Giidjaa Hire

Giidjaa Hire Pty Ltd

Unit 2, 186 Granite Street Geebung QLD 3034

Terms and Conditions of Hire

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TERM AND CONDITIONS OF HIRE

1. DEFINITIONS AND INTERPRETATION

1.1 In these terms and conditions (**Terms and Conditions of Hire**), unless specified to the contrary, the following words and phrases have the following meanings given to them:

Authorised Driver / Joint Renter means an additional driver who is noted on the Order Acknowledgement as an Authorised Driver or Joint Renter. The authorized driver must be between the ages of 21 to 75 years of age.

Claim means in relation to a person, corporation or other legal entity, a claim, demand, remedy, suit, injury, damage, loss, cost of liability, action, proceeding, right of action, claim for compensation or reimbursement or liability incurred or to be made or recovered by or against such person, corporation or other legal entity however arising and whether ascertained or unascertained.

Completion Date means the date for Completion specified in this Agreement, and if no date is specified, the End Date.

Credit Application means the Hirer's signed application for credit accommodation by Giidjaa in respect of Equipment hire and in respect of which a copy of these Terms and Conditions is attached.

Equipment means any machine and/or vehicle hired by Giidjaa to the Hirer and includes all tools, accessories, parts, item of equipment and devices affixed thereto or supplied therewith.

Environmental Disposal Levy has the meaning given in clause 4.6.

Environmental Laws means any statute, policy directions or regulations made or issued by a regulatory body or government body relating to the environment including (without limitation) the protection of the environment.

Excess Amount means the amount shown as Excess Amount on the Rental Agreement.

Excess Reduction means the product called Excess Reduction that the Hirer may purchase before the rental commences to reduce any excess amount payable;

Loss Damage Waiver means the loss damage waiver described on the Rental Agreement as LDW which reduces the Hirers financial responsibility for loss damage to the Vehicle to the Excess Amount;

Overhead Damage means damage (excluding hail damage) to the Vehicle above the top of the door seal or the top of the front and back windscreens, or damage to the third party property, caused by the Vehicle coming into contact with anything overhanging or obstructing its path, objects being placed on the roof of the Vehicle, or the Hirer or any person standing or sitting on the roof of the Vehicle;

Giidjaa means Giidjaa Hire Pty Ltd (ABN 46 675 884 778 | ACN 675 884 778) or the other Giidjaa Hire Entity from which the Hirer hires equipment (as applicable).

Giidjaa Hire Entity means Giidjaa Hire Pty Ltd (ABN 46 675 884 778 | ACN 675 884 778) or any of its related bodies corporate (as that term is defined in the Corporations Act 2001 (Cth)) and/or registered business names as appropriate.

Guarantors means the Guarantors listed in item 2 of the schedule to the Deed of Guarantee and Indemnity.

Hire Agreement means every agreement between Giidjaa and the Hirer for the hire of Equipment (whether signed or not) including a Hire Docket, all of which will be deemed to include:

(a) the Credit Application (or other order documentation approved by Giidjaa in respect of the Equipment); and

(b) these Terms and Conditions of Hire.

Hire Period has the meaning given in clause 3.

Hirer means the person, firm or corporation to whom the Equipment is hired by Giidjaa (including the party named and described in the Credit Application as the "Hirer") and includes any contractor, employee, servant, agent or other person claiming through, under or in trust for any such person, firm or corporation.

Location means the place where the Hirer will use the Equipment.

Major Breach means a breach of any of clauses:

(a) 7.11 (all parts); 7.12 (all parts); 7.13 (all parts), 7.14 (all parts); 7.15.1(a) and 7.15.1(b)

(b) 7.16 that prevents Giidjaa from properly investigating a claim arising from an Accident or theft or from prosecuting or defending any Accident or theft claim; or

(c) **Error! Reference source not found.**.

Modern Slavery has the meaning given in section 4 of the *Modern Slavery Act 2018* (Cth).

Rental Levy has the meaning given in clause 4.15.

Substitute Vehicle Insurance means a policy of motor vehicle insurance held by the Hirer or an Authorised Driver which covers the Hirer or the Authorised Driver while the Hirer or the Authorised Driver use the Vehicle as a substitute for the vehicle insured under that policy;

Vehicle means the vehicle described on the Order Acknowledgement Document (or any substitute vehicle), and includes its parts, components, accessories and contents supplied by Giidjaa;

1.2 In the interpretation of these Terms and Conditions of Hire, the following provisions apply unless the context otherwise requires:

1.1.1 words importing the singular include the plural and vice versa;

1.1.2 words importing any gender includes both genders;

1.1.3 a reference to any matter or thing includes the whole and each part of it separately;

1.1.4 where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have

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a corresponding meaning;

1.1.5 a reference to a natural person includes a Contractor or other corporate body and vice versa;

1.1.6 a reference to any legislation, regulation, code or local law includes any modification, re-enactment or substitution of it;

1.1.7 the obligations imposed by these Terms and Conditions of Transport on or in favour of a party who is a natural person extends to his heirs, executors, administrators and assigns;

1.1.8 the obligations imposed by these Terms and Conditions of Transport on or in favour of a party which is a Contractor or other corporate body includes its successors and assigns; and

1.1.9 use of the word "including" is to be read and construed without limitation.

2. TITLE TO EQUIPMENT

2.1 The Hirer acknowledges that in all circumstances Giidjaa (or, if the Equipment is owned by another Giidjaa Entity, then that Giidjaa Entity) retains title to the Equipment (even if the Hirer goes into liquidation or becomes bankrupt during the Hire Period) and in no circumstances will it be deemed to be a fixture. The rights of the Hirer to use the Equipment are as a bailee only.

2.2 Except in the circumstances set out in clause 14, the Hirer must not offer, sell, assign, sub-let, charge, mortgage, pledge, create any form of security interest or otherwise deal with the Equipment in any way which is inconsistent with the rights of Giidjaa as owner.

2.3 All risk in the Equipment passes to the Hirer upon delivery to the Hirer or collection of the Equipment by the Hirer, continues during the entirety of the Hire Period and only ceases when Giidjaa acknowledges that the Equipment has been returned to Giidjaa (or when the Equipment is collected by Giidjaa if agreed).

3. HIRE PERIOD

3.1 Subject to clause 3.3, the period of hire commences when the Hirer takes possession of the Equipment or when Giidjaa delivers the Equipment in accordance with the Hirer's instructions and the period of hire ends when the Equipment is back in the possession of Giidjaa (in total, the "**Hire Period**"). The Hire Period includes weekends and public holidays and is irrespective of the time the Equipment is being used.

3.2 The Hirer will be entitled to use the Equipment for the Hire Period on the express understanding that it will be charged for such use in accordance with the Hire Agreement.

3.3 Unless otherwise stipulated on an Order Acknowledgement, should Giidjaa agree with the Hirer that Giidjaa will deliver and collect the Equipment, hire charges will commence from the time the Equipment leaves Giidjaa' premises and continue until the date that the Equipment is available for collection from the Location ("**Off-Hire Date**"). The Hirer must notify Giidjaa of that date in advance and Giidjaa may give the Hirer confirmation that the off hire date has been set.

3.4 The notification will be given by the Hirer with sufficient time in advance (prior to 3pm of the day of the off-hire) for the Equipment to be picked up and returned to Giidjaa' premises within Giidjaa' normal business hours by the Off-Hire Date. If Giidjaa considers that insufficient notice has been given, the Hirer will be charged for such additional period of time as Giidjaa considers is necessary to arrange collection or delivery of the Equipment, but in any case no less than an extra days hire. Any hire period specified on the Hire Agreement will not be deemed notice to Giidjaa that the Equipment is available for collection. Where Giidjaa agrees to collect the Equipment, the Hirer remains responsible for theft, loss or damage to the Equipment until the Equipment is collected by Giidjaa.

