



PERSONAL GUARANTEE

BY SIGNING THIS GUARANTEE YOU WILL BECOME PERSONALLY LIABLE FOR ANY DEBTS INCURRED AND UNPAID BY THE NOMINATED BUSINESS OR COMPANY. ACCORDINGLY, IF YOU ARE UNSURE OF YOUR OBLIGATIONS UNDER THIS GUARANTEE, PLEASE OBTAIN INDEPENDENT LEGAL ADVICE OR OPINION BEFORE SIGNING.

TO: Australian Construction Equipment Rental Pty Ltd ACN 104 968 925, its successors and assigns, in consideration of you supplying or continuing to supply goods and/or services to:

.....
and hereinafter called the customer

I,
(Print Full Name of First Guarantor)

I,
(Print Full Name of Second Guarantor)

Of
(Print Residential Address of First Guarantor)

Of
(Print Residential Address of Second Guarantor)

Hereby guarantee as follows:

1. To be answerable to Australian Construction Equipment Rental Pty Ltd for the due payment by the customer of all monies now or from time to time hereafter owing to Australian Construction Equipment Rental Pty Ltd on any account or any manner whatsoever by the customer either directly or indirectly and either alone or jointly with any other person, firm and/or corporation, and including but without limiting the generality of the foregoing any interest accruing on any monies owing or unpaid and any legal costs and disbursements incurred by Australian Construction Equipment Rental Pty Ltd in enforcing payment by the customer of any such monies.
2. If the customer does not pay the amount due or owing to you in accordance with your terms and conditions of trade, then you may treat me as if I was the customer.
3. The giving of time or credit or any indulgence of any kind to the customer shall not in any way impair, prejudice or limit the effect of this guarantee.
4. In order to give effect to this guarantee, I declare that you shall be at liberty to act as though I am the principal debtor and I hereby waive any of my rights as surety which may at any time be inconsistent with this guarantee.
5. If the customer goes into liquidation, voluntary administration, receivership or enters into a deed of company arrangement then I agree not to prove in such liquidation, voluntary administration, receivership, or deed of company arrangement until your debt together with interest and legal costs are paid in full.
6. If you consider it relevant to assessing this guarantee I authorise you to obtain from a credit-reporting agency, a credit report containing personal credit information about me in relation to commercial credit provided by you to the customer.
7. Any payment made to you and later avoided by the application of any Statutory Provisions shall be deemed not to discharge the guarantor's liability and, that in such event, the parties hereto are to be restored to the rights which each respectively would have had if the payment had not been made.
8. This guarantee shall not be avoided, released or effected by you making any variation or alteration in the terms of any agreement with or to be made with the customer.
9. I hereby charge with payment of any indebtedness due herein to you all beneficial interest (freehold and leasehold) in land and personal property held now or in the future by me. I agree that if demand is made by you, upon receiving such a demand I will immediately execute a mortgage or other instrument of security, or consent to a caveat, as required, and against the event that I fail to do so within a reasonable time of being so requested, I hereby irrevocably and by way of security, appoint any credit manager or solicitor engaged by you to be my true and lawful attorney and execute and register such instruments.
10. This Guarantee and the construction and interpretation of it shall be governed by the laws of the State of Queensland in force for the time being and from time to time, and the parties to this Guarantee irrevocably submit generally and unconditionally to the jurisdiction of the Courts of Queensland in respect of all claims, proceedings and matters arising out of or in respect of this Guarantee.

Signed by the First Guarantor / /

Signed by the Second Guarantor / /

X
(Signature of First Guarantor)

X
(Signature of Second Guarantor)

.....
(First Guarantor's date of birth and drivers licence number)

.....
(Second Guarantor's date of birth and drivers licence number)

X
(Signature of Witness)

X
(Signature of Witness)

Australian Construction Equipment Rental Pty Ltd
ABN: 87 104 968 925
TERMS AND CONDITIONS OF EQUIPMENT HIRE

1. **Definitions**

"Contract Note" means the form attached to these terms and conditions titled "Contract Note for Equipment Hire". "Deposit" means the amount, if any, payable by the Hirer which is specified as such in the Contract Note.

"Equipment" means those items hired out by the owner specifies in the Contract Note and includes all plant, vehicles, tools, accessories, attachments, parts, manuals, instructions, packing and transportation materials (if left with the Hirer), substitute and replacement items. The Equipment shall be deemed to be owned by the Hirer to the Owner in respect to the time period based on those rates set out in the contract note.

