



TERMS AND CONDITIONS

1. **Terms.** The Forklift Rental LLC ("Lessor") hereby rents to the customer named on Page 1, including, but not limited to, such customer's representatives, employees, agents, officers, and/or anyone signing on their behalf (collectively, the "Customer") equipment(s) and/or services described on Page 1, together with all tools, tires, attachments, additions, and accessories related thereto. Rental of the Equipment shall be for the period beginning when the Equipment is delivered to Customer and/or the job location identified on Page 1, and continues in effect until the Equipment is returned to Lessor and/or actual pickup of Equipment by Lessor (the "Rental Period").

2. **Customer Responsibilities.** Customer shall: (a) ensure that all safety and operating information, including manuals, log books and warning labels supplied with Equipment are attached to or otherwise kept with Equipment and brought to the attention of, explained to, and reviewed with, each and every person operating or otherwise utilizing Equipment; (b) not alter, deface, erase or remove any identifying mark, plate or number on or in Equipment or otherwise interfere with Equipment; (c) not alter, or affix or attach anything to Equipment; (d) not permit the key(s) to be left in the ignition while Equipment is unattended or otherwise allow the Equipment to be accessible by unauthorized persons while the Equipment is unattended; and (e) not move or transport the Equipment from the job location set forth on Page 1 hereof without Lessor's prior written consent.

3. **Customer Representations.** By renting Equipment from Lessor, Customer represents and warrants that: (a) any apparent agent at the job location is authorized to accept delivery of the Equipment; (b) prior to each use of Equipment, Customer shall inspect Equipment, and if the Equipment is in need of maintenance or repair, Customer shall immediately discontinue use and notify Lessor; (c) the Equipment is fully operable and in good mechanical condition, free from defects, and fit for Customer's intended use; (d) any and all operators of Equipment are authorized by Customer, and are competent, familiarized trained, qualified and licensed to operate Equipment; and (e) the Equipment shall only be used for its intended purpose, in a safe and careful manner, and in strict compliance with all common law, federal, provincial, municipal, or other local laws (including, without limitation, O.S.H.A.), orders, rules, regulations, or decisions of any regulatory body, the manual(s) of the Equipment, or any manufacturer's instructions or warnings.

4. **Payment.** Customer shall pay Lessor all amounts due in full within 10 days of the date of invoice. If Customer fails to notify Lessor of any dispute within such 10 day time period, Customer shall be deemed to have accepted the transaction as satisfactory and voluntarily waives such claim. If Customer has directed charges to be billed to another person and such person shall fail to make payments, Customer shall be responsible to pay such charges. All accounts not timely paid shall bear interest at the rate of 2% per month, or the maximum rate permitted by law, until paid in full. Customer will pay Lessor all time and mileage, service, minimum, or other charges at the rates set forth or otherwise computed in this Contract. Lessor may retain the security deposit identified on the front side of this Contract to apply toward any amount due herein. Deposits shall be returned after all amounts due Lessor are paid in full. If a credit card is supplied by the Customer to Lessor, all amounts due Lessor are paid in full. If a credit card is supplied by the Customer to Lessor, Customer acknowledges and grants Lessor the unequivocal right to recover from Customer's credit card immediately and/or consecutively any charges or amounts due Lessor until paid in full, including without limitation any additional rental rates and/or charges incurred by Lessor for Customer's failure or refusal to return Equipment, and any and all loss or damage to Equipment.

5. **Return of Equipment.** The Equipment shall be returned to Lessor, during normal business hours, at the end of the Rental Period, or earlier if reasonably demanded by Lessor, together with all tires, tools and accessories, and in the same condition as when received, normal wear and tear excepted. Customer shall be liable for all damages, theft, destruction, or loss of the Equipment from the time the Equipment leaves the Lessor's branch until the Equipment is (a) returned to Lessor; or (b) picked up by Lessor after issuance of an "off rent" confirmation number. Notwithstanding anything to the contrary contained herein, Lessor at its discretion may demand the return of Equipment at any time during the Rental Period. If, in Lessor's discretion, such demand might not be complied with, Lessor has the right, but not the obligation, to repossess Equipment, terminate this Contract without any liability for any loss or damage which may be sustained as a result of such demand, termination or repossession. If Lessor is unable to

repossess Equipment, Lessor at its discretion, may bill Customer for the entire value of Equipment, in addition to rental fees already accrued.

