

1. Definitions and Interpretation

1.1. Definitions

In this Agreement, unless the context otherwise requires, the following definitions apply:

- 1.1.1. **Agreement** means these Terms and Conditions and each Hire Contract or request for the supply of Equipment accepted by Mega Hire;
- 1.1.2. **Business Day** means a day, not being a Saturday, Sunday or public holiday, on which banks are open for commercial business in Australia and in the place or places where performance of a relevant Obligation is or is required to take place;
- 1.1.3. **Commencement Date** means the date and/or time specified in the Hire Contract, or if not specified, the date and time that the Equipment is provided to the Customer;
- 1.1.4. **Credit Approved** means:
- 1.1.4.1. the Customer has completed Mega Hire's 'Application for 30 Day Credit Account'; and
 - 1.1.4.2. Mega Hire (in its sole discretion) has accepted that application;
- 1.1.5. **Customer** includes:
- 1.1.5.1. a person specified in the Hire Contract;
 - 1.1.5.2. a person who requests the hire of Equipment from Mega Hire; and/or
 - 1.1.5.3. a person who hires Equipment from Mega Hire;
- 1.1.6. **Damage Waiver Amount** means the amount set out in the Hire Contract, or otherwise notified by Mega Hire;
- 1.1.7. **Damage Waiver Excess** means the amount specified in the Hire Contract or if not specified:
- 1.1.7.1. for plant trailers and car trailers - \$1,000;
 - 1.1.7.2. for vehicles, earthmoving and access equipment – the greater of:
 - 1.1.7.2.1. \$2,000; and
 - 1.1.7.2.2. 10% of the value of the replacement cost of the Equipment; or
 - 1.1.7.3. for any other Equipment – the lesser of:
 - 1.1.7.3.1. \$700; and
 - 1.1.7.3.2. the replacement cost of the Equipment;
- 1.1.8. **Equipment** means the equipment specified in the Hire Contract or otherwise agreed between the Customer and Mega Hire;
- 1.1.9. **Hire Contract** means any order or request made by the Customer for the supply by Mega Hire of Equipment in any form and however described, and includes an oral request for the supply of Equipment, or an invoice, proposal or quote provided by Mega Hire at the Customer's request;
- 1.1.10. **Hire Fee** means the amount or rate specified in the Hire Contract as being the amount payable for the hire of the Equipment, or such other amount notified by Mega Hire to the Customer from time to time;
- 1.1.11. **Hire Period** means the period commencing on the Commencement Date and ending on:
- 1.1.11.1. the date and/or time specified in the Hire Contract as the end of the Hire Period; or
 - 1.1.11.2. such other time and/or date (whether earlier or later) as agreed by Mega Hire;
- 1.1.12. **Insurances** means all policies and contracts for insurance which are from time to time taken out or entered into pursuant to the provisions of clause 14 of this Agreement;
- 1.1.13. **Mega Hire** means Mega Hire Holdings Pty Ltd ACN 618 228 434;
- 1.1.14. **Personal Property** has the meaning given to that term in the PPSA;
- 1.1.15. **PPSI** means a 'Purchase Money Security Interest' as defined in section 14 of the PPSA;
- 1.1.16. **PPS Lease** has the meaning given to that term in the PPSA;
- 1.1.17. **PPSA** means the Personal Property Securities Act 2009 (Cth);
- 1.1.18. **PPSR** means the Personal Property Securities Register established pursuant to the PPSA;
- 1.1.19. **Remote Area** means any location that is more than 50 kilometres from the Mega Hire branch where the equipment is hired from;
- 1.1.20. **Secured Money** means all amounts that at any time, for any reason or circumstance in connection with this Agreement, are payable, are owing but not currently payable, are contingently owing, or remain unpaid, by the Customer to Mega Hire;
- 1.1.21. **Security Agreement** has the meaning given to that term in the PPSA; and
- 1.1.22. **Security Interest** means:
- 1.1.22.1. a security interest under section 12 of the PPSA;
 - 1.1.22.2. a right, interest or power reserved in or over an interest in any asset including any retention of title;
 - 1.1.22.3. a right, interest or power created or otherwise arising in or over any interest in any asset under a bill of sale, mortgage, charge, lien, pledge, trust or power; and
 - 1.1.22.4. a right, interest or power given by way of security for the payment of a debt or any other monetary obligation or the performance of any other obligation,
 - 1.1.22.5. and includes, but is not limited to, any agreement to grant or create any of the above.

1.2. Interpretation

In this Agreement, unless the context clearly indicates otherwise:

1.2.1. a reference to:

- 1.2.1.1. a clause, schedule, annexure or party is a reference to a clause, schedule, annexure or party to this Agreement;
- 1.2.1.2. a party includes its executors, personal representative, administrators, successors and assigns;
- 1.2.1.3. 'document', 'deed' or 'agreement' (including a reference to this Agreement) includes the document, deed or agreement as varied, amended, novated or supplemented and includes all recitals, schedules, appendices and exhibits to it;
- 1.2.1.4. legislation or a legislative provision includes any statutory modification or substitution of that legislation or provision and any subordinate legislation issued under that legislation or provision; and
- 1.2.1.5. 'person' includes a corporation, trust, partnership, unincorporated body, government, local authority or agency, or other entity, whether or not it constitutes a separate legal entity;

1.2.2. headings and any table of contents do not form part of this Agreement or affect its interpretation;

1.2.3. a word or phrase that is derived from or is another grammatical form of a defined word or phrase has corresponding meaning;

1.2.4. the meaning of general words is not limited by specific examples introduced by 'including', 'for example' or similar expressions;

1.2.5. the singular includes the plural and vice versa;

1.2.6. monetary amounts are expressed in Australian dollars;

1.2.7. a 'day', 'month' or 'year' means a calendar day, month or year;

1.2.8. all or part of this Agreement must not be construed against the interests of a party because that party or its lawyers were responsible for its drafting or because that party relies on a provision of this Agreement to protect itself; and

1.2.9. if any day on or by which a person must do something under this Agreement is not a Business Day, then the person must do it on or by the next Business Day.

1.3. Inconsistency

These Terms and Conditions and any Hire Contract will be read and interpreted as a single agreement but if there is any conflict or inconsistency between these Terms and Conditions and/or any Hire Agreement, the various parts of this Agreement will be interpreted and applied in the following order:

1.3.1. the relevant Hire Contract; then

1.3.2. these Terms and Conditions.

2. Formation of Contract

2.1.1. The entry into a Hire Contract, the delivery of Equipment by Mega Hire to the Customer, or the acceptance by the Customer of Equipment from Mega Hire, constitutes acceptance of these Terms and Conditions by the Customer.

2.1.2. These Terms and Conditions are subject to change at any time by Mega Hire. The Customer is deemed to have accepted any changes to these Term and Conditions immediately upon the earlier of:

2.1.2.1. the Customer being notified of any changes to these Terms and Conditions; or

2.1.2.2. the Customer entering into a new Hire Contract after the date on which Mega Hire amended these Terms and Conditions.

