

Terms and Conditions

1. Definitions

Commencement Date means that date and time noted in the Schedule that the hire of the Plant and Equipment is to commence.

Business means GC Plant Hire (ABN 76 316 072 048).

Completion Date means that date and time noted in the Schedule or as extended in accordance with clause 2, that the hire of the Plant and Equipment is to cease.

Confidential Information means the Schedule, the Hire Fee including any discount given, any payment information provided by the Hirer to Business and the Plant and Equipment (to the extent information about the Plant and Equipment is not in the public domain).

Damage Waiver Fee means the amount noted in the Rates Card or on the Schedule. Where noted in the Schedule, the Schedule will prevail over the Rates Card.

Excess Amount means the amount payable in accordance with the Rates Card.

GST refers to the goods and services tax under A New Tax System (Goods and Services) Act 1999 ("GST Act") and the terms used have the meanings as defined in the GST Act.

Hire Fee means the price payable for the hire of Plant and Equipment as noted on the Schedule for the Hire Period.

Hire Period means the that period of time between the Commencement Date and Completion Date (inclusive).

Hire Rates means those fees and charges noted in the Rates Card.

Hirer means the person or entity described in the Schedule.

Insolvency Event means bankruptcy, administration, compromise, arrangement, amalgamation, reconstruction, winding up, dissolution and assignment for or compromise with creditors, not paying any debt as and when it falls due, and 'Insolvent' will be construed accordingly.

Plant and Equipment means that equipment as described in the Schedule with the relevant type, make and other identifiers.

PPS Law has the meaning given in clause 15 of these Terms and Conditions.

Quote means an email, proposal or other document of Business provided to the Hirer

estimating a price for hiring Plant and Equipment requested by the Hirer.

Rates Card means the schedule published by Business entitled 'Rates Card' which details the current fees and charges application to and associated with the hire of Plant and Equipment from Business, unless otherwise described in the Schedule.

Responsibilities means those additional requirements noted in the Schedule that each party must undertake in respect of the Plant and Equipment, during or immediately before and after the Hire Period.

Schedule means the 'Schedule' to this agreement, submitted by the Hirer as a standing offer to hire Plant and Equipment from Business (until withdrawn by written notice to the Business) in accordance with the Terms.

Taxes means any tax, GST, levy, impost, duty, charge, deduction, compulsory loan or withholding of whatever kind (together with any related interest, penalty, fine or expense) that is imposed by law or any government agency.

2. Acceptance

2.1 The Hirer seeks to hire from Business the Plant and Equipment in accordance with the Schedule and Business accepts such engagement and agrees to hire the Plant and Equipment to the Hirer subject to these Terms read together with the Schedule.

2.2 These Terms shall be deemed to have commenced on the Commencement

2.3 Date and shall continue in effect until the earlier of:
(a) the Completion Date; or
(b) the Terms and Conditions are terminated in accordance with clause 11.

2.4 By entering into the Schedule, the Hirer also agrees to be bound by:

- (a) these Terms and Conditions;
- (b) the Rates Card; and
- (c) any privacy policy of the Business, available on the website operated by the Business.

2.5 Where more than one Hirer has entered into this agreement, the Hirer's shall be jointly and severally liable for all obligations and fees payable in accordance with these Terms and the Schedule.

2.6 These Terms and Conditions may only be amended with the Business's consent in writing and shall prevail to the extent of any inconsistency

with any other document or agreement between the Hirer and the Business.

2.7 The Hirer shall give the Business not less than fourteen (14) days prior written notice of any proposed change of ownership of the Hirer or any change in the Hirer's name and/or any other change in the Hirer's details (including but not limited to, changes in the Hirer's address or facsimile number). The Hirer shall be liable for any loss incurred by the Business as a result of the Hirer's failure to strictly comply with this clause.

2.8 Any Quote given by the Business to the Hirer, prior to the provision of a Schedule:

- (a) is only valid for 14 days; and
- (b) is at all times subject to a Schedule and these Terms and Conditions being entered into.

3. Hire of Equipment

3.1 The hire of the Plant and Equipment will commence from the Commencement Date and continue for the Hire Period.

3.2 The Hirer is entitled to use the Plant and Equipment for the Hire Period subject to these Terms. Any extension of the Hire Period must be expressly agreed to by Business before the expiration of the Hire Period.

