

SHOREHIRE TERMS & CONDITIONS

1. CONTRACT OF HIRE

These conditions and the particulars set out on the face of this document govern the terms of the grant of hire of the Equipment to the Hirer.

2. DEFINITIONS

In these conditions:

"OWNER" means [insert name] Pty Limited (ABN _____), and where applicable its employees, consultants and contractors.
"HIRER" means the Hirer specified on the face of this contract.
"EQUIPMENT" means any item hired from the Owner.
"GST" means goods and services tax.

3. USE OF EQUIPMENT

3.1 The Hirer will at all times use the Equipment and/or ensure the Equipment is used:

a) in a proper and skilful manner for the purposes intended by the manufacturer of the Equipment.

b) in a manner that does not breach any occupational health and safety legislation or other government or local government requirement and in particular the Hirer shall ensure that:

1) the Equipment is used by suitably trained, licensed and/or qualified persons (for this purpose a suitably qualified person means a person who holds any licence or certificate of competency where the law or the Owner requires a person to hold that licence or certificate in order to use the Equipment).

2) all operating or safety instructions supplied with the Equipment will be conveyed to any person using the Equipment;

3) the Hirer shall attach or maintain any safety signs supplied with the Equipment and bring them to the attention of any person using the Equipment; and

4) the Equipment is properly maintained during the term of hire.

3.2 The Hirer shall be liable for any loss of or any damage to the Equipment howsoever arising except damage arising from fair wear and tear, or damage to which clause 3.6 applies and shall on demand pay the Owner the cost of repairing or replacing such Equipment. The Hirer will maintain adequate insurance covering the Equipment throughout the period of hire.

3.3 The Hirer acknowledges that the Hirer has not relied on any representation or advice of the Owner or on the skill or judgement of the Owner in respect of the Equipment, its selection, use, performance or the purpose for which it is hired. Drawings, sketches, plans, dimensions, weights, capacities or performances given must be taken as approximate only and do not form part of this contract. The Hirer must satisfy itself as to the fitness of the Equipment to meet the Hirer's requirements and the use of the Equipment for the intended purposes of the Hirer. Any opinion or assistance given by the Owner in the selection or use of the Equipment is based on the limited information disclosed to the Owner and is given in good faith without acceptance of liability or responsibility.

3.4 The Hirer shall service, clean and maintain the Equipment at the Hirer's expense but if the Equipment breaks down the Hirer shall:

a) not repair or attempt to repair the Equipment or permit any other person to do so without the Owners consent; and

b) immediately notify the Owner and (if required) return the Equipment.

3.5 The Owner shall not be liable to the Hirer or to any person using the Equipment while on hire for any loss, damage or injury (including any consequential damages or loss of profits) howsoever arising from the hiring, use or operation of the Equipment and the Hirer agrees to indemnify the Owner from any such loss, damage or injury.

3.6 Any provision of this contract limiting the liability of the Owner will be read subject to any provisions of the Trade Practices Act that cannot be excluded by agreement and where this contract applies to goods and services which are not of a kind ordinarily acquired for personal, domestic or household use or consumption then the liability of the Owner to a breach of condition or warranty implied by the that Act (other than a condition implied by section 69) is limited at the election of the Owner to the replacement of the Equipment or the supply of equivalent Equipment or the repair of the Equipment and the period of hire shall be suspended from the return of defective Equipment until it or equivalent Equipment is resupplied.

3.7 The Hirer shall not part with possession of the Equipment without the express written consent of the Owner.

4. PERIOD OF HIRE & RETURN OF EQUIPMENT

4.1 The period of hire shall commence from the time the Equipment is delivered to the Hirer and shall cease at the earlier of:

a) the time at which the Equipment is returned to the Owner;

b) where the Owner has agreed to accept return of the Equipment other than at the Owner's premises, at the earlier of the time the Owner collects the Equipment or on the expiry of seven days after the agreed off hire date;

c) the date on which the Owner repossesses the Equipment under this contract; or

d) the minimum hire period specified by the Owner at the commencement of the period of hire.

4.2 Notwithstanding any particular period of hire nor any waiver by the Owner or any default under the contract, the Owner may terminate this contract and repossess the Equipment in any of the following events:

a) if the Hirer fails to pay any hiring charge within two days of the due date;

b) the Hirer does or permits to be done, any act or thing whereby the Owner's rights in respect of the Equipment may be prejudiced;

c) the Hirer commits any breach of this contract; or

d) the Hirer becomes insolvent or bankrupt or makes an arrangement or

composition with its creditors or, in the case of a company, an order is made or a resolution is passed for the winding up of that company.

