

TERMS OF TRADE

FALLPROOF LIMITED (“we, us or our”)

Address: 47 Industrial Place, Queenstown
Phone: 0800 112 250
Email: brent@fallproof.co.nz

and

CUSTOMER (“you or your”)

Name:
Contact name:
Address:
Phone:
Email:

These terms govern your rental of equipment and provision of services from us. By requesting our services, you are deemed to have accepted these terms. These terms will apply to all services and equipment we supply you from time to time.

1. **Quotes and rental fee:** You are deemed to have accepted our quote when we commence installing the relevant equipment. You will pay us a rental fee based on our estimate or invoice. If you require the equipment for a longer period than the rental period provided in our estimate or you require additional services, then you will pay the additional rental fee as calculated by us.
2. **Payment terms:** You must pay the rental fee and any other amounts in full on the 20th day of the month following the expiry of the rental period. Payment must be made by direct credit to the bank account specified in our invoice. If these terms constitute a “construction contract” for the purposes of the Construction Contracts Act 2002, there shall be no progress payments and the rental fee shall be paid for in one sum on the due date.
3. **Default:** If you fail to pay the rental fee or any other amount on the due date for payment, we may:
 - (a) charge you interest on that unpaid amount on a daily basis at a rate of 2.5% per month interest (such interest to be calculated on a daily basis from the date payment was due until the date payment is received by us);
 - (b) charge you for all expenses, costs and disbursements we incur in recovering the outstanding monies (including legal fees and debt collection agency fees); and/or
 - (c) suspend or terminate the supply of equipment or services.
4. **Cancellation fee:** If you wish to cancel an order you have placed, you must notify us before we arrive on site with our equipment and staff. You will pay us a cancellation fee equal to 50% of the rental fee set out in our estimate or quote if you breach this clause.
5. **Variations:** You will pay us an additional labour fee for any variations to our services you or your builder or project manager request as set out in our quote.
6. **Condition:** The equipment will be deemed to be delivered in good condition unless you notify us within 24 hours of the delivery of the equipment that all or part of the equipment is missing or damaged.
7. **Damaged equipment:** You must immediately notify us if there is any failure, breakage or breakdown of the equipment. We will use all reasonable endeavours to replace the affected equipment as soon as possible provided you were using the equipment properly. We will have no liability for any loss or damage arising from your improper use of the equipment.
8. **Ownership and risk:** The equipment remains our sole property at all times. You are responsible for any loss of or damage to the equipment during the rental period. You must obtain insurance in relation to the equipment and your potential liability under these terms during the rental period. Any insurance monies paid by your insurer must be applied firstly to indemnify us.
9. **Customer’s obligations:** You must:
 - (a) ensure that the equipment it rents is suitable for its intended purpose;
 - (b) use the equipment in a proper manner and in accordance with our instructions at handover and the instructions on the scaffold tags;
 - (c) comply with all health and safety legislation and all codes of practice in relation to the use of the equipment (including the OSH approved Code of Practice for scaffolding);
 - (d) ensure that only competent and qualified tradespeople use the equipment;
 - (e) take care of the equipment and ensure that it is available for collection in a clean and proper condition and in working order;

- (f) not allow any third party to have possession of the equipment at any time or represent to any third party that the equipment is owned by you or any third party;
 - (g) not alter or make any additions to the equipment; and
 - (h) pay all costs arising from any damage to or loss of the equipment, and any cleaning costs required to return the equipment to a good and clean condition.
10. **Security interest:** You grant us a security interest in all equipment we supply you from time to time (including any equipment which has become an accession to other goods or been processed or comingled with other goods) and all proceeds of such equipment. You:
- (a) waive your rights under sections 116, 120(2), 121, 125, 126, 127, 129 and 131 of the Personal Property Securities Act 1999 (**PPSA**);
 - (b) agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these terms; and
 - (c) waive your rights to receive a copy of a verification statement or financing change statement.
- You will be reimburse us for all reasonable costs we incur in discharging or amending a financing statement.
11. **Termination at will:** We may terminate the supply of equipment or services to you for any reason by giving you at least three days' notice.
12. **Termination for cause:** We may terminate the supply of equipment or services to you with immediate effect by giving you written notice if:
- (a) you breach these terms;
 - (b) you become insolvent, enter into a composition with creditors, are declared bankrupt, go into liquidation, have a receiver or administrator appointed to any or all of your assets, cease to carry on business or any analogous event occurs; or
 - (c) we believe that the equipment is at risk.
13. **Consequences of termination:** We may take possession of the equipment upon termination and you irrevocably appoint us your agent for this purpose and authorise us to enter onto any land or premises owned by or under your control to take possession of the equipment, and will indemnify us in respect to any claims, damages or expenses arising under this clause.
14. **Indemnity:** You will indemnify us against any all loss, damage or liability (including legal fees) we or any third party incur resulting from any act, neglect or default of yourself or your agents, employees or licensees or your breach of these terms.
15. **Liability:** To the extent permitted by law, our liability is limited to, at our option, either replacement of the equipment or the amount paid by you for the equipment and the services. We will not be liable to you for any indirect or consequential losses or any loss of profits.
16. **Contracting out:** If the equipment and the services are being supplied and acquired in trade, then the Consumer Guarantees Act 1993 and sections 9, 12A and 13 of the Fair Trading Act 1986 do not apply and the parties agree that it is fair and reasonable for the parties to be bound by this clause.
17. **Customer information:** We may collect, store and use information about you to provide the equipment and services, make enquiries with any credit agency in relation to you, market our goods and services and enforce our rights. If you are an individual, the Privacy Act 1993 will apply, and you will have a right to access your personal information and request a correction your personal information by contacting our Privacy Officer. You consent to receiving commercial electronic messages from us for the purposes of the Unsolicited Electronic Messages Act 2007.
18. **Assignment:** You must not assign or transfer any of your rights or obligations under these terms without obtaining our written consent.
19. **Variations:** Any variation of these terms must be recorded in writing and signed by the parties.

Signed for and on behalf of the customer by:

Signature: _____

Name: _____

Position: _____

Date: _____