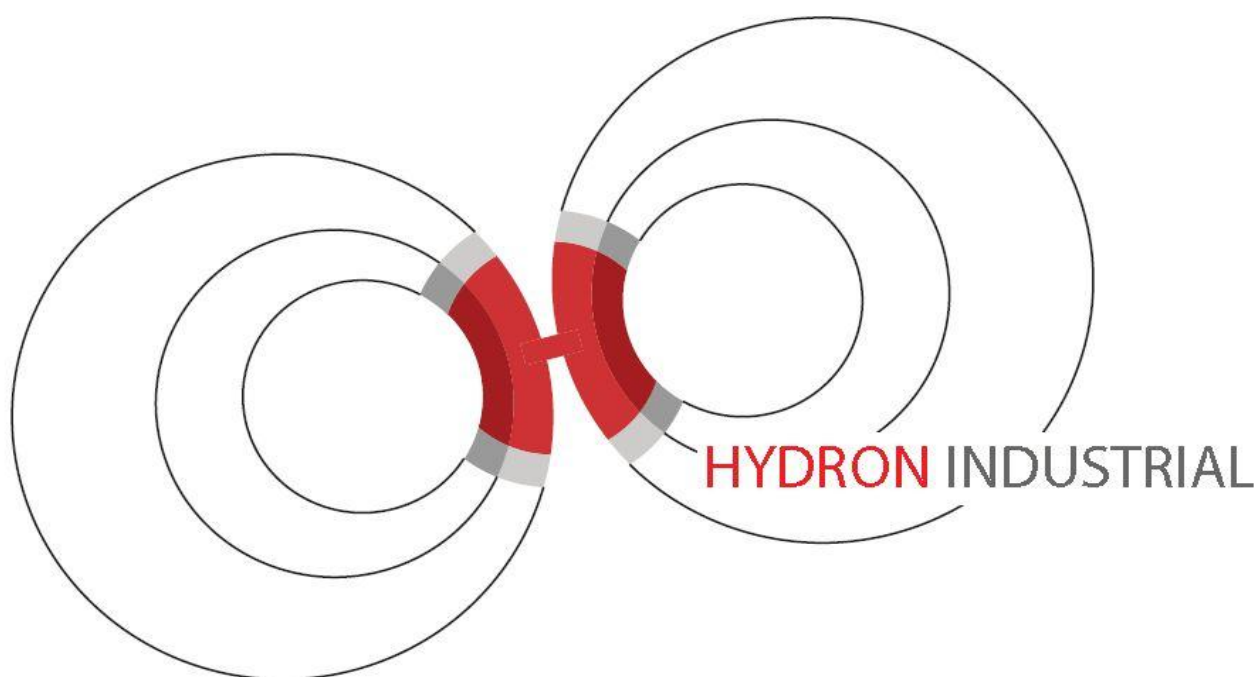


# Hydron Industrial Ltd

## Terms & Conditions of Business



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## 1. DEFINITIONS

(a) The "Contract" is the Contract between Hydron Industrial Ltd (hereafter referred to as 'the Owner') and the Hirer for the hire of The RPR 1650 Induction Debonding Machine (hereafter referred to as 'the machine') manufactured by RPR Technologies AS (hereafter referred to as 'the manufacturer'), which incorporates the Offer and is governed by these conditions.

(b) The "Hire Period" shall commence from the time when the machine leaves the Owner's depot or place where last employed and shall continue until the machine is received back at the Owner's named depot or other agreed location. For the avoidance of doubt the Hire Period includes the time the machine is not operating or is left on site during any Holiday period.

(c) The "Hirer" is the Company, firm, person, Corporation or public authority taking the Owner's machine on hire and includes their employees, successors or personal representatives.

(d) "Holiday Period" covers any cessation of work over Easter, Christmas and the New Year; as well as any other Bank or Public holidays.

(e) "Offer" is the Owner's offer to hire the machine to the Hirer which will include details of the machine to be hired including ancillary equipment, personnel or operators, approved operator training courses, the Hire Period, relevant hire rates and charges and any supplementary conditions to be incorporated into the Contract.

(f) The "Owner" is Hydron Industrial Ltd and includes their successors, assignees or personal representatives.