"Hirer" means the person, named as such on the contract Note and includes its successors, permitted assigns, employees, agents or any person claiming through, under or in trust for the same.

"Invoice" means the bill addressed to the Hirer setting out the Total Charges payable by the Hirer to the Owner.

"Owner" means Australian Construction Equipment Rental Pty Ltd ABN (within the meaning of the Corporate Law).

"Total Charges" include all amounts which are or may become payable by the hirer to the owner under these terms and conditions, including, but without limitation, the Hire Charges.

A. **GENERAL TERMS AND CONDITIONS**

2. **Terms of Payment**

2.1 Unless otherwise agreed the Hire Rate will commence from the time the Equipment leaves the Owner's premises until termination of the hire period in accordance with clause 9.

2.2 The minimum hire period shall be eight hours.

2.3 GST – In addition to any amount or consideration expressed as payable Australian Construction Equipment Rental Pty Ltd is required by law to charge GST at the prevailing rate on the supply of goods and/or services under this agreement and recover from the hirer the amount of such GST. Any GST chargeable under this clause is payable by the hirer at the same time as the amount or consideration payable on the supply to which it relates is payable by the hirer.

2.4 The Hirer Charges shall be based upon an eight hour period from the time specified on the contract Note and shall continue to accrue over weekends and public holidays. If the Equipment is used for more than eight hours in a day, additional charges may apply at the hourly rate equal to one eighth of the daily rate agreed between the Hirer and the Owner.

2.5 The Hire Charges may be varied by the Owner from time to time as its sole discretion. Variations shall apply only to Contract Notes issued after the date of variation.

2.6 The Hirer shall pay the Deposit if and when required by the Owner which will be forfeited to the Owner if the Hirer breaches any of these terms and conditions. Forfeiture of the deposit will not affect any other rights of the Owner under these terms and conditions.

2.7 In addition to the Hire Charges, the Hirer shall pay to the Owner:

a) the amounts of any tax, duty, levy, charge or other expense paid or payable by the Owner to any government or government authority in respect of the use or hire of the Equipment.

b) the Owner's standard delivery and collection charges; and

c) any expenses incurred by the Owner as a result of a breach by the Hirer of its obligations pursuant to those terms and conditions, in accordance with clause 2.7 of these terms and conditions.

2.8 The Hirer agrees to pay the Total Charges to the Owner at the times and in the manner specified in the Contract Note and each Invoice relating to the hire of the Equipment or, if not specified, then within thirty days end of month. The Owner may at its option render to the Hirer at the commencement or completion of the hirer period or periodically throughout the period.

2.9 The only discounts available to the Hirer shall be those agreed in writing by the Owner. If the Hirer breaches any of these terms and conditions then any discount on any unpaid invoice is automatically revoked and the non-discounted price is payable for all Hire Charges from that time onwards.

2.10 The Owner shall be entitled to charge the Hirer interest (at the maximum overdraft rate charges by the Owner's bankers) on any Hire Charge due by the Hirer to the Owner but which remain unpaid beyond the time limited allowed under clause 2.8.

2.11 Credit claims will only be recognised if made within 14 days of the date of the Invoice to which the claim refers. Claims outside this period will be at the absolute discretion of the Owner, and its decision final and binding on the Hirer.

2.12 Should the Hirer for any reason whatsoever fail to pay any and/or all sums of money owing by it to the Owner upon demand, the Hirer shall upon demand also pay to the owner all Solicitors and/or Commercial Agent costs and court costs incurred by the owner in effecting recovery of the said debt from the Hirer or from any third party or guarantor to this agreement.

3. **Property**

3.1 Ownership of the Equipment shall at all times remain in the Owner and no person shall be entitled directly or indirectly to use, dispose of or otherwise deal with the Equipment in any way which is inconsistent with the rights of the owner of the Equipment or the Owner's rights under these terms and conditions. Neither payment or compensation nor any other circumstance or event shall amount to, constitute or result in any transfer of property or interest in the equipment from the Owner.

3.2 The Owner may inspect the Equipment at any time without notice during the hire period and the Hirer shall admit or procure admission of the Owner to the premises upon which the Equipment is situated for that purpose.

3.3 The Hirer may not assign or sub contract its rights and obligations without the prior written consent of the Owner. The Hirer will not without the prior written consent of the Owner sell or offer for sale, assign, mortgage, pledge, lend or otherwise part with possession of the Equipment and will keep the Equipment in its possession and will not allow any lien or purported lien to be created upon the Equipment whether for repairs or otherwise and will protect the Equipment against execution or seizure. The Hirer shall indemnify and shall hold the Owner harmless against all liabilities, damages, losses, costs, charges and expenses incurred or suffered by the Owner and all actions, proceedings, claims or demand made against the Owner as a direct or indirect result of such action or inaction.