3.5 The Order Acknowledgement will specify the type of rate that will apply.

3.6 Giidjaa reserves the right to charge a minimum period of hire for certain types of Equipment. The minimum period of hire may not be varied except if agreed in writing by Giidjaa.

3.7 The Hire Period will not be subject to stand down or adjustment for any reason whatsoever unless agreed to by Giidjaa in writing.

4. HIRE CHARGES AND OTHER CHARGES

4.1 **Hire**: Subject to clause 4.10, the Hirer will pay Giidjaa the hire charges set out in the Hire Agreement, as well as other levies or charges that may be applicable. The Hirer is not entitled to any discount or rebate if the Equipment is not used by the Hirer for any part of the Hire Period. If the Equipment is used for more than eight hours on any given day Giidjaa may charge a double shift rate calculated as the hire rate x 2.

4.2 **Pricing Confidentiality**: The Hirer acknowledges that all pricing quoted by Giidjaa is for the Hirer only and must be kept confidential at all times.

4.3 **Other Services**: Giidjaa will, if requested by the Hirer, and only if personnel are available, attend the site and instruct the Hirer in the operation of the Equipment. The Hirer will in addition to the hire charges pay Giidjaa for such services at the scheduled rate per hour or part thereof including travelling time plus any associated travel and accommodation costs incurred by Giidjaa.

4.4 **Consumables and Trade Materials**: The Hirer will be liable for charges made for consumables and trade materials used at the scheduled rate.

4.5 **Tax and Government Charges**: The Hirer will be liable for stamp duty, GST and all other applicable taxes, duties, levies, penalties and any other government charges imposed on the Hire Agreement or in respect of the Hire Period. If the Hirer wishes to claim exemption from duty or tax, the Hirer must furnish appropriate exemption certificates to Giidjaa. Unless otherwise expressly agreed in writing by Giidjaa, any quarantine costs payable in respect of the Equipment (including without limitation the costs of any necessary disassembly, reassembly and cleaning of the Equipment) is payable by the Hirer, and the Hirer must also pay the hire charges during the period of such disassembly, reassembly and cleaning of the Equipment.

4.6 **Environmental Disposal Levy**: The Hirer will pay the amount specified by Giidjaa in the Hire Agreement in consideration of any oil, grease or other

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environmental contaminants used, applied or discarded in connection with the Equipment.

4.7 **Credit Card Payments**: The Hirer acknowledges that Giidjaa may impose a charge for accepting payments by credit card in the amount of 1.5% of the total charges that would otherwise apply.

4.8 **Delivery**: If the Hirer requires Giidjaa to deliver, collect or install the Equipment, the Hirer will be liable for the cost of delivery, collection or installation. Giidjaa will not be responsible for any loss or damage whatsoever caused by delays in delivery or installation or failure to deliver for any reason whatsoever, including negligence on the part of Giidjaa or its agents or employees. Giidjaa shall have the right to charge the Hirer for an additional delivery or collection fee for each occasion where the Equipment was not able to be delivered and or collected at the agreed times and location. Giidjaa is not a common carrier and does not accept the obligation or liability of common carriers. Giidjaa may refuse the handling, lifting and/or carriage of Equipment for any person in its discretion and without being bound to give reason for such refusal.

4.9 **Return of Equipment**: The Customer will remain liable to be charged for the Equipment until it is returned to Giidjaa (if Giidjaa agrees to collect the Equipment then clause 4.3 applies). The Hirer will charged a full day hire for the day on which the Equipment is returned by the Hirer (or collected by Giidjaa) irrespective of the time at which the Equipment is returned (or collected by Giidjaa).

4.10 **Early Return of Equipment**: If the Hirer returns the Equipment before the expiry of the minimum period of hire mentioned in clause 3.6 (if any) , the Hirer will remain liable for all hire and other charges payable to Giidjaa for the minimum period of hire.

4.11 **Payment Due Date**: The Hirer is required to pay all fees, charges and costs that may become due and payable under the Hire Agreement within 30 days of the invoice date.

4.12 **Late Payment**: Invoices sent to the Hirer's email address by Giidjaa will be deemed to have been received by the Hirer on the date that the email is sent. If a Hirer does not pay the amount of the Hire Agreement invoice by the payment due date, a late payment fee of 4% per month, compounding monthly, may be imposed. In addition, without limiting clause 12.4, the Hirer will be liable to indemnify Giidjaa for all expenses incurred by Giidjaa in recovering any amounts which the Hirer fails to pay by the payment due date (including any commission payable to any commercial or mercantile agents and legal costs). Where an invoice remains overdue for 3 days or longer, the Hirer's trading account will be placed on stop credit. Where an invoice remains overdue for 15 days or longer, Giidjaa reserves the right for all equipment to be off-hired and removed and transported back to Giidjaa at the Hirer's cost.

4.13 **Set-off and application of funds**: Giidjaa may set-off against any credit owed to the Hirer any amount owing by the Hirer to Giidjaa. Any claims for credit by the Hirer shall be made within fourteen days of receiving Giidjaa' invoice. The Hirer must not withhold or make any deduction from any payment by way of set-off. The Hirer acknowledges and agrees that any payment made by the Hirer pursuant to this Agreement may be applied by Giidjaa to such outstanding moneys due to Giidjaa, as Giidjaa determines in its sole discretion and notwithstanding any direction given by the Hirer at the time of payment.

4.14 **Return time**: For the sake of certainty the Hirer may only return the Equipment to Giidjaa' premises during normal business hours.

4.15 **Rental Levy**: Where agreed and specified in an Order Acknowledgement Form, the Hirer will pay a 12.5% Rental Levy on all Hire Agreements in addition to Giidjaa' hire charges for the purpose of covering aesthetic and incidental wear and tear, servicing, break downs and costs associated with the hire and off-hire of Equipment in accordance with the manufacturers guidelines, all relevant Australian Standards and all recommendations published by the Elevating Work Platform Association. Where the rental levy is not charged, or the hirer refuses to pay the rental levy then all costs associated with aesthetic and incidental wear and tear, servicing, break downs and costs associated with the hire and off-hire of Equipment, will be on-charged to the Hirer unless otherwise agreed by Giidjaa.

The rental levy does not constitute consideration for (and the Hirer remains responsible for) loss or damage occasioned by any one or more of the following:

4.15.1 damage due to misuse, abuse or overloading of the Equipment or any components thereof;

4.15.2 wrongful conversion of the Equipment or any components thereof;

4.15.3 loss or damage suffered due to a contravention by the Hirer of the Hire Agreement;

4.15.4 loss or damage arising from use in violation of any statutory laws and regulations;

4.15.5 damage caused to tyres and tube by blowout, bruises, cuts or other causes inherent in the use of the Equipment;

4.15.6 glass breakage or graffiti;

4.15.7 loss or damage relating to lack of lubrication or other normal servicing of Equipment or due to a failure to comply with the cleaning and servicing instructions given by Giidjaa;

4.15.8 loss or damage to the Equipment whilst located, used, loaded, unloaded, transported on or over water, wharves, bridges or vessels of any kind;

4.15.9 loss or damage to motors or other electrical appliances or devices caused by overloading or artificial electrical current, including use of under-rated or excessive length of extension leads on electrical powered tools and machines;

4.15.10 damage caused by exposure to any corrosive or caustic substance, such as (without limitation) cyanide, salt, water and acid;

4.15.11 theft of the Equipment or any deliberate damage of any type caused to the Equipment (whether caused by the Hirer or any third party whatsoever);

4.15.12 loss or damage to Equipment during transport, except where transported by Giidjaa; or

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4.15.13 loss or damage caused by the negligence of the Hirer and damage caused by paint, texture, coat, overspray, concrete, grinding, welding, gas, cutting, collision, dropping and/or impact.