6. Default. Customer shall be in default under this Contract if: (a) Customer fails to pay any amounts owed to Lessor when due; (b) fails to return Equipment as required hereunder or upon Lessor's demand; (c) breaches any representations contained in this Contract; or (d) fails to perform any other term or condition of this Contract. Upon a default, then, in addition to all rights and remedies available to Lessor at law or in equity, Lessor shall have the right to terminate this Contract, and require Customer to immediately pay Lessor the sum of the then-unpaid amounts due to Lessor hereunder. Lessor shall further have the right to repossess Equipment by any lawful means and without further notice or legal process. Customer agrees that Lessor shall not be liable for any claims for damage, loss and/or trespass arising out of the repossession of Equipment. Customer shall pay all costs and reasonable attorneys' fees and collection costs incurred by Lessor in any of Lessor's collection efforts and/or actions to recover possession of Equipment, or to enforce any term of this Contract or to collect any sums of money, damages, or costs from Customer herein.

7. Damages. Except as otherwise expressly provided in Section 10 herein, Customer shall be responsible if at any time Equipment is damaged, lost, stolen, sustains excessive wear and tear, or otherwise is in need of repair or replacement. Customer shall immediately discontinue its use of Equipment and notify Lessor. Customer shall not permit any maintenance or repairs to Equipment, without Lessor's consent. Customer shall be responsible for all fire, collision, theft, damage and loss arising out of or relating to Customer's use and/or possession of Equipment, except for ordinary wear and tear. If Equipment is damaged, Customer shall be liable for Lessor's actual cost of repair and the payment of all continuing rental charges until the repaired Equipment can be restored to rental use by Lessor. If Equipment cannot be timely repaired, then Customer shall be liable for Lessor's new replacement cost for Equipment, as well as the payment of all continuing rental charges until Equipment is replaced and restored to rental use by Lessor. Lessor shall have the sole discretion as to whether Equipment is replaced or repaired, which shall be binding on Customer.

8. Assumption of Risk. During the Rental Period, Customer hereby assumes any and all risks arising out of or in any way related to this Contract and/or Customer's use, misuse, possession, custody, operation of, and responsibility for, Equipment, including, without limitation, losses, damages, injuries, death, and rental charges. Customer shall immediately notify Lessor, the police, if applicable, and Customer's insurers if any theft, vandalism, accident, casualty, loss, death, injury, citation, fine, or other damages to person or property occurs in connection with Equipment, and shall submit any and all copies of reports, processes, pleadings, notices or paper of any kind received by Customer regarding the same to Lessor. Lessor shall have the immediate right to reclaim possession of the Equipment if any of the aforementioned incidents occur. This provision survives the termination of this Contract.

9. Insurance. Without limiting Customer's responsibilities, indemnifications or other obligations contained in this Contract, Customer shall, at its own expense, secure and maintain the following insurance in effect during the Rental Period: a) general liability insurance with limits no less than \$1,000,000 each occurrence and \$2,000,000 aggregate; b) property insurance against damage and/or loss by all risks to Equipment in amount to cover the full replacement value of the Equipment; and c) workers compensation coverage and employers liability coverage on a primary basis for worker's compensation benefits incurred or claimed by Customer's agent's employees and representatives. All insurance set forth herein shall be primary, non-contributory, and name Lessor as additional insured. Upon Lessor's request, Customer shall provide Lessor with evidence of such coverage. To the extent Lessor carries any insurance, Lessor's insurance shall be excess insurance and shall not contribute with Customer's insurance.

10. Optional Rental Protection Plan. In the event proof of acceptable property insurance coverage for the Equipment is not provided to Lessor, Customer agrees to purchase the optional Rental Protection Plan ("RPP") equal to 15% of the gross rental rate for such Equipment. Subject to this Section, Lessor shall waive certain property damage claims against Customer for stolen, damaged, or destroyed Equipment that is covered by the RPP, except for a deductible amount equal to (a) 10% of Lessor's cost to repair damaged Equipment, or \$5,000, whichever is lesser; and/or (b) 10% of the original equipment cost of the Equipment to replace stolen or destroyed Equipment, or \$5,000, whichever is lesser. Notwithstanding anything to the contrary contained herein, the following exclusions shall not be covered under the RPP, and Customer shall remain fully liable for all loss or damage to the Equipment: (i) neglect, willful misconduct, abuse, gross negligence, misuse, negligence, improper use, and/or wrongful application of the Equipment; (ii) use, possession, and/or operation of the Equipment by a person other than the Customer or Customer's authorized employees or operators; (iii) overloading, exceeding rated capacity or speed limit, improper or lack of routine inspection, overturning, and/or striking overhead objects; (iv) failure to properly secure the Equipment,