(g) "The machine" covers all replacement machines, parts, accessories, any ancillary items, vehicles or equipment therefor, which the Owner agrees to hire to the Hirer, or anything which is supplied by the Owner to effect the hire, and anything supplied by the Owner for the safe operation and routine inspection and maintenance of the machine.

(h) A "Working Day" shall be from 9am to 9am, the following day unless otherwise specified in the Contract. The minimum contract duration for hire of the machine is three working days.

## 2. EXTENT OF CONTRACT

No terms, conditions or warranties other than as specifically set forth in the Offer shall be deemed to be incorporated or to form part of the Contract or shall otherwise govern the relationship between the Owner and the Hirer in relation to the hire of any particular machine pursuant to the Offer. This excludes all other terms or conditions which the Hirer may seek to apply or enforce under any order or acknowledgement or similar document and supersedes all prior negotiations, representations or agreements, whether written or oral unless they are expressly accepted in writing and signed by the Owner. The Owner and the Hirer do not intend that any of the terms of the Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to the Contract, except that a person who is a successor to or an assignee of the rights of the Owner is deemed to become a party to the Contract after the date of succession or assignment (as the case may be).

## 3. ACCEPTANCE OF THE MACHINE

Acceptance of the machine on site implies acceptance of all terms and conditions herein unless otherwise previously agreed in writing.

## 4. UNLOADING AND LOADING

The Hirer shall be responsible for the unobstructed access and egress, unless otherwise agreed in writing, for unloading and loading of the machine at the site; and any personnel supplied by the Owner for such unloading and / or loading shall be deemed to be under the direction and control of the Hirer. Such personnel shall for all purposes in connection with their employment in the unloading and / or loading of the machine be regarded as the servants or agents of the Hirer (but without prejudice to any of the provisions of clause 13) who shall be solely responsible for all claims arising in connection with unloading and / or loading of the machine by, or with the assistance of, such personnel.

#### 5. DELIVERY IN GOOD ORDER AND MAINTENANCE: INSPECTION REPORTS

(a) Unless notification in writing to the contrary is received by the Owner from the Hirer in the case of the machine supplied with an operator within two working days, and in the case of the machine supplied without an operator within three working days, of the machine being delivered to the site, the machine shall be deemed to be in good order, save for either an inherent fault or a fault not ascertainable by reasonable examination, in accordance with terms of the Contract. The Hirer shall be responsible for the safe keeping of the machine, its operation in a workmanlike manner by an approved operator, trained by the manufacturer or an authorised distributor such as the owner and in accordance with the manufacturer's and / or the Owner's recommendations, and its return on the completion of the Hire Period in equal good order.

(b) The Hirer shall at all times when hiring the machine without the Owner's operator take all reasonable steps to keep himself acquainted with the state and condition of the machine. If the machine is continued at work or in use in an unsafe and unsatisfactory state or environment, the Hirer shall be solely responsible for any damage, loss, cost, expense or accidents whether directly or indirectly arising therefrom.

(c) The machine documentation and guidance notes for approved trained operators are supplied with the machine. This includes a pre-delivery test and inspection report and a current electrical safety test report. This documentation is part of the machine inventory and must be returned with the machine at the end of the hire period. The Hirer shall be liable for any costs, liabilities and expenses incurred by the Owner should the Hirer fail to comply with this clause.

(d) Any additional inspection reports required under the relevant legislation, or a copy thereof, shall be supplied by the Owner, if requested by the Hirer, and returned on completion of the Hire Period.

(e) Charges may apply for lost or defaced documentation.

#### 6. SERVICING AND INSPECTION

The Hirer shall at all reasonable times allow the Owner, his agents or his insurers to have access to the machine to inspect, test, adjust, repair or replace the same. So far as reasonably practicable the Hirer shall allow such access.

#### 7. GROUND AND SITE CONDITIONS

(a) The Hirer must complete a full site specific risk assessment taking full regard of the Owners' RPR 1650 risk assessment in line with manufacturer requirements and health and safety legislation.

(b) The Hirer is deemed to have knowledge of the site or the property or land where the machine is to be delivered and the Hirer warrants that the condition of the site or place of delivery of the machine is suitable for the use of the machine.