2.1.3. Quotations provided by Mega Hire will not be construed as an offer or obligation to supply in accordance with the quotation.

3. Hire of Equipment

3.1. Hire

Mega Hire agrees to hire the Equipment to the Customer and the Customer agrees to hire the Equipment from Mega Hire in accordance with the terms of this Agreement.

3.2. Possession

Subject to the Customer paying the Hire Fee, Mega Hire agrees to give possession of the Equipment to the Customer during the Hire Period.

3.3. Hire Period

3.3.1. The Customer agrees to hire the Equipment from the Commencement Date until the end of the Hire Period.

3.3.2. Upon request by the Customer, Mega Hire may in its sole discretion agree to reduce or extend the Hire Period.

3.4. Failure to return Equipment on time

3.4.1. Where the Customer fails to return possession and control of the Equipment at the end of the Hire Period:

3.4.1.1. the terms of this Agreement continue to apply until such time as the Equipment is returned to Mega Hire;

3.4.1.2. the Customer must continue to pay the Hire Fee until such time as the Equipment is returned to Mega Hire; and

3.4.1.3. Mega Hire reserves its rights to take action against the Customer for the Customer's failure to return the Equipment at the specified time.

3.4.2. If Mega Hire forms the reasonable opinion that the Customer is unlikely to return the Equipment, the Customer must immediately on demand pay the replacement costs of that Equipment as notified by Mega Hire.

4. Fees and Charges

4.1. Hire Fee

4.1.1. In consideration for Mega Hire providing the Equipment to the Customer for the Hire Period, the Customer agrees to pay the Hire Fee.

4.1.2. The Customer agrees to pay the Hire Fee for each day (or part thereof) in which the Customer has possession or control of the Equipment, even where that period of possession or control exceeds the agreed Hire Period.

4.1.3. Unless otherwise stated, daily rates quoted are for eight hours operation per day or 40hrs per week for a weekly hire. Use of Equipment over and above these limits will attract an increased Hire Fee at Mega Hire's discretion.

4.1.4. Where the Hire Contract specifies any minimum Hire Period, the Customer agrees to pay the Hire Fee for the entirety of that minimum Hire Period even where the Customer returns possession or control of the Equipment to Mega Hire before the end of that minimum Hire Period.

4.2. Credit Approved Customers

If the Customer is Credit Approved:

4.2.1. Mega Hire will invoice the Customer for the Hire Fee payable in each month (or part thereof) during the Hire Period; and

4.2.2. the Customer must pay each invoice within 30 days of the end of the month to which the invoice relates.

4.3. Other Customers

If the Customer is not Credit Approved:

4.3.1. Mega Hire will invoice the Customer on or before the commencement of the Hire Fee; and

4.3.2. the Customer must pay the Hire Fee in full prior to the commencement of the Hire Period.

Mega Hire is not obliged to provide the Equipment to the Customer until the Hire Fees have been paid in full in accordance with this clause 4.3.

4.4. Damage Waiver Amount

4.4.1. Subject to clause 4.4.2, the Customer agrees to pay the Damage Waiver Amount at the same time the Hire Fee is payable under clauses 4.2 or 4.3 (as the case may be).

4.4.2. The Customer is not required to pay the Damage Waiver Amount if:

4.4.2.1. the Customer is Credit Approved;

4.4.2.2. the Customer nominated on the 'Application for 30 Day Credit Account' not to pay the Damage Waiver Amount;

4.4.2.3. the Customer provides to Mega Hire proof that it has obtained insurance for the Equipment reinstatement costs (whichever applicable) for any loss, theft or damage to Mega Hire's Equipment based on the then current purchase price of the Equipment; and

4.4.2.4. Mega Hire agrees that the insurance is adequate, and that the Damage Waiver Fee is not payable by the Customer.

4.4.3. For the avoidance of doubt, the Customer may not pay a Damage Waiver Amount, and clause 16.3 does not apply to, any Equipment which Mega Hire specifies that a Damage Waiver Amount cannot be paid in respect of.

4.5. Delivery Fee

If the Customer requests that:

4.5.1. Mega Hire deliver the Equipment to the Customer on the Commencement Date; or

4.5.2. Mega Hire collect the Equipment from the Customer at the end of the Hire Period,

the Customer agrees to pay up-front prior to collection or delivery the delivery/collection fees set out in the Hire Contract or as otherwise notified by Mega Hire.

4.6. Cancellation Fee

Where a Customer makes a booking or reservation for Equipment and:

4.6.1. cancels that booking or reservation without reasonable notice (as determined by Mega Hire in its discretion); or

4.6.2. fails to collect or take delivery of the Equipment,

the Customer must pay a cancellation fee to Mega Hire (as determined by Mega Hire).

4.7. Deposits

4.7.1. Mega Hire may at its discretion require the Customer to pay a deposit prior to the delivery of any Equipment.

4.7.2. Where Mega Hire holds a deposit from the Customer, the deposit is security for the performance of the Customer's obligations in this Agreement and for the payment of all amounts owing by the Customer to Mega Hire, and not only in payment of the invoice price for the Goods or services to which the deposit relates.

4.7.3. The Customer is not entitled to require the return of the deposit until all such monies are paid and the Equipment returned to Mega Hire in accordance with this Agreement.

4.7.4. Mega Hire may at any time, and without notice, apply any deposit held from the Customer in satisfaction of any amounts owing by the Customer to Mega Hire.

4.8. Card Charges

The Customer irrevocably authorises Mega Hire to charge to the Customer's credit card or account (as provided to Mega Hire) the Hire Fee, the Damage Waiver Amount (if applicable) and other amounts owing by the Customer to Mega Hire under this Agreement.

4.9. Additional Charges

4.9.1. The Customer agrees that Mega Hire may charge to the Customer, and the Customer must pay to Mega Hire immediately on demand, the following additional charges:

- 4.9.1.1. if any Equipment requiring fuel is returned without a full fuel tank – all costs incurred by Mega Hire in refuelling the Equipment;
- 4.9.1.2. for any payment of a Hire Fee made by credit card, Mega Hire may charge the Customer a credit card surcharge;
- 4.9.1.3. delivery and/or collection fee(s) as set out in the Hire Contract;
- 4.9.1.4. costs associated with the extension of any Hire Period;
- 4.9.1.5. any fines or penalties charged to any person (including but not limited to Mega Hire and its employees, officers and shareholder), in any way connected with the use of the Equipment during the Hire Period, including penalties for any vehicles hired to the Customer where the Equipment or any part thereof is a vehicle and the parking fines, or traffic violations or penalties are incurred on the vehicle during the Hire Period, and even if the fines or penalties are received after the Hire Period;
- 4.9.1.6. any physical damage to the Equipment;
- 4.9.1.7. reasonable fees associated with any necessary cleaning on return of the Equipment;
- 4.9.1.8. consumables used in relation to the Equipment during the Hire Period;
- 4.9.1.9. any fines or penalties imposed by any regulatory agency arising out of use of the Equipment; and
- 4.9.1.10. parts/labour/materials required to modify Equipment at the Customer's request (if Mega Hire agrees to the modification) and any operation training requested by the Customer.