3.4 The Owner may assign or sub contract its rights under these terms and conditions or arrange for its obligation under these terms and conditions to be assumed.

4. **PPSA**

4.1 This clause applies to the extent that this Agreement provides for a "security interest" for the purpose of the *Personal Property Securities Act 2009* (Cth) ("PPS Law"). References to PPS Law in this agreement include references to amended, replacement and successor provisions or legislation.

4.2 If ACE Rental does not have at Commencement a PPS Law registration ensuring a perfected first priority security interest in the Equipment, the Hire Period (including any extension of the Hire Period or the aggregate of consecutive Hire Periods during which the Customer has substantially uninterrupted possession) may not despite anything else in this document or any Hire Schedule be longer than:

- a) 90 days in the case of Equipment which may or must be described by serial number in a PPS Law registration; or
 - b) a year in any other case.
- 4.3 ACE Rental may register its security interest under the PPS Law. The Customer must do anything (such as obtaining consents and signing documents) which ACE Rental requires for the purposes of:
- a) ensuring that ACE Rentals security interest is enforceable, perfected and otherwise effective under the PPS Law;
 - b) enabling ACE Rental to gain first priority (or any other priority agreed to by ACE Rental in writing) for its security interest; and
 - c) enabling ACE Rental to exercise rights in connection with the security interest.
- 4.4 ACE Rental may recover from the Customer the cost of doing anything under this clause, including but not limited to registration fees.
- 4.5 The rights of ACE Rental under this document are in addition to and not in substitution for ACE Rentals rights under other law (including PPS Law) and ACE Rental may choose whether to exercise rights under this document, and/or under other law, as it sees fit.
- 4.6 To the extent that Chapter 4 of the PPS applies to any security interest under this agreement, the following provisions of the PPS Law do not apply and, for the purposes of section 115 of the PPS Law are "contracted out" of this Agreement in respect of all goods to which that section can be applied and the Customer will have no rights under them:
- a) Section 95 (notice of removal of accession to the extent it requires ACE Rental to give notice to the Customer);
 - b) Section 96 (retention of accession);
 - c) Section 121(4) (notice to grantor);
 - d) Section 125 (obligations to dispose of or retain collateral);
 - e) Section 130 (notice of disposal to the extent it requires ACE Rental to give a notice to the Customer);
 - f) Section 129(2) and Section 129(3);
 - g) Section 132(3)(d) (contents of statement of account after disposal);
 - h) Section 132(4) (statement of account if no disposal);
 - i) Section 135 (notice of retention);
 - j) Section 142 (redemption of collateral); and
 - k) Section 143 (reinstatement of security agreement).
- 4.7 The following provisions of the PPS Law confer rights on ACE Rental:
- a) Section 123 (seizing collateral);
 - b) Section 126 (apparent possession);
 - c) Section 128 (secured party may dispose of collateral);
 - d) Section 129 (disposal by purchase); and
 - e) Section 134(1) (retention of collateral).
- 4.8 The Customer agrees that in addition to those rights, ACE Rental shall, if there is default by the Customer, have the right to seize, purchase, take possession or apparent possession, retain, deal with or dispose of the Equipment (including entering upon and into land and premises owned, occupied or used by the Customer, or any premises where the Equipment is or may be located), not only under those sections but also, as additional and independent rights, under this document and the Customer agrees that ACE Rental may do so in any manner it sees fit, including (in respect of dealing and disposal) by private or public sale, lease or licence without being responsible for any damage thereby caused.