(c) If, in the opinion of the Hirer, the ground, site, property or land is unsuitable for the machine to work on, travel over, be transported over, be stored, set up or packed away on the Hirer shall supply and lay suitable timbers, structure or equivalent support in a suitable position for the machine to work on, travel over, be transported over, be stored, set up or packed away on, including for the purpose of delivery and collection.

(d) Any materials supplied by the Owner are provided solely to assist the Hirer under their duties within clause 7(c) and expressly not to relieve him of his legal, regulatory or contractual obligations to ensure the adequate stability of the machine.

(e) The Hirer is responsible for the protection of, and liable for any damage to, any underground, surface or above ground services and utilities including, but not limited to cables, ducts, water pipes, oil and gas lines, and any pavements, bridges, tunnels and roadways on or adjacent to the site and the Hirer shall liaise as necessary and comply with all requirements of the relevant statutory authority or similar body.

#### 8. HANDLING OF THE MACHINE

(a) When an operator or any person is supplied by the Owner with the machine, the Owner shall supply a person competent in operating the machine or for such purpose for which the person is supplied and such person shall be under the direction and control of the Hirer. Such operators or persons shall for all purposes in connection with their employment in the working of the machine be regarded as the servants or agents of the Hirer (but without prejudice to any of the provisions of clause 13) and the Hirer shall be solely responsible for all claims arising in connection with the operation of the machine by the said operators or persons

(b) The Hirer shall not allow any other person to operate the machine without the Owner's prior written consent and after supplying sufficient evidence of approved operator status, trained by the manufacturer or an authorised distributor such as the owner and in accordance with the manufacturer's and / or the Owner's recommendations.

(c) Such operators or persons supplied by the owner shall not operate any other plant or machinery or undertake work other than that for which they are supplied by the Owner unless previously agreed in writing between the Owner and the Hirer.

#### 9. BREAKDOWN, REPAIRS AND ADJUSTMENT

(a) Any breakdown or the unsatisfactory working of or damage to any part of the machine must be notified immediately to the Owner, and confirmed in writing. Any claim for breakdown time will only be considered from the time and date at which written notification is received and acknowledged by the Owner.

(b) Allowance for the hire charges set out in the Offer will be made to the Hirer for any stoppage due to breakdown of the machine caused by the development of an inherent fault not ascertainable by reasonable examination or troubleshooting in accordance with the terms of the Contract.

(c) The Hirer shall not repair, modify or alter the machine without the prior written permission of the Owner.

(d) The Hirer shall be responsible for all expense involved arising from any breakdown, unsatisfactory working of or damage to any part of the machine due to the Hirer's negligence, misdirection or misuse of the machine, whether by the Hirer or his servants, and for the payment of hire throughout the breakdown duration, during the period the machine is necessarily inoperable due to such breakdown, unsatisfactory working or damage. The Hirer is responsible for the cost of spares and / or repairs due to theft, loss or vandalism of the machine.

#### 10. OTHER STOPPAGES

No claims will be admitted for stoppages through causes outside the Owner's control, including but not limited to bad weather and / or ground conditions nor shall the Owner be responsible for the cost or expense of recovering the machine from soft or unsuitable ground, or a hazardous environment. For the avoidance of doubt, the Hirer shall be responsible for the cost and expense of recovering the machine from soft or unsuitable ground or a hazardous environment.

#### 11. LIMITATION OF LIABILITY

Except for liability on the part of the Owner which is expressly provided for in the Contract (including these clauses):

(a) The Owner shall have no liability or responsibility for any loss, or damage of whatever nature due to or arising through any cause beyond his reasonable control;

(b) The Owner shall have no liability or responsibility, whether by way of indemnity or by reason of any breach of the Contract, breach of statutory duty or misrepresentation or by reason of the commission of any tort (including but not limited to negligence) in connection with the hire, for any of the Hirer's loss of profit, loss of use of the machine or any other asset or facility, loss of production or productivity, loss of contracts with any third party, liabilities of whatever nature to any third party, and/or any other financial or economic loss or indirect or consequential loss or damage of whatever nature; and

(c) Whenever the Contract (including these clauses) provides that any allowance is to be made against hire charges, such allowance shall be the Hirer's sole and exclusive remedy in respect of the circumstances giving rise to the allowance, and such remedy shall be limited to the amount of hire charges which would otherwise be or become due if the allowance in question had not been made.