4.10. Damaged Equipment

4.10.1. Where the Equipment is returned to Mega Hire and Mega Hire determines that the Equipment:

- 4.10.1.1. has been damaged;
- 4.10.1.2. and/or is not in good working order; and/or
- 4.10.1.3. is not capable of being hired to a third party due to the condition of the Equipment upon its return by the Customer,

the Customer agrees to continue to pay to Mega Hire on demand the Hire Fee for each day from the date of return until such time as the Equipment is restored to good working order and is capable of being hired to a third party in the ordinary course of the Customer's Business.

4.10.2. Mega Hire must use reasonable endeavours to ensure that such Equipment is restored to good working order within a reasonable amount of time from its return.

4.11. Failure to Deliver

If Mega Hire is unable to deliver the Equipment to the location requested by the Customer due to:

- 4.11.1. access to that location being unsafe or being obstructed;
- 4.11.2. the location being closed, locked, inaccessible or unattended at the notified delivery time; or
- 4.11.3. Mega Hire forming the opinion that delivery of the equipment to the location would present a risk to the health and safety of any person, or would present a risk of damage to any property,

the Customer will be liable for the costs of attempted delivery (excluding in circumstances where the observed risk was beyond the control of the Customer);

4.12. Remote Hire Charges

4.12.1. Where the Equipment is at any time hired by the Customer to be used in a Remote Area, the Customer must pay additional charges for:

- 4.12.1.1. the delivery, servicing and repair of the Equipment; and
- 4.12.1.2. any other attendance at the Remote Area by Mega Hire,

(Remote Area Charges).

4.12.2. The Remote Area Charges will be calculated on a per kilometre rate travelled by Mega Hire staff to and from the Remote Area, plus labour costs per staff member per hour (including travelling times) at scheduled rates, plus direct travelling costs including all airfares and accommodation charges incurred by Mega Hire and its staff in connection with travel to and from the area.

4.13. Variation

Where Mega Hire provides written notice of any changes to the Hire Fee to the Customer, the Customer agrees to pay that increased Hire Fee on and from the date of notice from Mega Hire.

4.14. Interest

4.14.1. If the Customer fails to pay any amount when due, the Customer will pay to Mega Hire in addition to the amount due, interest on all outstanding amounts at a rate equal to the Queensland Law Society's standard contract default rate plus 2 percentage points.

4.14.2. The interest payable under clause 4.14.1:

4.14.2.1. accrues day to day from and including the due date for payment up to the actual date of payment; and

4.14.2.2. may be capitalised by Mega Hire at monthly intervals.

4.15. Costs

The Customer agrees to pay and indemnifies Mega Hire from and against all costs incurred by Mega Hire in recovering any unpaid amounts from the Customer.

5. Termination

5.1. Mega Hire's right to terminate

5.1.1. Mega Hire may terminate this Agreement at any time with immediate effect by giving notice to the Customer:

5.1.1.1. for any reason, or for no reason, as determined by Mega Hire in its sole discretion;

5.1.1.2. where Mega Hire reasonably forms the opinion that the Customer is insolvent or is unable to pay its debts as and when they fall due;

5.1.1.3. the Customer fails to pay the whole or any part of the Hire Fee when due;

5.1.1.4. the Customer breaches any term of this Agreement and fails to remedy the breach within 10 Business Days after receiving notice from Mega Hire requiring it to do so.

5.1.2. Termination of this Agreement does not affect any accrued rights or liabilities of either party, nor any provision of this Agreement which expressly, or by implication, is intended to continue in force after termination.

5.2. Return of Equipment on termination

Upon termination:

5.2.1. the Customer must immediately make the Equipment available for collection by Mega Hire, in good working order and free of damage; and

5.2.2. the Customer must immediately pay Mega Hire all monies owed by the Customer.

5.3. Entry into premises

If this Agreement is terminated for any reason, Mega Hire may take possession of the Equipment and may enter onto the Customer's premises in order to remove, gain access to or take possession of the Equipment.

6. Customer warranties

The Customer warrants that:

6.1.1. the Equipment will be used in accordance with the conditions outlined in the Hire Agreement and only for the purpose for which it was intended;

6.1.2. the Equipment will not be exposed to water, or operated or stored in any location where it might reasonably be exposed to water;

6.1.3. the Equipment will not be exposed to corrosive substances (including, but not limited to sodium chloride, sulfuric acid and hydrochloric acid), or operated or stored in any location where it might reasonably be exposed to corrosive substances;

6.1.4. the particulars in the Hire Agreement are correct in every respect and are not misleading in any way including, without limitation, by omission;

6.1.5. it holds a valid driver's licence, operating licence or other permit required to operate Equipment of the type hired;

6.1.6. the Equipment will not be used for any illegal purpose;

6.1.7. the Customer vehicle is suitable for towing the Equipment if required;

6.1.8. the Customer will not, without Mega Hire's prior written permission, tamper with, repair or modify the Equipment in any way, or permit another to do so;

6.1.9. the Customer agrees that the Equipment complies with its description, is in merchantable condition and is fit for the Customer's purpose; and

6.1.10. the Customer agrees that the Equipment has been received by the Customer in clean and good working order.

7. Use, Maintenance and Repairs

7.1. Use

7.1.1. The Customer must use the Equipment in a safe and appropriate manner and must comply in all respects with all applicable laws, regulations, requirements, rules and warning labels reasonably necessary for the operation of the Equipment.

7.1.2. The Customer must take all necessary steps to prevent injury occurring to persons or property as a result of the Customer's use of the Equipment, or due to the condition of the Equipment during the Hire Period.

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7.1.3. The Customer must comply with any operations manual which is:

- 7.1.3.1. provided to it by Mega Hire;
- 7.1.3.2. contained within the Equipment; or
- 7.1.3.3. reasonably accessible online by the Customer by conducting a google search for the Equipment.

7.2. Maintenance

7.2.1. The Customer at its own cost and expense must keep the Equipment in good repair, condition and working order and must furnish any and all parts, mechanisms and devices required to keep the Equipment in good mechanical working order.

7.2.2. The Customer must carry out daily maintenance of the Equipment, including daily checking of all fluids (fuel, oil, water, battery levels etc) and general tightening of any loose nuts, bolts, belts or fittings and lubrication of all grease points.

7.2.3. The Customer at its own cost and expense must keep the Equipment clean, sanitary and free from debris at all times during the Hire Period.

7.2.4. If the Equipment alerts or indicates to the Customer in any way that a service of the Equipment is required (such as going over the service interval noted in the operations manual or a service light is visible on the dashboard) the Customer must immediately notify Mega Hire of that service requirement.