Payment of the rental levy entitles the Hirer to one set of tyres per year. If the hirer refuses payment of rental levy then tyre wear will be charged on a usage basis. Tyre wear will be determined by a measurement taken at the start and completion of the hire period.

4.16 **Extreme Worksite Levy**: The Hirer will pay a 20% Extreme Worksite Levy on all Hire Agreements in addition to Giidjaa' hire charge if Equipment is used off-shore, over water or down in under-ground mines. The Hirer must advise Giidjaa in writing if the Equipment is proposed to be used off-shore, over water or down in under-ground mines and must produce evidence that they have taken out suitable insurance cover for these items of Equipment, with such insurance cover to include Giidjaa as an insured and cover Giidjaa' ability as a principal in connection with the performance of the Hire Agreement and contain provisions whereby all rights subrogation or action against any of the persons comprising the insured are waived; the term "insured" applies to each of the persons comprising the insured as if a separate policy of insurance had been issued to each of them (subject to the overall sum insured not being increased as a result); and any non-disclosure or misrepresentation by one insured does not prejudice the right of the other insured to claim under any insurance policy.

4.17 **Toll Charges:** Where Toll Charges apply to Equipment, these charges will form part of the Hire Charges and the Hirer will be required to pay these. A $5 administrative fee will also be charged per toll for managing toll charges.

4.18 **Fines:** Any fines imposed as a result of the improper use of Equipment by the Hirer during the hire period will be transferred to the Hirer. A $50 administrative fee for managing fines.

4.19 **After Hours Servicing and Break-downs**: Giidjaa will provide on-site servicing and break-down assistance during standard working hours. If attendance to site is required after hours or on weekends, this will be charged at after-hour rates. Minimum call out charge of 3 hours will be applicable. This does not apply where equipment is utilised in remote locations. Servicing and breakdown assistance and associated charges will be agreed on a case by case basis with the Hirer.

4.20 **Non-Potable Water**: Where the use of non-potable water for dust suppression causes corrosion to equipment, the Hirer will be charged for refurbishment of the equipment.

4.21 **Cleaning**: The Hirer is responsible for all costs associated with any cleaning, painting, replacement of decals, repairs and refuelling of equipment returned to Giidjaa in an unsatisfactory condition as determined by Giidjaa. If the Equipment was in any way exposed to asbestos or asbestos containing materials during the period of Hire, the Hirer must ensure that the Equipment is decontaminated (including cleaned, washed and vacuumed) by a licensed asbestos removalist prior to return to Giidjaa. The Hirer must pay for all costs associated with this decontamination and provide evidence from a licensed asbestos removalist that this has been carried out.

5. RENTAL LEVY AND ENVIRONMENTAL DISPOSAL LEVY

5.1 The Rental Levy and Environmental Disposal Levy specified in the Delivery Docket are payable by the Hirer in addition to the other hire charges stated in the Hire Agreement. If no Rental Levy or Environmental Disposal Levy is referred to in the Delivery Docket, the Hirer acknowledges and agrees that it will be charged for and it will pay to Giidjaa the costs specific to repainting, tyre wear, description, new decals, new stickers, off-hire costs, onsite servicing, inspections, break downs, repairs, oils filters, oil disposal, all accommodation, air fares, travel per km, inductions, training and chargeable time, to be billed separately to the Hirer.

6. PURCHASE ORDERS

6.1 The Company may request hire equipment from Giidjaa under the terms of the Hire Agreement by giving Giidjaa a Purchase Order at any time before the End Date.

6.2 Giidjaa's discretion to accept the purchase order is subject to Clause 18.18.

7. HIRER'S HIRE OBLIGATIONS

7.1 **Possession and Use by Hirer**: The Hire Agreement is personal to the Hirer and the Hirer will not allow nor authorise any other person or entity to use, re-hire or have possession of the Equipment at any time during the Hire Period.

7.2 **Suitability**: The Hirer agrees that the use of the Equipment is deemed acceptance it has satisfied itself as to the suitability, condition and fitness for purposes of the Equipment. Giidjaa gives no warranty that the Equipment is suitable for the Hirer's purpose.

7.3 **Operation of Equipment**: The Hirer warrants that at all times it will:

7.3.1 operate the Equipment safely, strictly in accordance with all laws, only for its intended use and in accordance with the manufacturer's instructions;

7.3.2 ensure persons operating or erecting the Equipment are suitably instructed/trained in its safe and proper use and where necessary hold a current Certificate of Competency and be licensed to use it;

7.3.3 return the Equipment to Giidjaa in the same good and clean condition it was in when the Hirer received it, ordinary fair wear and tear excluded. If the Hirer fails to clean the Equipment, Giidjaa will charge the cleaning cost to the Hirer;

7.3.4 display, maintain all safety signs and instructions (as required by law), and ensure that all instructions and signs are observed by the operator of the Equipment;

7.3.5 ensure all persons operating the Equipment wear suitable clothing and protective equipment as required or recommended by the manufacturer or by Giidjaa;

7.3.6 ensure that no persons operating the Equipment are under the influence of drugs or alcohol;

7.3.7 conduct a job safety analysis prior to using the Equipment at a site;

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7.3.8 accept responsibility for the safe-keeping of and insuring the Equipment during the Hire Period;

7.3.9 ensure that no persons carry illegal, prohibited or dangerous substances in or on the Equipment; and

7.3.10 comply with all Environmental Laws from time to time and immediately rectify any breach of an Environmental Law caused by the use of the Equipment.

7.4 **Cleaning and Maintenance**: The Hirer must:

7.4.1 carry out daily checks, clean, fuel, lubricate and maintain the Equipment in good condition and in accordance with the manufacturer's and Giidjaa' instructions at the Hirer's cost; and

7.4.2 not in any way alter, modify, tamper with, damage or repair the Equipment without Giidjaa' written consent.

7.5 **Safekeeping**: The Hirer must ensure that during the Hire Period the Equipment is stored safely and securely and is protected from theft, seizure, damage or vandalism.

7.6 **Alteration and Identifying Marks**: The Hirer must not alter, deface, remove or erase any notices, safety information, identifying mark, plate or number on the Equipment.

7.7 **Inspections**: The Hirer consents to Giidjaa inspecting the Equipment from time to time during the Hire Period. The Hirer must provide access to the Equipment and a safe place of work at the Location for Giidjaa to carry out any inspection, including as required under the Australian Standards. In addition, the Hirer may arrange a joint inspection with Giidjaa at the end of the Hire Period.

7.8 **Safe Loading and Transport**: The Hirer will ensure the safe loading, securing and transporting of all Equipment in accordance with all laws and manufacturer's guidelines. The Hirer and any transporting contractor must observe any safety directions advised by Giidjaa and/or manufacturer of the Equipment for its loading and safe handling.

7.9 **Location**: The Hirer must not remove the Equipment from the Location without first obtaining Giidjaa' written consent, which consent can be given or withheld at Giidjaa' absolute discretion. The Equipment must be returned to Giidjaa' premises where the Equipment was collected from by the Hirer or delivered from Giidjaa (during normal business hours).

