

EQUIPMENT HIRE AGREEMENT TERMS & CONDITIONS

1. Definitions

1.1 "Agreement" means this agreement and includes any written variations to this agreement.

1.2 "Hirer" means the person, firm, company, government institution, entity or corporation (including any personal representatives or permitted assigns of such) that engages HDH Corp Pty Ltd .

1.3 "Hire Charge" is the amount payable by the Hirer to hire the Equipment from HDH Corp Pty Ltd Digger Hire.

1.4 "Hire Period" means from Commencement to the end of the period agreed.

1.5 "Business Day" means a day other than a weekend or public holiday.

1.6 "Commencement" is the start of the hire period and is the earlier of either a) when you take delivery of the equipment or b) when the equipment is delivered to the delivery address.

1.7 "Plant and Equipment" means all plant and equipment specified including, but not limited to, any item of plant, equipment, machinery or vehicle, and any tools, accessories, parts, items of equipment and devices supplied to the "Hirer" by HDH Corp Pty Ltd .

2. General Terms and Conditions

2.1 By paying the "Hire Charge" the "Hirer" is deemed to have accepted these Terms and Conditions and will be bound by them.

2.2 The terms and conditions of this Agreement, together with any cost estimate provided by HDH Corp Pty Ltd to the "Hirer", shall contain the entire and only agreement between the parties. Any representation, promise, condition or warranty in connection therewith not otherwise incorporated into this Agreement shall not be binding upon either party.

2.3 Where the Hirer consists of two or more parties their liability under this Agreement is joint and several.

2.4 This Agreement is governed and construed by the law applying in New South Wales, Australia.

2.5 Any termination of the Agreement does not affect any accrued rights or remedies of any party.

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2.6 A waiver by a party of any breach or a failure to enforce or to insist upon the observance of a condition of the Agreement will not be a waiver of any other subsequent breach.

2.7 If any part of the Agreement is invalid, unenforceable, illegal, void or voidable for any reason, the Agreement will be construed and be binding on the parties as if the invalid, unenforceable, illegal, void or voidable part had been deleted from the Agreement or read down to the extent necessary to overcome the difficulty.

3.HDH Corp Pty Ltd Digger Hire Obligations

HDH Corp Pty Ltd will:

- 3.1** Allow the Hirer to take and use the Equipment for the Hire Period;
- 3.2** Provide the Equipment to the Hirer clean and in good working order;
- 3.3** Deliver the equipment with a full tank of diesel.
- 3.4** Collect the Equipment within the time frame agreed.

4. Obligations of the Hirer

The Hirer must:

- 4.1** Ensure the equipment is ready for pick up at the agreed time;
- 4.2** Return the equipment clean and in good repair;
- 4.3** The Equipment shall be returned with a full tank of diesel otherwise the Hirer will be charged at a rate of \$2.50 for every litre required.
- 4.4** Satisfy itself at Commencement that the Equipment is suitable for its purposes;
- 4.5** Operate the Equipment safely, strictly in accordance with the law, only for its intended use, and in accordance with any manufacturer's instructions whether supplied by HDH Corp Pty Ltd or posted on/in the Equipment;
- 4.6** Indemnify HDH Corp Pty Ltd for all injury and/or damage to the extent caused or contributed to by the Hire to persons and property in relation to the Equipment and its operation and have adequate insurance to cover all liabilities incurred as a result of the use of the Equipment;

- 4.7** Ensure that any person collecting or taking delivery of Equipment on behalf of the

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Hirer is authorised by the Customer to do so and the Customer will not allege that any such person is not so authorised;

4.8 Ensure that all persons operating or erecting the Equipment are suitably instructed in its safe and proper use and where necessary hold a current Certificate of Competency and/or are fully licensed;

4.9 Conduct a thorough hazard and risk assessment before using the Equipment and comply with all Occupational Health and Safety laws relating to the Equipment and its operation;

4.10 Safely secure all items loaded in or on the Equipment, and indemnify HDH Corp Pty Ltd in respect of any injury and/or damage caused by items falling from the Equipment

4.11 Report and provide full details to HDH Corp Pty Ltd of any accident or damage to the Equipment within 2 hours of the accident or damage occurring and prior to the return of the equipment.