- 4.9 The Customer waives its rights to receive a verification statement in relation to registration events in respect of commercial property under Section 157 of the PPS Law.
- 4.10 ACE Rental and the Customer agree not to disclose information of the kind that can be requested under Section 275(1) of the PPS Law. The Customer must do everything necessary on its part to ensure that Section 275(6)(a) of the PPS Law continues to apply. The agreement in this sub-clause is made solely for the purpose of allowing ACE Rental the benefit of Section 275(6)(a) and ACE Rental shall not be liable to pay damages or any other compensation or be subject to injunction in respect of any actual or threatened breach of this sub-clause.
- 4.11 The Customer must not dispose or purport to dispose of, or create or purport to create or permit to be created any "security interest" (as defined in PPS Law) in the Equipment other than with the express written consent of ACE Rental.
- 4.12 The Customer must not lease, hire, bail or give possession ("sub-hire") of the Equipment to anyone else unless ACE Rental (in its absolute discretion) first consents in writing. Any such sub-hire must be in writing in a form acceptable to ACE Rental and must be expressed to be subject to the rights of ACE Rental under this agreement. The Customer may not vary a sub-hire without the prior written consent of ACE Rental (in its absolute discretion).
- 4.13 The Customer must ensure that ACE Rental is provided at all times with up-to-date information about the sub-hire including the identity of the sub-hirer, the terms of and state of accounts and payment under the sub-hire and the location and condition of the Equipment.
- 4.14 The Customer must take all steps including registration under PPS Law as may be required to:
- a) ensure that any security interest arising under or in respect of the sub-hire is enforceable, perfected and otherwise effective under the PPS Law;
 - b) enabling the Customer to gain (subject always to the rights of ACE Rental) first priority (or any other priority agreed to by ACE Rental in writing) for the security interest; and
 - c) enabling ACE Rental and the Customer to exercise their respective rights in connection with the security interest.
- 4.15 To assure performance of its obligations under this agreement, the Customer hereby give ACE Rental and irrevocable power of attorney to do anything ACE Rental considers the Customer should do under this agreement. ACE Rental may recover from the Customer the cost of doing anything under this clause X, including registration fees.
- 4.16 For the purpose of Section 20(2) of the PPS Law, the collateral is Equipment including any Equipment which is described in any Hire Schedule provided by ACE Rental to the Customer from time to time. This Hire Agreement is a security agreement for the purposes of the PPS Law.
- 5. Late Return**
the Hirer fails to return the Equipment within the hire period specified in the contract Note or, where the Owner has agreed to collect the Equipment, fails to notify the Owner that the Equipment is available for collection in time for the Equipment to be picked up and returned to the Owner's premises within normal business hours, the Hirer will be responsible for the safekeeping of the Equipment until the Owner collects it and shall, if required by the Owner at and within its discretion, pay the Owner's reasonable costs of collection and for an additional four hours hire in respect of the Equipment.
- 6. Loss of and Damage to Equipment**
- 6.1 If the Equipment is lost, breaks down or is damaged, the Hirer shall within two hours notify the Owner. Notification does not absolve the Hirer from its requirements to safeguard the Equipment.
- 6.2 The Hirer will immediately stop using the Equipment and notify the Owner if the safety of the Equipment is in any way questionable or if the Equipment breaks down or becomes unsafe, and will take all necessary steps to prevent injuries to all persons and property arising in connection with the Equipment. The Hirer will not repair or make any attempt to repair the Equipment without the Owner's prior written consent.