7.10 **Electrical Equipment testing and tagging**: The Hirer is responsible for arranging at the Hirer's cost the testing and tagging of all electrical equipment forming part of the Equipment by the relevant manufacturer's agent in accordance with the manufacturer's instructions and the applicable Australian Standard/s and Regulatory Authority requirements. Giidjaa is able to arrange, at the Hirer's cost, for such testing and tagging of the relevant electrical equipment. Any damage caused to the Equipment resulting from incorrect testing will be at the Hirer's cost.

7.11 **Use of Vehicles**

IMPORTANT NOTICE
A breach of any part of this clause 7.11 is a Major Breach of the Hire Agreement. See clause 21 for further details.

7.11.1 The Hirer and any Authorised Driver must:

a) not allow the Vehicle(s) to be used for any illegal purpose, race, contest or performance test of any kind;
b) not allow the Vehicle(s) to be used to tow or push anything;
c) not carry more passengers than may be properly accommodated by the seat belt restraints provided in the Vehicle(s), or carry a greater load than that for which it was built;
d) 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(s) is driven;
e) not allow the Vehicle(s) to be used to carry passengers for payment or reward of any kind;
f) not use the Vehicle(s) when it is damaged or unsafe;
g) not use the Vehicle(s) to transport goods, except in compliance with all necessary approvals, permits, licences and government requirements (to be obtained at the Hirer's cost) and in accordance with the Vehicle(s) manufacturer's and Giidjaa's recommendations;
h) not use the Vehicle for the conveyance or towing of any load which is incorrectly loaded or secured or is in excess of that for which the Vehicle(s) was constructed;
i) not, without Giidjaa's prior written consent, use the Vehicle(s) to carry any inflammable substance which has a flash point under 22.8°C or any other explosive or corrosive substances; and
j) not use the Vehicle(s) in contravention of any law.
k) Not allow vehicles(s) to be driven by any person either under the age of 21 or over the age of 75

7.11.2 The Hirer must pay for any unauthorised repairs to the Vehicle and for all parking and traffic infringements in respect of the Vehicle during the Rental Period.
7.11.3 The Hirer and any Authorised Driver must not carry any animal or pet in the Vehicle(s).
7.11.4 The Hirer and any Authorised Driver must not drive the Vehicle(s) if Giidjaa has so directed the Hirer and any Authorised Driver.
7.11.5 The Hirer and any Authorised Driver or any passenger must not smoke in the Vehicle(s).

7.12 **Who may drive Vehicles**

IMPORTANT NOTICE
A breach of any part of this clause 7.12 is a Major Breach of the Hire Agreement. See clause 21 for further details.

7.12.1 Authorised Drivers

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The Hirer must ensure that each Authorised Driver complies with the terms of this Agreement and the Hirer acknowledges and agrees that they are responsible for any act or omission of an Authorised Driver, which if done or omitted to be done by the Hirer, would be a breach of Your obligations under this Agreement.

7.12.2 Licence requirements

The Hirer and any Authorised Driver **must** have a current valid licence to drive the Vehicle which is:

a) issued in an Australian state or territory or an international licence written in English and for the correct class of vehicle;
b) appropriate for the class of the Vehicle;
c) not subject to any restriction or condition; and
d) excludes learners, probationary or provisional licenses.

7.12.3 Cancelled and suspended licences

Any Vehicle provided to the Hirer **must not** be driven by the Hirer or an Authorised Driver whilst the relevant driver's driver's licence is cancelled or suspended, including as a result of an accumulation of demerit points.

7.12.4 False information

The Vehicle **must never** be driven by the Hirer or an Authorised Driver who has provided a false or misleading name, age, address or driver's licence.

7.13 **Prohibited Use - Vehicles**

IMPORTANT NOTICE
A breach of any part of this clause 7.13 is a Major Breach of the Hire Agreement. See clause 21 for further details.

7.13.1 The Vehicle must not be driven by the Hirer or any Authorised Driver:

a) whilst intoxicated or under the influence of drugs or alcohol or with a blood alcohol content or level of drugs present in blood, urine or oral fluid that exceeds the limit set by law;
b) recklessly or dangerously; or
c) whilst the Vehicle is damaged or unsafe.

7.13.2 The Hirer and any Authorised Driver must not:

a) fail or refuse to undergo any breath, blood, urine or oral fluid test or drug impairment assessment;
b) use the Vehicle:
c) for any illegal purpose;
d) to move dangerous, hazardous, inflammable goods or substances that pollute or contaminate, in quantities above that used for domestic purposes;
e) to propel or tow another vehicle;
f) in connection with the motor trade for experiments, tests, trials or demonstration purposes; or
g) in an unsafe or un-roadworthy condition.

7.13.3 The Hirer and any Authorised Driver must not:

a) damage the Vehicle deliberately or recklessly or allow anyone else to do so;
b) sell, rent, lease or dispose of the Vehicle; or
c) register or claim to be entitled to register any interest in the Vehicle under the Personal Property Securities Act (Cth) 2009 and subject to these terms and conditions You have no right to, title or interest in, the Vehicle other than as a bailee.

7.13.4 The Hirer and any Authorised Driver must not use the Vehicles to carry:

a) passengers for hire, fare or reward or for rideshare purposes;
b) more than the number of passengers for which the Vehicle is licensed; or
c) any load that exceeds the limits for which the Vehicle was designed, constructed, registered or licenced.

7.13.5 The Hirer and any Authorised Driver must not use a mobile phone or a GPS unit whilst the Vehicle is in motion or stationary but not parked unless the body of the phone or GPS unit is affixed to the Vehicle and the phone or GPS unit is not being held or touched at any time whilst being used.

7.14 **Prohibited Use of Vehicles – Areas of Use**

IMPORTANT NOTICE
A breach of any part of this clause 7.14 is a Major Breach of the Hire Agreement. See clause 21 for further details.

7.14.1 The Vehicle must not be used in any area that is prohibited by Giidjaa. Prohibited areas include:

a) roads that are prone to flooding or are flooded;
b) beaches, streams, rivers, creeks, dams and floodwaters;
c) any road where the police or an authority has issued a warning;
d) any road that is closed; and
e) any road where it would be unsafe to drive the Vehicle.
f) The Vehicle must never be driven or used:

I. outside a radius of 300 kilometres from the Hire Location; or

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II. onto any island that is off mainland Australia,

unless We have given Our prior written permission prior to the Start of the Rental and it is noted on the Hire Agreement.

7.15 **Your obligations – Vehicle Hire**

IMPORTANT NOTICE
Failure to comply with clause 7.15.1(a) and 7.15.1(b) is a Major Breach of the Hire Agreement. See clause 21 for further details.

7.15.1 At the Start of the Hire Period for vehicles and before collecting the Vehicle(s) the Hirer and the Authorised Driver **must:**

a) present the driver's licence and that of any person the Hirer expects to be an Authorised Driver and permit copies of the drivers' licences to be made and kept by Giidjaa;

b) present the passport and that of any person the Hirer expects to be an Authorised Driver if the Hirer or the relevant Authorised Driver are not an Australian citizen;

c) fully inspect the Vehicle(s) to ensure that the condition of the Vehicle(s) and any pre-existing damage is accurately noted and shown in the Hirel Agreement and if there is any discrepancy the Hirer must notify Giidjaa prior to leaving the Hire Location.

