

## TERMS AND CONDITIONS OF RENTAL AGREEMENT

**1. AGREEMENT OF RENTAL ONLY:** THIS Agreement is one of rental only and the Customer, hereafter referred to as "Lessee" will not have, or acquire, any right, title, or interest, legal or equitable, in the equipment except the right to use the same during the Rental Term, subject to the provisions of this agreement. Title and ownership of the Equipment shall remain with Johnson Lift / Hyster, referred to as "Lessor" for the remainder of this document. Lessee is responsible to keep the equipment free from levy, legal process, tax and other claims, liens, and encumbrances, and upon request, Lessee will provide proof of payment of any taxes, the nonpayment of which may result in a lien. Lessee will also promptly pay, as additional rent all expenses, including attorneys' fees that Lessor may incur in defending or removing any claim, lien or encumbrance upon the equipment. The equipment shall remain personal property of Lessor, even where it, or any part of the equipment, may become attached to real property. Lessor may substitute the equipment rented to Lessee under this agreement with equivalent equipment at any time during the rental term. Lessee is responsible for payment of all registration fees, license fees, assessments, charges, and taxes, together with any penalties or interest that may be imposed by any taxing authority with respect to the ownership, possession, use, rental, or value of the equipment whether the same is assessed to Lessee or Lessor, and upon request, Lessee will be required to provide to Lessor proof of payment of same. Lessee also appoints Lessor as true and lawful attorney-in-fact to prepare and execute, in Lessee's name and on Lessee's behalf, any financing statements necessary or advisable to protect Lessor's interest in the equipment.

**2. TRANSPORTATION/RENTAL PERIOD.** Rental starts prior to loading at Lessor's yard, and ends when equipment is back in Lessor's yard. There is no allowance for holidays, time in transit, or any period of time that the equipment may not be in actual use while in your possession. Lessee is required to pay all transportation costs and Lessee also has the option to pick up and/or return the equipment.

**3. RECEIPT/RETURN/RETAKING OF EQUIPMENT.** When Lessee receives the equipment, Lessee is responsible to make sure it is in good order and condition. Upon expiration of the terms of this rental and including any extensions, or upon the sooner termination of this rental, Lessor, without necessity of any further notice, is entitled to the immediate possession of this equipment and Lessee agrees to deliver the equipment to the point of pick up in good order and condition, ordinary wear and tear excepted. Lessee agrees to pay all freight or other charges in connection with the use and operation of the equipment. If Lessee does not return all rented items by the date specified, to pay within terms, or to provide adequate protection from loss or damage, as determined by Lessor, Lessee agrees that Lessor and its agents may take all action reasonably necessary to retake the rented items without prior notice or legal process. Lessee also assumes full responsibility for any damage or loss physical or pecuniary, caused by retaking the rented items and agrees to pay all costs and expenses incurred in retaking the equipment.

**4. USAGE RATES.** Rental rates are for single shift use (8 hours per day, 40 hours per week) and will be increased proportionately for any greater usage.

**5. CONTINUOUS BILLING.** If the rental exceeds 4 weeks, Lessee agrees to pay for each four-week rental period within ten (10) days of receipt of invoice and agrees that this rental contract shall continue in full force and effect.

**6. CONDITION.** Lessee agrees and guarantees to return the equipment covered by this agreement in as good condition as when received and if otherwise, to pay the expense of putting it in such condition, less ordinary wear and tear due to normal use in the hands of a competent operator. Equipment returned unfit for service will remain "on rent" with Lessee until repairs are completed to restore the equipment to a fit safe condition.

**7. INSURANCE.** Lessee is required, at Lessee's expense, at all times from the time of delivery of equipment to Lessee, to maintain insurance against all risks of loss or damage from any cause for not less than the full replacement value and shall carry public liability and property damage insurance covering the equipment. Such insurance shall be in the amounts and with insurance companies satisfactory to Lessor protecting Lessor as an additional insured, and providing for ten (10) days written notice to Lessor before any policy may be modified or canceled. Lessee is also responsible to deliver to Lessor evidence of the insurance.

**7a. LOSS OR DESTRUCTION OF THE EQUIPMENT.** If the equipment should be lost, stolen, destroyed or rendered unfit for service, Lessee is responsible for payment to Lessor for the full value of the equipment, together with interest at eighteen percent (18%) per annum until said sum is paid.

**7b. IF EQUIPMENT PROTECTION PLAN** has been charged for on the face of this agreement, and if Lessee has taken all reasonable precautions to safeguard rented items and use them in a safe and responsible manner, Lessor assumes the following risks of direct physical loss or damage to the rented items for all but fifty percent (50%) of the replacement cost of items stolen while on rental EXCEPT: 1) The first \$500.00 of each claim for loss or damage as a result of theft, vandalism or malicious mischief, 2) Use of the equipment in violation of any of the terms of this agreement, 3) Loss or damage to accessories such as air hoses, hand tools, tool steel, electric cords, welding cable, fuel tanks, blades, and other similar items, 4) Damage or loss as a result of overloading or exceeding the rated capacity of the equipment, 5) Damage to electrical appliances, motors or other electrical devices caused by artificial electrical current, 6) Loss or shortage due to mysterious disappearance or conversion, 7) Damage or loss as a result of failure to provide sufficient and proper maintenance and servicing of equipment, including but without limitation, lubrication, change of filters when required, and maintenance of proper air, oil, water, or fuel pressures or levels, 8) Loss or damage to tires or tubes, such as blowouts, bruises, cuts or other causes inherent in the use of the equipment, 9) Any engine damage which occurs from the use of improper fuel, 10) Disappearance of the equipment or theft or of any damage or loss, and to cooperate fully with Lessor supplying all necessary information to document the claim. Lessee agrees to pay fifty (50%) of the replacement cost immediately upon discovery of loss and agrees that this payment does NOT convey title to Lessee. If any such equipment is recovered at a later date, Lessor may, at its sole option, offer the equipment for sale to Lessee at current market value less the amount already paid for its loss, or refund to Lessee the amount already paid and retake possession and use of the equipment.

**8. EQUIPMENT FAILURE:** Lessee agrees that Lessor's only obligation in the event of failure or defect in rented items shall be the termination of the rental charges at the time of failure, provided the Equipment is returned to Lessor's yard within 24 hours from the time of failure.

**9. POSSESSION AND LEGAL FEES:** Lessee agrees not to part possession or sublet this agreement without the written consent of Lessor. Lessee also agrees to pay all attorneys' fees, collection charges, or other expenses that may be incurred by your failure to comply with the provisions within this agreement.

**10. COMPLIANCE WITH LAWS AND SAFETY:** As Lessor has no control over the items being rented by Lessee, Lessee agrees at Lessee's own expense to comply with all Federal, State, and Local laws, regulations, and ordinances, which may affect the rented items and their use while in your possession, including the Occupational Safety and Health Administration Act (OSHA). Lessee is required to take reasonable and proper care of the equipment, and at Lessee's own expense and cost, make all necessary repairs and replacements except warranty items, if any. If Lessee defaults and does not make payment or rent or otherwise, the rental shall terminate immediately at the option of Lessor.

**11. INSPECTION:** Lessor shall at any time during reasonable business hours have the right to enter on the premises where Lessee is using the equipment to inspect the equipment or observe its use. At Lessor's request, Lessee is required to give immediate notice of the exact location of the equipment. Lessee is required to give Lessor immediate notice of any attachment or other judicial process affecting any item of equipment.

**12. HOLD HARMLESS:** It is expressly agreed and understood that Lessor shall not in any case or under any circumstances be held liable to any person, including Lessee, as the Customer, for any loss or damage, or claim or judgment, or loss or damage of any kind or character whatsoever to persons or property, or otherwise arising from or in any manner connected with the use, operation, maintenance, handling, storage, erection, assembly, dismantling, servicing or transportation of the equipment; and any and all claims for loss or damage are hereby specifically waived by Lessee. Lessee agrees to indemnify and save harmless Lessor from any and all such claims for loss, damage, or liability including attorneys' fees and cost incurred in defense of any claims. Lessee agrees to pay for any and all damages or loss to rented items except as provided under Equipment Protection Plan; to hold Lessor harmless from any loss, damage or injury suffered in connection with Lessee's use operation, possession or transportation of rented items; and to keep rented items locked and guarded when not in use.

**13. HAZARDOUS MATERIAL:** Lessee shall not expose the equipment to any HAZARDOUS MATERIAL or WASTE. In the event the equipment is exposed to any hazardous material or waste, Lessee shall immediately (1) notify Lessor, (2) remove the equipment from such exposure and (3) completely clean and decontaminate the equipment. If the equipment cannot be completely cleaned, decontaminated and otherwise discharged from all adverse effects of such exposure, Lessee agrees to pay Lessor the full value of the equipment, together with interest at the rate of eighteen percent (18%) per annum from that date until the said sum is paid in full. Lessee also agrees to indemnify and hold harmless from any and all claims, actions, expenses, damages, costs and liabilities arising from any such exposure of the equipment to hazardous material or waste. This indemnification survives and continues after the term of this lease or rental.

**14. DEFAULT:** This is of the essence and Lessee shall be in default under this agreement upon the occurrence of any of the following: (a) the misstatement or false statement in connection with, noncompliance with, or nonperformance of any of Lessee's obligations under this agreement. (b) The failure to pay any rent or other amounts provided within this agreement within the same is due and payable. (c) The failure of Lessee to perform any other provisions of this rental which you are required to perform. In the event of default Lessee will be required to relinquish possession to Lessor upon demand.

**15. DEMO:** Should this agreement pertain to the demonstration use of the equipment it is understood that ownership of the equipment is retained by Johnson Lift / Hyster. Furthermore any costs associated with the damage or excessive use to the equipment during the demo period will be the responsibility of the customer as would the costs associated with the theft or destruction, regardless of responsibility, of the equipment. The customer agrees to provide necessary comprehensive and liability insurance, naming Johnson Lift / Hyster as additional insured, during the demo period. Demo period is not to exceed 72 hours unless otherwise specified in writing.

**SALES TAX: THE ADDITION OF SALES TAX TO ALL TAXABLE TRANSACTIONS IS EXPRESSLY PROVIDED FOR. IN THE EVENT OF AUDIT, ANY TRANSACTIONS DEEMED TAXABLE ON WHICH SALES TAX WAS NOT ORIGINALLY BILLED CREATES A RESPONSIBILITY ON THE PART OF SELLER TO NOTIFY BUYER OF SUCH AUDIT DETERMINATION AND AN OBLIGATION ON THE PART OF BUYER TO REIMBURSE SELLER FOR TAXES DUE.**

IT IS UNDERSTOOD THAT NO WARRANTIES OF ANY KIND, WHETHER EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE OR HAVE BEEN MADE OR AUTHORIZED BY JOHNSON LIFT / HYTER WITH RESPECT TO ANY PRODUCTS DESCRIBED HEREIN EXCEPT AS SET FORTH ON THE REVERSE SIDE OF THIS LEASE, IF ANY.