The Hirer must NOT;

4.12 Tamper with, damage or repair the Equipment;

4.13 Lose or part with possession of the Equipment;

4.14 Rely upon any representation relating to the Equipment or its operation other than those contained in this Contract;

4.15 Allow any person to operate the equipment if they are affected by drugs and/or alcohol.

4.16 Exceed the recommended or legal load and capacity limits of the Equipment;

4.17 Use or carry any illegal, prohibited or dangerous substance in or on the Equipment.

4.18 Exceed the recommended or legal speed limit for the Equipment.

5. Payments by the Hirer to HDH Corp Pty Ltd

5.1 On or before Commencement (or as otherwise specifically agreed with HDH Corp Pty Ltd), the Hirer will pay the Hire Charge.

5.2 Immediately on request by HDH Corp Pty Ltd , the Customer will pay:

(a) the new list price of any Equipment which is for whatever reason not returned to HDH Corp Pty Ltd .

(NOTE TO CUSTOMER: the Customer is responsible for any loss or theft of the Equipment which occurs during the Hire Period)

(b) all costs incurred in cleaning the Equipment;

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(c) the full cost of repairing any damage to the Equipment caused or contributed to by the Customer, unless expressly agreed otherwise in this Contract;

(d) stamp duties, GST, any other taxes or duties, and all tolls, fines, penalties, levies or charges payable in respect of this Contract or arising from the Customer's use of the Equipment;

(e) all costs incurred by HDH Corp Pty Ltd in delivering and recovering possession of the Equipment (except where delivery and pick up is included in the Hire Charge);

(f) Interest for late payment of amounts owing by the Hirer calculated daily and compounded monthly from the due date for payment until the date of actual payment at the rate which is greater by a margin of 5% per annum than the rate published by the Commonwealth Bank of Australia or its successor on commercial overdraft finance facilities in excess of \$100,000.00 as at the due date of payment;

(g) any expenses and legal costs on an Indemnity Basis (including commission payable to a commercial agent) incurred by HDH Corp Pty Ltd in enforcing this Contract due to the Customers default.;

(h) all costs of repairing or replacing tyres, including road service.

5.3 Without limiting the ability of HDH Corp Pty Ltd to recover all amounts owing to it, the Hirer authorises HDH Corp Pty Ltd to charge any amounts owing by the Hirer to any credit card or account details of which are provided to HDH Corp Pty Ltd .

5.4 These Terms are a claim for payment under the Building and Construction Industry Security of Payment Act 1999 (NSW).

6. Cancellation & Special Conditions

6.1. There is a minimum hire charge per day. The Customer agrees to pay for such period irrespective of utilisation of Plant and Equipment, completion of services or a Force Majeure Event.

6.2. If the Customer provides less than 72 hours (3 business days) notice of cancellation of the order for Plant and Equipment, the Customer will pay HDH Corp Pty Ltd 50% of the minimum hire charge.

6.3. If the Customer provides less than 48 hours (2 business days) notice of

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cancellation of the order for Plant and Equipment, the Customer will pay HDH Corp Pty Ltd 100% of the minimum hire charge.

7. Loss and Liability

(a) The Hirer is responsible for all risks of or in connection with the use and/or operation of the Equipment, including third party injury and damage to any persons and/or property. The Hirer indemnifies HDH Corp Pty Ltd against all actions, claims and demands howsoever arising from the use and/or operation of the Equipment.