7.3. Notice of Damage

If, during the Hire Period, the Equipment is damaged in any way:

- 7.3.1. the Customer must immediately cease using the Equipment;
- 7.3.2. the Customer must notify Mega Hire within 1 Business Day of the damage occurring; and
- 7.3.3. the Customer must not commence using the Equipment again until Mega Hire inspects the Equipment and confirms the Equipment is safe to use.

7.4. Consent to repair or modify Equipment

The Customer must obtain Mega Hire's written consent before making any modification, replacement, alteration or repair whatsoever to the Equipment.

7.5. Replacement Parts

7.5.1. The Customer undertakes to replace all parts which may from time to time become worn out, lost, stolen, compulsorily acquired, destroyed, seized, confiscated, damaged beyond repair or permanently rendered unfit for use by damage or obsolescence.

7.5.2. All replacement parts will be the property of Mega Hire. The Customer must ensure that all replacement parts are free and clear of any third party interests (including any Security Interest). The Customer must also ensure that all replacement

parts have a value and utility at least equal to the parts replaced, assuming such replaced parts were in the condition and repair required to be maintained by this Agreement.

7.5.3. In this clause 7.5, "parts" means any and all appliances, parts, instruments, appurtenances, accessories and other equipment of whatever nature constituting part of the Equipment, or which may from time to time be incorporated or installed in, or attached to, the Equipment.

7.6. Mega Hire may remedy

If the Customer fails to carry out the requirements under this clause 7, then it will be lawful but not obligatory for Mega Hire to enter upon or into the premises of the Customer with workmen and others and all necessary materials for the purpose of carrying out those requirements and ensuring that the value of the Equipment is not adversely affected.

8. Skip Bin and Mobile Skip Bin Terms

8.1. Application

This clause 8 applies where the Equipment hired by the Customer includes a skip bin or mobile skip bin.

8.2. Definitions

In this clause 8:

8.2.1. **Average Weight Band** means the average Weight Band that applies to the Waste after no less than 5 successive weighs;

8.2.2. **"COR Laws"** means the Heavy Vehicle National Law or its equivalent as enacted in each relevant state and territory of Australia in so far as they relate to "Chain of Responsibility";

8.2.3. **Disposal Costs** means the treatment and/or disposal costs imposed by the relevant facility treating and/or disposing of the Waste;

8.2.4. **Hazardous Waste** means hazardous waste as that term is defined in Annex III to the Basel Convention as well as was with explosive, flammable, poisonous, toxic, ecotoxic or infections characteristics. It may include, but is not limited to radioactive waste, paint, medical waste, asbestos, acids, liquids and fire ants. The cost of disposal of any Hazardous Waste is the liability of the Customer;

8.2.5. **Services** means the Waste removal services provided to the Customer by Mega Hire;

8.2.6. **Other Waste** means any waste other than the Waste;

8.2.7. **Volume** means the size of the bin multiplied by the number of the collections undertaken by Mega Hire during the Hire Period;

8.2.8. **Waste** means the waste specified in the Hire Contract;

8.2.9. **Weight Band** means the range in which the Customer has agreed that its Waste will weigh for each scheduled collection of Waste, as specified in the Hire Contract.

8.3. Waste

- 8.3.1. The Customer must notify Mega Hire immediately if it wants to change the Waste type, or increase the amount of Waste, in which case Mega Hire may adjust the Hire Fee.
- 8.3.2. The Volume of Services at the Commencement Date is an agreed minimum volume (**Agreed Minimum Volume**) which may only be reduced by the Customer during the Term if:
- 8.3.2.1. the Customer provides Mega Hire with 10 Business Days written notice; and
 - 8.3.2.2. the proposed reduction is no more than 50% of the Agreed Minimum Volume.
- 8.3.3. If the Customer requests a reduction in the Volume of Services under clause 8.3.2 that is more than 50% of the Agreed Minimum Volume, the Customer acknowledges and agrees that Mega Hire may adjust the Hire Charges in accordance with Mega Hire's standard rates.
- 8.3.4. The Customer may request additional unscheduled collections in relation to any Waste. If Mega Hire agrees to such request, the Customer will be charged for the unscheduled collection in accordance with the standard rates for collections.
- 8.3.5. In the event that either party notices that the Waste is contaminated with Other Waste, it must notify the other party of the contamination (and the nature of the Other Waste). Following such notification, Mega Hire may, at its discretion:
- 8.3.5.1. refuse to collect the contaminated Waste until the Customer removes the Other Waste; or
 - 8.3.5.2. collect the contaminated Waste and Other Waste and invoice the Customer for the transport and disposal of the contaminated Waste and Other Waste. The Customer will be responsible for the payment of any associated transportation and disposal fees in addition to Mega Hire's standard rates.
- 8.3.6. The Customer acknowledges and agrees that:
- 8.3.6.1. the Waste becomes the property of Mega Hire upon collection by Mega Hire;
 - 8.3.6.2. title and risk in any Other Waste remains with the Customer until it is disposed of at a waste facility;
 - 8.3.6.3. any Waste must not exceed a reasonable weight, as determined by Mega Hire;
 - 8.3.6.4. all Waste must be stored securely inside the Equipment; and
 - 8.3.6.5. it must not overfill the Equipment or place Waste or Other Waste beside, around or on top of the Equipment.

8.4. Health, Safety and Environment

- 8.4.1. The Customer warrants that its activities related to generation of the Waste are lawful.
- 8.4.2. The Customer must act, and use the Equipment, in accordance with any Safety Instruction Sheet provided by Mega Hire and/or with any direction from Mega Hire.
- 8.4.3. The Customer agrees to at all times exercise reasonable precautions to ensure that no person is exposed to risks to their health and/or safety in relation to the Equipment.
- 8.4.4. The Customer must provide Mega Hire with complete and accurate information:
- 8.4.4.1. in the required form under relevant laws or any licenses, certification, authorisations or approvals and required by Mega Hire to provide the Services;
 - 8.4.4.2. about the type, nature and amount of the Waste; and
 - 8.4.4.3. which is known or becomes known to the Customer at any point during the Hire Term which could impact on the environment or health and safety arising from the provision of the Services or could impact on Mega Hire's obligations under relevant laws in respect of the handling of the Waste.
- 8.4.5. The Customer and Mega Hire must comply with all legal and regulatory requirements relating to the Services, including any applicable COR Laws.
- 8.4.6. The Customer must promptly notify Mega Hire of any incident, injury, property damage or environmental damage which occurs in relation to the Equipment or the provision of the Services.
- 8.4.7. If Mega Hire agrees to handle or collect any Other Waste from the Customer, the provisions relating to the Waste in this clause 8.4 will also (to the extent applicable) apply to the Other Waste.

