



## Forklifts NH General Terms and Conditions

These terms and conditions, together with Forklifts NH's proposal, if applicable, (collectively the "Agreement") shall apply to all equipment sold or leased by Forklifts NH (the "Equipment"), all parts sold by Forklifts NH (the "Parts") and to all the Services performed by Forklifts NH (the "Services"). Before ordering the Equipment, the Parts, or the Services, you ("Customer") should read these terms and conditions carefully. If Customer does not agree with these terms and conditions, then Customer should not order the Equipment, the Parts or the Services. If Customer's purchase order contains additional terms and conditions, those terms and conditions are rejected. In the event that Forklifts NH and Customer has entered into a written agreement regarding the Equipment, the Parts or the Services, the written agreement shall apply to the Equipment, the Parts or the Services.

**Pricing and Payment.** Customer will be billed for the Equipment, the Parts and the Services at the rates set forth in Forklifts NH's quote or its then-current price list. Customer shall be responsible for reimbursing Forklifts NH for its travel expenses, if applicable. Payment for the Services shall be due upon completion of the Services. Payment for the Equipment (purchase and lease) shall be due prior to the Equipment delivery. Please note that the delivery of the Equipment will occur after payment to Forklifts NH has cleared and been received by Forklifts NH. Except as otherwise agreed to in writing by Forklifts NH, all invoices are due upon receipt. Forklifts NH will not schedule any Services if Customer has an outstanding account balance. After the due date, all outstanding amounts owing shall bear interest at the rate of 1.5% per month on the unpaid balance.

Forklifts NH accepts the following payment methods:

- **ACH Payments:** No processing fees apply. Please note that it takes 1-2 business days to clear payments. Forklifts NH assumes no liability for ACH payments which are made through Forklifts NH's third party merchant service company.
- **WIRE Payments:** No processing fees apply. Same day delivery of payment if wired before 12:00 pm. Upon request, Forklifts NH will provide its wire instructions.
- **Check Payments:** No processing fees apply. Forklifts NH accepts bank or company checks. Please note that it takes 1-2 days to clear payments. Please make checks payable to: Forklifts NH with a mailing address of: 343 Londonderry Turnpike, Hooksett, New Hampshire 03106.
- **Credit Card Payments:** Credit cards may be used for amounts due under \$500 without processing fees. For amounts due of \$500 or higher, Customer will be invoiced a 3.50% credit card processing fee. Forklifts NH assumes no liability for credit card payments which are made through Forklifts NH's third party merchant service company.

**Rental Agreement Terms.** The term for rented Equipment shall be set forth on the applicable quote from Forklifts NH. Customer must pay in full all amounts due for the rental term prior to Forklifts NH's delivery of the Equipment. Upon expiration of the rental term, Forklifts NH shall arrange to pickup the Equipment. Customer is responsible for any damage to the Equipment during the rental term until the Equipment is in the possession of Forklifts NH. Customer shall not replace any parts or make any alterations or additions to the Equipment without the prior written consent of Forklifts NH. Customer agrees to take proper care of the Equipment, to use it within its rated capacity, to restrict its use to Customer's qualified personnel who have been properly trained in accordance with OSHA 29 CFR 1910.178, *Powered Industrial Trucks*. Customer shall prohibit anyone other than Customer's authorized personnel to repair, modify or adjust the Equipment and to notify Forklifts NH immediately of accidents, disability, and failure or like occurrence concerning the Equipment. Customer shall pay for all damage to the Equipment resulting from improper use or abuse of the Equipment.

**Termination.** Forklifts NH may terminate the Agreement or any order including any scheduled Service or rental term by written notice to Customer if: (i) Customer fails to make a payment when due, (ii) Customer defaults in the performance or observance of any provision of the Agreement and such default continues for ten (10) days after the giving by Forklifts NH of notice thereof, (iii) Customer becomes the subject of any state or federal insolvency, bankruptcy, receivership or similar proceeding or (iv) Customer does not respond to Forklifts NH's request to schedule the Services. Upon termination, Customer shall immediately pay all sums and any other amounts to which Forklifts NH may be entitled for the Equipment, the Parts or the Services delivered prior to Termination. In addition, Customer shall be responsible for all expenses incurred by Forklifts NH, including reasonable attorneys' fees due to Customer's breach of the Agreement. The remedies specified herein shall be in addition to, and not in lieu of, any other rights or remedies available to Forklifts NH at law or in equity. Upon termination of the Agreement, the terms set forth in *Confidential information, Liability, Indemnification, and Choice of Law* shall survive for all times hereafter.

**Equipment Pickup.** Customer will pick up repaired Equipment within 7 days of: (i) completion of the Services or (ii) Customer's decision not to have the Services performed (the "Pickup Deadline"). After the Pickup Deadline has passed, storage fees equaling the greater of \$25 dollar per day or Forklifts NH's then-current storage fee will be charged to Customer. If Customer does not pick up the Equipment within 30 days of the Pickup Deadline, then Forklifts NH shall dispose of the Equipment and Customer hereby agrees to such disposal and to pay any fees related to such disposal. Customer further agrees that Customer shall not receive any proceeds from the disposal.

**Taxes.** Customer shall be liable and shall pay or reimburse Forklifts NH for any taxes, fees, or assessments, however, designated or levied, based upon the Equipment sold or leased, as applicable, the Parts sold, or the Services performed hereunder. No listed prices shall include tax.