(d) For the avoidance of doubt, nothing in these conditions limits or seeks to exclude the Owner's liability for claims of death or personal injury caused by the Owner's negligence, fraud or for any other liability for which it is not permitted to seek to limit or exclude by operation of law.

#### 12. HIRER'S RESPONSIBILITY FOR LOSS AND DAMAGE

(a) For the avoidance of doubt it is hereby declared and agreed that nothing in this clause affects the operation of clauses 4, 5, 8 and 9 of these conditions.

(b) For the duration of the Hire Period (which for the avoidance of doubt includes the time the machine is left on site during a Holiday Period) the Hirer shall, subject to the provisions referred to in sub paragraph (a) ensure that adequate insurance cover is in place throughout the hire period, make good to the Owner all loss of or damage to the machine from whatever cause the same may arise, and except as provided in clause 9 herein, and shall also fully and completely indemnify the Owner and any personnel supplied by the Owner in respect of all claims by any person whatsoever for injury to person or property caused by or in connection with or arising out of the storage, transit, transport, unloading, loading or use of the machine during the continuance of the Hire Period, and in connection therewith, whether arising under statute or common law. In the event of loss of or damage to the machine, hire charges shall be continued at the standard agreed rates until the settlement has been agreed. Payment of the settlement must be made within 30 calendar days of the date of the agreement or standard hire charges can be reinstated from the date of that agreement. Should standard hire charges be reinstated, the agreed settlement figure remains payable in full.

(c) Notwithstanding the above the Hirer shall not be responsible for damage, loss or injury prior to delivery of the machine to the site where the machine is in transit by transport of the Owner or as otherwise arranged by the Owner.

#### 13. NOTICE OF ACCIDENTS

If the machine is involved in any accident resulting in injury to persons or damage to property, immediate notification must be given by the Hirer to the Owner by telephone and confirmed in writing to the Owner no later than 24 hours after such telephone notification. In relation to any claim in respect of which the Hirer is not bound to fully indemnify the Owner, no admission of liability, offer, promise of payment or indemnity shall be made by the Hirer without the Owner's prior written permission.

#### 14. RE-HIRING

Neither the machine nor any part thereof shall be re-hired, sub-let, or lent to any third party without the prior written permission of the Owner.

#### 15. CHANGE OF SITE

The machine shall not be moved from the site to which it was delivered or consigned without the prior written permission of the Owner.

#### 16. RETURN OF THE MACHINE FOR REPAIRS

If during the Hire Period the Owner decides that urgent repairs to the machine are necessary then he may arrange for such repairs to be carried out on site or at any location of his nomination. In the event that urgent repairs to the machine are necessary the Owner shall be obliged to replace the machine with similar machine if available, the Owner (but without prejudice to any of the provisions of clauses 9 and/or 13) paying all transport charges involved. In the event of the Owner being unable to replace the machine he shall be entitled to terminate the Contract forthwith (but without prejudice to any of the provisions of clauses 9 and/or 13) by giving written notice to the Hirer. If such termination occurs: (a) within 28 days from the commencement of the Hire Period, the Owner (but without prejudice to any of the provisions of clauses 9 and/or 13) shall pay all transport charges involved, or, (b) more than 28 days from the commencement of the Hire Period, the Owner (but without prejudice to any of the provisions of clauses 9 and/or 13) shall be liable only for the cost of reloading and return transport.

#### 17. BASIS OF CHARGING

- (a) When any personnel or operator is supplied by the Owner, the Hirer shall sign their time record sheets. The signature of the Hirer's representative shall bind the Hirer to accept the hours shown on the time records sheets.
- (b) Onshore operator rates are based on a minimum 8 hour shift up to maximum 14 hours (Pro rata charges apply 8 – 14hrs), Offshore operator rates are based on a 12 hour shift.
- (c) Full allowance will be made for breakdown periods resulting from the absence of personnel or operator supplied by the Owner except where breakdown is due to acts or omissions of third parties and/or the Hirer's misuse, misdirection or negligence, subject however to the provisions of clause 8 of these conditions.
- (d) The minimum contract duration for hire of the machine is three working days.

#### 18. COMMENCEMENT AND TERMINATION OF CONTRACT (TRANSPORT OF THE MACHINE)

- (a) The Hire Period shall commence from the time when the machine leaves the Owner's depot or place where last employed and shall continue until the machine is received back at the Owner's named depot or other agreed location.
- (b) If the machine is not made available for collection as agreed between the parties, the machine shall be deemed with immediate effect to be placed back on hire. The Hirer shall be responsible for the safekeeping of the machine in accordance with clause 13, and for all the reasonable costs and expenses incurred by the Owner in seeking to collect the machine.
- (c) Upon the completion of the Hire Period, the Hirer shall wipe clean the machine prior to packing in the same delivery crate within which the machine arrived onsite, making sure to carefully follow the packing instructions. The Hirer shall be liable for any costs, liabilities and expenses incurred by the Owner should the Hirer fail to comply with this clause.

**19. HIRER'S LIABILITY DURING THE NOTICE OF TERMINATION OF CONTRACT**

(a) Where the Hire Period is indeterminate or having been defined becomes indeterminate the Contract shall be terminable by seven days notice in writing given by either party to the other except in cases where the machine has been lost or damaged. Notwithstanding that the Owner may have agreed to accept less than 7 days notice of termination, the Hirer's obligations under clause 13 shall continue until the machine is returned to the Owner in accordance with clause 31 or until the Owner has collected the machine within the 7 days following the acceptance of short notice. Oral notice given by the Hirer to the Owner's personnel or operator shall not be deemed to constitute compliance with the provisions of this clause.

(b) Should the Hirer fail to make the machine available for collection by the Owner before the end of the 7 day notice, the Hirer's obligations under clause 13 shall continue until such time as the machine is made available for collection and the Owner has collected the machine. For the avoidance of doubt, where the Hirer gives a notice pursuant to clause 19(a) but subsequently and with the consent of the Owner, withdraws such notice, the obligations of clause 13 shall continue to apply and the requirements of clause 19 will apply to any later termination of the Contract.

(c) If the Hirer terminates the Contract before the Hire Period commences, then the Hirer is liable for the minimum contract of three days hire at the standard hire rate, all reasonable costs and charges incurred by the Owner or to which the Owner is committed at the time of termination. Allowance for reschedule of the contract to an alternative date may be applied at the owners' discretion.

**20. WAGES AND OTHER CHARGEABLE ITEMS RELATING TO PERSONNEL AND OPERATORS OF THE MACHINE SUPPLIED BY THE OWNER**

All chargeable items shall be paid by the Hirer at the rates set out in the Contract save that any subsequent increases before and / or during the Hire Period arising from awards under any wage agreements and / or from increases in the Owner's statutory contribution shall be charged as additions at cost by the Owner and shall be admitted and paid by the Hirer.

**21. TRAVELLING TIME AND FARES**

Travelling time, fares and similar expenses for personnel, operators and any person supplied by the Owner, incurred throughout the Hire Period and where appropriate return fare of the personnel, operator and any person supplied by the Owner back to the owners premises. No charge shall be made by the Owner for any such expenses incurred by other employees of the Owner for the purpose of servicing, repair or maintenance of Plant, unless necessitated by the Hirer's negligence, misdirection or misuse of the Plant.

**22. Consumables including Fuel**

Consumables including fuel shall, when supplied by the Owner, be charged at net cost or an agreed estimate of net cost, and when supplied by the Hirer, shall be of a grade or type specified by the Owner. The Hirer shall be solely responsible for all damages, losses, costs and expenses incurred by the Owner if the Hirer uses the wrong fuel.

**23. OWNER'S BRANDING/NAME PLATES/WARNING NOTIFICATIONS/SAFETY SIGNS**

The Hirer shall not remove, deface or cover up the Owner's branding/name plate or mark, nor any of the Manufacturers warning notifications on the machine. Additional charges for replacement of branding/name plates/warning notifications/safety signs will be charged accordingly.