- 6.3 The Owner will repair the Equipment as and when considered necessary by the Owner at its sole discretion. The owner will take all reasonable steps to carry out repairs promptly or provide substitute or replacement Equipment if available but is not liable for any failure or neglect to carry out such repairs or provide replacement or substitute Equipment.
- 6.4 The Hirer shall not be responsible for the payment of Hire Charges during any period of breakdown except as specified under clause 5.5
- 6.5 If the damaged condition or loss of the equipment is caused by the negligence, misuse or breach of these terms & conditions by the Hirer, the Hirer will at the option of the Owner reimburse the Owner for or pay for the costs of all repairs and will remain responsible for the hire charges until the equipment is repaired or, if damage is irreparable or the equipment is lost, until the new replacement cost is paid by the Hirer to the Owner.
- 6.6 If the Owner is required by any relevant authority or is requested by the Hirer or elects at its sole discretion to salvage the Equipment, then all salvage costs will be payable by the Hirer.

7. Hirer's Obligations

The Hirer shall:

- a) pay to the Owner the total charges which are payable to the Owner in accordance with these terms & conditions.
- b) Upon delivery of the equipment immediately examine the equipment and satisfy itself as to its condition and suitability and fitness for the purpose for which it is required and, in accepting the equipment, the Hirer is deemed to have examined the equipment and satisfied itself as to these matters. The Hirer acknowledges that it does not in any way rely upon the skills or judgement of or any representations made by or on behalf of the Owner in respect of the Equipment, its purpose, uses or performance;
- c) Use the equipment in a skilful and proper manner and only for the purpose and within the capacity which it was designed. The Hirer acknowledges that the Owner can give no warranty as to that capacity;
- d) Ensure that the equipment is operated by a suitably qualified trained, experienced and (if necessary) certified operator. If the Owner supplies an operator to operate the Equipment the operator shall be under the sole direction and control of the Hirer and shall during the hire period be deemed to be the employee of the Hirer. The Hirer shall be responsible for all claims whatsoever arising in connection with the operation of the Equipment by such an operator or any third party and the Hirer shall not allow any other person to operate the Equipment without the Owners prior written consent;
- e) At its own expense clean, fuel, lubricate and provide daily maintenance for the Equipment and keep it in good and substantial repair and condition failing which the Hirer shall be liable to reimburse the Owner with respect to such items;
- f) Accept sole responsibility for all flat tyres and any damage to tyres;
- g) Clean the Equipment properly and thoroughly when it finishes using it before its return to or collection by the Owner. If the Owner in its absolute discretion determines that this obligation has not been satisfied the Owner may undertake such cleaning and may apply so much of the deposit as is necessary to do so;
- h) Accept sole responsibility for safekeeping the Equipment;
- i) Not alter, make additions to, deface or erase any identifying mark, plate, trademark, writing or number on or in the Equipment or in any other manner interfere with or modify the Equipment;
- j) Accept sole responsibility for and fully reimburse the Owner (within seven days of a request by the Owner) the cost of freight to retrieve Equipment abandoned for any reason;
- k) Comply as its own expense with all municipal, state and federal laws, ordinances and regulations (including any occupational health & safety laws) which may affect the Equipment during the hire period;
- l) If required by the Owner, unload and load the Equipment at its own cost;
- m) Provide all operators of the Equipment with appropriate and prudent safety clothing or other equipment;
- n) Not carry out any manufacturing process within the Equipment;
- o) Not without the prior consent of the Owner keep or store in the Equipment or on or near the Equipment any volatile spirits or explosive goods or goods which are or may become dangerous, corrosive, highly combustible, offensive (including radioactive materials), or are likely to encourage any vermin or pests. Any such goods stored in or near the Equipment may at any time be destroyed, disposed of, abandoned or rendered harmless by the Owner without compensation to Hirer and without affecting the Owners rights to Total Charges;
- p) Supply to all operators of the Equipment all manuals and instructions (both written and oral) necessary or prudent for the use of the Equipment, Manuals and written instructions are available from the Owner upon request; and
- q) Notify the Owner within two hours of any change in the location of the Equipment during the hire period.

8. Exclusion of Warranties etc

- 8.1 All warranties, conditions, liabilities or representations in relation to, among other things, the quality or fitness of goods or services (other than any being or giving rise to non-excludable rights under any laws of the States or Territories of Australia) which might but for this clause be implied in these terms & conditions by law or otherwise are hereby expressly negated and excluded.
- 8.2 All civil liability of the owner, its subcontractors, employees and agents for all loss or damage in any way related to the supply or use (or termination of supply or use) of goods or information or advice or other services, under any of the non-excludable rights referred to in clause 7.1 or otherwise howsoever, shall insofar as the same may be legally be done, be limited under this clause. The liability shall be limited, at the Owners option:
- a) in the case of goods, to the repair or replacement of the goods or supply of equivalent goods or the payment of the respective costs there of, or refund the purchase price; and
 - b) in the case of services, to the supplying of the services again, or the payment of the cost of having the services supplied again.
- 8.3 The Owner shall not be liable for indirect or consequential loss whatsoever and howsoever arising, even if due to the negligence of the Owner, its subcontractors, employees or agents.

9. Release and Indemnity

The Hirer hereby releases and exonerates the Owner, its subcontractors, employees or agents from, and agrees to indemnify the Owner, its subcontractors, employees or agents in respect of, any third party claims, actions, 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 whether caused by negligence of the Hirer or any other person, the breakdown, failure, operation, misdelivery or non delivery of the Equipment in any way and agrees to reimburse the Owner for all costs reasonably incurred in defending the same.

