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PIRIE HIRE TERMS AND CONDITIONS

These Hire Contract Conditions apply to the exclusion of any other conditions proposed by the Customer, unless otherwise agreed by Pirie Hire and the Customer in writing. Pirie Hire agrees to hire Equipment to the Customer on terms set out in this document. If the Customer wishes to hire Equipment the Customer must complete and sign (or otherwise accept in the manner required by Pirie Hire) a Hire Schedule and such other documents as Pirie Hire may require. Each Hire Schedule is not a separate contract but forms a part of this hire agreement between Pirie Hire and the Customer, together with any credit application, guarantee and indemnity or other contractual documents. The customer agrees to receive hire schedules and all associated documentation by electronic means. Pirie Hire may in its absolute discretion decline to hire Equipment to the Customer at any time if it has reasonable cause to do so.

Amendment: These Hire Contract Conditions may be changed by Pirie Hire from time to time by Pirie Hire giving notice of the amendment to the Customer. Notice is deemed given when Pirie Hire does any of the following: (a) sends notice of the amendment to the Customer at any address (including an email address) supplied by the Customer; (b) publishes the amended terms on its website www.Pirie Hire.com.au; or (c) displays the amended terms at premises from which Pirie Hire conducts hire operations.

Changes to these hire Contract Conditions will only apply to Hire Schedules entered into after the change occurs.

1. Interpretation of Words in this Contract;

Commencement – The date when the Customer takes possession of the Equipment. **Equipment** – Means any kind of equipment, vehicles or tools including but not limited to the following kinds of goods or goods suitable for the following kinds of uses: cleaning; cooling and/or heating; entertainment; waste management; landscaping and gardening; plumbing; fencing and covering; lifting; access; air and air compression; pumping and fluid management; welding; compaction; concrete & masonry; flooring; earthmoving; floor care and cleaning, generation and power distribution; ground equipment and shoring; ladders and scaffolding; propping; lighting; materials handling; offshore pumps; safety equipment; storage; site accommodation including portable buildings and portable toilets; traffic management including road barriers; signage; vehicles including trucks, vans and trailers, and includes tools and parts and accessories for any of the foregoing.

Hire Charge – The amounts shown on the Hire Schedule payable by the Customer to hire the Equipment.

Hire Period – Means from Commencement until the end of the period shown on the Hire Schedule. The Hire Period may only be extended for one or more definite periods and in each case this can only be done if the Customer requests it and if Pirie Hire agrees. Pirie Hire may issue and require the Customer to sign an amended Hire Schedule for any extension of the Hire Period.

Hire Schedule – Means a document which Pirie Hire may require the Customer to sign (or accept in a way Pirie Hire requires) including particulars of the Equipment and the Hire Period and such other information as Pirie Hire may decide to require.

Pirie Hire – The company or companies listed on the Hire Schedule.

Kilometre Charge – The amount payable for the kilometres that a Motor Vehicle has, in the reasonable opinion of Pirie Hire, travelled during the Hire Period.

Motor Vehicle – A truck or utility but not any other equipment such as a scissor lift, trailer or bobcat.

Remote Area – Any location which is more the 50 kilometres from the Pirie Hire branch from where the Equipment is hired.



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2. Pirie Hire Obligations Pirie Hire will:

- 2.1 Allow the Customer to take and use the Equipment for the Hire Period;
- 2.2 Provide the Equipment to the Customer clean and in good working order;
- 2.3 Collect the Equipment within 5 days of being requested to do so by the Customer and issuing to the Customer a Customer Pick Up Number. **NOTE TO CUSTOMER: You must return the Equipment at your expense when due back unless you obtain a Customer Pick Up Number from Pirie Hire.**

