

1. Definitions

"Equipment" means the items hired out by the Owner to the Hirer. "Hirer" means any person who requests the Owner to hire Equipment to it, including its employees and agents. "Owner" means Harry the Hirer Pty Ltd., its employees and agents.

2. Terms of Payment

If required the Hirer will pay a deposit which will be forfeited if the Hirer breaches this agreement. Forfeiture will not affect any other rights of the Owner under this agreement. The Hirer agrees to pay the Owner's hire charge and any other charges, including charges for loss, damage and repairs or any tax, GST, duty, levy, or other expenses paid or payable by the Owner, at a time as specified by the Owner or, if not specified within seven days of the date of the relevant invoice. The Hirer agrees to pay any expenses incurred by the Owner as a result of breach by the Hirer of its obligations pursuant to this agreement (including legal costs on a solicitor-client basis).

3. Termination of Hire

The Owner may terminate the hire at any time. The Hirer shall have no claims for such termination. The Hirer may terminate the hire of the Equipment by:

- (a) returning the Equipment to the Owner during normal working hours; or
- (b) notify the Owner that the Equipment is ready for collection, provided that the Hirer keeps the Equipment safe until collection. Upon termination of hire, the Owner is entitled to take possession of the Equipment and for this purpose the Hirer irrevocably appoints the Owner as his agent and authorises the Owner to:
 - (a) enter upon any land or premises upon which the Equipment is situated or where the Owner has any reason to believe that the Equipment may be situated;
 - (b) remove the Equipment whether or not it is affixed to the land or premises, connected to property or equipment not owned by the Owner, in use by the Hirer or any other person or containing property not owned by the Owner. If the Equipment is not finally returned or ready for pick-up by the Owner at the expiration of the hire period the Hirer shall pay an additional charge of 100% the daily rate for every additional day or part thereof that the Equipment is retained by the Hirer unless otherwise specified.

4. The Hirer's Obligations

The Hirer will:

- (a) bear responsibility for the Equipment hired from the time of its delivery until collection by the Owner;
- (b) upon installation, delivery or collection of the Equipment immediately examine the Equipment to satisfy itself as to its condition and suitability and fitness for the purpose to which it requires the Equipment. In accepting the Equipment the Hirer acknowledges that it has duly examined the Equipment and has satisfied itself as required. The Hirer acknowledges that it has not in any way relied upon the skill or judgement of any representation made by or on behalf of the Owner in respect of the Equipment, its purpose or performance. Should the Hirer alter its installation or delivery requirements prior to, during, or after installation or delivery, the Hirer is liable for extra costs of the Owner's employees and cartage;
- (c) assume the risk of and indemnify and hold the Owner harmless from and against any and all property damage and personal injury resulting from:
 - (i) the use of the Equipment;
 - (ii) contact with underground cables, pipes, services or other obstructions;
 - (iii) all necessary surface repairs.
- (d) use the Equipment in a proper, safe and prudent manner and only for the purpose and capacity for which it was designed;
- (e) ensure all Equipment is returned or ready for collection by the Owner's driver, in a clean, dry and properly packed condition and if being collected, is readily accessible. The Hirer will pay for cleaning or drying and for any damage resulting from not properly drying, cleaning and/or packing the Equipment.

5. Property

The Hirer acknowledges that the Owner may inspect the Equipment at any time during the period of hire, whether notice of such inspection is given to the Hirer or not, and the Hirer shall provide all assistance and co-operation necessary to facilitate such inspection of the Equipment. The Hirer shall indemnify the Owner in relation to any action of trespass in the course of the Owner exercising its right to inspect the Equipment. The Hirer acknowledges his interest in the Equipment is as bailee of the Owner only.

6. Loss of or Damage to Equipment

If the Equipment is lost, breaks down or is damaged, the Hirer must immediately notify the Owner of the details. Notification shall not absolve the Hirer from its obligations under this agreement. In the event that the Equipment breaks down or becomes unsafe to use, the Hirer shall immediately stop using the Equipment and take all steps necessary to prevent the Equipment from sustaining any further damage.

The Hirer must also take all steps necessary to prevent injuries from occurring to any person or property as a result of the condition of the Equipment and not repair or attempt to repair the Equipment without the Owner's prior written consent. If the Equipment is lost or damaged and the loss of or damage to the Equipment is caused by the negligence of the Hirer or the breach of any term of this agreement by the Hirer, the Hirer shall be liable for the following;

- (a) any costs incurred by the Owner in repairing or replacing the Equipment;
- (b) hire charges for the Equipment until the Equipment is repaired or replaced;
- (c) any other costs whatsoever incurred by the Owner as a result of the damage to or loss of the Equipment.

7. Release and Indemnity

The Hirer hereby releases the Owner from, and agrees to indemnify the Owner in respect of any third party claims, action, suits, demands, costs and expenses for damage or injury to person or property arising directly or indirectly out of the hire or use of the Equipment by the Hirer or this agreement.

8. Damage Waiver

Damage Waiver is payable by the Hirer to cover the costs associated with the normal wear and tear to the Equipment. It does not apply to any other damage to Equipment including:

- (a) damage resulting from overloading, exceeding rated capacity, misuse, abuse or improper servicing of Equipment;
- (b) damage due to the mysterious disappearance of the Equipment;
- (c) damage caused by the use or operation of Equipment in contravention of any of the conditions of this Agreement;
- (d) damage to, or loss of, the Equipment from any unknown cause.

Insurance

The Hirer will maintain at its own expense all appropriate policies of insurance:

- (a) for theft and damage to the Equipment hired in an amount not less than the full replacement cost of the Equipment;
- (b) for liability, property and casualty insurance coverage in amounts necessary to fully protect the Owner and its Equipment against all claims, loss or damage whatever.

9. Force Majeure

If the Owner is unable at any time whether wholly or partly by reason of any cause beyond its control (including without limitation, acts of God, inclement weather, strikes, lockouts, fires, riots, civil commotion or unrest, interference by civil or military authorities or act of war) the Owner may give written notice to that effect to the Hirer, giving full particulars of such force majeure and the obligations of the Owner under these conditions shall, to the extent that they are affected by the force majeure, be suspended during the term of the force majeure. The Owner shall not be liable for any loss or damage suffered by the Hirer as a result of any delays caused by such force majeure events.

10. Miscellaneous

If this agreement or any part of it becomes void or unenforceable for any reason then that part will be severed from this agreement to the intent that all parts that do not become void or unenforceable will remain in full force and effect and be unaffected by any severance of other parts.

Failure by the Owner to insist upon strict performance of any terms contained herein, or to exercise in whole or in part any right that it may have under this agreement at law, shall not be deemed to be a waiver of any rights that the Owner may have and shall not be deemed a waiver of any subsequent breach of any term in this agreement.