



CONDITIONS OF HIRE

Acceptance of any quotation or equipment implies acceptance of the following general terms and conditions unless any variation is specifically agreed by us in writing.

1. Hire charges will commence the day after the scaffold has been erected and tagged. All hire contracts will be subject to a minimum charge of one week. Upon erection of the scaffold an invoice will be sent for 60% of the Erect/Dismantle charge and half of the cartage.
2. All goods will be deemed to have been delivered in good order unless we are notified in writing within 24 hours of receipt of goods.
3. For Mobile hire, it is the hirer's responsibility to return goods to our depot. By arrangement we will transport from our depot to site and from sites back to our depot and transport charges will be paid by the Hirer. If we transport goods from site back to our depot it is the Hirer's responsibility to:
 - (a) Give notice that collection is required.
 - (b) Ensure that goods are stacked for collection in a free and accessible part of the site.
4. All goods must be returned to us cleaned and in equal condition to when despatched from our depot, fair wear and tear excepted.
5. At the end of the period of hire and prior to dismantling the client will ensure the scaffold is clear of any debris and free from excess dust and building materials.
6. The Hirer must not sub-let any goods or remove from site to which first delivered without written permission from the Owners.
7. Hirers must not under any circumstances dismantle or adjust the equipment. If you require an adjustment to the scaffold this will be charged out at an hourly rate.
8. Hirers will be wholly responsible for goods despatched until returned to our depot. We do not affect any insurance whatsoever and reserve the right to cause adequate insurance against all contingencies to be taken out by the hirer.
9. Terms of payment: Credit accounts can be opened, please request a credit application form. For all credit accounts not paid by the 20th of the month following date of invoice a financial charge of 2.5% per month will be charged. Otherwise all invoices will be due for payment within 7 days. We reserve the right to terminate the hire without notice and to collect the goods at any time payment is in arrears. You will be liable for any Collection Agency costs on unpaid accounts.
10. We retain the right of access to any site, building or location where our goods are in use, at all reasonable times and for any purpose connected with this contract.
11. The goods are and remain the property of Far North Scaffolding Limited.
12. All hire rates are based on current costs of labour and materials and are subject to alteration without notice.
13. Please note that dismantles require a weeks' notice. The dismantle will be carried out as soon as practical after the client has advised the hire is to stop. It will be at our discretion as to when this will happen due to work schedules.
14. Clients to move pot plants etc from around the building prior to the build of the scaffold. Far North Scaffolding cannot be held responsible for any damaged caused to shrubbery/flower beds near the work area.

FAR NORTH SCAFFOLDING TERMS OF TRADE

1. Definitions

"**Agreement**" means the Quotation provided and these terms of trade.

"**FNS**" means Far North Scaffolding Company Limited.

"**CCA**" means the Construction Contracts Act 2002.

"**Customer**" means the person named in the Quotation.

"**Plant and Equipment ("P&E")**" means all Plant and Equipment and other material (including consumables) hired, supplied or used by FNS in providing the Services to the Customer.

"**GST**" means good and services tax payable under the Goods and Services Tax Act 1985.

"**Personal Information**" means Personal Information as defined in the Privacy Act 1993.

"**PPSA**" means the Personal Property Securities Act 1999.

"**Quotation**" means a written offer from FNS to the Customer to supply P&E and/or Services for a specified price subject to the terms and conditions of such offer.

"**Services**" means any services performed by FNS including scaffolding, construction rigging and labour hire.

2. Application

2.1. These Terms of Trade apply to all P&E and Services provided by FNS including those hired/supplied pursuant to a Quotation.

3. Pricing, Quotations and Estimates

3.1. A Customer's acceptance of a Quotation constitutes an agreement to lease the relevant P&E and/or receive Services on these Terms. The accepted Quotation and these Terms form the agreement between FNS and the Customer.

3.2. The price of P&E and Services is that specified in an accepted Quotation.

3.3. Unless otherwise stated, prices stated in a Quotation or otherwise do not include GST nor any allowances for: craneage; contractors all risk insurance; or disbursements such as the car ferry, toll charges etc.

3.4. Any additional expenses incurred as a result of changes made by, or at the request of the Customer or by any delay in the provision of the services caused by unsuitable weather conditions, any act or default of the Customer or by any other parties engaged by the Customer, shall be payable by the Customer in addition to the price provided in the Quotation.

3.5. All Quotations are based on rates and charges in effect at the date of the Quotation. Any increase in rates or charges (including without limitation the cost of labour, materials, insurance, fuel and other outgoings), or overtime, or extra shifts outside of normal business hours result in an equivalent increase in the Quotation price.

