

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, the Supplier shall endeavour to provide alternative Equipment, subject to prior confirmation and agreement of both Parties; or	12. Condition of Equipment and Inspections 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:
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	(a) immediately prior to the commencement of this Contract; and
1.2	"Client" means the person, 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, is a reference to each 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 bind both in their capacity as a trustee; and (d) includes the Client's executors, administrators, successors and permitted assigns.	(f) in the event the Client uses the Equipment more than the number of hours specified in the hire schedule; or	(b) as soon as practicable following termination of this Contract. The Client acknowledges and agrees that they will, at their own cost, reinstatement the Equipment to its condition as specified 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.
1.3	"Confidential Information" means information of a confidential nature whether oral, written or in electronic form including, 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 other of and other contact information (where applicable), previous credit applications, contracts and pricing details.	(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 the terms of engagement (including, but not limited to, night shifts, weekends, standby, overtime, public holidays, meals, travel, and accommodation rates); or (h) as a result of 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. State allowance and severance pay), which are outside the control of the Supplier.	12.3 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;
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.	Variations will be charged for on the basis of the Supplier's quotation, and will be detailed in writing, and shown as variations on the Supplier's invoice. The Client shall be required to respond to any variation submitted by the Supplier within ten (10) working days. Failure to do so will entitle the Supplier to add the cost of the variation to the Charges. Payment for all variations must be made in full at the time of their completion.	(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 invoice 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.
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.	At the Supplier's sole discretion, a reasonable deposit (in the form of a bond) shall be required at the commencement of this Contract in accordance with any quotation provided by the Supplier or as notified by the Supplier in relation to the placement of an order for the Equipment, which shall be refunded to the Client by within thirty (30) days of the return of the Equipment, provided that the Client has complied with their obligations hereunder. The deposit may be used to offset any applicable Charges payable by the Client under clause 18.3, and any outstanding balance thereof shall be due as per clause 7.6.	