(b) HDH Corp Pty Ltd gives no warranty that the Equipment is fit for any particular purpose and all other conditions, warranties and representations whether expressed, implied or statutory are excluded. The Hirer must make its own inquiries in relation to the suitability, capacity and ability of the Equipment and should not rely on any warranty, representation or the like.

(c) HDH Corp Pty Ltd is not liable for any delay, failure or inability to perform its obligations as a result of any cause beyond HDH Corp Pty Ltd reasonable control, including fire, flood, material adverse weather conditions, interruption of power supply, war, act of terrorism or civil disturbance, industrial action, trade dispute or blockade, legal or government restrictions or embargo ("Force Majeure").

(d) The Hirer must inspect the Equipment immediately upon its receipt. If the Hirer is not satisfied with the repair or condition of the Equipment the Hirer must give immediate written notice to HDH Corp Pty Ltd specifying all defects or any other objections. Failure to do so will result in the Hirer being deemed responsible for any and all damage or defects identified thereafter.

8. Repairs and Maintenance of Equipment

8.1 The Hirer shall not remove, alter, disfigure or cover up any numbering, lettering, or insignia displayed on the equipment, and must ensure that the equipment is not subjected to careless, unusually or needlessly rough usage.

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8.2 The Hirer is liable for the expense of all repairs made necessary during the hire period, including labour, material, parts, loss of hire time and other items.

8.3 The Hirer is responsible in respect of all Equipment for:

(a) Immediately reporting to HDH Corp Pty Ltd all faults, defects and/or damage to Equipment and problems that may arise in relation to the Equipment;

(b) All damage to or loss of the Equipment, in whole or in part.

8.4 The Hirer must ensure that the Equipment is returned to HDH Corp Pty Ltd fully cleaned and in the same condition in which it was received (with the exception of fair wear and tear).

8.5 If the Hirer fails to return the Equipment fully cleaned, HDH Corp Pty Ltd may charge the Hirer a fee for the cost of doing so and the Hirer acknowledges and agrees that the minimum cost will be a fee of \$200.00.

9. Insurance

9.1 The Hirer must have and maintain throughout the hire period all other insurances appropriate to its circumstances and/or required by law, including public liability insurance and worker's compensation insurance.

10. Force Majeure

10 (a) Subject to clause 10(b), neither party will be responsible for any delays in delivery, installation or collection due to causes beyond their control including but not limited to acts of God, war, terrorism, mobilisation, civil commotion, riots, embargoes, orders or regulations of governments of any relevant jurisdiction, fires, floods, strikes, lockouts or other labour difficulties, shortages of or inability to obtain shipping space or land transportation.

(b) Nothing in clause 10(a), will limit or exclude Your responsibility and liability under these Terms for Equipment that is lost, stolen or damaged beyond fair wear and tear during the

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Hire Period, or has broken down or become unsafe to use as a result of Your conduct or negligence.

11. Claim for Payment

(a) These Terms are a claim for payment under the Building and Construction Industry Security of Payment Act 1999 (NSW), the Building and Construction Industry Security of Payment Act 2002 (VIC), the Building and Construction Industry Payments Act 2004 (QLD), the Building and Construction Industry Security of Payment Act 2009 (SA), the Construction Contracts Act 2004 (WA), the Building and Construction Industry (Security of Payment) Act 2009 (ACT), the Building and Construction Industry Security of Payment Act 2009 (TAS), and/or the Construction Contracts (Security of Payments) Act 2009 (NT).

12. Ownership of the Equipment.

You acknowledge that we own the Equipment and in all circumstances we retain title to the Equipment (even if You go into liquidation or become bankrupt during the Hire Period). Your rights to use the Equipment are as a bailee only.

(b) The Hirer is not entitled to offer, sell, assign, sub-let, charge, mortgage, pledge or create any form of security interest over, or otherwise deal with the Equipment in any way.

(c) In no circumstances will the Equipment be deemed to be a fixture.

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Signature of hirer

Date

Signature of HDH Corp Pty Ltd

Date