7.16 **Accident Reporting - Vehicles**

IMPORTANT NOTICE
A breach of any part of this clause 7.16 is a Major Breach of the Hire Agreement. See clause 21 for further details.

Notwithstanding any other obligation outlined in this Hire Agreement, if an Accident occurs in respect of a Vehicle(s) or if the Vehicle(s) is stolen the Hirer must report the Accident or theft to Us within 24 hours of it occurring and fully complete an Accident/Theft report form in the form as provided by Giidjaa.

7.16.1 If the Vehicle(s) is stolen or if an Accident occurs in respect of the Vehicle(s) where:

a) any person is injured;

b) the other party has failed to stop or leaves the scene of the Accident without exchanging names and addresses; or

c) the other party appears to be under the influence of drugs or alcohol,

d) the Hirer or the Authorised Driver must also report the theft or Accident to the Police.

7.16.2 If an Accident occurs in respect of the Vehicle(s), the Hirer and the Authorised Driver must:

a) exchange names and addresses and telephone numbers with the other driver;

b) take the registration numbers of all vehicles involved;

c) take as many photos as is reasonable showing:

d) the position of the vehicles before they are moved for towing or salvage;

e) the Damage to the Vehicle(s);

f) the damage to any third party vehicle or property; and

g) the general area where the Accident occurred, including any road or traffic signs;

h) obtain the names, addresses and phone numbers of all witnesses;

i) not make any admission of fault or promised to pay the other party's claim or release the other party from any liability;

j) forward all third party correspondence or court documents to Us within 7 days of receipt; and

k) co-operate with Giidjaa in the prosecution of any legal proceedings that Giidjaa may institute or defence of any legal proceedings which may be instituted against the Hirer or Giidjaa as a result of an Accident, including attending Giidjaa's lawyer's office or any Court hearing.

7.17 **Return of Vehicles**

7.17.1 The Hirer must return the Vehicle(s) to Giidjaa:

a) to the place, on the date and by the time shown on the Order Acknowledgement Document (or sooner if required under clause 7.17.4);

b) in the same condition as it was at the commencement of the Hire Period, fair wear and tear excepted;

c) with a full tank of fuel (or otherwise pay to Giidjaa the cost to refuel the Vehicle(s)).

7.17.2 The Hirer must return the Vehicle(s) to a Giidjaa location (unless otherwise specified in the Order Acknowledgment Document) during our normal business hours. If the Hirer returns the vehicle(s) later than the time shown on the Order Acknowledgement Document, the Hirer must pay all additional rental charges.

7.17.3 If:

a) The Hirer returns the Vehicle on a date, or at a time, or to a place other than that shown on the Order Acknowledgement Document; or

b) any special conditions set out in the Order Acknowledgement Document are breached, the rates shown on the Order Acknowledgement Document will not apply and the Hirer must pay the Giidjaa the standard rate for the Vehicle(s) for the Hire Period.

7.17.4 Giidjaa may request the immediate return of the Vehicle(s), or Giidjaa may re-take the Vehicle(s) without notice, if Giidjaa reasonably suspects that:

a) The Hirer has breached a term or condition of the Hire Agreement;
b) damage to the Vehicle(s), or injury to persons or property is likely to occur; or
c) the Vehicle(s) will be involved in an industrial dispute; or

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d) the Vehicle(s) may be used for an unlawful purpose;

The Hirer must also pay Giidjaa any cost it incurs as well as all costs and charges under the Hire Agreement for the period up to return/repossession of the Vehicle.

7.17.5 Giidjaa reserves the right to refuse hire of another vehicle to the Hirer following any incident or accident or where the Hirer or an Authorised Driver of the Hirer has breached a condition of this Hire Agreement.

8. EQUIPMENT BREAKDOWN

8.1 **Obligations of Hirer**: In the event that the Equipment breaks down or becomes unsafe to use during the Hire Period, the Hirer must:

8.1.1 immediately stop using the Equipment and notify Giidjaa;

8.1.2 immediately take all steps necessary to prevent injury occurring to persons or property as a result of the condition of the Equipment;

8.1.3 immediately take all steps necessary to prevent any further damage to the Equipment; and

8.1.4 not repair or attempt to repair the Equipment without Giidjaa' written consent.

8.2 **Obligations of Giidjaa**: In the event that the Equipment breaks down or becomes unsafe to use through no fault, negligence, recklessness or misuse by the Hirer or any third party who gains access to the Equipment at the Location, Giidjaa will:

8.2.1 take all steps necessary to repair the Equipment soon as reasonably possible after being notified by the Hirer;

8.2.2 not impose a hire charge for that portion of the Hire Period for which the Equipment was broken down or unsafe, nor, subject to clause 12.5, the costs associated with any repair or replacement of the Equipment; and

8.2.3 not be liable for any expenditure, damages, loss or inconvenience incurred by the Hirer or any Claim made against the Hirer arising from or in any way connected with a breakdown of or a malfunction in the Equipment, no matter the cause of the breakdown or malfunction.

9. LOST, STOLEN OR DAMAGED EQUIPMENT

9.1 The Hirer is at all times responsible for the Equipment and its attached tools and accessories during the Hire Period.

9.2 If the Equipment is lost, stolen or damaged during the Hire Period, or if the Hirer fails to return the Equipment to Giidjaa within agreed timeframes, the Hirer will be liable for:

9.2.1 any costs incurred by Giidjaa in repairing the Equipment or for the new replacement cost of the Equipment if it cannot be economically repaired; and

9.2.2 any other costs whatsoever incurred by Giidjaa as a result of the loss, theft or damage to the Equipment (including the full hire charges as set out in the Hire Agreement until the Equipment stated in clause 8.2.1 is again available for use by Giidjaa).

10. SUPPLY DOCUMENTS

10.1 Upon request by Giidjaa the Hirer must supply Giidjaa with full copies of any document relating to the Equipment in any way including any police report regarding any damage caused to the Equipment by any person.

11. INSURANCE

11.1 The Hirer shall effect and maintain at its expense the policies of insurance specified in subclauses 11.1.1 and 11.1.2 providing cover for the whole of the period of hire including any extension or continuation.

11.1.1 A policy providing indemnity for physical loss, including theft and/or damage to the Equipment for the replacement value of each item of Equipment, including whilst in transit; and

11.1.2 Where vehicles are being hired, the motor vehicle policy must include overhead and underbody damage.

11.1.3 A public liability policy in the usual terms which provides indemnity with respect to the operation of the Equipment to a limit of indemnity of at least $20,000,000.

11.2 The Hirer shall ensure that each policy of insurance names Giidjaa as a named insured as owner of the Equipment.

11.3 The Hirer shall provide Giidjaa with evidence of the insurance effected in compliance with clauses 11.1.1 and 11.1.2 immediately upon demand by Giidjaa.

11.4 The Hirer warrants that it shall not do any of the following:

11.4.1 do anything, or fail to do anything, which would allow an insurer to refuse or reduce a claim;

11.4.2 vary the insurance required by this clause in any way without the written consent of Giidjaa; or

11.4.3 enforce, conduct, settle or compromise a claim without the consent of Giidjaa.

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12. INDEMNITIES AND EXCLUSIONS OF LIABILITY

12.1 Subject to clause 12.2 and except as expressly provided to the contrary in the Hire Agreement, all terms, conditions, warranties, undertakings, inducements or representations whether express or implied, statutory or otherwise, relating to Giidjaa' obligations under the Hire Agreement are excluded from the Hire Agreement to the extent permissible by law.

