



CREDIT ACCOUNT APPLICATION

To Be Completed By Applicants - Please complete all sections and read the Terms and Conditions of Hire overleaf or attached.

Client's Details: <input type="radio"/> Individual <input type="radio"/> Sole Trader <input type="radio"/> Trust <input type="radio"/> Partnership <input type="radio"/> Company <input type="radio"/> Other:				
Full or Legal Name:				
Trading Name (if different from above):				
Physical Address:			State:	Postcode:
Billing Address:			State:	Postcode:
Email Address:				
Phone No:		Fax No:		Mobile No:
Personal Details: <i>(please complete if you are an Individual)</i>				
D.O.B.			Driver's Licence No:	
Business Details: <i>(please complete if you are a Sole Trader, Trust, Partnership, Company or Other – as specified)</i>				
ABN:		ACN:		Date Established <i>(current owners)</i> :
Nature of Business:				
Paid Up Capital: \$		Estimated Monthly Purchases: \$		Credit Limit Required: \$
Principal Place of Business is: <input type="radio"/> Rented <input type="radio"/> Owned <input type="radio"/> Mortgaged <i>(to whom)</i> :				
Directors / Owners / Trustee <i>(if more than two, please attach a separate sheet)</i>				
(1) Full Name:				
Director Identification No:			D.O.B.	
Private Address:			State:	Postcode:
Driver's Licence No:		Phone No:		Mobile No:
(2) Full Name:				
Director Identification No:			D.O.B.	
Private Address:			State:	Postcode:
Driver's Licence No:		Phone No:		Mobile No:
Account Terms: <input type="radio"/> 7 Days <input type="radio"/> COD <input type="radio"/> Other:				
Purchase Order Required? <input type="radio"/> YES <input type="radio"/> NO		Accounts to be emailed? <input type="radio"/> YES <input type="radio"/> NO		
Accounts Email Address:				
Accounts Contact:			Phone No:	
Bank and Branch:			Account No:	
Trade References: <i>(please provide companies that are willing to do trade references)</i>				
Name:		Address:		Phone / Fax / Email:
1.				
2.				
3.				

I certify that the above information is true and correct and that I am authorised to make this application for credit. I have read and understand the TERMS AND CONDITIONS OF HIRE (overleaf or attached) of Aditi Constructions Pty Ltd T/A V Equipment which form part of and are intended to be read in conjunction with this Credit Account Application and agree to be bound by these conditions. I authorise the use of my personal information as detailed in the Privacy Act clause therein.

SIGNED (CLIENT): _____ SIGNED (SUPPLIER): _____
 Name: _____ Name: _____
 Position: _____ Position: _____
 Date: _____ Date: _____

OFFICE USE ONLY				
Account / Ref. No.	CREDIT LIMIT	APPROVED BY	DATA INPUTTED	DATE
	\$			/ /

Personal/Directors Guarantee and Indemnity

IN CONSIDERATION of Aditi Constructions Pty Ltd T/A V Equipment and its successors and assigns ("the Supplier") at the request of the Guarantor (as is now acknowledged) supplying and continuing to supply equipment and/or services to

("the Client") [Insert Company Name in Box Provided]

I/WE (also referred to as the "Guarantor/s") UNCONDITIONALLY AND IRREVOCABLY:

1. **GUARANTEE** the due and punctual payment to the Supplier of all monies which are now owing to the Supplier by the Client and all further sums of money from time to time owing to the Supplier by the Client in respect of equipment and services supplied or to be supplied by the Supplier to the Client or any other liability of the Client to the Supplier, and the due observance and performance by the Client of all its obligations contained or implied in any contract or agreement with the Supplier, including but not limited to the Terms & Conditions of Trade signed by the Client and annexed to this Guarantee and Indemnity. If for any reason the Client does not pay any amount owing to the Supplier, the Guarantor will immediately on demand pay the relevant amount to the Supplier. In consideration of the Supplier agreeing to supply the equipment and/or services to the Client, the Guarantor charges all of its right, title and interest (joint or several) in any land, realty or other assets capable of being charged, owned by the Guarantor now or in the future, to secure the performance by the Guarantor of its obligations under this Guarantee and Indemnity (including, but not limited to, the payment of any money) and the Guarantor acknowledges that this personal guarantee and indemnity constitutes a security agreement for the purposes of the Personal Property Securities Act 2009 ("PPSA") and unequivocally consents to the Supplier registering any interest so charged. Furthermore, it is agreed by both parties that where the Guarantor is acting in the capacity as a trustee for a trust, then the Guarantor agrees to charge all its right title and interest in any land realty, or other assets capable of being charged in its own capacity and in its capacity as trustee and shall be subject to the PPSA Registration as stated above. The Guarantor irrevocably appoints the Supplier and each director of the Supplier as the Guarantor's true and lawful attorney/s to perform all necessary acts to give effect to this clause including, but not limited to, signing any document on the Guarantor's behalf which the Supplier may reasonably require to:
 - (a) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
 - (b) register any other document required to be registered by the PPSA or any other law; or
 - (c) correct a defect in a statement referred to in clause 1(a) or 1(b).
2. **HOLD HARMLESS AND INDEMNIFY** the Supplier on demand as a separate obligation against any liability (including but not limited to damages, costs, losses, and legal fees calculated on a solicitor and own client basis) incurred by, or assessed against, the Supplier in connection with:
 - (a) the supply of equipment and/or services to the Client; or
 - (b) the recovery of monies owing to the Supplier by the Client including the enforcement of this Guarantee and Indemnity, and including but not limited to the Supplier's nominees contract default fee and legal costs; or
 - (c) monies paid by the Supplier with the Client's consent in settlement of a dispute that arises or results from a dispute between, the Supplier, the Client, and a third party or any combination thereof, over the supply of equipment and/or services by the Supplier to the Client.