10. Termination of Hire

- 10.1 The Owner may at any time and in its sole discretion terminate the hire period at which time the Hirer shall immediately make the Equipment available to the Owner for collection.
- 10.2 The Hirer may terminate the hire period by:
- a) Delivering the equipment during normal working hours to the Owner
 - b) Notifying the Owner that the Equipment is available for collection, provided that the Hirer keeps the Equipment safe and secure until collection. When notifying the Owner that the Equipment is ready for collection, the Hirer must obtain an "off hire" number, failing which the Hirer will be deemed not to have notified the Owner that the Equipment was ready for collection; or
 - c) The Owner will issue the Hirer with a signed return docket listing all equipment returned from hire

- 10.3 Subject only to clause 5.5 of these terms & conditions, if the Equipment is returned to or collected by the Owner in a state which is unsatisfactory to the Owner in the Owner's sole discretion or in breach of these terms & conditions, the hire period shall be deemed to continue until the Equipment is in a state which is reasonably satisfactory to the Owner. The Owner will take all reasonable steps to put the Equipment into a satisfactory state as soon as practicable after return or collection.
- 10.4 Upon termination of the hire period, the Owner is entitled to take possession of the equipment and, for this purpose the Hirer irrevocably appoints the owner its agent and authorises and licenses the Owner to 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 and authorises the Owner to disconnect, dismantle and remove the equipment whether or not it is affixed to the land or the premises connected to the property

or equipment not owned by the Owner, in use by the Hirer or any other person containing property not owned by the Owner, and the Hirer releases the Owner from and indemnifies the Owner against any claims arising from such removal and collection of the Equipment

11. Insurance

- 11.1 The Hirer, at its own expense, shall maintain all appropriate and prudent policies of insurance:
 - a) for damage to or arising out of the hire of the Equipment in an amount not less than the full new replacement cost of the Equipment except if the Hirer has taken benefit of the damage waiver offered by the Owner in which case the Owner's insurance excess will apply and the Hirer's insurance policies need not cover the damage specified in clause 8; and
 - b) for all third party public liability risks in respect of the hire or use of the Equipment by the hirer in an amount not less than \$5 million
- 11.2 The Hirer shall provide the Owner with a copy of such Insurance Policies upon request.
- 11.3 Please refer to the Pricing and General Information printed on the reverse of the Hire Contract for details of current insurance excess rates.

12. Miscellaneous

- 12.1 No variation of these terms & conditions shall bind either party unless confirmed by the Owner in writing
- 12.2 Any document which by these terms and conditions may be given by the Owner may be served or rendered by leaving it at or posting it to the address of the Hirer as stated in the Contract Note or last notified by the Hirer in writing to the Owner and shall be deemed to have been served or rendered at the time of leaving or, if posted, on the business day following the day of postage and any notice may be signed by a manager, director or solicitor of the Owner on behalf of the Owner.
- 12.3 The person signing the contract note for and on behalf of the Hirer agrees with the Owner that he or she has the authority of the Hirer to sign on the Hirer's behalf and is empowered by the hirer to bind the Hirer to these terms & conditions. The person signing the Contract Note indemnifies the Owner against all losses and costs incurred by the Owner arising out of or in connection with the person signing or failing to have the power of authority.
- 12.4 If any of these terms & conditions or part thereof becomes void or unenforceable for any reason then that part shall be severed from these conditions to the intent that all parts that shall not become void or unenforceable shall remain in full force and effect and be unaffected by any severance of other parts.
- 12.5 Termination of the hire period shall not affect any of the conditions that are expressed or implied to operate or have effect after termination. Termination shall be without prejudice to any right or action already given to the Hirer or Owner in respect of any breach of these terms & conditions by the other party.
- 12.6 Subject to clause 11.1 above, the parties acknowledge that these terms & conditions contain the entire agreement concluded between the parties notwithstanding any prior or subsequent negotiations or discussions or representations between the parties. Any such conditions, warranties or representations are hereby expressly excluded.
- 12.7 Time is to be of the essence of all obligations of the Hirer in these terms & conditions.
- 12.8 No delay or omission to exercise any right, power or remedy accruing to the Owner upon any continuing breach or default under this agreement shall impair any such right, power or remedy, nor shall it be construed to be a waiver of any right of the Owner to take action or make a claim in respect of a continuing breach or default or to be acquiescence to it.
- 12.9 A statement in writing made up from the books of the Owner and signed by any director, secretary or credit manager of the Owner of the amount due or owing by the Hirer to the Owner as at the date mentioned in such statement shall be prima facie evidence that such amount is due and owing without it being necessary to produce any books or vouchers to verify the same.
- 12.10 Any credit accommodation granted by the Owner to the Hirer may be withdrawn at any time and for any reason without notice and a statement may be issued at the time requiring payment within 7 days of any amount due and owing.

B. SPECIAL TERMS AND CONDITIONS

- 13. The following special terms and conditions, if any, will apply in relation to the hire of the Equipment by the Owner to the Hirer:

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