12.2 Where any Act of Parliament implies a term, condition or warranty in this Hire Agreement and that Act prohibits provisions in a excluding or modifying the application, exercise or liability under that term, condition or warranty, such term, condition or warranty will be deemed to be included in this Hire Agreement to the minimum extent permissible. The Hirer hereby warrants and agrees with Giidjaa that any damages suffered by it as a result of any breach by Giidjaa of this Hire Agreement or any breach of any applicable legislation will not exceed and otherwise be capped at the lesser of the actual charges payable pursuant to the Hire Agreement or four months hire charges.

12.3 Subject to clause 12.2, Giidjaa will not be under any liability to the Hirer for consequential loss or damage (including loss of actual or anticipated profits or revenue, economic loss of any kind or any loss suffered as a result of any claim or claims by third parties) in contract, tort (including negligence) under statute or otherwise from or in relation to the Equipment or this Hire Agreement.

12.4 The Hirer is liable for and indemnifies Giidjaa against all liability, claims, loss, costs and expenses (including legal fees, costs and disbursements on the higher of a full indemnity basis and a solicitor/client basis, determined without taxation, assessment or similar process and whether incurred or awarded against Giidjaa and any environmental loss, cost, damage or expense) arising from or incurred in connection with the Hirer's hire and use of the Equipment or its breach of the Hire Agreement.

12.5 Each indemnity in this Hire Agreement is a continuing obligation, separate and independent from the other obligations of the parties and survives termination, completion and expiration of this Hire Agreement. It is not necessary for a party to incur expenses or make any payment before enforcing a right of indemnity conferred by this Hire Agreement. The Hirer must pay on demand any amount it must pay under an indemnity in this Hire Agreement.

12.6 For the purposes of clauses 12.3 to 12.5, use of Equipment operated by a person supplied by Giidjaa will be use of the Equipment by the Hirer.

12.7 **Vehicle Loss Damage Waiver, Damage and Loss of Property**

12.7.1 Subject to this clause 12.7, and to the fullest extent permitted by applicable law, the Hirer is liable:

a) for the loss of, and all damage to, the Vehicle(s); and

b) for all damage to the property of any person:

i. which is caused or contributed to by the Hirer or an Authorised Driver; or

ii. which arises from the use of the Vehicle by the Hirer or an Authorised Driver.

This clause 12.7 does not apply to any damage or loss for which Giidjaa is liable to the Hirer under this Hire Agreement.

Remember that references to the "Vehicle" include all of its parts, components, accessories and contents (see the definition of "Vehicle" in clause 1).

12.7.2 Subject to clause 12.7.3, if:

a) Where Giidjaa has agreed to provide a Loss Damage Waiver option and the Hirer accepts the Loss Damage Waiver option on the Order Acknowledgement Document at the commencement of the Hire Period; and

b) where applicable, the Hirer pays the excess shown on the Order Acknowledgement Document for each separate event involving damage to or loss of, the Vehicle(s) or for each separate event involving damage to the property of any third party which is caused by or arises from the use of the Vehicle(s) by the Hirer or an Authorised Driver, Giidjaa:

c) waives the Hirer's liability under clause 12.7.1 for damage to the Vehicle(s) or loss of the Vehicle(s);

i. provided that the Hirer and any Authorised Driver are entitled to be indemnified under a policy of motor vehicle insurance provided by a registered insurer for the Hirer and an Authorised Driver's legal liability to a third party for damage to the property of that third party which is caused by the use of the Vehicle(s) by the Hirer or an Authorised Driver.

12.7.3 The Hirer must always pay, and clause 12.7.2 does not cover:

a) the excess shown on the Order Acknowledgement Document if there is damage to or loss of the Vehicle(s) or if there is damage to the property of any third party;

b) the cost of rectifying any tyre damage not attributable to normal wear and tear;

c) the cost of repairing any damage caused deliberately or recklessly by:

ii. The Hirer;

iii. any other driver of the Vehicle(s); or

iv. any passenger carried during the Hire Period;

d) the cost of repairing any damage to the Vehicle(s) or to third party property caused by the Hirer or an Authorised Driver using, or permitting the Vehicle(s) to be used, in any area prohibited by the Hire Agreement;

e) the cost of repairing overhead or roof damage caused by, but not limited to, contact between the Vehicle(s) and objects overhanging or obstructing the path of the Vehicle(s); or

f) the cost of repairing any water damage to the Vehicle(s) or any underbody damage, and any resulting damage from that underbody damage, to the Vehicle(s).

g) under any circumstances where the Vehicle(s) has been refuelled with fuel other than that recommended by the Vehicle manufacturer.

h) under any circumstances where the Vehicle(s) and its keys are unsecured

12.7.4 For the purposes of this clause 12.7, the Hirer must pay for any damage or repair that may be reasonably determined by Giidjaa the amount which includes:

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a) the cost of repairs to the Vehicle or the market value of the Vehicle(s) at the time of the loss or damage, whichever is the lesser;
b) appraisal fees;
c) towing, storage and recovery costs;
d) a reasonable administrative fee reflecting the cost of making arrangements for repairs and towing and other administrative activities; and
e) a per day loss of use fee based on the estimated downtime of the Vehicle.

If the amount determined by Giidjaa and paid by the Hirer under this clause 12.7.4 exceeds the final cost of the damage or repair, Giidjaa will refund the difference to the Hirer.

13. MODERN SLAVERY

13.1 The Hirer must ensure that it:

13.1.1 The Hirer will ensure that any of its officers and employees, related entities, subcontractors, suppliers, contractors or other persons relevant to this Agreement ("Personnel") comply with the Anti- Slavery Laws;
13.1.2 The Hirer will comply, and ensure that it's Personnel comply with all of statutory obligations in relation to Anti-Slavery Laws;
13.1.3 The Hirer and any it's Personnel:
13.1.3.1 have not been convicted of any offence involving Modern Slavery; or
13.1.3.2 have not been the subject of any formal complaint, investigation, inquiry or enforcement proceedings by any person or regulatory body in connection with Modern Slavery or Anti-Slavery Laws.
13.1.4 The Hirer must notify us as soon as it becomes aware of any actual or suspected breach of the Anti-Slavery Laws or Modern Slavery by the Customer or any of its Personnel.
13.1.5 The Hirer must give us all information requested by us to report on, or comply with, any Anti-Slavery Laws in force from time to time, promptly after a request from us to do so.

14. PPS LAW

14.1 For the purposes of this clause, "**PPS Law**" means the *Personal Property Securities Act 2009* (Cth) and Regulations and any other associated or consequential Act or Regulation, as amended. A term defined in the PPS Law has the same meaning when used in this clause.

14.2 The Hirer acknowledges that this Hire Agreement is a security agreement and a PPS Lease for the purposes of the PPS Law and creates a security interest in all Equipment rented to the Hirer, as security for the Hirer's obligations to Giidjaa under this Hire Agreement.

14.3 The Hirer agrees to indemnify Giidjaa for any costs, commissions, fees and expenses, including legal expenses, in relation to the registration, maintenance, enforcement or discharge of a security interest.

14.4 The Hirer agrees to do all such things, sign and/or provide all such documents and/or provide any further information as necessary and required to enable Giidjaa to acquire a perfected security interest in all Equipment supplied by Giidjaa to the Hirer and, if applicable, a Purchase Money Security Interest.