13.1 13.2 13.3 13.4 13.5 13.6 13.7 13.8 13.9 13.10 13.11 13.12 13.13 13.14 13.15 13.16 13.17 13.18 13.19 13.20 13.21 13.22 13.23 13.24 13.25 13.26 13.27 13.28 13.29 13.30 13.31 13.32 13.33 13.34 13.35 13.36 13.37 13.38 13.39 13.40 13.41 13.42 13.43 13.44 13.45 13.46 13.47 13.48 13.49 13.50 13.51 13.52 13.53 13.54 13.55 13.56 13.57 13.58 13.59 13.60 13.61 13.62 13.63 13.64 13.65 13.66 13.67 13.68 13.69 13.70 13.71 13.72 13.73 13.74 13.75 13.76 13.77 13.78 13.79 13.80 13.81 13.82 13.83 13.84 13.85 13.86 13.87 13.88 13.89 13.90 13.91 13.92 13.93 13.94 13.95 13.96 13.97 13.98 13.99 14.00 14.01 14.02 14.03 14.04 14.05 14.06 14.07 14.08 14.09 14.10 14.11 14.12 14.13 14.14 14.15 14.16 14.17 14.18 14.19 14.20 14.21 14.22 14.23 14.24 14.25 14.26 14.27 14.28 14.29 14.30 14.31 14.32 14.33 14.34 14.35 14.36 14.37 14.38 14.39 14.40 14.41 14.42 14.43 14.44 14.45 14.46 14.47 14.48 14.49 14.50 14.51 14.52 14.53 14.54 14.55 14.56 14.57 14.58 14.59 14.60 14.61 14.62 14.63 14.64 14.65 14.66 14.67 14.68 14.69 14.70 14.71 14.72 14.73 14.74 14.75 14.76 14.77 14.78 14.79 14.80 14.81 14.82 14.83 14.84 14.85 14.86 14.87 14.88 14.89 14.90 14.91 14.92 14.93 14.94 14.95 14.96 14.97 14.98 14.99 15.00 15.01 15.02 15.03 15.04 15.05 15.06 15.07 15.08 15.09 15.10 15.11 15.12 15.13 15.14 15.15 15.16 15.17 15.18 15.19 15.20 15.21 15.22 15.23 15.24 15.25 15.26 15.27 15.28 15.29 15.30 15.31 15.32 15.33 15.34 15.35 15.36 15.37 15.38 15.39 15.40 15.41 15.42 15.43 15.44 15.45 15.46 15.47 15.48 15.49 15.50 15.51 15.52 15.53 15.54 15.55 15.56 15.57 15.58 15.59 15.60 15.61 15.62 15.63 15.64 15.65 15.66 15.67 15.68 15.69 15.70 15.71 15.72 15.73 15.74 15.75 15.76 15.77 15.78 15.79 15.80 15.81 15.82 15.83 15.84 15.85 15.86 15.87 15.88 15.89 15.90 15.91 15.92 15.93 15.94 15.95 15.96 15.97 15.98 15.99 16.00 16.01 16.02 16.03 16.04 16.05 16.06 16.07 16.08 16.09 16.10 16.11 16.12 16.13 16.14 16.15 16.16 16.17 16.18 16.19 16.20 16.21 16.22 16.23 16.24 16.25 16.26 16.27 16.28 16.29 16.30 16.31 16.32 16.33 16.34 16.35 16.36 16.37 16.38 16.39 16.40 16.41 16.42 16.43 16.44 16.45 16.46 16.47 16.48 16.49 16.50 16.51 16.52 16.53 16.54 16.55 16.56 16.57 16.58 16.59 16.60 16.61 16.62 16.63 16.64 16.65 16.66 16.67 16.68 16.69 16.70 16.71 16.72 16.73 16.74 16.75 16.76 16.77 16.78 16.79 16.80 16.81 16.82 16.83 16.84 16.85 16.86 16.87 16.88 16.89 16.90 16.91 16.92 16.93 16.94 16.95 16.96 16.97 16.98 16.99 17.00 17.01 17.02 17.03 17.04 17.05 17.06 17.07 17.08 17.09 17.10 17.11 17.12 17.13 17.14 17.15 17.16 17.17 17.18 17.19 17.20 17.21 17.22 17.23 17.24 17.25 17.26 17.27 17.28 17.29 17.30 17.31 17.32 17.33 17.34 17.35 17.36 17.37 17.38 17.39 17.40 17.41 17.42 17.43 17.44 17.45 17.46 17.47 17.48 17.49 17.50 17.51 17.52 17.53 17.54 17.55 17.56 17.57 17.58 17.59 17.60 17.61 17.62 17.63 17.64 17.65 17.66 17.67 17.68 17.69 17.70 17.71 17.72 17.73 17.74 17.75 17.76 17.77 17.78 17.79 17.80 17.81 17.82 17.83 17.84 17.85 17.86 17.87 17.88 17.89 17.90 17.91 17.92 17.93 17.94 17.95 17.96 17.97 17.98 17.99 18.00 18.01 18.02 18.03 18.04 18.05 18.06 18.07 18.08 18.09 18.10 18.11 18.12 18.13 18.14 18.15 18.16 18.17 18.18 18.19 18.20 18.21 18.22 18.23 18.24 18.25 18.26 18.27 18.28 18.29 18.30 18.31 18.32 18.33 18.34 18.35 18.36 18.37 18.38 18.39 18.40 18.41 18.42 18.43 18.44 18.45 18.46 18.47 18.48 18.49 18.50 18.51 18.52 18.53 18.54 18.55 18.56 18.57 18.58 18.59 18.60 18.61 18.62 18.63 18.64 18.65 18.66 18.67 18.68 18.69 18.70 18.71 18.72 18.73 18.74 18.75 18.76 18.77 18.78 18.79 18.80 18.81 18.82 18.83 18.84 18.85 18.86 18.87 18.88 18.89 18.90 18.91 18.92 18.93 18.94 18.95 18.96 18.97 18.98 18.99 19.00 19.01 19.02 19.03 19.04 19.05 19.06 19.07 19.08 19.09 19.10 19.11 19.12 19.13 19.14 19.15 19.16 19.17 19.18 19.19 19.20 19.21 19.22 19.23 19.24 19.25 19.26 19.27 19.28 19.29 19.30 19.31 19.32 19.33 19.34 19.35 19.36 19.37 19.38 19.39 19.40 19.41 19.42 19.43 19.44 19.45 19.46 19.47 19.48 19.49 19.50 19.51 19.52 19.53 19.54 19.55 19.56 19.57 19.58 19.59 19.60 19.61 19.62 19.63 19.64 19.65 19.66 19.67 19.68 19.69 19.70 19.71 19.72 19.73 19.74 19.75 19.76 19.77 19.78 19.79 19.80 19.81 19.82 19.83 19.84 19.85 19.86 19.87 19.88 19.89 19.90 19.91 19.92 19.93 19.94 19.95 19.96 19.97 19.98 19.99 20.00
