

# Terms & Conditions of Agreement of Contract/Hire

## 1. Introduction

Star Scaffolding Limited (Owner) agrees to hire those Goods specified in the attached agreement for hire (Agreement) to the hirer specified in the Agreement (Hirer) and the Hirer agrees to hire such Goods from the Owner. These Terms and Conditions shall apply to the Agreement and all future agreements for hire between the Owner and the Hirer.

## 2. Definitions

**Business Day** means any day from Monday to Friday (inclusive) on which the Owner is open for business.

**Goods** includes without limitation scaffolding pipes, planks and any associated parts, and any other chattels associated with the Owner business. The Agreement may not detail an exclusive list of the Goods hired.

Delivery is deemed to have taken place when the Goods have been unloaded by the Owner at one agreed chosen site of the Hirer with good truck access. Our quotes are based on good access to work face and firm and level ground to erect scaffold on. Limited access or rough ground conditions may incur additional costs.

**Guarantor** means the guarantor of any) specified in the Agreement.

**Hire Period** means from the time part or all of the Goods leave the owners premises until all or the Goods are returned to the Owner's premises.

**Permit fees Engineering Fees - Permit fees and/or engineers' fees** may apply and will be charged to the client where applicable

## 3. Charges

The Hirer will pay the charges set out in the Agreement. Goods are to be hired on a daily basis with a minimum Hire Period of one week. The Hirer will be invoiced on the day of hire and thereafter at the end of every calendar month. All payments must be made on the 20 day of the month following date of invoice. The Hirer agrees to pay for any loss or damage whatsoever to the Goods. No credit shall be extended on unpaid accounts. The Hirer agrees to pay all accounts in full on or before the due date for payment, in default of payment and to pay late payment penalties of 2.5% per month on any overdue amount. The Hirer indemnifies the Owner against any actions or damages resulting from the hire and agrees to pay all costs and expenses to enforce any provision of this Agreement. The Hirer agrees to pay all costs associated with the recovery of the Goods or any monies owing under the Agreement including, but not limited to, fees charged by any debt collection company used by the Owner.

## 4. Orders, Delivery and Removal

4.1 All orders will be confirmed by way of email unless otherwise agreed. The Hirer shall return the confirmation or order by email

Within two Business Days of receiving it Failure to return the confirmation of order within two Business Days will be deemed to be confirmation of delivery and acceptance of the order price. The Hirer shall incur costs in relation to amendments or cancellation of the order. Once the Goods have been delivered, the Hirer shall inspect all Goods and note any damage to those Goods. The Hirer has until 5.00 pm on the following Business Day to raise any damage or other issues with the Owner.

4.2 Risk in the Goods shall pass to the Hirer on Delivery of the Goods.

4.3 When the Owner collects all or part of the Goods the Hirer or their agent must sign off the Goods. Failure to sign off will mean Goods will not be able to be removed, and the Hire Period will continue. The site of collection must have good truck access.

4.4 All delivery, installation, dismantling and collection of any Goods will incur extra charges that will be notified in advance by the Owner. Installation and dismantling of the Goods will be performed only where there is good truck access, good access to the work face and must be on firm and level ground to erect the scaffold on. limited access or rough ground conditions may incur additional costs.

4.5 Any further distances will be charged on an hourly basis at a rate to be notified by the Owner.

4.6 The Hirer hereby authorises the Owner to bring the Owner vehicle and any other equipment necessary onto the place where the Goods are to be delivered, and if applicable, to install and/or dismantle or remove the Goods either upon the expiry of the hire period or on the breach by the Hirer or any of these Terms and Conditions. The Hirer indemnifies the Owner against any cost, claim, damage, expense or liability suffered or incurred by the Hirer whether arising directly or indirectly from the Owner's actions under this clause and indemnifies

the Owner against any claim caused through any damage caused to underground services. The Hirer must notify the Owner if the Goods are removed from the site that Goods were delivered to.

4.7 The Hirer must give a minimum of two Business Days' notice to the Owner of the required collection time. Unless otherwise agreed, Failure to do so will mean the Hire Period will continue.

## 5. No Assignment

This contract is personal to the Hirer and is not capable of assignment whether in whole or in part by the Hirer.

## Hirer's Obligation

5.1 The Hirer shall take proper care of the Goods. All Goods shall be returned to the Owner in good order and condition, and free from any defects. The Hirer shall use the Goods in a lawful manner with due regard to all laws and regulations pertaining to the use of the Goods. The Hirer shall immediately notify the Owner if the Goods are damaged. The Hirer shall be responsible for any loss of, or damage to, the Goods however caused, including, but not limited to, damage caused by earthquakes and riot. The Hirer shall be responsible for any damage caused to a third party and any payments due to be paid directly to that third party. The Hirer shall indemnify the Owner against any claim made by any person against the Owner for any damage, expense, claim, demand action or loss arising directly or indirectly out of the Hirer's use or possession of the Goods. The Hirer is liable for any consequential damage, loss or costs, including loss of ability to re-hire and loss of revenue, incurred by the Owner as a result of the Hirer hiring the Goods (however that loss, cost or damage may have been caused).