**24. TRANSPORT**

The Hirer shall pay the cost of and if required by the Owner, arrange transport of, the machine from the Owner's depot or other agreed location to the site and return to the Owner's named depot or other agreed location on completion of the Hire Period.



## 25. GOVERNMENT REGULATIONS

The Hirer will be responsible for compliance with relevant regulations issued by the Government or Local Authorities, including regulations under the Environmental Acts, Factories Acts, Health and Safety at Work, etc, and any insurances made necessary thereby.

## 26. PROTECTION OF OWNER'S RIGHTS

(a) The Hirer shall not re-hire, sell, mortgage, charge, pledge, part with possession of or otherwise deal with the machine and shall protect the same against distress, execution or seizure and shall indemnify the Owner against all losses, damage, costs, charges and expenses arising as a direct result of any failure to observe and perform this condition except in the event of a Government requisition.

(b) The Owner may terminate the Contract forthwith by written notice to the Hirer if one or more of the following events occur:

(i) The Hirer defaults in punctual payment of any sum due to the Owner for hire of the machine or other charges payable pursuant to these conditions;

(ii) The Hirer fails to observe and perform the terms and conditions of the Contract;

(iii) The Hirer suffers, or the Owner reasonably believes that the Hirer shall suffer, any distress or execution to be levied against him;

(iv) The Hirer makes or proposes to make any arrangement with his creditors or becomes insolvent within the meaning of Section 113 of the Housing Grants, Construction and Regeneration Act 1996 or any amendment or re-enactment thereof for the time being in force; or

(v) The Hirer does or causes to be done or permit or suffer any act or thing whereby the Owner's rights in the machine may be prejudiced or put into jeopardy.

(c) In the event of termination under sub-paragraph (b) above:

(i) The Hirer must give the Owner or his agents, immediate unobstructed access to recover the machine.

(ii) The Owner shall be entitled to claim the hire charges outstanding as at the date of termination of the hire under this clause and return transport charges.

(d) The rights under sub-paragraph (b) and (c) above:

(i) May be exercised notwithstanding that the Owner may have waived some previous default or matter of the same or a like nature.

(ii) Shall not affect the Owner's right to claim damages for breach of Contract or recover any sums due under the Contract as a debt.

(e) If the Hirer does not make payment of a sum by the final date on which payment is due to be made, the Owner has the right to suspend performance of its obligations under the Contract.

## 27. DISPUTE RESOLUTION

(a) If the site is situated within the United Kingdom, then the court whose jurisdiction covers the site will have exclusive jurisdiction and interpretation of the law for this Contract. If the original site is not situated within the United Kingdom, then the relevant jurisdiction and interpretation of the law of the Contract will be governed by the country where the Owner's head office is located.

(b) Both parties to the Contract have a right to refer any difference or dispute arising under or in connection with the Contract to adjudication and the procedure set out in Part 1 of the Scheme for Construction Contracts (England and Wales) Regulations 1998 (or any amendment or re-enactment thereof for the time being in force) will apply.

(c) The Owner and the Hirer shall comply forthwith with any decision of the adjudicator; and shall submit to summary judgment and enforcement (and / or, under Scots law, shall consent to a motion for summary decree and submit to enforcement) in respect of all such decisions; in each case, without any defence, set-off, counterclaim, abatement or deduction. Where, under Scots law, the Owner, the Hirer, or the adjudicator, wishes to register a decision of the adjudicator for execution in the Books of Council and Session, any other party shall, on being requested to do so, forthwith consent to such registration by subscribing the decision before a witness.

**28. PAYMENT TERMS/LATE PAYMENTS**

Payment in full is required within 30 days from the date of invoice. The Owner reserves the right to charge the Hirer for the late payment of any outstanding invoices under the Late Payment of Commercial Debts (Interest) Act 1998, or any subsequent legislation at the statutory rate.

**29. FORCE MAJEURE**

The Owner shall not be liable in any way for any failure to perform its obligations or for any loss, damage or delay incurred by the Hirer resulting from circumstances beyond the Owners' reasonable control.

**30. SEVERABILITY**

If any of these clauses are held to be unlawful, void or unenforceable, then that clause will be deemed severable and will not affect the validity and enforceability of the remaining clauses, to the extent permitted by law.