8.5. Increase of Hire Fee

The Hire Fee may be increased by Mega Hire in its sole discretion where:

- 8.5.1. there is any Other Waste included with the Waste;
- 8.5.2. the Customer's Average Weight Band exceeds the Weight Band;
- 8.5.3. the Waste contains recyclable material and/or if the Customer's Average Weight Band is less than the Weight Band that results in the loss of any applicable rebate to Mega Hire for such material; and
- 8.5.4. where there is any increase in the Disposal Costs of the Waste or Other Waste.

8.6. Additional Charges

The Customer must pay to Mega Hire immediately on demand:

- 8.6.1. any costs, fines or penalties associated with the overloading of skip bins and mobile skip bins or the loading of forbidden goods into skip bins or mobile skip bins; and
- 8.6.2. if Mega Hire attends the Customer's nominated site but is unable to collect the Waste, any Futility Fee set out in the Hire Contract.

9. Vehicle Hire Terms

9.1. Application

This clause 9 applies where the Equipment hired by the Customer includes a vehicle.

9.2. Definitions

In this clause 9:

- 9.2.1. **Accessory** means any items set out in the Hire Contract, including (as applicable) any global positioning system receiver or similar device or any child restraint, booster or similar equipment;
- 9.2.2. **Additional Driver Fee** means the fee payable by the Customer to Mega Hire for the addition of an Authorised Driver aside from the Customer;
- 9.2.3. **Authorised Driver** means the Customer and the Customer's:
- 9.2.3.1. spouse;
 - 9.2.3.2. employer, employee, colleague or partner where the customer discloses to Mega Hire that the Vehicle is rented for business purposes; and
 - 9.2.3.3. any person approved by Mega Hire and included in or added to the Agreement as an authorised driver.
- 9.2.4. **Fuel Service Amount** means the amount per litre as set out in the Rental Document and/or the cost of fuel per litre plus Mega Hire's reasonable costs associated with arranging to fill the Vehicle with fuel; and
- 9.2.5. **Vehicle** means the vehicle described on the Hire Contract (or any substitute vehicle), and includes its parts, components, keys, remote opening devices, any tag or device for paying electronic tolls, all Accessories and contents supplied by Mega Hire unless the context requires otherwise.

9.3. Driver

- 9.3.1. The Customer acknowledges and confirms that:
- 9.3.1.1. only it or an Authorised Driver will drive the Vehicle;
 - 9.3.1.2. it and any Authorised Driver holds a current and valid Australian driver's licence (not being a learner's licence or provisional licence) to drive the Vehicle and have been licensed to drive vehicles of the same category as the Vehicle for at least 12 consecutive months immediately prior to signing the Rental Document;

- 9.3.1.3. it is responsible for the acts and omissions of each Authorised Driver and any other person it or an Authorised Driver allows to drive the Vehicle; and
- 9.3.1.4. neither it nor any unauthorised driver will have the benefit of the Loss Damage Waiver option or Excess Reduction option (if accepted or included in the rate) if an unauthorised driver drives the Vehicle and that unauthorised driver causes loss of or damage to the Vehicle or damage to the property of a third person.

9.3.2. The Customer agrees:

- 9.3.2.1. to pay the Additional Driver Fee for any Authorised Driver added to this Agreement; and
- 9.3.2.2. to provide Mega Hire with a copy of a current and valid Australian driver's licence for each Authorised Driver confirming that the Authorised Driver is authorised to drive the Vehicle at the time the Rental Document is signed.

9.4. Where you can and cannot drive the Vehicle

- 9.4.1. The Customer and any Authorised Driver must only use the Vehicle on roads that are properly formed and constructed as a sealed, metalled or gravel road (unless the Vehicle is a 4 wheel drive Vehicle).
- 9.4.2. The Customer and any Authorised Driver must not, without the prior written consent of Mega Hire, drive or take the Vehicle:
- 9.4.2.1. to Gove Peninsula or any island off the coast of Australia (including, but not limited to, Bruny Island, Fraser Island, Groote Eylandt, or the Tiwi Islands);
 - 9.4.2.2. to Kangaroo Island; however, if so authorised, the Customer and any Authorised Driver must not drive the Vehicle between dusk and dawn outside the town limits;
 - 9.4.2.3. into or out of the Northern Territory, Western Australia or Tasmania;
 - 9.4.2.4. in Queensland:
 - 9.4.2.4.1. on Highway No. 27: beyond Chillagoe in a Westerly direction;
 - 9.4.2.4.2. on Highway No. 1: beyond Normanton in a Southerly direction and no further North than Karumba;
 - 9.4.2.4.3. if the Vehicle is a passenger vehicle or truck, beyond Cooktown to the North or Lakeland to the West and no further North than Cape Tribulation on the Coast Road; or
 - 9.4.2.4.4. on the Coast Road from Helenvale to Cape Tribulation, or from Laura to Lakeland, unless the Vehicle is a 4 wheel drive vehicle;

- 9.4.2.5. in the snow (at any time and anywhere (including Tasmania));
- 9.4.2.6. above the snow line in:
 - 9.4.2.6.1. New South Wales (being Jindabyne); or
 - 9.4.2.6.2. Victoria (being Bright), from the beginning of June until the end of September;
- 9.4.2.7. on beaches or through streams, dams, rivers or flood waters.

9.5. Use of the Vehicle

9.5.1. The Customer and any Authorised Driver must:

- 9.5.1.1. not use, or allow the Vehicle to be used, for any illegal purpose, race, contest or performance test of any kind;
- 9.5.1.2. not, without Mega Hire's prior written consent, use, or allow the Vehicle to be used, to push anything;
- 9.5.1.3. not carry, or allow the Vehicle to carry, more passengers than may be properly accommodated by the seat belt restraints provided in the Vehicle and must ensure that each passenger in the Vehicle appropriately uses the seat belt restraint;
- 9.5.1.4. not be under the influence of alcohol, drugs or have a blood alcohol content that exceeds the legal limit in the State or Territory in which the Vehicle is driven;
- 9.5.1.5. not, without Mega Hire's prior written consent, use or allow the Vehicle to be used to carry passengers for payment of any kind;
- 9.5.1.6. not use the Vehicle when it is damaged or unsafe;
- 9.5.1.7. provided it is reasonable in the circumstances to do so, not drive the Vehicle after an accident or hitting an object (including an animal) until the Customer has received Mega Hire's approval to do so;
- 9.5.1.8. not use the Vehicle to transport goods, except in compliance with all necessary approvals, permits, licences and government requirements (to be obtained at the Customer's cost) and in accordance with the Manufacturer's Specifications and Mega Hire's recommendations;
- 9.5.1.9. not smoke within the Vehicle or allow any other person to smoke within the Vehicle at any time;
- 9.5.1.10. not, without Mega Hire's prior written consent, use the Vehicle to carry any inflammable substance which has a flash point under 22.8°C or any other explosive or corrosive substances;
- 9.5.1.11. not use the Vehicle to prepare, commit or assist in the preparation or commission of any Terrorist Act;
- 9.5.1.12. not use the Vehicle for the conveyance or towing of any load unless it has obtained Mega Hire's prior written consent and where it has obtained consent it must ensure that:

- 9.5.1.12.1. the load is correctly loaded and secured and not in excess of that for which the Vehicle was manufactured;
- 9.5.1.12.2. that for towing, the Vehicle is fitted with a tow bar; and
- 9.5.1.12.3. the conveyance or towing is undertaken in accordance with the Manufacturer's Specifications and Mega Hire's recommendations; and
- 9.5.1.13. not use the Vehicle in contravention of any law.