4.3 For the purposes of repossessing the Equipment pursuant to this clause, the Owner may enter upon or into any premises where the Equipment may be located and the Hirer indemnifies the Owner in respect of any claims, damages or expenses arising out of any such action.

4.4 Repossession of the Equipment by or on behalf of the Owner shall be without prejudice to any rights of the Owner to receive from the Hirer any monies due under this contract or any damages for any breach of this contract.

4.5 It is the Hirer's responsibility to return the Equipment to the Owner. By arrangement the Owner will transport to the Hirer's specified delivery site and from that site back to the Owner and the Hirer agrees to pay to the Owner the transport charges applicable. It is the Hirer's responsibility to provide labour at the Hirer's delivery site for unloading and loading of the Equipment. If the Hirer or its agents are not available at the specified delivery site when the Equipment is delivered, the Owner reserves the right to unload the Equipment at that site and will not be responsible for any subsequent loss, damage or claims relating to the Equipment.

5. PAYMENT OF HIRING CHARGES

5.1 The Hirer shall pay to the Owner on the due date:

a) the hiring charge and any other amount payable under this contract.

b) the amount of any fines or penalties paid or payable by the Owner in respect of any traffic, parking and other offence committed by the Hirer or any person permitted by the Hirer to drive or use the Equipment;

c) the amount of any tolls, levies or other like charges paid or payable by the Owner to any government authority in respect of the use of the Equipment;

d) the retail price of petrol, diesel and other fuel required at the completion of hire to refill any fuel tank of the Equipment;

e) the cost of freight and other charges, whether incurred by the Owner or the Hirer, in respect of delivery or return of the Equipment and such charges shall be in addition to the time charges shown on the face of this contract;

f) the cost incurred by the Owner in repossessing the Equipment;

g) subject to clause 4, the amount of any loss or damage to the Equipment.

5.2 The hiring charge shall become due at the commencement of the period of hire or (for account customers) within the agreed trading terms.

5.3 The Owner reserves the right to vary the hiring charges at any time after the expiration of the initial period as set out on the face of this document and that variation shall be effective immediately upon and after the notification in writing to the Hirer at the Hirer's address set out in this document or at any place at which the Equipment is being used.

5.4 The Hirer shall reimburse the Owner on demand all GST, stamp duty or other statutory charges payable in connection with the contract, the cost of all consumable items supplied by the Owner and used up in the use of the Equipment and, if the Hirer fails to make any payment required under this contract on the due date of such payment, then the Owners may impose an account service charge of not greater than 1.5% per month calculated on the daily balance of all overdue monies.

6. DEPOSIT

6.1 Where applicable, the Owner shall hold the deposit specified on the face of this contract as security for the due performance by the Hirer of its obligations under this contract and may apply the whole or any part of the deposit at any time against any monies due but unpaid or any expenses, loss or damage incurred by the Owner as a result of a failure by the Hirer to duly perform its obligations under this contract.

6.2 The application by the Owner of the whole or any part of the deposit under this clause shall be without prejudice to any other rights the Owner has to receive from the Hirer any monies due or for any damage or breach of this contract.

7. NO ASSIGNMENT

This contract and any obligation or benefit under it may not be assigned by the Hirer without the written consent of the Owner.

8. WARRANTY OF AUTHORITY

Any person who signs this contract on behalf of the Hirer warrants that he or she has full authority to enter into this contract on behalf of the Hirer and that all information provided to the Owner is true and correct.

9. PRIVACY & CONFIDENTIALITY

9.1 The Privacy Act allows the Owner to give a credit-reporting agency personal information contained in a credit application. Information which may be given includes particulars of the Hirer's identity (including name, sex, date of birth, address, both current and previous, and in the case of an individual, driving licence number and employer's name).

9.2 The Hirer confirms that the Owner, if it considers it relevant to assess an application for credit, may use a report from a credit report agency to determine whether deferred payment or credit should be granted and the Hirer agrees to the Owner obtaining a report as the Hirer's consumer and commercial activities, credit worthiness and credit information.

9.3 The Hirer consents to and authorises the Owner:

- to obtain information about the Hirer's credit worthiness from its bank or any trade reference and/or any other credit provider and/or credit reporting agency; and
- to give a credit reporting agency information about the Hirer's credit.

The information referred to above can include information about the Hirer's credit worthiness, credit standing, credit history or credit capacity that credit providers are allowed to give or receive under the Act.