14.5 The Hirer agrees to contract out of, waive or exclude such sections of the PPS Law as Giidjaa may require, to the extent that those sections are able to be excluded under the PPS law. The Hirer expressly agrees to:

14.5.1 contract out of the enforcement provisions referred to in Articles 115(1)(f) to 115(1)(h), 115(1)(l) to 115(1)(n), 115(1)(p), 115(1)(q) and 115(1)(r) of the PPS Law;

14.5.2 waive their right to receive a copy of any notice or statement under Articles 157 and 175 of the PPS Law in respect of the security interest created by this Contract;

14.5.3 not sell or grant any other security interest in the Equipment hired, and

14.5.4 not change or attempt to change any document or registration made or required under the PPS Law in relation to the security interest created by this Agreement without the prior written consent of Giidjaa.

14.6 If:

14.6.1 a PPS Law applies or commences to apply to this Hire Agreement or any transaction contemplated by it, or Giidjaa determines based on legal advice that this is the case; and

14.6.2 in the opinion of Giidjaa, the PPS Law:

14.6.2.1 does or will adversely affect its security position or obligations; or

14.6.2.2 enables or would enable its security position to be improved without materially adversely affecting the Hirer,

Giidjaa may give notice to the Hirer to do anything (including amending this Hire Agreement or executing a new document) that in Giidjaa' reasonable opinion is necessary, to the maximum possible extent, to overcome the circumstances contemplated in subclause 13.6.2.1 above and/or improve the security position as contemplated in subclause 14.6.2.2 above. The Hirer must comply with the requirements of that notice within the time specified in the notice.

14.7 The Hirer will not lease, hire, bail or otherwise deal with ('**sub-hire**') the Equipment unless Giidjaa gives its prior written consent. Any such sub- hire must be in writing in a form acceptable to Giidjaa and must be expressed to be subject to Giidjaa' rights under this Hire Agreement. Hirer may not vary a sub-hire without the prior written consent of Giidjaa.

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14.8 The Hirer must ensure Giidjaa is provided 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.

14.9 The Hirer must take all steps including registration on the PPS register as may be required to:

14.9.1 ensure that any security interest arising under or in respect of the sub-hire is enforceable, perfected and otherwise effective under the PPSA;

14.9.2 enable the Hirer to gain (subject always to the rights of Giidjaa and its related entities) first priority (or any other priority Giidjaa agrees to writing) for the security interest; and

14.9.3 enable the parties to exercise their respective rights in connection with the security interest.

14.10 If having completed everything reasonably practicable as required under the above clause, in the reasonable opinion of Giidjaa its security position or obligations under or in connection with this Hire Agreement have been or will be materially adversely affected, Giidjaa may by further notice to the Hirer terminate this Hire Agreement, in which case:

14.10.1 this Hire Agreement will be terminated with effect from the date or time specified in the notice; and

14.10.2 the Hirer must pay to Giidjaa all monies owing to it within 30 days of that termination.

15. TERMINATION

15.1 Giidjaa may terminate the Hire Agreement immediately by notice to the Hirer, if:

15.1.1 the Hirer breaches any term of the Hire Agreement; or

15.1.2 the Hirer becomes bankrupt or insolvent, executes a personal insolvency agreement, enters into liquidation, comes under external administration, goes into receivership or ceases to carry on business.

15.2 Giidjaa may terminate the Hire Agreement for any other reason by giving the Hirer 2 hours' notice.

15.3 The right of termination is in addition to any other rights under the Hire Agreement and does not exclude any right or remedy under law or equity and the terms of this Hire Agreement (including in respect of payment of the hire charges) continue to apply until the return of the Equipment to Giidjaa (or collection by Giidjaa if agreed).

16. RECOVERY OF EQUIPMENT

16.1 If the Hirer is in breach of the Hire Agreement or if Giidjaa has terminated this Hire Agreement, Giidjaa may take all steps necessary (including legal action) to recover the Equipment, including entering the Hirer's premises to do so and the Hirer hereby authorises Giidjaa to do so.

17. REMOTE AREA CONDITIONS

17.1 **Definitions**:

"**Remote Area**" is a location in excess of 50km from nearest Giidjaa branch.

"**PMP**" is the electronically managed preventive maintenance programme operated by Giidjaa (or its agent) for all Equipment. The PMP involves regular attendance on site by Giidjaa' service personnel to conduct routine 3 monthly Equipment servicing and general maintenance requirements.

17.2 Unless otherwise specified in the Hire Agreement the PMP for all Equipment operating in a Remote Area will be subject to a per km charge both to and from the site at the scheduled rate per kilometre plus labour costs at the scheduled rate, per person per hour (including travelling time) plus any other direct travelling costs including airfares and accommodation (**Remote Area Travelling Charges**).

17.3 Multiple items of Equipment hired by the same Hirer on the one site will only be charged as "one call out".

17.4 The Hirer remains responsible for daily maintenance and care of all Equipment in its possession, including daily checking of all fluids (fuel, oil, water, battery levels etc), general tightening of any loose nuts, bolts, belts or fittings and lubrication of all grease points.

17.5 If the Equipment breaks down in a Remote Area, the Hirer must also pay Giidjaa the Remote Area Travelling Charges relating to any attendance to the location concerned.

17.6 It is the responsibility of the Hirer to provide access to site. Refusal to allow access to equipment at the specified intervals will incur charges. Equipment will be placed out of service at full charge until access is given for servicing to be completed.

17.7 If the Hirer requires Equipment to be serviced at intervals other than the pre-determined PMP service cycle (to align service cycles with site requirements), then the Hirer must pay all charges relating to attendance to site by a technician to complete the additional service.

17.8 It is the responsibility of the Hirer to provide accommodation for Remote Areas if no accommodation is available within 20 kilometres of that location.

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18. MISCELLANEOUS

Severability

18.1 If any part of the Hire Agreement (including these Terms and Conditions) becomes void or unenforceable for any reason, then that part will be severed with the intent that all remaining parts will continue to be in full force and effect and be unaffected by the severance of any other parts.

Governing Law and Default Recovery

18.2 This Hire Agreement is governed by the laws of New South Wales and each party submits to the exclusive jurisdiction of the courts in that State.

Security of Obligations

18.3 As security for the obligations and liabilities of the Hirer and Guarantors under the Hire Agreement, the Hirer and Guarantors hereby charges for the due and punctual payment and performance of those obligations and liabilities, all of its legal and equitable interest (both present and future) of whatsoever nature held in any way in any real property. Without limiting the generality of the charge in this clause, the Hirer and Guarantors agree, on request by Giidjaa, to execute any documents and do all things necessary required by Giidjaa to register a mortgage security over any real property in which the Hirer and Guarantors have an interest (whether legal, equitable, present or future). The Hirer and Guarantors will indemnify Giidjaa on an indemnity basis against all costs and expenses incurred by Giidjaa in connection with the preparation and registration of any mortgage documents. The Hirer and Guarantors also consent unconditionally to Giidjaa lodging a caveat or caveats noting its interest in any real property in which the Hirer and Guarantors have an interest (whether legal, equitable, present or future).

Entire Agreement

18.4 The Hire Agreement, including these Terms and Conditions of Hire and the relevant credit application and Order Acknowledgement Document (or other order documentation approved by Giidjaa in respect of the Equipment), comprises the entire agreement between the parties. No additional terms and conditions proposed by the Hirer (including any terms contained in any hire order provided by the Hirer) apply to the hire of the Equipment unless agreed to in writing by Giidjaa

No Reliance

18.5 The Hirer acknowledges that neither Giidjaa nor any other person acting on Giidjaa' behalf has made any representation or other inducement to it to enter into the Hire Agreement and that it has not entered into the Hire Agreement in reliance on any representations or inducements (including in relation to the use of the Equipment) except for those representations or inducements contained herein.

