedies under the Consumer Guarantees Act 1993. For the avoidance of doubt, nothing in this Contract affects, or attempts to exclude in any way, the Hirer's rights under the Consumer Guarantees Act 1993.

11.2 Other than for claims made under the Consumer Guarantees Act 1993, the maximum aggregate liability of the Hirer for all claims made by the Hirer will not exceed, in the case of any Equipment hired, the lesser of the hire charges paid by the Hirer to Floor Prep Hire pursuant to the Contract and three months' hire charges paid by the Hirer pursuant to the Contract, except where such liability arises as a result of the negligence of Floor Prep Hire or where Floor Prep Hire has wilfully, negligently or recklessly supplied defective Equipment to the Hirer.

11.3 Unless such loss is covered by the damage waiver, the Hirer will indemnify Floor Prep Hire against any liability, losses, damages or expenses incurred or suffered as a result of any claim made by a third person against Floor Prep Hire in respect of any loss or liability arising from the Contract or arising out of the use of the Equipment hired by the Hirer, except where the loss or liability has

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arisen due to the negligence of Floor Prep Hire or where Floor Prep Hire has wilfully, negligently or recklessly supplied defective Equipment to the Hirer.

11.4 Subject to this Contract, the maximum aggregate liability of the Hirer under this Contract, will not exceed: (a) in the case of damage to hired Equipment, the full cost of all repairs to restore the Equipment to the condition it was in at the time of hire; and (b) in the case of loss, theft or irreparable damage to the Equipment, the market value of the Equipment.

12. TITLE AND SECURITY INTERESTS

12.1 The Hirer acknowledges that title to hired Equipment always remains with Floor Prep Hire.

12.2 The Hirer agrees that the hire of the Equipment may, and that the acquisition of the Equipment does, create a security interest in the Equipment to secure the full payment of all moneys payable to Floor Prep Hire and the performance by the Hirer of all its other obligations to the Floor Prep Hire.

12.3 Floor Prep Hire at its sole discretion may elect to register its security interest in any of its Equipment on the Personal Property Security Register.

13. APPLICABLE LAW

This Contract is governed by the laws of New Zealand. The parties agree to submit to the non-exclusive jurisdiction of the courts of New Zealand.

14. PRIVACY ACT 1993

14.1 Floor Prep Hire requires personal information and will collect and hold personal information about the Hirer, principally for the purpose of evaluating the hire of Equipment by the Hirer.

14.2 The Hirer's application to hire Equipment may be declined or the hire terminated if the Hirer fails to provide requested personal information. The Hirer can access and seek correction of any personal information by contacting Floor Prep Hire. The Hirer authorises the disclosure of personal

information held by any other party regarding any previous hire contracts entered by the Hirer.

14.3 The Hirer and each person who signs this Contract authorises Floor Prep Hire:

a) To collect, retain and use information about the Hirer or such other signatory from any person for the purpose of assessing the Hirer's or such other signatory's creditworthiness.

b) To disclose information about the Hirer or such other signatory: (i) to any person who guarantees, or who provides assurance, or who provides any other credit support, in relation to the Hirer's obligations to Floor Prep Hire; and/or (ii) to such persons as may be necessary or desirable to enable Floor Prep Hire to exercise any rights under the contract.

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