9.6. Fuel

- 9.6.1. The Customer must only fill the Vehicle with the fuel type specified in the Manufacturer's Specifications.
- 9.6.2. If the Customer returns the Vehicle with less fuel than it had when the Customer rented it, the Customer must pay Mega Hire the Fuel Service Amount.
- 9.6.3. Mega Hire will waive the Fuel Service Amount if the Customer presents Mega Hire with a receipt evidencing that it has refuelled the Vehicle and the Vehicle has the same level of fuel that the Vehicle had when the Customer rented it, as determined reasonably by Mega Hire's visual, electronic or other inspection of the Vehicle's fuel gauge.
- 9.6.4. For the purpose of this clause 9.6:
 - 9.6.4.1. the fuel level of the Vehicle at the time the Customer rented it and at the time the Customer returns it to Mega Hire is determined by visual inspection by Mega Hire of the Vehicle's fuel gauge, and the kilometres driven; and
 - 9.6.4.2. if a Fuel Service Amount is charged by Mega Hire, that amount will be based on the number of litres of fuel actually put into the Vehicle to return it to the level of fuel that the Vehicle had when the Customer rented it.

10. Ownership

10.1. Mega Hire retains title to the Equipment

The parties agree that:

- 10.1.1. Mega Hire is and remains the sole and exclusive owner of the Equipment; and
- 10.1.2. the Customer will have no right, title or interest in the Equipment except as expressly set forth in this Agreement, notwithstanding, for example:
 - 10.1.2.1. the delivery of the Equipment to the Customer's premises; and
 - 10.1.2.2. any temporary attachment of the Equipment to any land or buildings to facilitate use of the Equipment.

10.2. Personal Property

10.2.1. The Customer must ensure that the Equipment remains Personal Property at all times during the Hire Period.

10.2.2. Except where expressly authorised by Mega Hire, the Customer must not permit:

- 10.2.2.1. the Equipment to be sold or otherwise disposed of; or
- 10.2.2.2. any Security Interest to be created over any items of Equipment.

11. Installation and Location of Equipment

11.1. No unauthorised removal

The Customer must not remove any of the Equipment from its premises without Mega Hire's prior written consent, except where:

- 11.1.1. required to effect repairs on the Equipment; or
- 11.1.2. such removal from its premises is in the ordinary course of the Customer's business.

11.2. Mega Hire's rights must prevail

Notwithstanding any other provision in this Agreement, if the Equipment has become affixed to any land or premises in a manner that Mega Hire considers has prejudiced or jeopardised or may prejudice or jeopardise Mega Hire's rights in or title to the Equipment, the Customer must take any action that Mega Hire requests to preserve Mega Hire's rights in and title to the Equipment.

12. Inspection of Equipment

12.1. Customer's inspection

12.1.1. The Customer acknowledges and confirms that:

- 12.1.1.1. it has inspected the Equipment prior to the execution of this Agreement; and
- 12.1.1.2. it is satisfied with the condition, quality, safety and roadworthiness of the Equipment and that the Equipment is fit for the Customer's purposes.

12.1.2. The Customer agrees to accept the Equipment, as is and where is, subject to the terms of this Agreement.

12.2. Mega Hire's inspection during Hire Period

During the Hire Period, the Customer must make the Equipment available for inspection by Mega Hire upon Mega Hire giving 1 Business Days written notice to the Customer (unless a shorter period is agreed between the parties).

13. PPSA

13.1. Security interest granted by the Customer

The Customer acknowledges and agrees that to the extent that this Agreement is a PPS Lease, the Customer hereby grants Mega Hire a Security Interest which is a PMSI over the Equipment to secure payment of the Hire Fee.

13.2. Terms of Security Interest

13.2.1. The Customer consents to Mega Hire affecting a registration on the PPSR (in any manner Mega Hire considers appropriate) in relation to any PMSI arising under or in connection with this Agreement being a PPS Lease or any document entered into pursuant to it at any time and the Customer must provide all assistance required by Mega Hire to facilitate this.

13.2.2. The Customer must do anything Mega Hire requests the Customer to do to perfect a PMSI granted (or deemed to be granted) under this Agreement, or any document entered into pursuant to those documents at any time.

13.2.3. If Chapter 4 of the PPSA applies to the enforcement of a Security Interest arising under or in connection with this Agreement or any document entered into pursuant to it, the Customer agrees:

13.2.3.1. to the extent that section 115(1) of the PPSA allows, the following provisions of the PPSA will not apply to the enforcement of that Security Interest:

- 13.2.3.1.1. section 95, to the extent that it requires Mega Hire to give notice to the Customer;
- 13.2.3.1.2. section 96;
- 13.2.3.1.3. section 121(4);
- 13.2.3.1.4. section 125;
- 13.2.3.1.5. section 130, to the extent that it requires Mega Hire to give notice to the Customer;
- 13.2.3.1.6. paragraph 132(3)(d);
- 13.2.3.1.7. subsection 132(4);
- 13.2.3.1.8. section 142; and
- 13.2.3.1.9. section 143;

13.2.3.2. to the extent that section 115(7) of the PPSA allows, the following provisions of the PPSA will not apply to the enforcement of that Security Interest:

- 13.2.3.2.1. section 127;
- 13.2.3.2.2. section 129(2) and (3);
- 13.2.3.2.3. section 132;
- 13.2.3.2.4. section 134(2);
- 13.2.3.2.5. section 135;
- 13.2.3.2.6. section 136(3), (4), and (5); and
- 13.2.3.2.7. section 137.

13.2.4. If the Customer makes payment to Mega Hire at any time whether in connection with this Agreement, or any document entered into pursuant to this Agreement at any time or

otherwise, Mega Hire may, at its absolute discretion, apply that payment in any manner it sees fit.

13.2.5. The Customer must immediately notify Mega Hire of any changes to its name or address (as specified in this Agreement or any document related to it).

13.2.6. The Customer must do all things which Mega Hire asks and reasonably considers necessary for the purposes of:

13.2.6.1. granting Mega Hire a Security Interest in the Equipment;

13.2.6.2. ensuring that the Security Interest is enforceable, perfected (including where possible, by control in addition to registration) and otherwise effective;

13.2.6.3. enabling Mega Hire to apply for any registration, or give any notification, in connection with the Security so that the Security Interest has the priority required by Mega Hire; or

13.2.6.4. enabling Mega Hire to exercise rights in connection with the Security Interest.

