



## CONDITIONS OF HIRE

### 1. Definitions

In these Conditions of Hire: -

- a) The "Owner" is Mr Scaffold Pty Ltd. Mr Scaffold Hire Pty Ltd
- b) The "Hirer" is the person or company identified on the original quotation.
- c) "Equipment", unless a contrary intention appears, includes all goods supplied by the Owner to the Hirer for a fee pursuant to this contract.
- d) "Off Hire No". Is the number given to the Hirer when the Hirer notifies the Owner in writing or by phone that the Equipment is available for return and the location at which it shall be available.
- e) The "Period of Hire" shall–
  - i. Commence from:
    - a; Strictly on the date of delivery of equipment unless pre-arranged with the Owner.
    - b; The Hirer acknowledges that a minimum of 7 day's hire will be invoiced even if the Hirer may wish to Off Hire during this minimum hire period.
    - c; The Hirer understands and agrees that by paying for the hire by Credit Card that a \$500.00 holding deposit will be held by the Hirer's Banking Organization for a period of 7 days, and each and every week, whilst ever the equipment is on hire.
  - ii. Cease: -
    - a; On the date when the Equipment is returned to the Owners facility or
    - b; At the time, a "off hire" number is given, (it is solely up to the Hirer to phone and off hire Equipment as the Owner will not collect Equipment without notice).
    - c; The Hirer must call between the Owners business hours, out of hours will result in an additional day of hire being charged, this also applies to Saturdays & Sundays, (Business Hours Monday – Friday ONLY).
    - d; On the Owner repossessing the Equipment pursuant to Condition 6 of these Condition of Hire.

### 2. Use of Equipment

- a) (i) The Hirer shall at all times use the Equipment in a skillful and proper manner and shall at his own expense service, clean and maintain the Equipment in good and substantial repair and condition, reasonable wear and tear excepted.
  - (ii) The whole or any part of the cost incurred by the Owner arising out of any failure by the Hirer to properly clean the Equipment will be added to the invoice total.
  - (iii) The Hirer shall not permit the Equipment to be used outside of the state which it is hired.
- b) Before using the equipment, the Hirer shall examine the Equipment and satisfy themselves as to the quality of fitness for the purpose of the Equipment. If in anyway the Equipment is defective or unsuitable for the purpose of the Hirer:
  - (i) It shall be returned immediately to the owner with written notice of the defect or unsuitability; or
  - (ii) The Hirer shall notify the Owner who shall exchange the Equipment.

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- c) The Hirer acknowledges that they are not relying any representations made by or on behalf of the Owner in respect of the Equipment or its performance.

### **3. Damage to Equipment and Loss of Equipment**

- a) During the period of Hire, the Hirer shall be responsible for any loss or damage to the equipment, whether such loss is caused by the negligence of the Hirer or any person under his control or the Nominated Driver or for any other reason whatsoever. Where a "off hire" number has been given to the Hirer the responsibility shall continue until the Equipment is picked up by the Owner.
- b) Where the Hirer is responsible for damage or loss to the Equipment, the whole or any part of the cost of replacement or repair to the Equipment will be added to the invoice total.
- c) Where Equipment is not returned to the Owner by the Hirer, or an "Off Hire" number is not sought from the Owner, within 2 days of the expiration for the period of Hire, the Hirer may forfeit the deposit and the Owner shall be at liberty to notify the police or other services and may take civil or criminal action, as deemed necessary for the full recovery and possession of the equipment or the value of said Equipment from the commencement of the Hire Period. The Owner shall not be responsible to the Hirer for any loss or damage, injury, fines or any other associated costs incurred or sustained by the Hirer in respect of any costs, losses or damages arising from such actions.
- d) The hirer indemnifies the Owner in respect of all action, claims, suites, demands or expenses of the Hirer or any other person in relation to or arising out of the use or possession of the Equipment by the Hirer or any person under his control or the Nominated Driver during the Period of Hire.

### **4. Hiring Charges**

- a) In respect to all Equipment the hirer shall, during the Period of Hire or the Equipment hired, be responsible for any loss or damage to property of, or personal injury to, third parties resulting from or which is incidental to the use or possession of the Equipment or for any other reason whatsoever, including the use of the Equipment on any public road or highway, or if the Hirer or any driver or operator of the Equipment drives or operates that Equipment without a license by any statute or regulation or fails to use any prescribed safety apparatus installed in the equipment, and the Hirer shall indemnify and keep indemnify the Owner in respect of all such actions, claims, demands or expenses of the Owner or any other person in relation to or arising out of the use of the Equipment under this Contract:
- b) (i) in the event of a breakdown or failure of equipment or defect in the Equipment becoming apparent during the Period of Hire, the Hirer shall notify the owner and return the faulty equipment immediately.  
(ii) The Hirer shall not repair or attempt to repair or cause any repair to be made to the Equipment without prior consent of the Owner.  
(iii) If the Breakdown or failure is caused by reasonable wear and tear or a defect in the Equipment at the commencement of Hire and was not caused or contributed to by misuse or negligence of the Hirer or any person under his control or the Nominated Driver, the Period of Hire shall cease on return or notification to the Owner.
- c) In no event the Owner shall not be responsible for any expenditure, damages, sum for delay, inconvenience or loss incurred by the Hirer arising out of any breakdown or failure and or defect in the Equipment whether caused by fair wear and tear, lack or repair, negligence or any other reason whatsoever.