as determined solely by Lessor, including, without limitation, leaving the ignition key or similar accessible by unauthorized persons while the Equipment is unattended, or storing the Equipment in an unsecure location; (v) mysterious disappearance, loss, vandalism, or wrongful conversion by or from any person, including one entrusted with the Equipment, unless, (A) Customer notifies Lessor within one (1) business day of discovery, and (B) Customer files (and delivers to Lessor) a police report or other filing with the applicable public authorities within one (1) business day of discovery; (vi) Customer's failure to pay any and all amounts due and owing to Lessor at any time (including, but not limited to, the RPP charge set forth herein); (vii) Customer's violation of any of the terms of the Contract, any other contract or invoice with Lessor, and/or violation of any common law, federal, provincial, municipal, or other local laws, orders, rules, regulations, or decisions of any regulatory body, or any manufacturer's instructions or warnings; and/or (viii) exposure and/or contamination with or from radioactive, contaminated, hazardous, toxic, explosive, or corrosive materials. RPP IS NOT INSURANCE and does not relieve Customer of other insurance requirements, risk of loss, indemnification and/or other obligations herein.

11. No Warranties. CUSTOMER ACKNOWLEDGES THAT THE EQUIPMENT SHALL BE RENTED ON AN "AS IS, WHERE IS" BASIS, WITH ALL FAULTS, AND WITHOUT ANY RECOURSE TO LESSOR. LESSOR DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, ALL IMPLIED WARRANTIES ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE, AND ALL IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE. ADDITIONALLY, LESSOR HEREBY DISCLAIMS ANY OF ITS OBLIGATIONS OR LIABILITIES ARISING FROM STATUTE, WARRANTY, CONTRACT, TORT OR NEGLIGENCE. THE CUSTOMER IS NOT RELYING ON ANY REPRESENTATIONS OF LESSOR THAT EQUIPMENT IS SUITED FOR CUSTOMER'S INTENDED USE, OR IS FREE FROM DEFECTS IN ITS DESIGN, CAPACITY, MATERIALS USED, PERFORMANCE, OR WORKMANSHIP. LESSOR FURTHER DISCLAIMS ANY LIABILITY WHATSOEVER FOR LOSS, DAMAGE, OR INJURY TO CUSTOMER OR THIRD PARTIES AS A RESULT OF ANY DEFECTS, LATENT OR OTHERWISE, IN THE EQUIPMENT.

12. Miscellaneous Fees and Charges. To the extent other charges apply to this Contract, including, without limitation, optional charges such as delivery, pick-up and fuel charges, and Lessor-imposed charges such as environmental charges, these charges collected are used by Lessor at its sole discretion, are not taxes, surcharges, or fees mandated by any governmental authority or agency, are not designated for any particular use, and are not held separately from other revenue.

13. Indemnification. CUSTOMER AGREES THAT THE EQUIPMENT AND ALL PERSONS OPERATING THE EQUIPMENT ARE UNDER ITS EXCLUSIVE CONTROL, CUSTODY AND SUPERVISION. TO THE FULLEST EXTENT PERMITTED BY LAW, CUSTOMER SHALL INDEMNIFY, RELEASE, DEFEND (WITH COUNSEL APPROVED BY LESSOR), PROTECT AND HOLD LESSOR, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS FROM AND AGAINST ANY AND ALL LIABILITIES, LOSSES, CAUSES OF ACTION, JUDGMENTS, PENALTIES, DEMANDS, AND CLAIMS OF EVERY KIND AND CHARACTER, HOWEVER ARISING OR INCURRED, FOR INJURIES, DEATH, OR DAMAGE TO OR LOSS OF PROPERTY, INCLUDING THE EQUIPMENT, CLAIMED FOR OR AGAINST LESSOR, INCLUDING BUT NOT LIMITED TO LOSSES CAUSED IN PART BY THE ACTIVE OR PASSIVE NEGLIGENCE OR FAULT OF LESSOR, ITS OFFICERS, AGENTS AND EMPLOYEES, ARISING OUT OF OR RELATING TO (A) CUSTOMER'S USE, POSSESSION, OPERATION, STORAGE, OR CONTROL OF THE EQUIPMENT DURING THE RENTAL PERIOD; (B) CUSTOMER'S FAILURE TO COMPLY WITH ANY APPLICABLE COMMON LAW, FEDERAL, PROVINCIAL, MUNICIPAL OR OTHER LOCAL LAWS, OR ORDERS, RULES, REGULATIONS OR DECISIONS OF ANY REGULATORY BODY; OR (C) CUSTOMER'S FAILURE TO COMPLY WITH THE TERMS AND CONDITIONS OF THIS CONTRACT, INCLUDING, WITHOUT LIMITATION, CUSTOMER'S REPRESENTATIONS CONTAINED HEREIN. WITH RESPECT TO CLAIMS BY EMPLOYEES OF CUSTOMER OR ITS SUPPLIERS, THE INDEMNITY OBLIGATIONS CREATED UNDER THIS SECTION SHALL NOT BE LIMITED BY THE FACT OF, AMOUNT, OR TYPE OF BENEFITS OR COMPENSATION PAYABLE BY OR FOR CUSTOMER OR ITS SUPPLIERS UNDER ANY WORKERS' COMPENSATION, DISABILITY BENEFITS, OR OTHER EMPLOYEE BENEFITS ACTS OR REGULATIONS, AND CUSTOMER WAIVES ANY LIMITATION OF LIABILITY ARISING FROM WORKERS' COMPENSATION OR SUCH OTHER ACTS OR REGULATIONS. CUSTOMER'S INDEMNITY OBLIGATIONS CREATED UNDER THIS SECTION SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS CONTRACT.