13.2.7. The Customer must supply to Mega Hire the correct serial numbers of Personal Property that may, or must, be recorded on the PPSR by serial number, as required by the PPSA.

13.2.8. The Customer appoints Mega Hire as its agent and attorney from the Commencement Date. Mega Hire may in the name of the Customer and on its behalf do anything necessary or desirable in the opinion of Mega Hire including to:

13.2.8.1. give full effect to this Agreement;

13.2.8.2. better secure the Equipment to Mega Hire in a manner consistent with this Agreement; or

13.2.8.3. assist in the execution or exercise of any power.

13.2.9. If Mega Hire requests, the Customer must supply to Mega Hire any information about or documents affecting:

13.2.9.1. the Equipment; and

13.2.9.2. this Agreement or any document relating to this Agreement.

13.3. Disclosure

13.3.1. Each party agrees not to disclose information of the kind mentioned in section 275(1) of the PPSA, except in the circumstances required by sections 275(7)(b) to (e) of the PPSA. The Customer agrees that it will only authorise the disclosure of information under section 275(7)(c) or request information under section 275(7)(d), if Mega Hire approves.

13.3.2. Nothing in clause 13.3.1 will prevent any disclosure by Mega Hire that it believes is necessary to comply with its other obligations under the PPSA or under any other applicable law.

13.3.3. To the extent that it is not inconsistent with clauses 13.3.1 or 13.3.2 above constituting a "confidentiality agreement" for the purposes of section 275(6)(a) of the PPSA, the Customer

agrees that Mega Hire may disclose information of the kind mentioned in section 275(1) of the PPSA to the extent that Mega Hire is not doing so in response to a request by an "interested person" (as defined in section 275(9) of the PPSA) pursuant to section 275(1) of the PPSA.

14. Insurance

14.1. Fire and usual risks

Unless the Customer pays the Damage Waiver Fee, the Customer must maintain insurance over the Equipment to the extent it is insurable against theft, other usual risks (including third party personal and property liability but excluding fire) and any other risk Mega Hire reasonably requires for the duration of the Hire Period.

14.2. Level of insurance

14.2.1. The insurance under clause 14.1 must be for the full insurable value of the Equipment.

14.2.2. Each policy must be taken out with a reputable insurer approved by Mega Hire.

14.2.3. The Customer must provide Mega Hire with an original policy or certificate evidencing such insurance upon request.

14.3. Obligations relating to cover

The Customer must ensure that:

14.3.1. the insurance cover is not reduced or cancelled (and the Customer must notify Mega Hire if it is or could be);

14.3.2. nothing happens that could permit an insurer to reduce or decline a claim (and the Customer must notify Mega Hire if anything happens which would permit an insurer to do this); and

14.3.3. it provides such disclosure to the insurer as required by the policy and by-law.

14.4. Notifications relating to claims

The Customer must notify Mega Hire if:

14.4.1. an event occurs which gives rise or may give rise to an insurance claim; or

14.4.2. an insurance claim is refused either in part or in full.

14.5. Use of claim proceeds

14.5.1. The Customer must ensure that proceeds from an insurance claim are:

14.5.1.1. used to reinstate the Equipment; or

14.5.1.2. paid to Mega Hire.

14.5.2. The Customer acknowledges and agrees that Mega Hire is entitled to receive all insurance proceeds as a result of any loss or damage to the Equipment.

14.5.3. In the event that Mega Hire directs the Customer to use or hold any insurance proceeds in a particular way, the Customer must use or hold them as directed by Mega Hire.

14.6. Mega Hire's right to take over claim

Mega Hire may by written notice to the Customer take over the Customer's rights to make, pursue or settle an insurance claim. Mega Hire may exercise those rights in any manner that it so chooses.

15. No Warranties

To the fullest extent permitted by law, Mega Hire disclaims all and any warranties in respect of the Equipment whether express or implied.

16. Loss and Damage

16.1. Risk of loss and damage

Subject to clause 16.3, the Customer assumes and bears the entire risk of loss and damage to the Equipment from any and every cause whatsoever.

16.2. Event of loss or damage

In the event of loss or damage of any kind whatever to the Equipment, the Customer must, at Mega Hire's option:

- 16.2.1. place the same in good repair, condition and working order; or
- 16.2.2. replace the same with like equipment in good repair, condition and working order; or
- 16.2.3. pay to Mega Hire the replacement cost of the Equipment.

16.3. Damage Waiver

16.3.1. If:

- 16.3.1.1. the Customer has paid the Damage Waiver Amount; and
- 16.3.1.2. the Equipment is damaged or lost due to fire, storm, collision, accident, theft or burglary; and
- 16.3.1.3. the Customer has paid the Damage Waiver Excess to Mega Hire; and
- 16.3.1.4. in the case of theft or burglary – the customer has submitted to Mega Hire a written police report; and
- 16.3.1.5. during the Hire Period, Mega Hire is satisfied that the Customer has taken adequate precautions to protect the Equipment, including that the Equipment was reasonably locked and secured,

then the Customer will not be liable to Mega Hire under this clause 16.

16.3.2. Expressly excluded from this clause 16.3 are loss and/or damage directly or indirectly caused by any:

- 16.3.2.1. any of the warranties in clause 6 being untrue;
- 16.3.2.2. the Customer breaching any of its obligations under clause 7;
- 16.3.2.3. negligent act or omission of the Customer;
- 16.3.2.4. loss or damage caused by the misuse, abuse or overloading of the Equipment of any components thereof;
- 16.3.2.5. damage caused to tyres and tubes by blow out, bruises, cuts or other causes inherent in the use of the Equipment;
- 16.3.2.6. glass breakage;
- 16.3.2.7. loss or damage relating to the lack of lubrication or other normal servicing of the Equipment;
- 16.3.2.8. loss or damage to the Equipment whilst being loaded, unloaded, transported on or over land, water, wharves, bridges or vessels of any kind;
- 16.3.2.9. loss or damage to motors or other electrical appliances or devices caused by overloading or artificial electrical current, including use of underrated or excessive length of extension leads on electrical powered tools and machines;
- 16.3.2.10. damage caused by exposure to any corrosive or caustic substances, such as cyanide, salt water and/or acid;
- 16.3.2.11. theft of the Equipment (excluding where the Equipment has been reasonably locked and secured);
- 16.3.2.12. loss or damage to Equipment during transport (excluding where transported by Mega Hire). This sub-clause 16.3.2.12 shall not apply to trailers, toilet trailers, caravans or trailerised Equipment;
- 16.3.2.13. loss or damage from use in violation of any statutory laws and regulations;
- 16.3.2.14. loss or damage of tools, accessories, grease guns, hoses and similar, electric cords, welding cable, oxy and acetylene bottles, pneumatic tools, steels, shoring equipment, testing plugs, confined space equipment and other similar accessories; and
- 16.3.2.15. damage caused by collision with a bridge, carpark, awning, gutter, tree or any other overhead structure or object due to insufficient clearance.