Variation

18.6 Giidjaa may at any time vary the Hire Agreement, including these Terms and Conditions of Hire, by giving the Hirer 14 days' written notice of its intention to do so. If the Hirer is materially prejudiced by the variation, it may terminate the Hire Agreement by returning the Equipment to Giidjaa (or, if agreed, arranging collection by Giidjaa, in which case the Hire Agreement terminates upon collection by Giidjaa).

GST

18.7 All prices quoted are GST-exclusive and net of all taxes (whether in Australia or otherwise), unless otherwise expressly stated. Giidjaa will provide a tax invoice to the Hirer where applicable. All GST, customs duties, Government taxes, import / export permits and documentation fees levied or pertaining to Equipment during the period of rental are payable by the Hirer and the Hirer indemnifies Giidjaa to the extent it becomes liable for payment of such a tax or has paid such tax and is unable to recover it from the relevant authority.

Privacy

18.8 Giidjaa may collect personal information about the Hirer. Giidjaa may use the Hirer's personal information to provide services to the Hirer, to fulfil administrative functions associated with these services, to enter into contracts with the Hirer or third parties, and for marketing and client relationship purposes. Generally, the Hirer has a right to access personal information Giidjaa holds about the Hirer.

18.9 The Hirer consents to and authorises Giidjaa to use and disclose the Hirer's personal information in accordance with clause 17.8.

18.10 Giidjaa will only disclose information that we have about the Hirer:

18.10.1 to the extent specifically required by law;

18.10.2 where there is a duty to the public to disclose that information; or

18.10.3 where the interests of Giidjaa require disclosure.

18.11 The Hirer irrevocably authorises Giidjaa to make such enquiries as it deems necessary to investigate the credit worthiness of the Hirer and any guarantors from credit reporting agencies. Giidjaa may obtain personal and commercial credit information regarding the hirer from a credit reporting agency.

18.12 **Tracking Device**

IMPORTANT NOTICE
A breach of any part of this clause 18.12.2 is a Major Breach of the Hire Agreement. See clause 21 for further details.

18.12.1 To maintain and protect the Vehicle Giidjaa may fit a Tracking Device to the Vehicle(s) to enable Us to monitor the condition, performance and operation of the Vehicle and to track the Vehicle's movements. This information may be used both during and after the Rental Period. When the Hirer enters into a Hire Agreement for vehicle(s), the Hirer is authorising Giidjaa and consenting to the use of the Tracking

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Device.

18.12.2 The Hirer and the Authorised Driver must not tamper with the Tracking Device or remove it from the Vehicle(s).

Notice to Hirer

18.13 Any document which by the Hire Agreement may be given by Giidjaa may be served or rendered by leaving it at or posting it to the address of the Hirer as stated in the Hire Agreement or at an address in Western Australia last notified by the Hirer in writing to Giidjaa and will be deemed to have been serviced or rendered at the time of leaving or, if posted, on the business day following the day of postage and any notice may be signed by an officer, manager or solicitor of Giidjaa.

No Waiver

18.14 No delay or omission to exercise any right, power or remedy accruing to Giidjaa upon any continuing breach or default under the Hire Agreement will impair any such right, power or remedy, nor will it be construed to be a waiver of any right of Giidjaa to take action or make a claim in respect of a continuing breach or default or to be acquiescence to it.

Withdrawal of Credit Accommodation

18.15 Any credit accommodation and/or credit limit granted by Giidjaa to the Hirer may be reviewed at any time without notice. Where a credit limit is set by Giidjaa and the Hirer exceeds this credit limit, the Hirer's trading account will be placed on stop credit. Credit may be withdrawn for Hirers failing to make payments or use the Equipment in accordance with these Terms and Conditions of Hire and a statement may be issued at that time requiring payment within 7 days of any amount due and owing.

Authority of Hirer

18.16 The person signing the Hire Agreement (including the Credit Application) for and on behalf of the Hirer hereby covenants with Giidjaa that he or she has the authority of the Hirer to make the Agreement on the Hirer's behalf and is empowered by the Hirer to bind the Hirer to the Agreement and hereby indemnities Giidjaa against all losses, costs and claims incurred by Giidjaa arising out of the person so signing the Agreement not in fact having such power and/or authority.

Previous Editions

18.17 This edition of the Terms and Conditions of Hire replaces and supersedes all of Giidjaa' previously issued Terms and Conditions of Hire.

Time of the Essence

18.18 Time is to be of the essence of all obligations of the Hirer in the Hire Agreement.

Right of Refusal to Hire

18.19 Giidjaa is in no way obliged to hire any Equipment to the Hirer and may refuse to hire Equipment to a Hirer at its absolute discretion.

19. INTELLECTUAL PROPERTY

19.1 If the Hirer provides any information to Giidjaa, the Hirer warrants that it holds any required intellectual property rights to that information.

19.2 In the event of legal action against Hirer for breach of intellectual property rights relating to use of information provided by the Hirer, the Hirer indemnifies Giidjaa for any legal costs or other costs whatsoever it may incur.

20. MODERN SLAVERY

20.1 The Hirer undertakes to Giidjaa that as at the date of acceptance of this Hire Agreement and throughout the Term of this Agreement:

20.1.1 The Hirer will ensure that any of its officers and employees, related entities, subcontractors, suppliers, contractors or other persons relevant to this Agreement ("Personnel") comply with the Anti- Slavery Laws;
20.1.2 The Hirer will comply, and ensure that it's Personnel comply with all of statutory obligations in relation to Anti-Slavery Laws;
20.1.3 The Hirer and any it's Personnel:

i. have not been convicted of any offence involving Modern Slavery; or

ii. have not been the subject of any formal complaint, investigation, inquiry or enforcement proceedings by any person or regulatory body in connection with Modern Slavery or Anti-Slavery Laws.

20.1.4 The Hirer must notify us as soon as it becomes aware of any actual or suspected breach of the Anti-Slavery Laws or Modern Slavery by the Customer or any of its Personnel.
20.1.5 The Hirer must give us all information requested by us to report on, or comply with, any Anti-Slavery Laws in force from time to time, promptly after a request from us to do so.

21. CONSEQUENCES OF A MAJOR BREACH OF THE HIRE AGREEMENT

If the Hirer or any Authorised Driver:

21.1.1 commits a Major Breach of a Hire Agreement in a way that causes Damage, theft of the Vehicle or Third Party Loss; or

21.1.2 drives the Vehicle(s) in a reckless manner so that a substantial breach of road safety legislation, including the Crimes Act 1900 (NSW) has occurred,

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21.1.3 The Hirer and any Authorised Driver:

a) may, subject to the terms of the relevant Damage Cover policy, cease to have any Damage Cover under the Hire Agreement;
b) are liable for all Damage, theft of the Vehicle and Third Party Loss; and
c) are liable for and must pay any additional costs or expenses We incur as a direct consequence.

21.1.4 Giidjaa may terminate any Hire Agreement and take immediate possession of the relevant Vehicle(s) if:

d) You suffer an Insolvency Event; or
e) any of the breaches set out in clause 21.1 occurs.

The authorised person acknowledges by signing below that he/she/they has/have read and understood the terms and conditions of hire herewith and, prior to its execution, have had the opportunity to obtain legal and/or financial advice:

Name of Company	
ABN	
Address of Company	
Signature of authorized person	
Office held	
Date signed	

Signed in the presence of:

Signature of witness	
Name of witness (print)	
Address of witness (print)	
Date signed	

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