3.3 The Hirer agrees to return the Plant and Equipment:

- (a) to the address identified by Business on or before the end of the Hire Period as outlined in the Schedule; or
- (b) where noted in the Schedule that Delivery is Required, Business will arrange to pick-up the Plant and Equipment from the Job Site at the noted time in the Schedule and agrees to maintain the responsibility for the Plant and Equipment until the Plant and Equipment has been picked-up by Business.

3.4 The Hirer acknowledges that failure to return the Plant and Equipment by the Completion Date may be considered as stolen and can be criminal theft and may be immediately reported to the police.

3.5 The Plant and Equipment must be returned to Business in the same condition as when it was hired, except for fair wear and tear.

4. No PPS Lease without owner agreement

4.1 Despite anything else in these Terms and Conditions or the Schedule, without the express written consent of the Business, the Hire Period (including any option or extension of it) cannot be longer than two years (or any other period that is the time threshold for a PPS lease under the PPS Law.

5. Payment for Hire

5.1 The Hirer agrees to pay the owner the Hire Fee and the Damage Waiver Fee (if taken) specified in the Schedule for the use of the Plant and Equipment for the Hire Period including any applicable GST, stamp duties, fuel, tolls, fines, penalties, levies or freight and other charges relevant to this agreement and the hire ("**Total Fees**").

5.2 The Total Fees must be paid to Business:

- (a) prior to or on the Commencement Date of the Hire Period;
- (b) when otherwise due and payable periodically under the Schedule;
- (c) as agreed with Business; or
- (d) within a reasonable time after the Hire Period when such fees and charges are known by Business.

5.3 The Hirer will be in default where the Hirer does not pay on any terms agreed with the Hirer and recorded in writing. Plant and Equipment not returned on time and in accordance with these Terms will be subject to a continuance of the agreed Hire Fee in accordance with the Rates Card and other charges until returned or picked-up (if agreed) is complete, but this will not constitute an extension of the Hire Period.

5.4 Where noted in the Schedule, Business may agree to deliver the Plant and Equipment to the Job Site noted in the Schedule for the fee noted in the Schedule. Business will use its best endeavours to deliver the Plant and Equipment at the requested time but will not be liable to the Hirer for a late delivery, non-delivery or any associated loss or damage due to a late or non-delivery.

5.5 The cancellation fee noted in the Rates Card may be charged by Business where the Plant and Equipment has been reserved by booking and the Hirer cancels the booking without reasonable notice or fails to take delivery of the Plant and Equipment on the Commencement Date.

5.6 Business may charge the Hirer a reasonable fee for accepting payment by credit card and this may be up to the applicable permissible charge under legislation.

5.7 Unless otherwise stated, the hire charges payable by the Hirer in relation to the Plant and Equipment will be as stated in the Rates Card. Business reserves the right at any time to revise the Rates Card by providing the Hirer with notice. However, the Hire Fee cannot be increased during an agreed Hire Period unless the Hirer agrees to the increase. Where the increase in hire charges applies to Plant and Equipment already on hire by the Hirer, the Hirer may terminate this agreement and return the Plant and Equipment to Business.