5.2 If the Hirer is not an individual, the person who signs this Agreement on behalf of the Hirer warrants that he/she is the agent or the Hirer and can bind the Hirer.

5.3 The Hirer will at all times ensure that the Goods are used in accordance with Health and Safety in Employment Act 1992 (Act). The Hirer will indemnify the Owner for any costs or penalties incurred or imposed on the Owner due to any breach of the Act by the Hirer.

## 6. Owner's Rights to Cancel

If the Owner believes the Goods to be at risk for any reason whatsoever, including, but not limited to, the manner of its use by the Hirer or that the Hirer is unable to, or might be unable to pay any hire charge, the Owner may take action as necessary to retake possession of the Goods. Accordingly, the Hirer grants the Owner an irrevocable right and authority to enter at any time onto the place where all or part of the Goods are situated, or thought to be situated, to remove the Goods. If the Hirer is in breach of these Terms and Conditions, the Owner may issue a notice to the Hirer requiring the Hirer to remedy the breach within three days of the date of receipt of the notice. If the Hirer fails to remedy the breach within that three day period, the Owner may terminate the Agreement by further notice in writing to the Hirer. The Owner will not be liable to the Hirer or any other persons for any claim or loss arising from cancellation or repossession. The rights of the Owner under this clause are without prejudice to any other right to remedy available to the Owner.

## 7. Insurance

The Owner does not provide insurance during the Hire Period. Any loss or damage of the Goods however caused during the Hire Period is the responsibility of the Hirer.

## 8. Personal Property Securities Act 1999 (PPSA)

8.1 The Hirer acknowledges that its hire of the Goods may constitute a deemed security interest under the terms of the PPSA, and agrees that the Owner is entitled to register its security interest as the Owner of the Goods on the Personal Property Securities Register. All terms in this clause 8 have the meaning given in the PPSA and section references are references to sections of the PPSA.

8.2 On the request of the Owner, the Hirer shall promptly execute any documents, provide all necessary information and do anything else required by the Owner to ensure that the Owner's security interest is perfected and has priority over all other security interests in the Goods. The Hirer will pay to the Owner all fees and expenses incurred by the Owner in relation to the filing of a financing statement in connection with the Security Interest.

8.3 To the extent they are applicable to the Hirer, the Hirer agrees that the following provisions shall not apply and that the Hirer waives any rights they have under those provisions: sections 114(1) (a), 116, 117, 119, 120, 121, 122, 125, 129, 131, 132, 133, 134 and 148. Where the Owner has rights in addition to those in Part 9 of the PPSA, those rights shall continue to apply.

8.4 The Hirer is not authorised to sell, sublease or in any other way part with possession of any of the Goods to a third party. The Hirer agrees that in the event that section 53, 54 and 56 apply the Owner will be entitled to the full amount of the value of the Goods from the Hirer and the Security Interest will continue in the payment given by the third party.

## 9. Guarantee

The Guarantor shall personally guarantee all monies owed under the Agreement. The Guarantor shall be liable for any costs arising from any breach of these Terms and Conditions by the Hirer.

## 10. Advertising

The Hirer agrees that the Owner has the sole right to allow third parties to place advertising material on the Goods. The Owner reserves the right to remove any advertising material on the Goods that it has not agreed to.

## 11. Privacy Act 1993

This Agreement collects personal information about the Hirer and the Guarantor. The information is principally collected to evaluate the Hirer's request to hire Goods. The information is collected and held by the Owner. The failure to provide the information specified in the Agreement may result in the application for hire of Goods being declined or this Agreement subsequently being terminated by the Owner. The Hirer has rights of access to personal information contained in this Agreement, subject to the provisions of the Privacy Act 1993. The Hirer agrees that its personal information may be used by the Owner to advise the Hirer of the Owner other Goods and services. The Hirer authorises the disclosure or personal information held by any other party to the Owner regarding any previous hire agreements entered into by the Hirer and/or any information in relation to the financial position of the Hirer. The Hirer agrees that the Owner may release to other parties information regarding the Agreement in order to enforce the Agreement.

## 12. Changes

These Terms and Conditions may be varied by the Owner by giving one week's written notice to the Hirer.

Extras to any contract will be charged at \$50.00 (per man, per hour) and we will require a variation order to cover the extra works.

## 13. Entire Agreement

This Agreement, including each document, policy or schedule attached to this Agreement from time to time constitutes the entire agreement, understanding and arrangement (express or implied) between the parties and supersedes all prior and contemporaneous communications and any prior agreements between the parties regarding a subject matter of this Agreement.

## 14. Force Majeure

The Owner shall not be liable for any loss or damage caused by its failure or delay to supply the Goods due to anything outside its reasonable control, including, but not limited to, breakdown of plant or machinery, shortage of labour, strikes, lockouts, industrial disputes, fire or arson, storm or tempest, earthquakes, theft, vandalism, riots, civil commotions, terrorist actions, wars, government restrictions, intervention or control, transport delays, accidents or embargoes of any kind.

## 15. Interpretation

If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of New Zealand, neither the legal validity nor enforceability of the remaining provisions here of shall in any way be affected or impaired thereby to the extent that this agreement should be construed as if the breach invalidates this Agreement.

Signed: