



'Your Local  
Forklift Hire Company'

LIFT EQUIPT IS PART OF THE  
**JOHNSTON GROUP**  
AUSTRALIA

## CREDIT APPLICATION FORM – 30 DAYS EOM

**Company Name:** \_\_\_\_\_

**Trading As:** \_\_\_\_\_

**A.B.N:** \_\_\_\_\_

**A.C.N:** \_\_\_\_\_

**Postal Address:** Street: \_\_\_\_\_ Suburb/town: \_\_\_\_\_

Postcode: \_\_\_\_\_ State: \_\_\_\_\_

**Physical Address:** Street: \_\_\_\_\_ Suburb/town: \_\_\_\_\_

Postcode: \_\_\_\_\_ State: \_\_\_\_\_

**Phone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_ **Email:** \_\_\_\_\_

**Contact Name/s:** \_\_\_\_\_

<b>Trade References:</b>	<b>Phone</b>	<b>Fax</b>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____

**Accounts Contact:** \_\_\_\_\_ **Credit Limit Requested:** \_\_\_\_\_/month

**Phone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_ **Email:** \_\_\_\_\_

**For Direct Deposits please pay into the following Bank Account:**

**Banking Details:**

Bank:	National Australia Bank
Branch:	Geraldton, WA
Account Name:	Lift Equipt Pty Ltd
BSB#	086-643
Account#	24 628 5122

Please forward remittance advice to: [accounts@nwtis.com.au](mailto:accounts@nwtis.com.au)

**SIGNATURE:** \_\_\_\_\_ **NAME:** \_\_\_\_\_

**POSITION:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

Initial: \_\_\_\_\_



'Your Local  
Forklift Hire Company'

LIFT EQUIPT IS PART OF THE  
JOHNSTON  
GROUP  
AUSTRALIA

## COMMERCIAL CREDIT TERMS OF TRADE 30 days EOM

### TERMS AND CONDITIONS OF CREDIT APPLICATION

1. Lift Equipt Pty Ltd (ACN 125 331 848) ("Lift Equipt" and "Company") may at its discretion grant the client, as described in the credit application form ("Client" and "you"), a line of credit.
2. Payment shall be due and payable within 30 days after end of month.
3. The Client will pay any collection, dishonour / representation charges, collection agency costs or legal fees incurred by Lift Equipt as a consequence of you breaching its agreement with the Company.
4. Lift Equipt reserves the right to refuse or suspend an order and cancel the credit account facility if you are in breach of any agreement with Lift Equipt.
5. Lift Equipt reserves the right to charge an administration fee for payments by credit card.
6. You agree to Lift Equipt obtaining information about your consumer or commercial credit worthiness from a credit reporting agency or a commercial credit reporting business, for the purpose of assessing your credit worthiness at any time. You acknowledge that information from this application or concerning the Company's credit provider status may be disclosed.
7. You also agree that Lift Equipt may give to, or receive from another credit provider, a report about your consumer or commercial credit worthiness at any time.
8. All Products are covered by the applicable manufacturer's warranty. To the maximum extent permitted by law, all other warranties are excluded. If a Product is unfit or there is a delay in supply, Lift Equipt's liability is limited to re-supply of the Product. The Company will not under any circumstances be liable for any consequential loss of any kind (including, but not limited, loss of opportunity, loss of profits, loss of the use of money, or any other consequential or pure economic loss).
9. You agree the title in the goods remains with Lift Equipt from the time of supply until such time as payment is made in accordance with these Terms and Conditions. You agree that Lift Equipt may protect its interest in the goods and any future acquired goods by registering its security interest on the Personal Property Securities Register on the terms detailed in subclauses 10(a) to 10(e), inclusive.
10. You hereby grant to Lift Equipt a purchase money security interest ("PMSI") for each and every order you place on credit with Lift Equipt, which Lift Equipt may perfect by lodging an interest under the *Personal Property Securities Act 2009* ("PPSA") on the terms of clause 11(a) to 11(e), inclusive. For the absence of doubt a PMSI is granted for every individual order that is placed by you at the time of acceptance of that order.
11. You further grant Lift Equipt a general security interest over all of your present and after acquired property, for all future supplies of products by Lift Equipt to you, which Lift Equipt may perfect by lodging an interest under the PPSA on the following terms:
  - (a) Lift Equipt (secured party) may protect its interest in the goods by registering one or more charges pursuant to the PPSA against the product, or against any deposit, promise to pay, card authority or other security granted pursuant to this Agreement.
  - (b) To the extent permitted by law, the following sections in the PPSA will not apply to this Agreement and you hereby waiver all rights arising under those sections: s92 (secured party must not damage goods when removing accession); s93 (reimbursement for damage); s94 (refusal of permission to remove accession); s95 (notice of removal of accession - to the extent that it requires Lift Equipt to give a notice to the Client); s97 (Court order about removal of accession); s118 (enforcing security interests in accordance with land law decisions); s121 (enforcement of liquid assets); s130 (notice of disposal to the extent that it requires Lift Equipt to give a notice to the Client); s132(3)(d) and (4); s134(1); s135 (notice of retention); s137; s140; s142 (redemption of collateral); s157 (Privacy Act notice).

Initial: \_\_\_\_\_

- (c) You hereby agree, at your cost to do everything which Lift Equipt reasonably requires to be done, for the purpose of ensuring that in relation to each and every Security Interest granted by you to Lift Equipt:
- i. any such Security Interest is enforceable, perfected and effective and continues to be so;
  - ii. Lift Equipt may apply for any registration or give any notification which Lift Equipt may deem necessary to ensure that the Security Interest has priority as a first priority interest, or with such other priority as Lift Equipt agrees in writing;
  - iii. Lift Equipt is able to exercise all of its rights in relation to the Security Interest;
  - iv. promptly sign any further documents and provide any further information (such information to be complete, accurate and up to date in all respects) that Lift Equipt may reasonably require to register a Financing Statement, Financing Change Statement other document required under the PPSA;
  - v. indemnify and upon demand reimburse Lift Equipt for all expenses incurred in registering a Financing Statement, Financing Change Statement or any other document required under the PPSA or for the purposes of releasing any charged property;
  - vi. give Lift Equipt at least 14 days prior written notice of any proposed change in your name or any other change in your details;
  - vii. Immediately advise Lift Equipt of any material change in its business practices of selling goods that would result in a change in the nature of proceeds derived from such sales.
- (d) You hereby waives your right to receive a Verification Statement in accordance with s157 PPSA.
- (e) You will not disclose any information of the kind described in s275 (1) PPSA without the prior written consent of Lift Equipt.

## 12. GUARANTEE AND INDEMNITY

(a) General: -

- i. In consideration of Lift Equipt at the request of the Guarantor agreeing to supply and continuing the supply the product to you and in further consideration any credit or credit facility given by Lift Equipt to you, the Guarantor hereby guarantees to Lift Equipt the due and punctual payment by you of all moneys which are now or may from time to time hereafter be owing or remain unpaid by you to Lift Equipt and the due performance of your obligations to Lift Equipt howsoever arising now and in the future and undertakes to pay all such moneys and fulfil all such obligations on demand;
- ii. AND ALSO INDEMNIFY and keep indemnified Lift Equipt against all loss or damage that Lift Equipt may suffer by reason that the whole or any part of your liability to Lift Equipt is not recoverable from the Guarantor by reason of any failure of liability of you for any reason. This indemnity will not be limited or affected in any way whatsoever by the fact that such moneys or obligations cannot be or could never be recovered from or enforced against you for any reason. Each Guarantor's liability under this clause is unlimited;
- iii. AND FURTHER the Guarantor hereby acknowledges that prior to the execution of this Agreement that the Guarantor has: consulted independent legal advisers who have explained the true purport and effect of this Guarantee and the nature and extent of the legal liability and obligations which this Guarantee places upon the Guarantor (or has had such opportunity and decided not to obtain such legal advice); and, understood the true purport and effect of this Guarantee and the nature and extent of the legal liability and obligations which this Guarantee places on the Guarantor.

Initial: \_\_\_\_\_



'Your Local  
Forklift Hire Company'

LIFT EQUIPT IS PART OF THE  
 JOHNSTON  
GROUP  
AUSTRALIA

- (b) The Guarantor charges to the Company all of its present and future undertaking and assets (including any real property assets it has an interest in) as security for the due and punctual payment to the Company of all present and future amounts payable by you under or in connection with your credit. The Guarantor acknowledges and agrees that the Company may at its discretion, register a caveat or other security interest over any real property owned by the Guarantor. The Guarantor must pay any tax or duty payable as a result of the creation of this charge.
- (c) The Guarantor acknowledges that the Guarantor's obligations under this Guarantee will be principal obligations co-extensive with those of yours to Lift Equipt.
- (d) This Guarantee is a continuing guarantee to Lift Equipt for all debts of yours to Lift Equipt in respect of the Product supplied or to be supplied to you and will not be prejudiced, abrogated or affected by:
- i. Lift Equipt providing any indulgence or concession to you or any Guarantor or by any variation in the terms upon which Lift Equipt supplies the Product or makes credit available to you or by Lift Equipt waiving any breach or default by you;
  - ii. any payment made to Lift Equipt which is thereafter avoided whether by statute as a preference or voidable transaction or for any other reason whatsoever and any said payment will not operate to discharge the Guarantor's liability under this Guarantee and in that event Lift Equipt, you and the Guarantor are to be restored to the rights which each respectively would have had if the payment had not been made;
  - iii. the Guarantor not having notice of any neglect or omission by you to pay for the Product ordered in accordance with the trade terms specified by Lift Equipt;
  - iv. any absolute or partial release of or compromise with you or any one or more Guarantor by Lift Equipt;
  - v. any composition, compromise, release, discharge, arrangement, abandonment, waiver, variation, relinquishment or renewal of any security or right by Lift Equipt;
  - vi. any variation of the provisions of this Agreement by you;
  - vii. any release, failure to sue, any agreement not to sue, any exchange, variation, renewal or modification made or any other dealing, act or omission (whether constituting a waiver, election, estoppel or otherwise) by Lift Equipt with respect to any judgment, order for payment of moneys, specialty, instrument (negotiable or otherwise) or other security whatsoever held, recovered, or enforceable by Lift Equipt or any obligation or liability whatsoever in respect of all or any of the moneys reserved by these General Conditions for the obligations contained herein; any other act, omission or default on the part of or the happening of any other matter or thing whereby the liability of the Guarantor would, but for this clause, have been discharged, reduced or otherwise affected or any other present or future legal disability of you or the Guarantor AND each of the above circumstances is to be construed separately and independently and so as not to limit the meaning or any other listed circumstances and is not to be limited by the provisions of any other clause in these General Conditions.
- (e) Lift Equipt will not be required or obliged to give any notice to: the Guarantor of a default by you or any other Guarantor; or, give any notice to or obtain any consent from the Guarantor before the amount of moneys payable by you to Lift Equipt or the obligations and liabilities of the Client are increased or varied for any reason.
- (f) Guarantor not to compete in insolvency. The Guarantor will not in competition with Lift Equipt enforce any security held by the Guarantor against any of the assets of yours or claim payment of any moneys owing to the Guarantor by any other Guarantor or you in any manner which would have the effect of reducing the amount recoverable by Lift Equipt of the moneys hereby guaranteed. The Guarantor is not to prove or claim in any bankruptcy, liquidation, composition arrangement or assignment or in respect of the appointment of any liquidator or trustee until Lift Equipt has received one hundred cents in the dollar in respect of the moneys owing by you to Lift Equipt and the Guarantor is to hold on trust for Lift Equipt that proof and claim and any dividend received thereon.

Initial: \_\_\_\_\_



'Your Local  
Forklift Hire Company'

LIFT EQUIPT IS PART OF THE  
**JOHNSTON GROUP**  
AUSTRALIA

- (g) This Guarantee is valid and effective and binds any person who executes it despite the fact that another proposed or contemplated party has not executed it.
- (h) This Guarantee will not be affected by the death, disability, lunacy, mental incapacity, bankruptcy, liquidation, insolvency, deed of arrangement, assignment or composition for the benefit of creditors, capital reconstruction or the appointment of a receiver and/or manager (whether by the court or under the powers contained in any instrument) or administrator of the Client or of any Guarantor or the property of any such party or notice of any of the preceding circumstances.
- (i) In the event that this Agreement is transferred or assigned to any person or persons, the benefit of the Guarantee extends to the transferee or assignee and the benefit of the Guarantee continues to inure concurrently for the benefit of Lift Equipt despite any such transfer or assignment to the extent permissible by law.

Lift Equipt agrees to provide a 30-day EOM Credit Account Facility requested in this schedule, subject to the acceptance of Terms and Conditions of Credit Application to the Client.

Signed for and on behalf of the buyer, acknowledgement and consent of the terms and conditions of this application:

SIGNATURE: \_\_\_\_\_

POSITION: \_\_\_\_\_

NAME: \_\_\_\_\_

DATE: \_\_\_\_\_

Guarantor No. 1 Name:

\_\_\_\_\_

Position/Title: \_\_\_\_\_

Home Address: \_\_\_\_\_

Signed by Guarantor 1: \_\_\_\_\_

Guarantor No. 2 Name:

\_\_\_\_\_

Position/Title: \_\_\_\_\_

Home Address: \_\_\_\_\_

Signed by Guarantor 2: \_\_\_\_\_

Witness Name: \_\_\_\_\_

Position/Title: \_\_\_\_\_

Home Address: \_\_\_\_\_

Signed by Witness: \_\_\_\_\_

Initial: \_\_\_\_\_



'Your Local  
Forklift Hire Company'

LIFT EQUIPT IS PART OF THE  
 JOHNSTON  
GROUP  
AUSTRALIA

## HIRE TERMS AND CONDITION

### 1. DEFINITIONS:

"Company" means LIFT EQUIPT PTY LTD (ACN 125 331 848), its Directors, agents and authorised employees.

"Equipment" means the equipment described in this Hire Agreement and includes all accessories, fittings, additions and replacement parts fitted to the Equipment during the Hire Period.

"Hire Agreement" means the agreement to hire Equipment from the Company and includes these Terms and Conditions of Hire as set out herein.

"Hirer" includes without limitation the person, company or agent of the Hirer as stated in the Hire Agreement or on the tax invoice from the Company. The Hirer confirms and represents to the Company that any person or agent of the Hirer who signs for the equipment for on and on the Hirer's behalf has full express or implied authority of the Hirer to receive the equipment.

"PPSA" means the Personal Property Securities Act 2009 (Cth).

"Security Interest" has the meaning attributed to the term "*security interest*" in the PPSA.

### 2. TITLE TO EQUIPMENT:

(a) The Hirer acknowledges that in all circumstances, the Company retains title to the Equipment (even if the Hirer goes into liquidation or becomes bankrupt during the Hire Period) and in no circumstances will any such Equipment be deemed a fixture. The rights of the Hirer to use the Equipment are as a bailee only.

(b) The Hirer must not assign, sub-let, pledge or otherwise deal with the Equipment in any way which is inconsistent with the rights of the Company of the Equipment.

### 3. HIRE PERIOD:

(a) Subject to clause 5, the Hire Period commences when the Hirer takes possession of the Equipment or when the Company delivers the Equipment in accordance with the Hirer's instructions and the period of hire ends when the Equipment is back in the possession of the Company (in total, "the Hire Period"). The Hire Period includes weekends and public holidays and is irrespective of when the Equipment is being used.

(b) The Hire period is for an indefinite term and ends when the Equipment is back in the Company control or possession.

(c) The Hirer will be charged for the Hire Period and subject to the recommended usage specified below, the Hirer is entitled to use the Equipment for the Hire Period. Any variation to the Hire Period must be with the written consent of the Company.

### 4. HIRE CHARGES:

(a) Hire Charges are calculated based on the following recommended usage of the Equipment:

(i) Casual Hire (1 to 6 days): equipment usage not exceeding 2.85 hours per day;

(ii) Weekly Hire: (7 days week) equipment usage not exceeding 20 hours per week.

(iii) Fixed Term Hire ( $\geq 90$  days): equipment usage not exceeding an average of 20 hours per week.

(b) The Hirer will be charged an **Excess Use Charge** of 70 % of the Hire Charges if the Hirer usage of the Equipment exceeded the Recommended Usage (Excess hours x hourly rate x 70%).

(c) You will be charged for the hire of the Equipment for the full hire period. For the avoidance of doubt, You must continue to pay the Hire Charges and other charges after the Expected Off Hire Date if You have not returned the Equipment to the Company by the Expected Off Hire Date. This obligation survives termination of the Hire Agreement

Initial: \_\_\_\_\_



'Your Local  
Forklift Hire Company'

LIFT EQUIPT IS PART OF THE  
 JOHNSTON  
GROUP  
AUSTRALIA

## 5. COLLECTION BY COMPANY:

Where the Company agrees to collect the Equipment from the Hirer, within a 75km radius of Depot of Onhire, at least 24 hours notice must be given by the Hirer to the Company to allow for collection of the Equipment. Where the Equipment is located outside the 75km radius of Depot of Onhire, 5 days notice must be given. Where the Equipment is oversized and requires collection by the Company, a minimum of 5 days notice must be given in order to raise required permits and transport.

The Hire Period listed on any tax invoice will not be deemed notice to the Company that the Equipment is ready for collection.

The Hirer remains liable for any theft, loss or damage to the Equipment until the Equipment arrived in the depot and off-hire is completed.

## 6. OTHER ADDITIONAL CHARGES:

(a) The Company may at the Company's absolute discretion charge the Hirer additional charges for: any late return of the Equipment calculated from the last day of the Hire Period until the Equipment is returned to the Company in a satisfactory condition;

(b) Acceptance of payment by credit card.

(c) Any consumables, fuel or trade materials the Company supply to Hirer

**7. PAYMENT TERMS:** (a) The Hirer will pay to the Company the hire charges set out in the Hire Agreement.

The Hirer is further liable for any duty, GST and all other applicable taxes. (b) Hire Charges may be varied from time to time by the Company by giving 7 days written notice to the Hirer. (c) **Late payment interest** – If the Hirer does not pay the amount of the hire charges as set out in the Tax Invoice by the payment date specified, the Company may at its discretion impose a late payment fee of 2.5% per month. In addition the Hirer will indemnify and keep the Company fully indemnified for all expenses incurred by the Company in recovering any amounts which the Hirer fails to pay by due date including but not limited to any amount payment to any agents and legal costs.

**8. DEPOSIT:** All Hirers unless prior arrangements are made, are required to pay a deposit of 50% to reserve the Equipment within 7 days of making a Purchase Order for hire. Failure to place a deposit may mean the Equipment will not be available for hire.

## 9. CONDITION OF EQUIPMENT:

(a) The Hirer acknowledges that by signing the Hire Agreement which these Terms and Conditions are attached, the Hirer has satisfied itself as to the suitability, condition and fitness for purpose of the Equipment. The Company gives no warranty whatsoever that the Equipment is suitable for the Company's purpose.

(b) It is the responsibility of the Hirer to report to the Company any discrepancy in the quantity of the equipment or any faulty equipment immediately upon delivery or collection of the Equipment. Failure to do so immediately may result in the Hirer being billed for all hire charges. The Hirer will be liable for any breakages or damage of any equipment during use or transportation.

Initial: \_\_\_\_\_



'Your Local  
Forklift Hire Company'

LIFT EQUIPT IS PART OF THE  
 JOHNSTON  
GROUP  
AUSTRALIA

## 10. MAINTENANCE & REPAIRS:

- (a) The Hirer is at all times responsible for the maintenance of the Equipment during the Hire Period. Maintenance for purposes of the Hire Agreement includes but not limited to fueling, topping of oils, coolants, checks on tyre pressure etc on a daily basis. The Hirer must conform to the Equipment's manufacturer's guidelines when conducting any maintenance on the Equipment.
- (b) The Company will include for any equipment under 7 tonnes, one (1) set of replacement tyres if and when required. The Hirer is responsible for the replacement of any tyres of any equipment equal to 7 tonnes or more.
- (c) In general, all repairs must be carried out by the Company or by nominated agents of the Company. Minor repairs or replacements of parts (costing under \$500) may subject to verbal consent of the Company be carried out by the Hirer using manufacturer's recommended parts.
- (d) If the Hirer requires the Company to conduct certain repairs, the Company may impose a call out service fee for any call out to site location exceeding a 75 km radius of Depot of Onhire. Further additional charges may apply if the call out is made for any hours before 8am and after 5pm on a working day or for any public holidays or weekends.

Maintenance and service will be at the cost of the Hirer for any Units located remotely (outside 75km radius of Depot of Hire) – filters only will be supplied by Lift Equipt upon request. Breakdowns under the cost of \$1,000 will be charged to the Hirer for any call out outside of 75km radius of Depot of Hire.

## 11. COMPLIANCE WITH LEGISLATION:

The Hirer warrants to the Company that at all times the Hirer will operate the Equipment strictly in accordance with all laws and regulations governing the use of such equipment and in accordance with its manufacturer's instructions.

## 12. INSURANCE:

**Fixed Term Hire:** The Hirer **must insure** and keep the Equipment insured against fire, accident, theft and such other risks as the Company require for an amount equivalent to the full replacement value, new for old replacement, of the equipment with a reputable insurer approved by the Company in the names of both the Hirer and the Company or noting the rights and interest of the Company.

**All Hires:** The Hirer is responsible for all **relevant insurance** during the Hire Period including any public liability insurance. New for old replacement value

## 13. DAMAGE TO EQUIPMENT:

- (a) The Hirer must promptly notify the Company of any damage to the Equipment during the Hire Period providing full details of any loss or damage.
- (b) Where the Equipment or any part or accessory part of the Equipment is damaged or lost during the Hire Period (fair wear and tear excepted), the Hirer will be liable for any costs incurred by the Company in repairing or replacing the damage part or parts and making good the Equipment (including all labour costs).
- (c) Pending the repair or replacement of the damage part or where applicable, the entire Equipment, the Hirer remains liable for the Hire Charges and such other penalty charges (if any) which may be levied by the Company for loss of use of the Equipment.

Initial: \_\_\_\_\_





'Your Local  
Forklift Hire Company'

LIFT EQUIPT IS PART OF THE  
 JOHNSTON  
GROUP  
AUSTRALIA

#### 14. EXCLUSION OF LIABILITIES:

- (a) Subject to clause 14(b) below and except expressly provided to the contrary, all terms, conditions, warranties, undertakings, inducements or representations whether express or implied, statutory or otherwise relating to the Company's obligations under this Hire agreement are excluded.
- (b) Where any Act of Parliament implies a term, condition or warranty in this Hire Agreement and that Act prohibits, provisions in the contract excluding or modifying the application, exercise or liability under that term, condition or warranty, such term, condition or warranty will be deemed to have been included in these Terms and Conditions provided that the liability of the Company for breach of the specific term, condition or warranty is limited to (at the Company's election) the repair or replacement of any equipment or the supply or substitution of alternate equipment and in no event will any liability for damages be greater than the cost of the Hire Charges being stated in this Agreement.
- (c) The Company will not be liable for any consequential loss or damage (including loss of actual or anticipated profits or revenue, economic loss of any kind or any loss suffered as a result of any third party claim) in contract, tort (including negligence) under statute or otherwise from or in relation to this Hire Agreement.
- (d) The Hirer agrees to indemnify and keep the Company fully indemnified against any claims resulting from the Hirer's use or misuse (including any third party claims for loss or damage to any property or injury to any person) of the Equipment including any legal costs incurred by the Company in defending such claims on a solicitors-client basis.

#### 15. TERMINATION:

- (a) The Company may terminate the Hire Agreement by giving 24 hours' notice to the Hirer. The Company has the right to determine the type of work carried out by the Equipment and reserves the right to refuse or terminate any hire if the Company considers the use of the Equipment to be unreasonable.
- (b) If the Hirer is in breach of the Hire Agreement or if the Agreement is terminated by the Company pursuant to clause 15(a) above, the Company may take all reasonable steps to recover the Equipment from the Hirer including entering the Hirer's premises to collect the same without being liable for any loss or damage on the part of the Hirer.
- (c) The Hirer will also be liable for any costs associated with the recovery of the Equipment by the Company in accordance with this clause.

#### 16. PERSONAL PROPERTY SECURITIES ACT

##### PPSA Further Steps

- (a) If the Company determines that this Hire Agreement or any other agreement or arrangement between the Company and the Hirer (or a transaction in connection with any of them) ("Agreements") is or contains a Security Interest for the purposes of the PPSA, the Hirer agrees to do anything (such as obtaining consents, signing and producing documents, getting documents completed and signed, and supplying information (including but not limited to serial numbers)) which the Company asks and considers necessary for the purposes of:
- ensuring that the Security Interest is enforceable, perfected or otherwise effective; or
  - enabling the Company to apply for any registration, or give any notification, in connection with the Security Interest so that the Security Interest has the priority required by the Company; or
  - enabling the Company to exercise rights in connection with the Security Interest.
- (b) If paragraph (a), above, applies, and the Company determines that (after doing all things practicable under paragraph (a), above) the Company's security position or its rights, or obligations under or in connection with any of the Agreements have been or will be adversely affected, the Company may give

Initial: \_\_\_\_\_



'Your Local  
Forklift Hire Company'

LIFT EQUIPT IS PART OF THE  
 JOHNSTON  
GROUP  
AUSTRALIA

notice to the Hirer cancelling any of the arrangements between the Company and the Hirer and requiring return of any or all Equipment and any other goods of the Company in the possession of the Hirer within 14 days after the date of the notice.

### PPSA Undertaking

The Hirer undertakes at all times to take steps to identify Security Interests for the purposes of the PPSA in its favour in relation to or in connection with any Equipment.

If the Hirer holds any Security Interests for the purposes of the PPSA in relation to or in connection with any Equipment, irrespective of whether such Security Interests are permitted or not under the Hire Agreement, the Hirer undertakes to ensure that at all times such Security Interests are continuously perfected whereby:

- (a) The Hirer obtains the highest ranking priority possible in respect of the Security Interest (such as perfecting a purchase money security interest); and
- (b) The Hirer ensures that that a third party does not acquire an interest free of the Security Interest (such as including the serial number in a financing statement for personal property that may or must be described by a serial number).

If the Company asks, the Hirer undertakes to arrange at its expense an audit of its PPSA procedures, the outcome of which must be acceptable to the Company.

This clause does not give the Hirer a right to grant any Security Interest, and to the extent the Hirer does grant a Security Interest it must only do so in accordance with the Hire Agreement.

### Costs of further steps and undertakings

Everything the Hirer is required to do under this clause ("Personal Property Securities Act") is at the Hirer's expense. The Hirer agrees to pay or reimburse the costs of the Company in connection with anything the Hirer is required to do under this clause. Additionally, the Hirer will indemnify and keep the Company fully indemnified from any loss or damage incurred as a result of the Hirer's failure to comply with this clause.

### Exclusion of PPSA provisions

If an Agreement is or contains a Security Interest for the purposes of the PPSA, each party agrees that, to the extent the law permits them to be excluded:

- (a) Sections 142 and 143 of the PPSA are excluded and the relevant secured party need not comply with the following provisions of the PPSA: sections 95, 96, 118, 121(4), 125, 127, 128, 129, 130, 132(3)(d), 132(4), 134(1), and 135 (or equivalent provision where amendments to the PPSA result in section numbers changing) and any other provision of the PPSA notified to the grantor by the relevant secured party after the date of the Hire Agreement; and
- (b) The Company need not give any notice required under any provision of the PPSA.

### Disclosure

The parties agree that neither party may disclose information of the kind referred to in section 275(1) of the PPSA and this clause constitutes a confidentiality agreement under the PPSA. The Hirer waives any right it may have, or but for this clause may have had, under section 275(7)(c) of the PPSA to authorise the disclosure of information of the kind referred to in section 275(1) of the PPSA.

**SPECIAL CONDITIONS:** The special conditions contained in this clause prevail to the extent of any inconsistency over any contrary provisions of these Terms and Condition.

\_\_\_\_\_  
HIRER NAME AND SIGNATURE

DATED: \_\_\_\_\_

Initial: \_\_\_\_\_