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- d) No Conditions or warranties shall be implied in these conditions of Hire except to the extent that any condition or warranty maybe included or be implied by statute and may not be excluded by agreement. Any condition or provision inconsistent with such implied condition or warranty shall be of no force and effect to the extent of that inconsistency.

### **5. Termination by the Owner**

- a) The owner may, notwithstanding the specified Period of Hire or any wavier of some previous default by the Hirer, terminate this Agreement and repossess the Equipment: -
- (i) if the Hirer shall fail to pay any hiring charges within thirty days of the due date; or
  - (ii) if the Hirer does or permits any act or thing to be done to the Equipment by way of which the owner's right in the equipment maybe prejudiced; or
  - iii) if the Hirer should become or is made insolvent or bankrupt or makes any arrangement or composition with his creditor or should any order be made or resolution passed for its winding up.
  - (iv) if the hirer commits any breach of these Condition of Hire.
- b) For the purpose of repossessing the Equipment the owner may enter into or upon any premises where the Equipment may be, to recover the Equipment from the Hirer, without prejudice to the rights of the owner and recover from the Hirer in respect of any claims, damages prior expenses arising out of any action taken under this clause.
- c) On the owner repossessing the Equipment the determination of the Period of hire shall be without prejudice to any claim or demand the Owner may have against the Hirer in respect of any matter or thing arising out the Hire of the Equipment AND the hirer shall pay to the Owner hiring charges at the rate appearing overleaf for the period of Hire up to the time of repossession.

### **6. Assignment**

The Hirer shall not sell, transfer, assign, part with possession, mortgage, charge or encumber any right or obligation under these Conditions of Hire without prior written consent of the Owner.

### **7. Damage Waiver**

- a) Unless the "Damage Waiver" box is marked "Not Required" (N/R) and initialed by the Hirer then a damage waiver shall apply.
- b) in the event of damage to the plant \$100.00 per item or 10% of the cost of repairs to the plant (whichever is the greater)

This waiver shall not apply to damaged equipment in the following circumstances and the Hirer shall be responsible for any indemnify the Owner without limit against any loss or damage where:

In the case of all Equipment

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- (i) Damage resulting overloading, exceeding rated capacity, misuse, abuse or improper servicing of Equipment.
- (ii) Damage caused by misappropriation or wrongful conversion by the Hirer or its employees, servants, independent contractors or agents or by any other person to whom the Equipment is entrusted by the Hirer.
- (iii) Damage caused by the use of operation of Equipment in contravention of any of these Condition of Hire;
- (iv) Damage caused by the use of operation of Equipment in violation of any statute (Commonwealth or State) of any regulation or bylaw there under;
- (v) Damage to equipment occurring for any reason whilst located, used, unloaded, transported on, over or adjoining water including, without limiting the generality hereof whilst located, used, loaded or transported over or on wharfs, bridges, barges and vessels of all kinds.
- (vi) The equipment is lost or stolen;
- (vii) The damage or loss is caused by the negligence off the Hirer or any person under his control or the nominated Driver including in the case of a motor vehicle any damage caused by the vehicle being driven without adequate water, engine oil, brake fluid or tyre air pressure;
- (viii) The equipment is used for a purpose which it was not designed.

## 8. Payment and Charges

The Hirer shall pay the owner on determination of the Hiring Period the following:

- (i) in the case of all other equipment the Hiring Charges
- (ii) The amount of any loss or damage to the Equipment, subject to these conditions of Hire;
- iii) The amount of tolls, levies, charges or like charges paid or payable by the owner to any government body in respect of use of the equipment;
- (iv) The retail price of petrol, diesel and other fuel required at the completion of the Hire to refill the fuel tanks;
- (v) The cost of freight and other charges incurred by the Owner or the Hirer in respect of delivery or return of the equipment.
- (vi) any costs incurred by the owner in repossessing the equipment in accordance with these conditions of Hire;
- (vii) The amount of any fines or penalties paid or payable by the owner in respect of any traffic, parking or other offences committed by the Hirer or the Nominated Driver.

11. Any previous negotiations, understandings, written or oral representation, warranties, memorandum or commitments in relation to the equipment are suspended by these conditions and no amendments to these conditions shall bind the parties unless in writing and executed by or on behalf of the Owner. Any duplicate or replacement of the invoice and Condition of Hire issued to the Hirer after 14 days from the date of this invoice in respect of the hire of the equipment shall be deemed to be signed by the Hirer.

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