14. Limitation of Liability. In no event shall Lessor be liable for any incidental, indirect, special, impact or consequential damages, or in the cumulative aggregate, for any damages in excess of the total rental charge paid by

Customer under this Contract. Customer's sole and exclusive remedy shall be limited to repair or replacement of any defects in Equipment that occurred under normal use, all at Lessor's sole discretion.

15. Taxes. Customer shall be responsible for all taxes imposed by applicable governmental authorities. If Customer is exempt from the payment of any tax, Customer shall promptly provide evidence of exemption to Lessor. Customer shall pay all taxes until evidence of exemption is received and accepted by Lessor.

16. Equipment Owned By Third Party. Title to and ownership of Equipment shall remain with Lessor at all times. In the event Equipment is the subject of a lease agreement with third parties, such as financial institutions and their successors and assigns (each, a "Third Party Lessor"), Customer acknowledges and agrees that all of its rights under the Contract in and to Equipment, including Customer's right to its possession, are subordinate and subject to the rights and claims of Third Party Lessor against Equipment, including but not limited to the right of Third Party Lessor to take possession of Equipment, without any liability of the Third Party Lessor to Customer. In the event the Third Party Lessor takes possession of Equipment, Lessor shall timely provide to Customer substitute Equipment reasonably similar to Equipment, but in no event shall any failure by Lessor to do so diminish, in any way, Third Party Lessor's right to possession of Equipment.

17. Charges. All mileage, time, and other charges specified on the front side of this Contract for the rental of Equipment shall be calculated as follows: (a) metered time (based on the hour meter on Equipment) over eight (8) hours per twenty-four (24) hour day, forty (40) hours per seven (7) day week, and one hundred sixty (160) hours per twenty-eight (28) day month, is charged in addition to, the daily, weekly or monthly rates; and (b) mileage charges, when applicable, shall be calculated using the odometer on Equipment, in addition to time charges. Equipment shall be provided to Customer with a full tank of fuel, and Customer, at its expense, shall return Equipment with a full tank of fuel. Lessor reserves the right to charge Customer for less than full fuel tanks upon return of Equipment.

18. Class Action Waiver. Customer agrees that any claims or proceedings that it brings against Lessor will be conducted on an individual basis, and not on a class-wide, collective, or representative basis, and that any one person's or entity's claims shall not be consolidated with any other claims or proceedings. Customer further agrees that Customer will not sue Lessor as a class plaintiff or class representative, join as a class member, or participate as an adverse party in any way in a class-action lawsuit against Lessor. Nothing in this Section limits Customer's right to bring an individual claim, action, or lawsuit against Lessor.

19. Governing Law & Venue. This Contract shall be construed and enforced in accordance to the laws of California. The parties agree that any action related to this Contract or subject matter thereof, Customer's Credit Application/Agreement, and/or Customer's invoices shall exclusively be brought only in the courts located in Los Angeles County, California, with the strict exception of mechanics liens and foreclosure action(s) of mechanics liens, which shall be brought in the courts of the state where the Equipment is rented and/or where the construction project is located. The parties specifically consent to the exclusive and personal jurisdiction and venue of such courts and irrecoverably waive any right to object to such jurisdiction and venue. The parties expressly agree that this jurisdiction and venue clause is reasonable, fair, and was freely negotiated between the parties.

THANK YOU FOR YOUR BUSINESS!