I/WE FURTHER ACKNOWLEDGE AND AGREE THAT

3. **I/We have received, read, and understood the Supplier's Terms and Conditions prior to entering into this Guarantee and Indemnity and agree to be bound by those Terms and Conditions.**
4. This Guarantee and Indemnity shall constitute an unconditional and continuing Guarantee and Indemnity and accordingly shall be irrevocable and remain in full force and effect until all monies owing to the Supplier by the Client and all obligations herein have been fully paid satisfied and performed.
5. No granting of credit, extension of further credit, or granting of time and no waiver, indulgence, or neglect to sue on the Supplier's part (whether in respect of the Client or any one or more of any other Guarantor(s) or otherwise) and no failure by any named Guarantor to properly execute this Guarantee and Indemnity shall impair or limit the liability under this Guarantee and Indemnity of any Guarantor. Without affecting the Client's obligations to the Supplier, each Guarantor shall be a principal debtor and liable to the Supplier accordingly.
6. The liability under this Guarantee and Indemnity shall not be discharged, abrogated, prejudiced, or affected by:
 - (a) any alteration, modification, variation or addition to any contract or agreement in respect of the supply of equipment and/or services;
 - (a) the liquidation, receivership, administration, bankruptcy, dissolution, compromise or scheme of arrangement in respect of the Client;
 - (b) any other act, omission, or event which, but for this provision, might operate to discharge, impair, or otherwise affect any obligations under this Guarantee and Indemnity of any of the rights, powers or remedies conferred by this Guarantee and Indemnity or by law.
7. The term "Guarantor" whenever used in this Guarantee and Indemnity shall, if there is more than one person named as Guarantor, mean, and refer to each of them individually and all of them together unless the context otherwise requires, the obligations and agreements on the part of the Guarantor, shall include the Guarantor's executors, administrators, successors and permitted assignments (where applicable) contained in this Guarantee and Indemnity shall bind them jointly and severally.
8. **I/We have been advised to obtain independent legal advice before executing this Guarantee and Indemnity. I/we understand that I/we am/are liable for all amounts owing (both now and in the future) by the Client to the Supplier.**
9. I/we irrevocably authorise the Supplier to obtain from any person or company any information which the Supplier may require for credit reference purposes. I/We further irrevocably authorise the Supplier to provide to any third party, in response to credit references and enquiries about me/us or by way of information exchange with credit reference agencies, details of this Guarantee and Indemnity and any subsequent dealings that I/we may have with the Supplier as a result of this Guarantee and Indemnity being actioned by the Supplier.
10. The above information is to be used by the Supplier for all purposes in connection with the Supplier considering this Guarantee and Indemnity and the subsequent enforcement of the same.

For and on behalf of the Client I/We confirm I/We have read, understood, and accept the terms of this Guarantee and Indemnity, and I/We agree to be bound by this Guarantee and Indemnity.

GUARANTOR-1		
SIGNED: _____		
FULL NAME: _____		
HOME ADDRESS: _____		
DATE OF BIRTH: _____		
SIGNATURE OF WITNESS: _____		
NAME OF WITNESS: _____		
OCCUPATION: _____		
PRESENT ADDRESS: _____		
EXECUTED as a Deed this	day of	20____

GUARANTOR-2		
SIGNED: _____		
FULL NAME: _____		
HOME ADDRESS: _____		
DATE OF BIRTH: _____		
SIGNATURE OF WITNESS: _____		
NAME OF WITNESS: _____		
OCCUPATION: _____		
PRESENT ADDRESS: _____		
EXECUTED as a Deed this	day of	20____

- Note:
1. If the Client is a proprietary limited company, the Guarantor(s) must be the director(s) of the company.
 2. If the Client is a limited partnership, the Guarantor(s) must be the general partners
 3. If the Client is a sole trader or partnership the Guarantor(s) should be some other suitable person(s).
 4. If the Client is a club or incorporated society the Guarantor(s) should be the president and secretary or another committee member