6. Damage Waiver Fee

- 6.1 This clause only applies where it is noted in the Schedule that the Hirer has taken up the Damage Waiver option and paid the Damage Waiver Fee.
- 6.2 Subject to:
- (a) the payment by the Hirer of the Damage Waiver Fee in full and cleared funds to Business on or before the Commencement Date;
 - (b) payment of the Excess Amount for each accident, any damage or theft of the Vehicle; and
 - (c) clause 4,
- Business waives any claim it may have against the Hirer for the cost of repairs to the Plant and Equipment due to damage that occurred during the Hire Period. This clause in no way entitles the Hirer to, or implies the availability of, compensation from Business for any liability incurred by the Hirer to any third party in relation to the use of the hired Plant and Equipment.
- 6.3 This clause ceases to operate on the Completion Date unless an extension by Business is granted in writing and an additional agreed fee is paid.
- 6.4 This clause and any Damage Waiver will not apply to loss or damage which arises from:
- (a) a breach of these Terms;
 - (b) a breach of any statute or other law or regulations in connection with the use of the Plant and Equipment by the Hirer;
 - (c) misuse, abuse, wilful and/or malicious acts, negligent and/or reckless use and/or overloading of the Plant and Equipment;
 - (d) theft, loss or damage by whatever cause to tools and/or accessories supplied with the Plant and Equipment including but not limited to hoses, drills, bits, grease guns, electric leads, tyres and tubes;
 - (e) lack of lubrication or non-adherence to other normal maintenance requirements that are required by or could reasonably be expected of the Hirer under these Terms;
 - (f) disregard for instructions given to the Hirer by Business in respect of the proper use of the Plant and Equipment or in contradiction of the manufacturer's instructions if supplied with the Plant and Equipment at the Commencement Date;
 - (g) theft or unexplained disappearance of the Plant and Equipment;
 - (h) theft of the Plant and Equipment in circumstances where security is available at the Job Site including, but not limited to, locked yards, buildings and sheds, where proper security is not used by the Hirer to secure the Plant and Equipment whilst it is left unattended; or
- (i) use of the Plant and Equipment in loading or off-loading equipment from maritime vessels, transportation of equipment on maritime vessels or the use of Plant and Equipment on any wharf or bridge or over any body of water.
- 6.5 Where the Damage Waiver does not apply as a result of clause 6.4, the Hirer is not entitled to a refund of the Damage Waiver Fee and must pay to and/or reimburse Business for any and all costs and expenses incurred by Business in rectifying any damage to the Plant and Equipment whilst in the possession and/or control of the Hirer in accordance with this agreement.
- 7. Use, Operation and Maintenance**
- 7.1 The Hirer agrees that the use of the Plant and Equipment carries with it inherent dangers and risks of injury and the Hirer agrees to accept all those dangers and risks.
- 7.2 The Plant and Equipment must not be used by anyone other than the Hirer without the express permission of Business.
- 7.3 The Hirer will ensure that all persons operating or erecting the Plant and Equipment are instructed in its safe and proper use and where required hold valid proof of training or are fully licenced to use it.
- 7.4 The Hirer agrees to operate, maintain, store and transport the Plant and Equipment in a proper manner and where required strictly in accordance with any instruction provided by Business and with due care and diligence.
- 7.5 The Hirer agrees that the Plant and Equipment will only be used for its intended purpose and in accordance with any manufacturer's instructions and recommendations if supplied by Business or posted on the Plant and Equipment in regard to its operation, maintenance and storage.
- 7.6 The Hirer agrees to comply with all workplace health and safety laws and regulations relating to the use of the Plant and Equipment and associated operations.
- 7.7 The Hirer must ensure the Plant and Equipment is returned to Business clean of all foreign matter or agrees to the cleaning fee in the Rates Card where Business is required to clean the Plant and Equipment on its return at the end of the Hire Period. If additional cleaning costs are incurred as a result of a breach of these Terms, such additional cost must be paid by the Hirer at the cost incurred by Business plus 10%.

7.8 The reasonable costs of fuel or other consumables provided by Business and used by the Hirer are to be paid to Business when required by Business.

8. Hirer's Obligations

8.1 The Hirer agrees that:

- (a) the Plant and Equipment will be used in accordance with any conditions outlined in the Schedule;
- (b) the particulars in the Schedule are correct in every respect and are not misleading in any way including, without limitation, by omission;
- (c) the Hirer holds a valid operating licence or permit valid for the type of Plant and Equipment hired;
- (d) the Plant and Equipment will not be used for any illegal purpose;
- (e) the Hirer's motor vehicle is suitable for towing the Plant and Equipment if required;
- (f) the Hirer will not, without prior written consent of Business, tamper with, repair or modify the Plant and Equipment in any way, or permit another to do so;
- (g) the Hirer will not remove the Plant and Equipment from the State or Territory in which it is hired without the prior approval of Business;
- (h) the Plant and Equipment must not be removed from the Job Site, unless prior written consent has first been obtained from Business;
- (i) Business may install real-time location tracking hardware in or on the Plant and Equipment and the Hirer must not in any way interfere with, turn off or remove such location tracking hardware; and
- (j) the Responsibilities are fair and reasonable and apply to these Terms.