3.6. Hiring charges commence on date of delivery of the P&E to the site.

3.7. Quotations are prepared in accordance with information provided to FNS by the Customer and FNS will not be liable nor will it be bound by the Quotation where:

- (a) such information is inaccurate or any information omitted;
- (b) the Customer causes any variations in the Services; or
- (c) there is a material difference between the P&E hired/or and Services performed.

4. Hiring of the P&E

4.1. **Deposit:** FNS may, as its sole discretion require Customers to pay a deposit prior to its delivering the P&E to the site or the provision of its Services. The sum of the deposit will be determined by FNS as its sole discretion.

4.2. **Minimum Hiring Period:** The minimum hiring period unless otherwise specified is one week. Hire commences on the day the P&E leave FNS's premises and terminates the day on which the P&E hired pursuant to this contract are returned/collected.

4.3. **Ownership:** the P&E shall be at all times remain the sole and exclusive property of FNS. The Customer shall have no right title or interest in the P&E, except as expressly set out in these conditions. The Customer covenants and agrees not to assign, charge, encumber, mortgage, pledge, sell, sub-let or hire out or otherwise part with possession or control of the P&E or any part thereof, unless so authorised in writing.

4.4. Site Access:

- (a) Acceptance of this quotation gives FNS the right of access to any site to which the P&E have been or are located at all times and for any purposes, including but not limited to delivery, adjustment, pick-up and re-possession.
- (b) The Customer hereby further grants a sub-licence, to FNS to enter on any site which the Customer is licensed to enter upon, for such purposes described above when the property is not owned by the Customer.

4.5. **Use and Maintenance of P&E:** The Customer covenants and agrees to take all reasonable care in the housing, handling and use of the P&E so as to prevent its damage to or loss or destruction and in particular:

- (a) to take all reasonable and prudent measures to keep the P&E secure and a safe;
- (b) to use the P&E or permit the P&E to be used only by properly skilled and experienced persons who were not under the influence of alcohol or drugs in all respects in accordance with the requirements of statute or common law;
- (c) to ensure that the P&E is used solely for the purposes intended by the manufacturer having regard to the capabilities and limitations of the P&E;
- (d) not permit any repairs, additions, alterations or adjustments to be made to the P&E by any person other than by FNS or its sub-contractors, and further not to modify or merge all or any part of the P&E with any other P&E. The Customer acknowledges that if it is in breach of this sub-clause then any warranties specifically given in writing by FNS in respect of the safety of the P&E and/or fitness for the purpose shall be null and void;
- (e) it shall be the Customer's obligation to maintain insurance in respect of the P&E;
- (f) not remove from site without the prior written consent of FNS; and
- (g) immediately notify FNS in the event that the P&E has been lost, stolen, damaged or destroyed or if the P&E is not operating in its proper manner.

4.6. **Return:** The Customer shall:

- (a) Return the P&E in good working order, repair and condition; and
- (b) If the Customer does not return the P&E on the due date, FNS may retake possession of the P&E. Alternatively, FNS may interpret the non-return of the P&E as a statement that the P&E have been lost or stolen.

4.7. **Lost, Stolen, Damaged or Destroyed P&E:** The Customer shall:

- (a) Pay any costs incurred by FNS to replace the P&E at market cost, that result from loss, theft, damage or destruction; and
- (b) Pay any costs incurred by FNS to repair maintain alter or adjust the P&E if such repair, maintenance, alteration or adjustment is due to the fault of the Customer, fair wear and tear resulting from proper use excepted.

4.8. **Hirage Returns and Pickup:** The Customer shall give three days' notice of intention to return the P&E or request pickup ex-site. The Customer or their authorised representative shall be present at the time and place of the return of the P&E, shall fully inspect and verify the quantities and general condition and repair of the P&E being returned, and shall so confirm the above by placing their signature on an FNS-approved count sheet. Failure to so inspect and confirm, shall in no way limit the Customer's liability in respect of the Agreement.

5. Payments

5.1. Unless otherwise agreed in writing by FNS, payment is due in full as per the due date specified on all the invoice.

5.2. All invoices for progress payments will be prepared to meet the provisions of the CCA. All invoices issued pursuant to the Agreement shall be in the form of a payment claim within the meaning of the CCA. The Customer is hereby put on notice of the requirements of the CCA in terms of the issuing of payment schedules.

5.3. If payment is not made on the due date (time being of the essence), FNS may:

- (a) suspend the Services;
- (b) take possession of the P&E;
- (c) terminate this Agreement;
- (d) charge the Customer any costs it incurs in trying to obtain payment (including debt collection agency fees and legal costs (on a solicitor and client basis) and all other costs on a full indemnity basis); and
- (e) charge the Customer default interest until the date of actual payment of all amounts owing including default interest at a rate of 2.5% per month.

5.4. A Customer may not deduct or withhold any amount on any basis (whether by way of a set-off, counterclaim or otherwise) from any money owing to FNS.