3. Hirer obligations:

- 3.1 You must, with respect to the Equipment:
 - a. operate the Equipment safely, in accordance with all applicable Laws and our reasonable directions, only for its intended use and in accordance with any manufacturer's instruction (whether supplied to you by us or posted on the Equipment). We make no representations and give no guarantee or warranty that the equipment is suitable for your intended purpose.
 - b. satisfy yourself at the Commencement Date that the Equipment is suitable for your purposes.
 - c. ensure that the Site and any locations where the Equipment is operated comply with any applicable health, safety, and environment Laws (including by obtaining any and all licences or accreditations required to operate the Equipment). This also includes wearing suitable clothing and personal protective equipment when operating the equipment as required or recommended by us or the manufacturer.
 - d. take out and maintain throughout the Hire Period any insurance required by applicable Law or as reasonably required by us.
 - e. ensure that all persons operating or erecting the Equipment are suitably trained, licensed (including, where necessary, hold a current certificate of competency) and experienced and properly instructed in its safe and proper use, and provide evidence of the same to us upon request;
 - f. keep the Equipment in your own possession and control and ensure the Equipment is stored securely at the Site when not in use.
 - g. only permit the Equipment to be used for the purpose for which it was designed, in suitable terrain and in a manner, which has regard to the capacity, capabilities and limitations of the Equipment.
 - h. keep it clean, to allow for safe and efficient operation.
 - i. maintain the Equipment in good working condition, including performing daily checks on the condition of the batteries, oil and water levels and belts and tyres.
 - j. only use fuel and Consumables on the Equipment that has been approved by us or recommended by the manufacturer.



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- k. Use best endeavours to ensure that the equipment is not contaminated with any hazardous substances (including asbestos). You must advise us of any risks or hazardous substance contamination to the equipment as soon as they become apparent.
- l. if you transport the Equipment (including on a trailer), comply with all applicable Laws relating to transport or towing; and
- m. return of the Equipment to us on expiry of the Hire Period (as set out in the Quotation or agreed with us) in the same clean condition and good working order as it was when you received it, excluding fair wear and tear.

3.2 You must not, with respect to the Equipment:

- n. give or encumber, or permit any person to take an interest in, or any form of security over, the Equipment and must do all things reasonably necessary to protect and make known our interest in the Equipment.
- o. alter or make any additions to the Equipment including but without limitation altering, make any additions to, defacing or erasing any identifying mark, logo, branding, signage, plate or number on or in the Equipment or in any other manner interfere with the Equipment;
- p. disable, interfere, or tamper with any electronic monitoring systems attached to the Equipment.
- q. alter, modify, tamper with, or damage the Equipment without our prior written consent.
- r. part with possession or control of the Equipment without our prior written consent or permit the Equipment or any part thereof to be used by any other party for any other work.
- s. remove or permit to be removed the Equipment from the Site, without our prior written consent.
- t. exceed the recommended or permitted load limits, speed, or capacity of any Equipment.
- u. permit any person to operate the Equipment while under the influence of drugs or alcohol, or to smoke in any Vehicle.
- v. Permit any person to carry illegal, prohibited, or dangerous substances in or on the equipment.
- w. not fix any of the Equipment in such a manner as to make it a fixture forming part of any freehold land; or
- x. continue to use of Equipment after any malfunction becomes evident or would have become evident if you had complied with your obligations under this agreement.
- y. Remove fuel or oil tank caps, shackles, bund plugs or seals from the equipment and ensure that they are in place when you return the equipment.



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- z. Use the equipment offshore, in a mine, in an area where friable asbestos is present, or move the equipment over water without our prior written consent, which may be reasonably withheld.
- 3.3 You acknowledge and agree that you are responsible for ensuring and must procure that any sub-hire complies with the terms of this agreement in their use of the Equipment.

4. Payments by the Customer to Pirie Hire

4.1 On or before Commencement (or as otherwise specifically agreed with Pirie Hire), the Customer will pay the Hire Charge.

4.2 Immediately on request by Pirie Hire, the Customer will pay:

- (a) the new list price of any Equipment which is for whatever reason not returned to Pirie Hire.