9. Loss, Damage or Breakdown of Plant and Equipment

- 9.1 Subject to clauses 6 and 10 of these Terms, the Hirer will be responsible for any loss or damage to the Plant and Equipment except for fair wear and tear, during the Hire Period. The Hirer is liable for the payment of the full replacement value of any Plant and Equipment not returned to Business.
- 9.2 If there is a breakdown or failure of the Plant and Equipment the Hirer shall notify Business immediately for the appropriate action to be taken.
- 9.3 If the Hirer is required to pay an Excess Amount in accordance with these Terms, the Hirer authorises Business to debit the payment method of the Hirer

with the Excess Amount at the time of loss of, or damage to, the Plant and Equipment.

10. Indemnity and Liability

- 10.1 To the full extent permitted by law the Hirer releases, discharges and indemnifies Business from all claims and demands on Business arising out of the use or misuse of the Plant and Equipment under hire except to the extent arising from the negligence or wilful default of Business.
- 10.2 In respect of the hire of Plant and Equipment:
- (a) the Hirer will assume to the exclusion of Business all risks and liabilities for, and in respect of, the Plant and Equipment and for all injuries to or deaths of persons and any damage to property howsoever arising from the Hirer's possession, use, maintenance, repair, storage or transportation of the Plant and Equipment; and
 - (b) the Hirer is liable for damage to third party property which is caused or contributed to by the Hirer in the operation of the Plant and Equipment.
- 10.3 The Hirer warrants to the Business that it has obtained and will maintain all appropriate insurance policies for the operation of the Plant and Equipment, third-party damage or injury and any other insurance policy as reasonably required by the Business.
- 10.4 Upon reasonable request of the Business, the Hirer must provide a copy of the current certificate of currency for any insurance policy described in section 10.3 of these Terms.
- ## 11. Termination
- 11.1 Without prejudice to any other remedies Business may have against the Hirer and notwithstanding the Hire Period, this agreement and any hire may be terminated by Business as follows:
- (a) upon giving the Hirer two days written notice of termination at any time during the Hire Period, for convenience and without reasons; or
 - (b) without prior notice if the Hirer suffers an Insolvency Event or otherwise ceases to carry on business.
- 11.2 Business may terminate this agreement at any time if the Hirer breaches the agreement and the breach cannot be, or is not, rectified within 7 days after Business sends written notice to the Hirer specifying the breach and requesting rectification. Business may also terminate this agreement if the Hirer commits a material breach of it.
- 11.3 Business may seek compensation from the Hirer for a breach of this agreement including for loss of revenue whilst the Plant and Equipment is not able

to be hired to others (for example due to damage) and/or loss of rental that would have been earned had the damage and/or termination not occurred. This does not limit Business's other rights at law.

- 11.4 If these Terms are terminated under this clause 11, the Hirer must immediately pay all outstanding Hire Fees to Business and must return the Plant and Equipment to Business.

12. Repossession and Remedies on Default

- 12.1 Business may retake possession of the Plant and Equipment if:

- (a) the hire is terminated or becomes liable to be terminated by Business;
- (b) the Hirer does not pay amounts owing to Business as when due.

- 12.2 In the case of repossession of the Plant and Equipment under this clause, the Hirer grants Business permission to enter any premises where the Plant and Equipment is situated, including the Job Site and to disconnect, decommission and/or remove the Plant and Equipment.

- 12.3 In addition to Business's right to retake possession of the Plant and Equipment, Business is entitled in its discretion, following any breach of any provision of these Terms by the Hirer, to terminate this agreement and/or sue for recovery of any damages or charges or loss suffered by Business, and/or to cancel any insurances effective in respect of the Plant and Equipment hired.

13. Title and Risk

- 13.1 The Hirer acknowledges that Business retains title to the Plant and Equipment at all times and that the Hirer has rights to use the Plant and Equipment as a mere bailee only. The Hirer agrees that the Hirer has no rights to pledge Business's credit in connection with the Plant and Equipment.

- 13.2 The Hirer agrees not to agree, offer or purport to sell, assign, sub-let, lend, pledge, mortgage let or hire or otherwise part with or attempt to part with personal possession or otherwise not to deal with the Plant and Equipment and not to conceal or alter the Plant and Equipment or make any addition or alteration to, the Plant and Equipment.

- 13.3 Risk in the Plant and Equipment hired by the Hirer passes to the Hirer on the Commencement Date and ceases on the Completion Date.

14. Rates Card

- 14.1 Any information provided by Business to the Hirer, including the Rates Card, does not constitute an offer to enter into a contract but constitutes an invitation to treat only, and is subject to:

- (a) the availability of the Plant and Equipment; and

- (b) payment of the Hire Fee and/or the Total Fees,

which may change from time to time.

- 14.2 An offer made by the Hirer via a Schedule to hire the Plant and Equipment which is accepted by Business and the contract made by that acceptance are subject to these Terms.

- 14.3 An agreement made by the acceptance of a Schedule by Business is not subject to any terms and conditions put forward by the Hirer, including those on any purchase order.

- 14.4 The Hirer must pay all Taxes in relation to this agreement (other than Business's income tax).

- 14.5 Business reserves the right to change the Hire Fee in the event of a variation to any Schedule.

- 14.6 Time for payment of the Total Fees shall be of the essence.

- 14.7 A certificate signed by a Partner, Director, Secretary, Officer, Financial Controller or Credit Manager of Business or any person duly authorised from time to time by Business shall be conclusive evidence of the amount of indebtedness of the Hirer to Business.

15. PPS Law

- 15.1 This clause applies to the extent that this agreement provides for a 'security interest' for the purposes of the *Personal Property Securities Act 2009* (Cth) ("**PPS Law**"). References to PPS Law in these Terms include references to amended, replacement and successor provisions. Business may register its security interest. The Hirer must do anything (such as obtaining consents and signing documents) which Business requires for the purposes of ensuring that Business's security interest is enforceable, perfected, first priority and otherwise effective under the PPS Law.

- 15.2 Business may recover from the Hirer the cost of doing anything under this clause, including but not limited to registration fees.

- 15.3 The rights of Business under these Terms are in addition to and not in substitution for Business's rights under other law (including PPS Law) and Business may choose whether to exercise rights under these Terms, and/or under other law, as it sees fit.

- 15.4 To the extent that Chapter 4 of the PPS Law applies to the security interest under this agreement, and the PPS Law requires Business to give a notice or allow time or provide any account to the Hirer, the Hirer and Business agree that to the extent allowable under the PPS Law that requirement does not apply and, for the purposes of section 115 of the PPS Law it is "contracted out" of this agreement in respect of all goods to which that section can be applied. Provisions of the PPS

Law confer rights on the owner. The Hirer agrees that in addition to those rights, Business will, if there is default by the Hirer, have the right to seize, purchase, take possession or apparent possession, retain, deal with or dispose of any goods, not only under those sections but also, as additional and independent rights, under these Terms and the Hirer agrees that Business may do so in any manner it sees fit, including (in respect of dealing and disposal) by private or public sale, lease or licence.

- 15.5 The Hirer 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. Business and the Hirer agree not to disclose information of the kind that can be requested under section 275(1) of the PPS Law. The Hirer 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 purposes of allowing Business the benefit of section 275(6)(a) and Business will not be liable to pay damages or any other compensation or be subject to injunction if Business breaches this sub-clause.

16. Security interests and sub-hire

- 16.1 The Hirer must not create, purport to create or permit to be created any 'security interest' (as defined in PPS Law) in the Plant and Equipment.
- 16.2 The Hirer must not lease, hire, bail or give possession ('sub-hire') of the Plant and Equipment to anyone else unless Business (in its absolute discretion) first consents in writing. Any such sub-hire must be in writing in a form acceptable to Business and must be expressed to be subject to the rights of Business under these Terms. The Hirer may not vary a sub-hire without the prior written consent of Business (in its absolute discretion).
- 16.3 The Hirer must ensure that Business 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 Plant and Equipment.
- 16.4 The Hirer 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 Hirer to gain (subject always to the rights of Business) first priority (or any other priority agreed to by the owner in writing) for the security interest; and

- (c) enabling Business and the Hirer to exercise their respective rights in connection with the security interest.

- 16.5 Business may recover from the Hirer the cost of doing anything under this clause, including registration fees.

17. Competition and Consumer Act 2010

- 17.1 Under applicable State, Territory and Commonwealth Law (including, without limitation to the *Competition and Consumer Act 2010* (Cth) (CCA)), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions (Non-Excluded Guarantees).
- 17.2 The Hirer acknowledges that nothing in these Terms purports to modify or exclude the Non-Excluded Guarantees.
- 17.3 Except as expressly set out in these Terms or in respect of the Non-Excluded Guarantees, Business makes no warranties or other representations under these Terms including but not limited to the quality or suitability of the Plant and Equipment. Business's liability in respect of these warranties is limited to the fullest extent permitted by law.
- 17.4 If the Hirer is a consumer within the meaning of the CCA, Business's liability is limited to the extent permitted by section 64A of Schedule 2 CCA.
- 17.5 If Business is required to replace the Plant and Equipment (or the good or service supplied under these Terms) under this clause or the CCA, but is unable to do so, Business may refund any money the Hirer has paid for the hire of the Plant and Equipment.
- 17.6 If the Hirer is not a consumer within the meaning of the CCA, Business's liability for any defect or damage in the Plant and Equipment is:
- (a) limited to the value of any express warranty or warranty card provided to the Hirer by Business at Business's sole discretion;
 - (b) limited to any warranty to which Business is entitled, if Business did not manufacture the Plant and Equipment;
 - (c) otherwise negated absolutely.
- 17.7 Notwithstanding this clause or clauses 9 and 10 but subject to the CCA, Business shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of the Hirer not complying with these Terms.
- 17.8 Notwithstanding anything contained in this clause, if Business is required by a law to accept return then Business will only accept return on the conditions imposed by that law.

17.9 Subject to Business's obligations under the Non-Excluded Guarantees, Business is not liable to the Hirer or any third party for any indirect loss or consequential loss arising in connection with these Terms, the Schedule or their subject matter, whether arising in or for breach of contract, negligence or other tort, breach of statutory duty, breach of warranty or guarantee or otherwise and whether or not that loss was foreseeable, even if Business has been advised of the possibility of such loss.

18. Privacy Act

18.1 The Hirer agrees for Business to obtain from or disclose to a credit reporting agency or third party a credit report containing personal information about the Hirer in relation to these Terms or a Schedule.

18.2 The Hirer agrees that Business may exchange information about the Hirer with those credit providers named in a consumer credit report issued by a credit reporting agency for the following purposes: to notify other credit providers of a default by the Hirer; and/or to exchange information with other credit providers as to the status of this credit account, where the Hirer is in default with other credit providers; and/or to assess the creditworthiness of the Hirer.

18.3 The Hirer consents to Business being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) *Privacy Act 1988* (Cth)).

18.4 The Hirer agrees that personal credit information provided may be used and retained by Business for the following purposes (and for other purposes as shall be agreed between Business and the Hirer or required by law from time to time): the hire of the Plant and Equipment; and/or the marketing of the Plant and Equipment by Business, its agents or distributors; and/ or analysing, verifying and/or checking the Hirer's credit, payment and/or status in relation to the provision of hiring the Plant and Equipment; and/or processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Hirer.

18.5 Business may give information about the Hirer to a credit reporting agency for the following purposes: to obtain a consumer credit report about the Hirer and/or allow the credit reporting agency to create or maintain a credit information file containing information about the Hirer. The information given to the credit reporting agency may include: personal particulars (the Hirer's name, sex, address, previous addresses, date of birth, name of employer and driver's licence number); advice that Business is a current credit provider to the Hirer; advice of any overdue accounts, loan repayments, and/ or any outstanding monies owing which are overdue by more than sixty (60) days, and for which debt collection action has been

started; that the Hirer's overdue accounts, loan repayments and/or any outstanding monies are no longer overdue in respect of any default that has been listed; information that, in the opinion of Business, the Hirer has committed a serious credit infringement (that is, fraudulently or shown an intention not to comply with the Hirer's credit obligations); advice that cheques drawn by the Hirer for one hundred dollars (\$100) or more, have been dishonoured; that credit provided to the Hirer by Business has been paid or otherwise discharged.

19. Confidentiality and Intellectual Property

19.1 Each party agrees that any Confidential Information disclosed to the other party will be kept confidential.

19.2 Business does not, and nothing in these Terms, grants or transfers any right, title or interest in any intellectual property of Business to the

19.3 Business will comply with the applicable privacy legislation in all dealings with the Hirer.

20. Hirer's Disclaimer

20.1 The Hirer hereby disclaims any right to rescind, or cancel any contract, including any Schedule, with Business or to sue for damages or to claim restitution arising out of any inadvertent misrepresentation made to the Hirer by Business and the Hirer acknowledges that the Plant and Equipment is hired relying solely upon the Hirer's own skill and judgement.