WARNING: THIS IS AN IMPORTANT DOCUMENT. YOU SHOULD SEE YOUR OWN LAWYER OR ADVISOR BEFORE SIGNING IT

Aditi Constructions Pty Ltd T/A V Equipment - Terms & Conditions of Hire

1.	Definitions	(d) If during the course of the Services, the Equipment ceases to be available from the Supplier, then the Supplier reserves the right to provide alternative Equipment, subject to prior confirmation and agreement of both parties; or	12.	Condition of Equipment and Insurances	Condition of Equipment and Insurances The Equipment will be inspected by a representative of each party to establish the general condition thereof and a statement of condition of the Equipment will be prepared: (a) immediately prior to the commencement of this Contract; and (b) as soon as practicable following termination of this Contract. The Client acknowledges and agrees that they will, at their own cost, reimburse the Equipment to its condition as shown in the pre-hire inspection, normal wear and tear excepted. Any repairs to be made shall be arranged by the Supplier and not the Client. The Supplier, the Supplier's servants and agents may at all reasonable times inspect the Equipment and operate it for the purpose of testing or repairing it and the Client irrevocably permit and license the Supplier to take possession of the Equipment and to remove it and for this purpose to enter upon the Site as the Client's agent.
1.1	"Charges" means the cost of the Hire of the Equipment (plus any GST where applicable) as agreed between the Supplier and the Client subject to clause 7 of this Contract.	(e) where Equipment is used outside the Supplier's standard working hours or on a weekend or public holiday or (f) in the event the Client uses the Equipment more than the number of hours specified in the Hire Order; or (g) where rates in respect of the Supplier's personnel are subject to additional Charges for loading, penalties, and allowances as applicable to the Supplier's personnel pursuant to their terms of engagement (including, but not limited to, night shifts, weekends, standby, overtime, public holidays, meals, travel, and accommodation rates); or (h) where there is an increase in the Supplier's costs due to changes in statutory, government, or local body charges, taxes, levies, stamp duties etc., with respect to the Services, increases to the Supplier in the cost of labour or materials or due to relevant industry awards (e.g., Site allowance and severance pay), which are outside the control of the Supplier.	12.1		
1.2	"Client" means the persons, entities or any person acting on behalf of and with the authority of the Client requesting the Supplier to provide the services as specified in any proposal, quotation, order, invoice or other documentation, and: (a) if there is more than one Client, a reference to this Client jointly and severally; and (b) if the Client is a partnership, it shall bind each partner jointly and severally; and (c) if the Client is a part of a Trust, shall be bound in their capacity as a trustee; and (d) includes the Client's executors, administrators, successors and permitted assignees.		12.2		
1.3	"Confidential Information" means information of a confidential nature whether oral, written or in electronic form, but not limited to, this Contract, either party's intellectual property, operational information, know-how, trade secrets, financial and commercial affairs, contracts, client information (including but not limited to, "Personal Information" such as: name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) and pricing details.		12.3		
1.4	"Contract" means the terms and conditions contained herein, together with any quotation, Hire form, invoice or other document or amendments expressed to be supplemental to this Contract.	7.4			
1.5	"Cookies" means small files which are stored on a user's computer. They are designed to hold a modest amount of data (including Personal Information) specific to a particular client and website and can be accessed either by the web server or the client's computer. If the Client does not wish to allow Cookies to operate in the background when using the Supplier's website, then the Client shall have the right to enable/disable the Cookies first by selecting the option to enable/disable provided on the website, prior to making enquiries via the website.	7.5			
1.6	"Dry Hire" shall mean the use of the Equipment without an operator supplied by the Supplier.		13.	Title	Where this is a hire agreement: (a) the Equipment is and will at all times remain the absolute property of the Supplier, and the Client must return the Equipment to the Supplier upon request to do so; (b) if the Client fails to return the Equipment to the Supplier as is required under this Contract or when requested to do so, then the Supplier or the Supplier's agent may (as the invitee of the Client) enter upon and into any land and premises owned, occupied or used by the Client, or any premises where the Equipment is situated and take possession of the Equipment, without being responsible for any damage thereby caused. Any costs incurred by the Supplier as a result of the Supplier so repossessing the Equipment shall be charged to the Client; and (c) the Client is not authorised to pledge the Supplier's credit for repairs to the Equipment or to create a lien over the Equipment in respect of any repairs. Where is this an agreement for the purchase of the Equipment: (a) the Client shall be deemed to have accepted the terms and conditions of the Equipment shall not pass until: (i) the Client has paid the Supplier all amounts owing to the Supplier; and (ii) the Client has met all of its other obligations to the Supplier. (b) payment by the Supplier of any form of payment other than cash shall not be deemed to be receipt until that form of payment has been honoured, cleared or recognised; (c) the further agreed ownership of the Equipment passes to the Client in accordance with clause (a); (d) the Client is only a bailee of the Equipment and must return the Equipment to the Supplier upon request; (e) the Client holds the benefit of the Client's insurance of the Equipment on trust for the Supplier and must pay to the Supplier the proceeds of any insurance in the event of the Equipment being lost, damaged or destroyed; (f) the Client must not sell, dispose, or otherwise part with possession of the Equipment other than in the ordinary course of business and for market value. If the Client sells, disposes or parts with possession of the Equipment then the Client must hold the proceeds of the sale or disposal on trust for the Supplier and must pay over the proceeds to the Supplier on demand; (g) the Client shall not convert or process the Equipment or intermix them with other goods but if the Client does so then the Client holds the resulting product on trust for the benefit of the Supplier and must sell, dispose of or return the resulting product to the Supplier as it so directs; (h) the Client expressly authorises the Supplier to enter any premises where the Supplier believes the Equipment are kept and recover possession of the Equipment; (i) the Supplier may recover possession of any Equipment in transit whether or not Delivery has occurred; (j) the Client shall not charge or grant an encumbrance over the Equipment nor grant nor otherwise give any interest in the Equipment while they remain the property of the Supplier; and (k) the Client may commence proceedings to recover the Price of the Equipment sold notwithstanding that ownership of the Equipment has not passed to the Client.
1.7	"Equipment" means all equipment (including any earthing and compaction equipment and accessories) supplied on hire or sale by the Supplier to the Client (and where the context so permits shall include any incidental supply of services). The Equipment shall be as described on the invoice, quotation, authority to hire, or any other work authorisation forms as provided by the Supplier to the Client.	7.6	13.1		
1.8	"GST" means Goods and Services Tax as defined within the "A New Tax System (Goods and Services Tax) Act 1999" (Cth).		13.2		
1.9	"GPS Device" means that the Supplier's Equipment may contain on-board devices which enables the Equipment to be connected to the internet and to send commands to and receive certain information including location, speed, battery voltage and ignition status) of such Equipment.	7.7			
1.10	"Minimum Hire Period" means the Minimum Hire Period as described on the invoice, quotation, authority to hire, or any other forms as provided by the Supplier to the Client.	7.8			
1.11	"Site" means the location at which the Equipment is to be operated.				
1.12	"Supplier" means Aditi Constructions Pty Ltd T/A V Equipment, its successors and assigns or any person acting on behalf of and with the authority of Aditi Constructions Pty Ltd T/A V Equipment.	7.9			
1.13	"Wet Hire" shall mean hire of the Equipment with an operator supplied by the Supplier.				
2.	Acceptance				
2.1	The parties acknowledge and agree that: (a) they have read and understood the terms and conditions contained in this Contract; and (b) the parties are taken to have exclusively accepted and are immediately bound, jointly and severally, by these terms and conditions if the Client places an order for or accepts delivery of the Equipment.	8.			
2.2	In the event of any inconsistency between the terms and conditions of this Contract and any other prior document or schedule that the parties have entered into, the terms of this Contract shall prevail.	7.10			
2.3	Any amendment to the terms and conditions contained in this Contract may only be amended in writing by the consent of both parties.				
2.4	The Client acknowledges that the hire of the Equipment on credit shall not take effect until the Client has completed a credit application with the Supplier and it has been approved with a credit limit established for the account.	7.11			
2.5	In the event that the hire of the Equipment requested exceeds the Client's credit limit and/or the account exceeds the payment terms, the Supplier reserves the right to refuse delivery.	8.			
2.6	The Supplier: (a) shall be entitled to rely on the information provided in the Client's registration which the Client is using the Equipment for (e.g., demolition, construction of bridges, rail lines, tidal areas, underground, or watercraft etc.). The Client acknowledges and agrees that in the event that any of this information provided by the Client is inaccurate, the Supplier accepts no responsibility for any loss, damages, or costs however resulting from incorrect information provided; and (b) acknowledges that that by hiring any Equipment from the Supplier, the Client expressly consents to the Supplier's use of the GPS Device on such Equipment during the hire period and to the Supplier collecting, using, and retaining information from the GPS Device and the Supplier retaining the ownership of that data subject to the provisions of clause 10.1.	8.1			
2.7	Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 9 of the Electronic Transactions (Victoria) Act 2000 or any other applicable provisions of that Act or any Regulations referred to in that Act.	8.3			
3.	Authorised Representatives	8.4			
3.1	The Client acknowledges that the Supplier shall (for the duration of the hire period) liaise directly 9.1 with one (1) authorised representative, and that once introduced as such to the Supplier, that person shall have the full authority of the Client to order any further Equipment and/or to request any variation thereto on the Client's behalf. The Client accepts that they will be solely liable to the Supplier for all costs incurred or refused to be supplied by the Supplier (including the Supplier's profit margin) in providing any Services or variations requested thereto by the Client's duly authorised representative.	9.			
4.	Errors and Omissions				
4.1	The Client acknowledges and accepts that the Supplier shall, without prejudice, accept no liability in respect of any alleged or actual error(s) and/or omissions(s): (a) resulting from an inadvertent mistake made by the Supplier in the formation and/or administration of this Contract; and/or (b) contained in/omitted from any literature (hard copy and/or electronic) supplied by the Supplier in respect of the Equipment hire and/or services. (c) in circumstances where the Client is required to place an order for the Equipment, in writing, or otherwise as permitted by these terms and conditions, the Client is responsible for supplying correct order information such as, without limitation, measurements and quantity, when placing an order for the Equipment ("Client Error"). The Client must pay for all Equipment it orders from the Supplier notwithstanding that such Equipment suffers from a Client Error and notwithstanding that the Client has not taken the opportunity to inspect such Equipment. The Supplier is entitled to, at its absolute discretion to waive its right under this sub-clause in relation to Client Errors.	10.			
5.	Credit Card Information	10.1			
5.1	The Supplier will: (a) keep the Client's personal details, including credit card details for only as long as is deemed necessary by the Supplier; (b) not disclose the Client's credit card details to any third party; and (c) not unnecessarily disclose any of the Client's personal information, except in accordance with the Privacy Act (clause 24) or where required by law.	11.			
6.	Change in Control	11.1			
6.1	The Client shall notify the Supplier not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client and/or any other change in the Client's details (including but not limited to, changes in the Client's name, address, contact phone or fax numbers, change of trustees, or business practice). The Client shall be liable for any loss incurred by the Supplier as a result of the Client's failure to comply with this clause.	11.2			
7.	Charges and Payment				
7.1	At the Supplier's sole discretion, the Charges shall be either: (a) as indicated on invoices provided by the Supplier to the Client upon placement of an order for the Equipment; or (b) the Supplier's current Charges, at the date of Delivery of the Equipment, according to the Supplier's current price list, as previously disclosed to the Client upon the Client's placement of an order for the Equipment; or (c) the Supplier's quoted Charges (subject to clause 7.3) which shall be binding upon the Supplier provided that the Client shall accept in writing the Supplier's quotation within thirty (30) days.	11.3			
7.2	The maximum hours per week is forty (40) hours, and any additional hours shall be charged an additional rate and shown as a variation in accordance with clause 7.3	11.4			
7.3	The Supplier reserves the right to change the Charges: (a) if a variation to the Supplier's quotation is requested; or (b) where the Supplier is required to mobilise and demobilise Equipment when the Supplier is required to transport the Equipment to and from the Supplier's depot, unless otherwise agreed; or (c) where additional Services are required due to the discovery of hidden or unidentifiable difficulties (including, but not limited to, poor weather conditions, limitations to accessing the Site, incorrect physical dimensions, weights, or distances etc.) which are only discovered on commencement of the Services; or	11.5			
8.	Delivery				
8.1	The Client shall be responsible for free access by the Supplier to the Site on which the Equipment is located. If there are any delays due to free access not being available, then the Client shall be responsible for the damage to the Equipment (however caused and without limiting the generality of the foregoing whether or not such loss, theft, or damage is attributable to any negligence, failure, or omission of the Client.)	12.1			
8.2	The Client will insure, or self-insure, the Supplier's interest in the Equipment against physical loss or damage including, but not limited to, the perils of accident, fire, theft and burglary and all other risks and will effect adequate Public Liability Insurance covering any loss, damage or injury to property arising out of the Equipment. Further the Client will not use the Equipment nor permit it to be used in such a manner as would permit an insurer to decline any claim; and (d) the Client accepts full responsibility for and shall keep the Supplier indemnified against all liability in respect of all claims, proceedings, claims, damages, costs and expenses in respect of any injury to persons, damage to property, or otherwise arising out of the use of the Equipment during the hire period and whether or not arising from any negligence, failure or omission of the Client or any other persons.	12.2			
8.3	Where is this an agreement for the purchase of the Equipment: (a) the Client shall be responsible for the damage to the Equipment on Delivery and the Client shall ensure the Equipment is returned before Delivery; (b) if any of the Equipment is damaged or destroyed following Delivery but prior to ownership passing to the Client, the Supplier is entitled to receive all insurance proceeds payable for the Equipment. The production of these terms and conditions by the Supplier is sufficient evidence of the Supplier's rights to receive the insurance proceeds without the need for any separate or additional agreement with the Client to make further enquiries; (c) if the Client requests the Supplier to leave Equipment outside the Supplier's premises for collection or to deliver the Equipment to an unattended location, then such Equipment shall be left at the Client's sole risk.	12.3			
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8.10	Where is this an agreement for the purchase of the Equipment: (a) the Client shall be responsible for the damage to the Equipment on Delivery and the Client shall ensure the Equipment is returned before Delivery; (b) if any of the Equipment is damaged or destroyed following Delivery but prior to ownership passing to the Client, the Supplier is entitled to receive all insurance proceeds payable for the Equipment. The production of these terms and conditions by the Supplier is sufficient evidence of the Supplier's rights to receive the insurance proceeds without the need for any separate or additional agreement with the Client to make further enquiries; (c) if the Client requests the Supplier to leave Equipment outside the Supplier's premises for collection or to deliver the Equipment to an unattended location, then such Equipment shall be left at the Client's sole risk.	12.10			
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8.12	Where is this an agreement for the purchase of the Equipment: (a) the Client shall be responsible for the damage to the Equipment on Delivery and the Client shall ensure the Equipment is returned before Delivery; (b) if any of the Equipment is damaged or destroyed following Delivery but prior to ownership passing to the Client, the Supplier is entitled to receive all insurance proceeds payable for the Equipment. The production of these terms and conditions by the Supplier is sufficient evidence of the Supplier's rights to receive the insurance proceeds without the need for any separate or additional agreement with the Client to make further enquiries; (c) if the Client requests the Supplier to leave Equipment outside the Supplier's premises for collection or to deliver the Equipment to an unattended location, then such Equipment shall be left at the Client's sole risk.	12.12			

Aditi Constructions Pty Ltd T/A V Equipment - Terms & Conditions of Hire

- (b) limited to any warranty to which the Supplier is entitled, if the Supplier did not manufacture the Equipment;
- (c) otherwise negated absolutely.
- 16.8 Notwithstanding clauses 16.1 to 16.7 but subject to the CCA, the Supplier shall not be liable for any defect or damage which may be caused or partly caused by, or arise as a result of:
- (a) the Client failing to properly maintain or store any Equipment;
- (b) the Client interfering with the Equipment in any way without the Supplier's written approval to do so;
- (c) the Client using the Equipment for any purpose other than that for which it was designed;
- (d) the Client continuing the use of the Equipment after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
- (e) the Client failing to follow any instructions or guidelines provided by the Supplier;
- (f) fair wear and tear, any accident, or act of God.
- 16.9 In the case of second-hand Equipment, unless the Client is a consumer under the CCA, the Client acknowledges that it has had full opportunity to inspect the second-hand Equipment prior to delivery and accepts them with all faults and that to the extent permitted by law no warranty is given by the Supplier as to the quality or suitability for any purpose and any implied warranty, statutory or otherwise, is expressly excluded. The Client acknowledges and agrees that the Supplier has agreed to provide the Client with the second-hand Equipment and calculated the Charges of the second-hand Equipment in reliance of this clause 16.9.
17. Limitation of Liability of Hired Equipment
- 17.1 The Client acknowledges and agrees that the Supplier is not liable:
- (a) to the Client for any loss, cost (whether indirect or consequential) or damage or delay through breakdown, mechanical defect or accident to or of the Equipment;
- (b) to any person for any loss or damage to any property stolen from the Equipment or damaged or otherwise lost during the hire period or left in the Equipment after removal of the Equipment to the Supplier's nominated address (or depot); and
- (c) to the Client for any form of breakdown, whether mechanical electrical or structural to the Equipment whilst on hire to the Client.
- 17.2 The Client covenants and agrees that, notwithstanding whether the Supplier has effected insurance in respect of the risks, the Client indemnifies and will keep indemnified the Supplier against the loss or damage to the Equipment whether by fire, theft, accident, seizure, confiscation, corrosion, rust, oxidation and chemical reactions of every nature and kind whatsoever, or otherwise, howsoever caused and without limiting the generality of the foregoing whether or not such loss, theft, or damage is attributable to any negligence, failure, or omission of the Client, and:
- (a) the appraisal of such loss or damage shall be based upon the replacement value of new plant; and
- (b) all other losses, damages, claims or actions or proceedings, penalties, liabilities, costs and expenses, including legal costs, howsoever arising including as a result of or in connection with the Equipment (including, but not limited to, any injury to or death of persons, damage to property, or otherwise arising from the possession, use, maintenance, repair or storage of the Equipment during the hire period and whether or not arising from any negligence, failure or omission of the Client or any other persons) or the seizure or the taking of possession of the Equipment by the Supplier.
- 17.3 **Wet Hire**
- (a) unless otherwise agreed to in writing between the parties, the Supplier shall not be deemed the principle contractor and shall not be obligated to maintain any contract works insurance cover or be responsible with regard to any work cover requirements (including, but not limited to, compliance under any relevant legislation or policy, etc.);
- (b) the Equipment is supplied by the Supplier with an operator, who shall at all times remain an employee or representative of the Supplier. However, they shall operate the Equipment in accordance with the reasonable instructions of the Client, and accordingly, the Client:
- (i) shall not cause, or require, the Equipment to be used in a manner that is contrary to all relevant standards and safe work practices;
- (ii) shall be liable for all responsibility and costs incurred as a result of the actions of the operator whilst following the Client's instructions.
- (c) In the event the Client requires the operator to undertake a recognised safety course or medical examination during working hours, the Client will be liable to pay the hourly hire charges for that period, notwithstanding that the Equipment is not being operated during such time. If any course is undertaken outside of the hire period then the Client shall be liable to pay the Supplier's standard (and/or overtime, if applicable) hourly labour rate.
18. Client's Responsibilities
- 18.1 The Client shall:
- (a) satisfy itself at commencement that the Equipment is suitable for its purposes;
- (b) notify the Supplier immediately by telephone of the full circumstances of any mechanical breakdown or accident. The Client is not absolved from the requirements to safeguard the Equipment by giving the following notification:
- (i) maintain the Equipment as is required by the Supplier (including, but not limited to, maintaining (where applicable) water, oil, fluid levels; tyre pressures and track tension);
- (ii) replacing wear items that have become worn out or used during the hire period;
- (iii) operate the Equipment safely including caution on use, strictly in accordance with the law, only for its intended use and in accordance with any manufacturer's instruction whether supplied by the Supplier or posted on the Equipment;
- (iv) be responsible for undertaking the daily operator safety checks and updating the operator safety check logbook;
- (v) ensure that:
- (i) all persons operating or installing, the Equipment are suitably instructed in its safe and proper use and where necessary hold a current Certificate of Competency and/or are fully licensed to operate the Equipment and shall provide evidence of the same to the Supplier upon request;
- (ii) the operator of any Equipment is not under the influence of alcohol or any drug that may impair the ability to operate the Equipment;
- (iii) all reasonable care is taken by the driver in handling and/or parking the Equipment and that the Equipment is left locked and/or securely stored when not in use;
- (iv) be liable for any parking or traffic infringement, impoundment, towage and storage costs incurred during the hire period and will supply relevant details as required by the Police and/or the Supplier relating to any such matters or occurrences;
- (v) comply with all work health and safety laws relating to the Equipment and its operation;
- (vi) on termination of the hire, deliver the Equipment complete with all parts and accessories, clean and in good order as delivered, fair wear and tear accepted, to the Supplier;
- (vii) refund the Equipment prior to its return from hire. In the event the Equipment needs to be refuelled upon its return, the costs of refuelling shall be charged to the Client even in addition to the hire charges;
- (viii) keep the Equipment in their own possession and control and shall not allow the benefit of the hire Contract nor be entitled to loan out the Equipment;
- (ix) employ the Equipment solely in its own work and shall not permit the Equipment of any part thereof to be used by any other party for any other work;
- (x) indemnify and keep indemnified the Supplier in respect of all claims arising out of the Client's use of the Equipment.
- 18.2 The Client shall not:
- (a) alter or make any additions to the Equipment including but without limitation altering, make any additions to, defacing or erasing any identifying mark, plate or number on or in the Equipment or in any other manner interfere with the Equipment;
- (b) exceed the recommended or legal load and capacity limits of the Equipment (including the recommended number of passengers (if applicable));
- (c) expose the Equipment to any corrosive or caustic substances i.e., cyanide, salt water, acid etc.;
- (d) transport the Equipment on or over water, wharves, bridges or vessels of any kind without the express approval of the Supplier;
- (e) carry any animals, illegal, prohibited or dangerous on, or in, the Equipment supplied without the prior written permission of the Supplier;
- (f) use or carry any illegal, prohibited or dangerous substance in or on the Equipment;
- (g) fix any of the Equipment in such a manner as to make it legally a fixture forming part of any freehold.
- 18.3 Immediately on request by the Supplier the Client is to provide:
- (a) the new list price of any Equipment that is for whatever reason destroyed, written off or not returned to the Supplier;
- (b) all costs incurred in cleaning the Equipment;
- (c) the cost of repairing any damage caused by:
- (i) the ordinary use of the Equipment;
- (ii) the negligence of the Client or the Client's agent;
- (iii) repairing or replacing flat or damaged tyres, track gear and wear items which the Client has used in conditions which the Supplier would reasonably consider adverse or abnormal;
- (iv) vandalism, or (in the Supplier's reasonable opinion) in any way whatsoever other than by the ordinary use of the Equipment by the Client;
- (v) the cost of fuels and consumables provided by the Supplier and used by the Client;
- (d) any:
- (i) lost or excess hire fees the Supplier would have otherwise been entitled to for the Equipment, under this, or any other hire agreement;
- (ii) costs incurred by the Supplier in picking up and returning the Equipment to the Supplier's premises if the Client does not return the Equipment to the Supplier's premises or any pre-agreed pickup location when it was originally agreed that the Client would do so;
- (iii) insurance excess payable in relation to a claim made by either the Client or the Supplier in relation to any damage caused by, or to, the hire Equipment whilst the same is hired by the Client and irrespective of whether charged by the Client's insurers or the Supplier's.
19. **Wet Hire**
- 19.1 "Wet Hire" shall mean that the Equipment is hired with an operator who shall at all times remain an employee of the Supplier.
- In the event of Wet Hire, the operator of the Equipment remains an employee of the Supplier and operates the Equipment in accordance with the Client's instructions. As such the Supplier shall not be liable for any actions of the operator in following the Client's instructions. Unless otherwise agreed to in writing between the parties, the Supplier shall not be deemed the principal contractor and shall not be obligated to maintain any contract works insurance cover or be responsible with regard to any work cover requirements (including, but not limited to, compliance under any relevant legislation or policy, etc.). The Client shall:
- (a) be responsible for ensuring that the Supplier is notified of the location of any underground services on the Site; and
- (b) provide amenities and first aid services to the Supplier's employees in compliance with all applicable work health and safety legislation in operation in the state where the services are undertaken; and
- (c) should it be necessary for the Equipment to be towed in, or out of the Site, then the Client shall be responsible for all damage and/or salvage costs involving the Equipment and said costs shall be in addition to the Charges.
- Notwithstanding that the operator of the Equipment is an employee or representative of the Supplier, the operator shall operate the Equipment in accordance with the instructions of the Client, and accordingly, the Client shall be liable for all responsibility and costs incurred as a result of the actions of the operator whilst following the Client's instructions.
- In the event the Client requires an employee of the Supplier to undertake a Site induction during working hours, the Client will be liable to pay the hourly charges for that period, notwithstanding that the Equipment is not being operated during such time. If any induction is undertaken outside of the hire period, then the Client shall be liable to pay the Supplier standard (and/or overtime, if applicable) hourly labour rate.
- Damage Waiver**
- The Hire Charge will include a charge for the damage waiver. The damage waiver is calculated as a percentage of the value of the total hire costs. Damage waiver is not insurance but is an agreement by the Supplier to limit the Client's liability in certain circumstances for loss, theft, or damage to the Equipment to an amount called the "damage waiver excess fee". For the purpose of this clause the term "Equipment" does not include any tools, accessories, parts, spare guns, hoses, cables, hoses, lights, light globes, and other similar accessories, ground engaging tools, tracks, tyres, treads, windscreen, mirrors, gass, and perspex. The Client is not required to pay the damage waiver fee from the date the Client produces a certificate of currency for an appropriate policy of insurance that covers loss, theft, or damage to the Equipment during the hire period for an amount not less than the replacement value of the Equipment. For the avoidance of any doubt, the Client is liable to pay the damage waiver fee for that portion of the hire period where a certificate of currency referred pursuant to the clause remains outstanding ("Uninsured Period") and the Client is not entitled to any credit and/or reimbursement of the damage waiver fee charged and/or paid that relates to the Uninsured Period. The Client is responsible for any excess and any other costs associated with the Client's insurance and the Client is responsible for any shortfall in receipt or replacement costs of the Equipment following payment of any amount received under the Client's insurance, including any loss the Supplier suffers as a result of not being able to hire the Equipment. Where the Client has paid the damage waiver fee, the Supplier will waive its right to claim against the Client for loss, theft, or damage to the Equipment if:
- (a) for theft, the Client has promptly reported the incident to the police and provided the Supplier with a written police report;
- (b) the Client has co-operated with the Supplier and provided them with the details of the incident, including any written or photographic evidence the Supplier requires; and
- (c) the loss, theft or damage does not fall into one or more of the circumstances set out in clause 18.
- Even if the Client has paid the damage waiver fee, the Supplier will not waive its rights to claim against the Client for loss, theft or damage to the Equipment and the damage waiver will not apply if the loss, theft, or damage has arisen from anything referred to in clause 18.
- Cancellation**
- Without prejudice to any other remedies the parties may have, if at any time either party is in breach of any obligation (including those relating to payment) under these terms and conditions ("the Breaching Party") the other party may suspend or terminate the supply of Equipment on hire to the other party, with immediate effect, by providing the Breaching Party with written notice. Neither party will be liable for any loss or damage the other party suffers because one of the parties has cancelled the hire of the Equipment.
- If the Supplier, due to reasons beyond the Supplier's reasonable control, is unable to deliver any Equipment to the Client, the Supplier may cancel any Contract to which these terms and conditions apply or cancel delivery of the Equipment at any time before the Equipment are delivered by giving written notice to the Client. On giving such notice the Supplier shall repay to the Client any money paid by the Client for the Equipment to be hired. The Supplier shall not be liable for any loss or damage whatsoever arising from such cancellation.
- The Client may cancel delivery of the Equipment by written notice served within forty-eight (48) hours of placement of the order. If the Client cancels delivery in accordance with this clause 21.3, the Client will not be liable for the payment of any costs of the Supplier, except where such deposit is payable in accordance with clause 7.5. Failure by the Client to otherwise accept delivery of the Equipment shall place the Client in breach of this Contract.
- In the event that the Client:
- (a) cancels the provision of Services or Equipment prior to the expiry of any specified hire term, then the Client shall be liable to pay for the provision of the Services or Equipment until the expiration of the hire term; or
- (b) fails to give notice of intent to cancel at least seven (7) days prior to the expiration date of the hire contract, the hire contract shall automatically renew on a monthly basis unless cancelled by way of the Client providing the Supplier with seven (7) days' notice.
- Default and Consequences of Default**
- Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and one half percent (2.5%) per calendar month (and at the Supplier's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- If the Client owes the Supplier any money, the Client shall indemnify the Supplier from and against all costs and disbursements:
- (a) incurred; and/or
- (b) which would be incurred and/or
- (c) for which by the Client would be liable;
- in regard to legal costs on a solicitor and own administration basis incurred in exercising the Supplier's rights under the terms and conditions of the hire contract, the Supplier's contract fees, owing for breach of these terms and conditions; including, but not limited to, contract default fees and/or recovery costs (if applicable), as well as bank disbursement fees. Further to any other rights or remedies the Supplier may have under this Contract, if the Client has made payment to the Supplier, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by the Supplier and the Client, which the Client cannot recover from the Supplier, and which is found to be illegal, fraudulent or in contravention to the Client's obligations under this Contract.
- Without prejudice to the Supplier's other remedies at law the Supplier shall be entitled to cancel all or any part of any order of the Client which remains unperformed and all amounts owing to the Supplier shall, whether or not due for payment, become immediately payable in the event that the Client:
- (a) any money payable to the Supplier becomes overdue, or in the Supplier's opinion the Client will be unable to meet its payments as they fall due; or
- (b) the Client has exceeded any applicable credit limit provided by the Supplier;
- (c) the Client becomes insolvent, commences a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors;
- (d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.
- Compliance with Laws**
- The Client and the Supplier shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Services.
- Privacy Policy**
- All emails, documents, images or other recorded information held or used by the Supplier is Personal Information, as defined and referred to in clause 24.3, and therefore considered Confidential Information. The Supplier acknowledges its obligation in relation to the handling, use, disclosure and processing of Personal Information pursuant to the Privacy Act 1988 ("the Act") including the Part IIC of the Act being Privacy Amendment (Notifiable Data Breaches) Act 2017 (NDB) and any statutory requirements, where relevant in a European Economic Area (EEA), under the EU Data Privacy Laws, including the General Data Protection Regulation (GDPR) (collectively, "EU Data Privacy Laws"). The Supplier acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Client's Personal Information, held by the Supplier that may result in serious harm to the Client, the Supplier will notify the Client in accordance with the Act and/or the GDPR. Any release of such Personal Information must be in accordance with the Act and/or the GDPR (where relevant) and must be approved by the Client by written consent, unless subject to an operation of law.
- Notwithstanding clause 24.1, privacy limitations will extend to the Supplier in respect of Cookies where the Client utilises the Supplier's website to make enquiries. The Supplier agrees to display reference to such Cookies and/or similar tracking technologies, such as pixels and web beacons (if applicable), such technology allows the collection of Personal Information such as:
- (a) IP address, browser, email client type and other similar details;
- (b) tracking website usage and traffic; and
- (c) reports are available to the Supplier when the Supplier sends an email to the Client, so the Supplier may collect and review that information ("collectively Personal Information").
- If the Client opposes the Supplier's use of Cookies on the Supplier's website and later wishes to withdraw that consent, the Client may manage and control the Supplier's privacy controls via the Client's web browser, including removing Cookies by deleting them from the browser history when exiting the site.
- The Client agrees for the Supplier to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) about the Client in relation to credit provided by the Supplier.
- The Client agrees that the Supplier may exchange information about the Client with those credit providers and will ensure that the Client consents to the following purposes:
- (a) to assess an application by the Client; and/or
- (b) to notify other credit providers of a default by the Client; and/or
- (c) to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or
- (d) to assist the creditworthiness of the Client including the Client's repayment history in the preceding two (2) years.
- The Client consents to the Supplier being given a consumer credit report to collect personal credit information relating to any overdue payment on commercial credit.
- The Client agrees that personal credit information provided may be used and retained by the Supplier for the following purposes (and for other agreed purposes or required by):
- (a) the provision of Equipment; and/or
- (b) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Equipment; and/or
- (c) enabling of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or
- (d) processing the collection of amounts outstanding in relation to the Equipment.
- The Supplier may give information about the Client to a CRB for the following purposes:
- (a) to obtain a consumer credit report;
- (b) allow the CRB to create or maintain a credit information file about the Client including credit history.
- The information given to the CRB may include:
- (a) Personal Information as outlined in 24.3 above;
- (b) name of the credit provider and that the Supplier is a current credit provider to the Client;
- (c) whether the credit provider is a licensee;
- (d) type of consumer credit;
- (e) information that the Client's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);
- (f) advice of consumer credit defaults (provided the Supplier is a member of an approved OAIC External Disputes Resolution Scheme) overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced; or alternatively that the Client no longer has any overdue accounts and the Supplier has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);
- (g) information that, in the opinion of the Supplier, the Client has committed a serious credit default;
- (h) advice that the amount of the Client's overdue payment is equal to or more than one hundred and fifty dollars (\$150).
- The Client shall have the right to request (by e-mail) from the Supplier:
- (a) a copy of the Personal Information about the Client retained by the Supplier and the right to request that the Supplier correct any incorrect Personal Information; and
- (b) that the Supplier does not disclose any Personal Information about the Client for the purpose of direct marketing.
- The Supplier will destroy Personal Information upon the Client's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this Contract or is required to be maintained and/or stored in accordance with the law.
- If the Client makes a privacy complaint by contacting the Supplier via e-mail, the Supplier will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Client is not satisfied with the resolution provided, the Client can make a complaint to the Information Commissioner at www.oaic.gov.au.
- Service of Notices**
- Any written notice given under this Contract shall be deemed to have been given and received:
- (a) by handing the notice to the other party, in person;
- (b) by leaving it at the address of the other party as stated in this Contract;
- (c) by sending it by registered post to the address of the other party as stated in this Contract;
- (d) if sent by facsimile transmission to the fax number of the other party as stated in this Contract (if any), on receipt of confirmation of the transmission;
- (e) if sent by email to the other party's last known email address.
- Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post, the notice would have been delivered.
- Trusts**
- If the Client at any time upon or subsequent to entering into the Contract is acting in the capacity of trustee of any trust or as an agent for a trust ("Trusts") then whether or not the Supplier may have notice of the Trust, the Client covenants with the Supplier as follows:
- (a) the Client expressly waives all rights of indemnity which the Client now or subsequently may have against the Trust, the trustees and the trust fund;
- (b) the Client has full and complete power and authority under the Trust or from the Trustees of the Trust as the case may be to enter into the indemnity and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Client against the Trust, the trustees and the trust fund. In the event the Client will not release the right of indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity;
- (c) the Client will not during the term of the Contract without consent in writing of the Supplier (the Supplier will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following events:
- (i) the removal, replacement or retirement of the Client as trustee of the Trust;
- (ii) any alteration to or variation of the terms of the Trust;
- (iii) any advancement or distribution of capital of the Trust; or
- (iv) any resettlement of the trust fund or trust property.
- Building and Construction Industry Security of Payment Act 2002**
- At the Supplier's sole discretion, if there are any disputes or claims for unpaid Equipment and/or Services then the provisions of the Building and Construction Industry Security of Payment Act 2002 may apply.
- Nothing in this Contract is intended to have the effect of contracting out of any applicable provisions of the Building and Construction Industry Security of Payment Act 2002 of Victoria, except to the extent permitted by the Act where applicable.
- General**
- Any dispute or difference arising as to the interpretation of these terms and conditions or as to any matter arising hereunder shall be referred to and settled by mediation before resorting to any external dispute resolution mechanisms (including arbitration or court proceedings) by notifying the other party in writing setting out the reason for the dispute. The parties shall share equally the mediator's fees. Should mediation fail to resolve the dispute, the parties shall be free to pursue other dispute resolution avenues.
- The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable, that provision shall be severed from this Contract, and the validity, existence, legality, and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- These terms and conditions and any contract to which they apply shall be governed by the laws of Victoria, the state in which the Supplier has its principal place of business and are subject to the jurisdiction of the courts in that state.
- The Supplier may licence and/or assign all or any part of its rights and/or obligations under this Contract without the Client's consent provided the assignment does not cause detriment to the Client.
- The Client cannot assign or licence without the written approval of the Supplier.
- The Supplier may elect to subcontract out any part of the provision services but shall not be relieved from any liability or obligation under this Contract by so doing. Furthermore, the Client agrees and understands that they have no authority to give any instruction to any of the Supplier's sub-contractors without the authority of the Supplier.
- The Client agrees that the Supplier may amend their general terms and conditions for subsequent future contracts with the Client by disclosing such to the Client in writing. These changes shall be deemed to take effect from the date on which the Client accepts such changes, or otherwise at such time as the Client makes a further request for the Supplier to provide Equipment on hire to the Client.
- Neither party shall be liable for any default due to an act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm, national or global pandemic and/or the implementation of regulation, directions, rules or measures being enforced by Governments or embargo, including but not limited to, any Government imposed border lockdowns (including, without limitation, the COVID-19 pandemic), etc. ("Force Majeure events") beyond the reasonable control of either party. This clause does not apply to a failure by the Client to make a payment to the Supplier, once the parties agree that the Force Majeure event has ceased.
- Both parties warrant that they have the power to enter into this Contract and have obtained all necessary authorisations to allow them to do so. They are not insolvent and that this Contract creates binding and valid legal obligations on them.
- The rights and obligations of the parties will not merge on completion of any transaction under this Contract, and they will survive the execution and delivery of any assignment or other document entered, for the purpose of, implementing any transaction under this Contract.
- If part or all of any term of this Contract is or becomes invalid, illegal or unenforceable, it shall be severed from this Contract and shall not affect the validity and enforceability of the remaining terms of this Contract.