17. Indemnity

17.1. The Customer agrees to indemnify and holds harmless Mega Hire against any and all claims, actions, suits, proceedings, costs, expenses, damages and liabilities, arising out of, connected with, or resulting from the use of misuse of the Equipment by the Customer or any other person during the Hire Period.

17.1.2. Mega Hire may enforce these rights of indemnity at any time including before Mega Hire has incurred the liability, loss or cost.

18. Taxes

The Customer must pay all applicable GST, stamp duties, tolls, licence fees, registration fees, fines, penalties, levies, freight or other charges or imposes imposts arising from the use or operation of the Equipment as and when they fall due.

19. Liability of Mega Hire

19.1.1. The liability of Mega Hire for any breach of the Agreement or any related order or contract and/or in tort (including negligence) is limited at Mega Hire's option to the Hire Fee paid by the Client to Mega Hire.

19.1.2. To the fullest extent permitted by law, Mega Hire shall not be liable to the Customer for:

19.1.2.1. any loss of profit, loss of goodwill, loss of opportunity and/or any special, punitive, indirect or consequential loss or damage incurred by the Customer or any other person whether directly or indirectly related to this Agreement;

19.1.2.2. any loss or damage caused to the Customer by reason of any delay, lack of supply, industrial action, fire, flood, riot, war, embargo, civil commotion, act of God or any other event which is beyond Mega Hire's control;

19.1.2.3. any loss, damage or claim of any kind arising as a result of the Customer and/or any other person sustaining injury, ailment or death as a result of the Customer's use, maintenance, repair, storage or transport of the Equipment whether directly or indirectly related to this Agreement;

19.1.2.4. any loss, damage or claim of any kind whatsoever (including, without limitation, any liability for direct, indirect, special or consequential loss or damage) in contract, tort, statute or in any other way for injury, sustained by the Customer and/or any other person;

19.1.2.5. any loss, damage or claim arising from or in connection with this Agreement and/or the Goods and/or Services provided by Mega Hire; and

19.1.2.6. Mega Hire shall not be liable to any third party for any claim whatsoever arising out of or in connection with the Good and/or Services, and the Customer indemnifies Mega Hire accordingly.

19.1.3. To the fullest extent permitted by law, all warranties implied by statute or otherwise are excluded.

20. Additional Requirements

The Customer must, at the request of Mega Hire, provide such further information as is required by Mega Hire, whether for the purpose of assessing the Customer's creditworthiness or otherwise.

21. GST

21.1. Definitions

Any terms capitalised in clause 21 and not already defined in clause 1.1 have the same meaning given to those terms in the GST Act.

21.2. GST exclusive

The consideration for a Supply made under or in connection with this Agreement does not include GST (unless expressly stated otherwise).

21.3. Taxable Supply

If a Supply made under or in connection with this Agreement is a Taxable Supply, then at or before the time the consideration for the Supply is payable Mega Hire must give the Recipient a Tax Invoice for the Supply.

22. Additional Documents

22.1.1. The Customer must, at the request of Mega Hire, provide such further information as is required by Mega Hire, whether for the purpose of assessing the Customer's creditworthiness or otherwise.

22.1.2. The Customer must execute and deliver to Mega Hire any documents that Mega Hire deems necessary or desirable to protect the interests of Mega Hire in the Equipment.

23. Cross Hire

23.1.1. The Customer must not sub-lease or cross-hire the Equipment to any other person without Mega Hire's prior written consent.

23.1.2. Where the Equipment is sub-leased or cross-hired to any person:

23.1.2.1. the Customer remains principally liable to Mega Hire under this Agreement; and

23.1.2.2. the Customer must procure that the relevant sub-lessee or cross-hiree agrees to be bound by the terms no less favourable than the terms of this Agreement.

24. Force Majeure

24.1.1. Subject to clause 24.1.2, neither the Customer or Mega Hire will be responsible for any delays in delivery, installation or collection of the Equipment 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

24.1.2. Nothing in clause 24.1.1 will limit or exclude the Customer responsibilities and liabilities under the Hire Agreement for Equipment that is lost, stolen, or damaged during the Hire Period, or has broken down or become unsafe to use as a result of the Customer conduct or negligence or breach of the Hire Agreement

25. General

25.1. Entire Agreement

This Agreement constitutes the entire agreement of the parties as to its subject matter and supersedes and cancels all prior arrangements, understandings and negotiations between the parties and all representations or warranties made by a party unless repeated in this Agreement.

25.2. Costs

Each party will bear its own legal costs and disbursements of and incidental to the preparation and execution of this Agreement.

25.3. Waiver

No failure to exercise or delay in exercising any right, power or remedy under this Agreement operates as a waiver. A single or partial exercise or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

25.4. No merger

The covenants, conditions, provisions and warranties contained in this Agreement do not merge or terminate upon a termination of this Agreement, but to the extent they are capable of having effect, remain in full force and effect.

25.5. Notice

25.5.1. A notice, demand, consent, approval, request or other communication (**notice**) to be given under this Agreement:

- 25.5.1.1. must be in writing in English;
- 25.5.1.2. must be delivered by a method contemplated by the table in this clause 25.5; and
- 25.5.1.3. shall be duly received at the time and on the day set out in the table in this clause 25.5.

Delivery Method	Duly Received
Personal delivery to the party to whom the notice is addressed.	When it is personally delivered.
Sent by registered post or express post.	On the 3 rd Business Day after posting by registered post. On the next Business Day following express post.
Sent by courier.	On the day that the courier records delivery of any notice sent by courier.
Transmission by email.	On the day of transmission by email.

25.5.2. Where any notice is personally delivered or transmitted by facsimile or email after 5:00pm on any day, it shall be treated as having been duly given and received at 9:00am on the next Business Day.

25.6. Governing law

- 25.6.1. This Agreement is made under and will be governed by the laws of Queensland.
- 25.6.2. Each party irrevocably submits to the exclusive jurisdiction of the courts of Queensland.

25.7. Assignment

No party may assign its rights or obligations under this Agreement without the prior written consent of each other party, which consent may be given or withheld, or given on conditions, in the absolute discretion of each other party.

25.8. Severability

This Agreement will, to the extent possible, be interpreted and construed so as not to be invalid, illegal or unenforceable in any respect. If a provision is found to be illegal, invalid or unenforceable:

- 25.8.1. that provision will, be read down to the extent that it may be necessary to ensure that it is not illegal, invalid or unenforceable and as may be reasonable in the circumstances to give it a valid operation; or
- 25.8.2. if the provision or part of it cannot effectively be read down, that provision or part of it will be deemed to be void and severable and the remaining provisions of this Agreement will not in any way be affected or impaired and will continue regardless of that illegality, invalidity or unenforceability.

25.9. Amendments in writing

No amendment to this Agreement has any force unless it is in writing and signed by all of the parties to this Agreement.

25.10. Counterparts and exchange

This Agreement is validly executed if executed in one or more counterparts and may be exchanged electronically by email.