21. GST

21.1 GST means the same as in the GST

21.2 GST Law means the same as "GST law" means in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

21.3 Terms defined in the GST Law have the same meaning in clauses concerning

21.4 Unless otherwise indicated, all amounts stated in this agreement are exclusive of

21.5 If GST is payable on a taxable supply made by a party under this Agreement (the Supplier) to another party (the Recipient), the Supplier may recover from the Recipient of the supply the amount of that GST in addition to any consideration otherwise provided.

21.6 The Recipient must make the payment of the GST amount referred to in clause 5 at the same time and in the same manner as it provides the value for the relevant supply subject to the Recipient receiving a valid tax invoice before the due date for payment.

21.7 The Supplier must issue an adjustment note to the Recipient as soon as it becomes aware of an adjustment event relating to the supply and must

refund to the Recipient any overpayment of the same.

22. Force Majeure

22.1 the Business is not liable for default or failure in performance of its obligations pursuant to these Terms and Conditions resulting directly or indirectly from acts of God, civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, the elements, strikes, labour disputes, shortage of suitable parts, components, materials including ink, chemicals and paper, labour or transportation or any other cause beyond the reasonable control of the Business.

23. Amendment

23.1 These Terms and Conditions may only be varied, supplemented or replaced by a document executed by the parties.

24. Entire agreement

24.1 These Terms and Conditions supersedes all prior terms and conditions, discussions, representations, warranties, agreements, arrangements or undertakings relating to these terms and conditions given to or provided by Seller or any other third party to Buyer or otherwise.

25. Severability

25.1 Any provision in these Terms and Conditions which is invalid or unenforceable is to be read down to the extent necessary so as that provision may be valid and enforceable. If that is not possible, such provision must be severed from these Terms and Conditions without affecting the validity or enforceability of the remaining provisions of these Terms and Conditions.

26. No Set Off

26.1 The Hirer shall not be entitled to set off against or deduct from the Total Fees any sums owed or claimed to be owed to the Business by the Hirer.

27. Waiver

27.1 The non-exercise of, or delay in exercising, any power or right of a party under these Terms and Conditions does not:

- (a) operate as a waiver of that power or right; or
- (b) preclude any other or further exercise of it or the exercise of any other power or right.

27.2 A power or right may only be waived in writing, signed by the party to be bound by the waiver.

28. Authority to enter into Agreement

28.1 The Hirer warrants that it has the power to enter into the Schedule and these Terms and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that the Schedule and

these Terms creates binding and valid legal obligations on it.

29. Provisions in respect of Trusts

29.1 The Hirer acknowledges and agrees in the event of the Hirer being a trust:

- (a) that all assets of the trust and the trustee(s) of the trust shall be held personally liable for any sum due to Business including costs, fees and interest pursuant to this agreement; and
- (b) that the trustee(s) have a right to be fully indemnified for their obligations under these Terms out of the property the trustee(s) hold on trust;
- (c) that Business's rights under these Terms have priority over the interest of the beneficiaries of the trust;
- (d) that the trustee(s) of the trust of the Hirer will exercise or hold for Business, the trustee(s) right of indemnity from the trust fund and the beneficiaries when Business asks the trustee(s) to do so, so the Hirer can pay Business any monies owned under these Terms.

30. Governing law and jurisdiction

30.1 These Terms and Conditions are governed by the laws of Queensland and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Courts of Queensland and the Commonwealth of Australia and all Courts of Appeal from such Courts.

31. Interpretation

31.1 This clause 26 specifies the rules for interpreting these Terms and Conditions, except where the context makes it clear that a rule is not intended to apply.

- (a) Headings are for convenience only and do not affect the interpretation of these Terms and Conditions.
- (b) A reference to:
 - (i) legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document (including these Terms and Conditions), or a provision of a document (including a provision of these Terms and Conditions), is to that document or provision as amended or replaced; and

- (iii) a clause, schedule or annexure is to a clause of, or schedule or annexure to, these Terms and Conditions.
- (c) A singular word includes the plural, and vice versa.
- (d) If a word is defined, another part of speech of that word has a corresponding meaning.
- (e) A reference to a clause or paragraph is a reference to a clause or paragraph of these Terms and Conditions.
- (f) where a term is capitalised in these Terms and Conditions but not defined, that term takes the meaning from the Schedule.