6. Security for Payment and PPSA

- 6.1. These Terms constitute a security agreement for the purpose of the PPSA;
- 6.2. A security interest is taken in the P&E;
- 6.3. The Customer agrees to:
 - (a) sign any further documents and/or provide any further information which FNS may reasonably require to register a financing statement or financing change statement on the Personal Property Security Register;
 - (b) not register a financing change statement or change demand; and
 - (c) waives all and any rights it may have under part 9 of the PPSA.
- 6.4. Nothing in sections 114(1) (a), 116, 117(1) (c), 119, 120(2), 121, 125, 126, 127, 129, 131 and 132 of the PPSA shall apply to the Agreement.

7. Personal Guarantee

- 7.1. In consideration of FNS entering into the Agreement with the Customer, the guarantor agrees to guarantee to FNS the payment obligations of the Customer under this Agreement and agree to indemnify and keep indemnified FNS against all loss, damage, costs and expenses suffered or incurred by FNS as a result of or in connection with any failure by the Customer to make payment of any amounts under this Agreement.
- 7.2. The Guarantor(s) acknowledges that their liability remains in full force and effect notwithstanding:
 - (a) the liquidation, winding up, bankruptcy, incapacity or death of the Customer;
 - (b) FNS has not exercised all or any of its rights or powers against the Customer; and
 - (c) any amendment or variation to this Agreement.

8. Warranties

- 8.1. All statutory, express or implied warranties by FNS including, without limitation, the implied warranties of merchantability and fitness for any particular purpose are expressly excluded.

9. Limitation of liability and Indemnity

- 9.1. FNS shall not be liable for any direct or indirect loss or damage (including without limitation loss of profits or savings or for any indirect or consequential loss or damage), however caused, arising out of or in connection with the Agreement.
- 9.2. Subject to the exclusion of liability in clause 9.1, the maximum aggregated liability of FNS for all claims made by the Customer, whether as a result of any breach of the Agreement or on any other ground or terms whatsoever (including liability as a result of tort, including negligence) will not exceed the amount FNS has charged the Customer under the Quotation.
- 9.3. The Customer will indemnify FNS against any liability, losses, damages or expenses incurred or suffered by FNS as a result of any claim made by a third person against FNS in respect of any loss or liability arising from the Agreement.

10. Main Contractor's Obligations

- 10.1. Where FNS is engaged as a subcontractor, the following shall apply:
 - (a) these terms shall prevail in the event of conflict with the terms of any subcontract; and
 - (b) these terms shall apply to the engagement except only, and if and to the extent that, may be expressly agreed otherwise in writing by FNS.

11. Force Majeure

- 11.1. No claim or liability will arise against FNS under these terms or any Quotation, if and to the extent that FNS's failure or omission to carry out or observe any provisions of these Terms or Quotation arises by reason of Force Majeure. "Force Majeure" means any event outside the reasonable control of FNS and includes, without limitation, fires or other casualties or accidents, power outages, acts of God strike and lockouts, severe weather conditions, delay in supply or materials or unavailability of materials, war or other violence, or the introduction of any law, order, regulation, demand or requirement of any governmental agency.

12. Privacy Act

- 12.1. The Customer authorises FNS to collect, retain and use any information about the Customer for the purposes of assessing the Customer's credit worthiness and/or enforcing any rights under this agreement.
- 12.2. The Customer authorises FNS to disclose any information obtained to any person for the purposes set out in the agreement. Where the Customer is a natural person, the authorities under this clause are authorities or consents for the purposes of the Privacy Act (1993).
- 12.3. In consideration for FNS allowing the Customer the services on credit, the Customer acknowledges that FNS will hold the information supplied by the Customer for the purpose of administering the Customer's account, providing credit references, and to enable FNS to inform the Customer of its services. The Customer acknowledges that FNS is entitled to provide the Customers Personal Information to debt collecting, repossession and credit reporting agencies and their clients.
- 12.4. The Customer is entitled to access and correct its Personal Information held by FNS.

13. Miscellaneous

- 13.1. FNS's failure or delay to exercise or enforce any right it has under these Terms shall not operate as a waiver of its rights including any other right in the future.
- 13.2. FNS may, in its sole discretion, amend these Terms from time to time.
- 13.3. FNS may assign or sub-contract its rights and/or obligations under this Agreement without obtaining the Customer's prior written approval.
- 13.4. FNS may issue any court proceedings relating to this Agreement in any court of its choice in New Zealand, New Zealand law is the law of this Agreement, and New Zealand courts have exclusive jurisdiction on all matters arising.
- 13.5. If any provision of this contract shall be invalid, void or illegal or unenforceable, the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or implied.
- 13.6. The Customer may not assign any of its rights or obligations under this contract.