(NOTE TO CUSTOMER: Subject only to any express provision of this Contract to the contrary, the Customer is responsible for loss or theft of the Equipment)

- (b) all costs incurred in cleaning the Equipment;
- (c) the full cost of repairing any damage to the Equipment caused or contributed to by the Customer, unless expressly agreed otherwise in this Contract;
- (d) stamp duties, GST, any other taxes or duties, and all tolls, fines, penalties, levies or charges payable in respect of this Contract or arising from the Customer's use of the Equipment;
- (e) all costs incurred by Pirie Hire in delivering and recovering possession of the Equipment;
- (f) Interest for late payment of amounts owing by the customer, at the pre-judgement interest rate set by the Local Court of NSW from time to time;
- (g) the Kilometre Charge and any additional Hire Charges;
- (h) the cost of fuels and consumables provided by Pirie Hire and not returned by the Customer;
- (i) any expenses and legal costs (including commission payable to a commercial agent) incurred by Pirie Hire in enforcing this Contract due to the Customers default.;
- (j) all costs of repairing or replacing tyres, including road service; and
- (k) if any damage and/or theft waiver applies, the amount for which the Customer is liable as set out in this Contract.

4.3 Without limiting the ability of Pirie Hire to recover all amounts owing to it, the Customer authorises Pirie Hire to charge any amounts owing by the Customer to any credit card or account details of which are provided to Pirie Hire.

4.4 Pirie Hire may tokenise the Customers Credit Card or Account details to facilitate credit card or online payments.

5. PPS Law



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

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

- (a) 90 days in the case of Equipment which may or must be described by serial number in a PPS Law registration; or
- (b) a year in any other case.

5.3 Pirie Hire may register its security interest. The Customer must do anything (such as obtaining consents and signing documents) which Pirie Hire requires for the purposes of:

- (a) ensuring that Pirie Hire' security interest is enforceable, perfected and otherwise effective under the PPS Law;
- (b) enabling Pirie Hire to gain first priority (or any other priority agreed to by Pirie Hire in writing) for its security interest; and
- (c) enabling Pirie Hire to exercise rights in connection with the security interest.

5.4 The rights of Pirie Hire under this document are in addition to and not in substitution for Pirie Hire' rights under other law (including the PPS Law) and Pirie Hire may choose whether to exercise rights under this document, and/or under such other law, as it sees fit. To avoid any doubt about it Pirie Hire security interest will attach to proceeds.

5.5 To the extent that Chapter 4 of PPSA applies to any security interest under this agreement, the following provisions of the PPS Law do not apply and, for the purposes of section 115 of the PPS Law are "contracted out" of this agreement in respect of all goods to which that section can be applied: section 95 (notice of removal of accession to the extent it requires Pirie Hire to give a notice to the Customer); section 96 (retention of accession); section 121(4) (notice to grantor); section 125 (obligations to dispose of or retain collateral); section 130 (notice of disposal to the extent it requires Pirie Hire to give a notice to the Customer); section 129(2) and 129(3); section 132(3)(d) (contents of statement of account after disposal); section 132(4) (statement of account if no disposal); section 135 (notice of retention); section 142 (redemption of collateral); and section 143 (re-instatement of security agreement).

5.6 The following provisions of the PPS Law: section 123 (seizing collateral); section 126 (apparent possession); section 128 (secured party may dispose of collateral); section 129 (disposal by purchase); and section 134(1) (retention of collateral) confer rights on Pirie Hire. Customer agrees that in addition to those rights, Pirie Hire shall, if there is default by Customer, 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 this document and the Customer agrees that Pirie Hire may do so in any manner it sees fit including (in respect of dealing and disposal) by private or public sale, lease or licence.

5.7 The Customer waives its rights to receive a verification statement in relation to registration events in respect of commercial property under section 157 of the PPS Law.

5.8 Pirie Hire and the Customer agree not to disclose information of the kind that can be requested under section 275(1) of the PPS Law. The Customer must do everything necessary on its part to ensure that section 275(6)(a) of the PPS Law continues to apply. The agreement in this sub-clause is made solely for the purpose of



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allowing to Pirie Hire the benefit of section 275 (6)(a) and Pirie Hire shall not be liable to pay damages or any other compensation or be subject to injunction in respect of any actual or threatened breach of this sub-clause.

5.9 Customer must not dispose or purport to dispose of, or create or purport to create or permit to be created any 'security interest' (as defined in PPS Law) in the Equipment other than with the express written consent of Pirie Hire.

5.10 Customer must not lease, hire, bail or give possession ('sub-hire') of the Equipment to anyone else unless Pirie Hire (in its absolute discretion) first consents in writing. Any such sub-hire must be in writing in a form acceptable to Pirie Hire and must be expressed to be subject to the rights of Pirie Hire under this agreement. Customer may not vary a sub-hire without the prior written consent of Pirie Hire (which may be withheld in its absolute discretion).

5.11 Customer must ensure that Pirie Hire is provided at all times with up-to-date information about the sub-hire including the identity of the sub-hirer, the terms of and state of accounts and payment under the sub-hire and the location and condition of the Equipment.

5.12 Customer must take all steps including registration under PPS Law as may be required to:

- (a) ensure that any security interest arising under or in respect of the sub-hire is enforceable, perfected and otherwise effective under the PPS Law;
- (b) enabling the Customer to gain (subject always to the rights of Pirie Hire) first priority (or any other priority agreed to by Pirie Hire in writing) for the security interest; and
- (c) enabling Pirie Hire and the Customer to exercise their respective rights in connection with the security interest.

5.13 To assure performance of its obligations under this agreement, the Customer hereby gives Pirie Hire an irrevocable power of attorney to do anything Pirie Hire considers the Customer should do under this agreement. Pirie Hire may recover from Customer the cost of doing anything under this clause 5, including registration fees.

6. A. Damage Waiver

6.1 Damage Waiver is not insurance but is an agreement by Pirie Hire that the Customer's liability for damage to the Equipment can be limited in some circumstances only, to an amount called the Damage Waiver Excess. The Damage Waiver Excess amount is determined by Pirie Hire, and can be taken in the form of a bond prior to the hire commencing.

6.2 The Damage Waiver fee applies to some hires, subject to the conditions below, for an additional cost equivalent to 10% of the cost of hire. If the Customer elects to pay the additional Damage Waiver fee on top of the hire, then the customer is covered for any damage to the equipment, beyond the cost of the Damage Waiver Excess.

If the Customer decides not to pay the Damage Waiver fee, there will be an excess charge of up to \$1000 in the event of an incident, or cost of repair whichever is the lesser amount. In addition, Pirie Hire's insurer may also seek to recover funds above this amount.

DAMAGE WAIVER DOES NOT APPLY AND WILL NOT LIMIT THE CUSTOMER'S LIABILITY in the following circumstances;

- (a) where the Equipment is lost or stolen;
- (b) where the operator is not suitably licensed;



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- (c) where the operator is affected by drugs and/or alcohol;
- (d) where the equipment has been wilfully damaged by the Customer or its employees or agents;
- (e) where the damage is caused by a collision with a bridge, carpark, awning, gutter, tree or any other overhead structure or object whatsoever due to insufficient clearance;
- (f) where the damage is caused in any way by overloading.
- (g) the equipment has been used outside of its purpose or in an unsafe manner.

The Damage Waiver, if chosen by the customer will cover any damage to a Pantech vehicle or van above cab height.

Payment of the Damage Waiver Plus Fee is compulsory on all earth moving equipment, unless Pirie Hire agrees to accept a certificate of insurance provided by the Customer at its own cost.

The reduced Damage Waiver Excess, which applies to medium and large equipment when the fee is paid, will be shown on the Hire Contract and will vary for different types of machinery.

6.4 In the event of the Theft of a vehicle or medium to large piece of equipment, the customer is covered provided they have opted to pay the Damage Waiver in relation to that piece of equipment, with exception to the following instances:

- (a) where the Customer has failed to keep the Equipment in a securely locked Compound, or in the case of a Motor Vehicle, has failed to properly secure or lock the Motor Vehicle; or
- (b) where the Customer has failed to submit to Pirie Hire a Police Report on the theft within 7 days of the theft allegedly occurring.

In the event of a Theft, hire fees will be charged to the Customer until the Police Report is provided to Pirie Hire.