**Confidential Information.** Customer agrees that Customer will not disclose Forklifts NH's Confidential Information to any other party at any time. "Confidential Information" means any information regarding Forklifts NH that is not generally known or available to the public including, without limitation, pricing information regarding the Equipment, the Parts and the Services.

**Customer Representations.** Customer shall effect all necessary registrations and obtain all necessary licenses in connection with Customer's use, possession and operation of the Equipment. Customer shall observe and comply with the provisions of all statutes, rules, regulations and laws, (including, but not limited to, standards set by the Occupational Safety and Health Administration), made with regard to the use to which the Equipment is put, the operation or possession of the Equipment and the place where the Equipment is used.

**Liability.** Customer agrees that Forklifts NH shall not be liable to Customer for any defect in any Equipment or the Services nor any liability, claim, loss, damage, or expense of any kind arising out of or in any way related to Customer's ownership, lease, possession, use or operation of the Equipment. FORKLIFTS NH MAKES NO WARRENTY, EXPRESSED OR IMPLIED, WHETHER OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE, WITH RESPECT TO ANY EQUIPMENT, PARTS OR SERVICES. FOR PURCHASED EQUIPMENT, FORKLIFTS NH'S CUSTOMER WILL RECEIVE THE MANUFACTURER'S WARRANTY TO THE EXTENT SUCH WARRANTY IS AVAILABLE AND TRANSFERABLE TO CUSTOMER. IN NO EVENT SHALL FORKLIFTS NH BE LIABLE FOR ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES. IN NO EVENT SHALL FORKLIFTS NH BE LIABLE FOR AMOUNTS EXCEEDING THE FEES PAID FOR THE EQUIPMENT, PARTS OR THE SERVICES AT ISSUE.

**Insurance.** Customer shall carry at its own expense comprehensive general liability insurance with a minimum limit of \$2,000,000 combined single limit (property damage and bodily injury). Customer shall furnish Forklifts NH with certificates of insurance giving evidence of the coverage required herein, which certificates shall provide that cancellation of the insurance may be affected only after thirty (30) days prior notice has been given to Forklifts NH. The insurance shall contain a waiver of subrogation and add Forklifts NH as an additional insured.

**Indemnification.** Customer shall defend and hold Forklifts NH harmless from and against any and all of the following, whether actual or alleged, unless caused by Forklifts NH's gross negligence: all damages, claims, suits, proceedings, liens, penalties, liabilities, and expenses (including attorney's fees) arising out of or in a manner related to Customer's

ownership, lease, possession, use or operation of the Equipment and resulting from injury or death to any person or damage to the Equipment or other property.

**Relationship of the Parties.** Nothing in the Agreement shall be construed to create a relationship between the parties of agency, partnership, or joint ventures, nor to render either party liable for any debts or obligations incurred by the other party.

**Force Majeure.** Forklifts NH's performance shall be excused by any act or event which wholly or partially prevents or delays Forklifts NH's performance of the Services, delivery of the Equipment, delivery of the Parts, including, but not limited to: any governmental action, law, order or regulation, war, act of war, riot, strike, labor disturbance, lockout, fire, flood, severe weather, pandemic, epidemic, quarantine, public health emergency, failures or interruptions of communications, delays by suppliers, material shortages, embargoes, inability to obtain necessary labor, machinery breakage, natural catastrophes, acts of God or other causes or events which are beyond the reasonable control of Forklifts NH.

**Assignment.** Customer may not transfer or assign the Agreement without the prior written consent of Forklifts NH. Subject to the foregoing, the Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

**Severability.** The invalidity or partial invalidity or unenforceability of any provision of the Agreement, as judicially determined by a court of competent jurisdiction and venue, shall not affect the validity or enforceability of any other provision.

**Choice of Law.** The Agreement shall be governed by, interpreted, construed under, and enforced in accordance with the laws of the State of New Hampshire. Any and all disputes arising pursuant to the Agreement shall be resolved exclusively in the courts of the State of New Hampshire or in federal courts in the State of New Hampshire of proper jurisdiction and venue. The parties agree to submit to such jurisdiction and venue for all purposes hereunder.

**Entire Agreement, Amendment, and Counterparts.** The Agreement constitutes the entire agreement and understanding between the parties with respect to its subject matter, is intended as a complete and exclusive statement of the terms of their agreement, and supersedes any prior or contemporaneous agreements or understandings relating to the subject matter hereof. The Agreement may not be amended, supplemented, or modified in any respect except by subsequent written agreement of both Forklifts NH and Customer, duly signed by their respective authorized representatives.

**Waiver.** Either party may specifically waive any breach of the Agreement by the other party, but no such waiver shall be deemed effective unless in writing, signed by the waiving party, and specifically designating the breach to be waived. No waiver shall constitute a continuing waiver of similar or other breaches.

**Notice.** Any notice hereunder shall be in writing and shall be deemed received upon personal delivery, if so delivered, three (3) business days after having been deposited in the mail, first-class postage prepaid, registered or certified, return receipt requested, or on the next business day if sent for overnight delivery by a nationally recognized overnight delivery service, upon delivery for email, and in each case notices shall be addressed to the address and that Forklifts NH has on file for Customer and at the below address for Forklifts NH:

Forklifts NH, 343 Londonderry Turnpike, Hooksett, NH 03106  
Phone- 603-627-2700  
Service @ForkliftsNH.com

**Headings.** The descriptive headings of the Agreement are for convenience only and do not constitute a part of the Agreement or affect its meaning or interpretation.

Forklifts NH 343 Londonderry Turnpike, Hooksett, NH 03106 email: info@Forklifts NH.com 603-627-2700 3/19/2024