6.5 Damage Waiver coverage will NOT apply where Pirie Hire determines that any of the applicable circumstances in clauses 6.2(a)-(f) or 6.4(a)-(b) respectively have occurred, unless the Customer is able to establish otherwise to the reasonable satisfaction of Pirie Hire.

7. Exclusion of Warranties and Liabilities.

7.1 Where the Australian Consumer Law applies, the Customer has the benefit of guarantees in relation to the hire of the Equipment which cannot be excluded.

7.2 Where the Australian Consumer Law applies and the goods are not of a kind ordinarily acquired for personal domestic or household use or consumption, Pirie Hire liability in respect of any guarantee is limited to the replacement or repair of the goods, or the cost of having the goods repaired or replaced.

7.3 To the extent that the Australian Consumer Law (or any other law which cannot be excluded) does not apply. Pirie Hire makes no representations and gives

no warranties other than those set out in these Hire Contract Conditions, and will not be liable to the Customer for any damages, costs or other liabilities whatsoever (including for consequential loss) in relation to the hiring of the Equipment by the Customer.

8. Remote Hire



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Where the Equipment is at any time hired by the Customer to be located in the Remote Area, the following clauses will also apply, in addition to the obligations of the Customer under Clause 3 and elsewhere in these Hire Contract Conditions;

- (a) The Customer will pay an additional charge for any delivery, servicing and repair of the Equipment, and for any other attendance at the Remote Area by Pirie Hire ('Remote Area Charges'). The Remote Area Charges will be calculated on a per kilometre rate travelled by Pirie 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 cost including all airfares and accommodation charges incurred by Pirie Hire and its staff in connection with travel to and from the Remote Area;
- (b) Multiple items of Equipment hire by a Customer on the one site will only be charged for one call out fee;
- (c) The Customer is responsible at its cost for daily maintenance and care of all Equipment in its possession, 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.

9. Breach of Hire Contract by Customer

If the Customer breaches any clause whatsoever of this Contract and does not remedy the breach within 7 days notice of the breach, or becomes bankrupt, insolvent or ceases business then;

9.1 Pirie Hire shall be entitled to:

- (a) terminate this Contract; and/or
- (b) sue for recovery of all monies owing by the Customer; and/or
- (c) repossess the Equipment (and is authorized to enter any premises where the Equipment is located to do so), and any Damage and/or Theft Waiver referred to in clause 6 is immediately invalidated.

9.2 The Customer indemnifies Pirie Hire in respect of any damages, costs or loss, to the extent caused or contributed to by the customer resulting from a breach by the Customer of any provision of this Contract.

10. Disputes

10.1 The Customer must immediately check all Hire Charges, and any disputes in relation to those Hire Charges must be communicated to Pirie Hire in writing within 30 days of the Hire Contract date. In the event that no communication is received from the Customer within that 30 day period, the Hire Charges are deemed to be accepted by the Customer.

10.2 If a dispute arises relating to this Contract, the hiring or the use of the Equipment (except in regard to payments due to Pirie Hire), the parties agree to negotiate to settle the dispute with the assistance of the Hire and Rental Association of Australia before litigation.

11. Privacy

Pirie Hire will comply with the Australian Privacy Principles in all dealings with Customers. A copy of the Pirie Hire Privacy Statement is available upon request or by visiting www.Pirie Hire.com.au.

12. Governing Law



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12.1 This Hire Contract is a payment claim under the Building and Construction Industry Security of Payment Act 1999 NSW, the Building and Construction Industry Security of Payment Act 2002 VIC, the Building and Construction Industry Payments Act 2004 QLD, the Building and Construction Industry Security of Payment Act 2009 SA, the Construction Contracts Act 2004 WA, the Building and Construction Industry (Security of Payment) Act 2009 ACT, the Building and Construction Industry Security of Payment Act 2009 TAS, and/or the Construction Contracts (Security of Payments) Act 2009 NT.

12.2 Except where Pirie Hire in its discretion takes action against the Customer under any of the Building and Construction Industry legislation referred to in this clause, Pirie Hire and the Customer agree that this Contract is governed by the law of the state of New South Wales, and the parties submit to the jurisdiction of the courts of that State.