1.6	"Dry Hire" shall mean hire of the Equipment without an operator supplied by the Supplier.	Time for payment for the Equipment being of the essence, the Charges will be payable by the Client on the date(s) determined by the Supplier, which may be: (a) on or before delivery of the Equipment; or (b) by way of instalments/progress payments in accordance with the Supplier's payment schedule; (c) the date specified on any invoice or other form as being the date for payment; or (d) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Client by the Supplier.	13.1 13.2 13.3 13.4 13.5 13.6 13.7 13.8 13.9 13.10 13.11 13.12 13.13 13.14 13.15 13.16 13.17 13.18 13.19 13.20 13.21 13.22 13.23 13.24 13.25 13.26 13.27 13.28 13.29 13.30 13.31 13.32 13.33 13.34 13.35 13.36 13.37 13.38 13.39 13.40 13.41 13.42 13.43 13.44 13.45 13.46 13.47 13.48 13.49 13.50 13.51 13.52 13.53 13.54 13.55 13.56 13.57 13.58 13.59 13.60 13.61 13.62 13.63 13.64 13.65 13.66 13.67 13.68 13.69 13.70 13.71 13.72 13.73 13.74 13.75 13.76 13.77 13.78 13.79 13.80 13.81 13.82 13.83 13.84 13.85 13.86 13.87 13.88 13.89 13.90 13.91 13.92 13.93 13.94 13.95 13.96 13.97 13.98 13.99 14.00 14.01 14.02 14.03 14.04 14.05 14.06 14.07 14.08 14.09 14.10 14.11 14.12 14.13 14.14 14.15 14.16 14.17 14.18 14.19 14.20 14.21 14.22 14.23 14.24 14.25 14.26 14.27 14.28 14.29 14.30 14.31 14.32 14.33 14.34 14.35 14.36 14.37 14.38 14.39 14.40 14.41 14.42 14.43 14.44 14.45 14.46 14.47 14.48 14.49 14.50 14.51 14.52 14.53 14.54 14.55 14.56 14.57 14.58 14.59 14.60 14.61 14.62 14.63 14.64 14.65 14.66 14.67 14.68 14.69 14.70 14.71 14.72 14.73 14.74 14.75 14.76 14.77 14.78 14.79 14.80 14.81 14.82 14.83 14.84 14.85 14.86 14.87 14.88 14.89 14.90 14.91 14.92 14.93 14.94 14.95 14.96 14.97 14.98 14.99 15.00 15.01 15.02 15.03 15.04 15.05 15.06 15.07 15.08 15.09 15.10 15.11 15.12 15.13 15.14 15.15 15.16 15.17 15.18 15.19 15.20 15.21 15.22 15.23 15.24 15.25 15.26 15.27 15.28 15.29 15.30 15.31 15.32 15.33 15.34 15.35 15.36 15.37 15.38 15.39 15.40 15.41 15.42 15.43 15.44 15.45 15.46 15.47 15.48 15.49 15.50 15.51 15.52 15.53 15.54 15.55 15.56 15.57 15.58 15.59 15.60 15.61 15.62 15.63 15.64 15.65 15.66 15.67 15.68 15.69 15.70 15.71 15.72 15.73 15.74 15.75 15.76 15.77 15.78 15.79 15.80 15.81 15.82 15.83 15.84 15.85 15.86 15.87 15.88 15.89 15.90 15.91 15.92 15.93 15.94 15.95 15.96 15.97 15.98 15.99 16.00 16.01 16.02 16.03 16.04 16.05 16.06 16.07 16.08 16.09 16.10 16.11 16.12 16.13 16.14 16.15 16.16 16.17 16.18 16.19 16.20 16.21 16.22 16.23 16.24 16.25 16.26 16.27 16.28 16.29 16.30 16.31 16.32 16.33 16.34 16.35 16.36 16.37 16.38 16.39 16.40 16.41 16.42 16.43 16.44 16.45 16.46 16.47 16.48 16.49 16.50 16.51 16.52 16.53 16.54 16.55 16.56 16.57 16.58 16.59 16.60 16.61 16.62 16.63 16.64 16.65 16.66 16.67 16.68 16.69 16.70 16.71 16.72 16.73 16.74 16.75 16.76 16.77 16.78 16.79 16.80 16.81 16.82 16.83 16.84 16.85 16.86 16.87 16.88 16.89 16.90 16.91 16.92 16.93 16.94 16.95 16.96 16.97 16.98 16.99 17.00 17.01 17.02 17.03 17.04 17.05 17.06 17.07 17.08 17.09 17.10 17.11 17.12 17.13 17.14 17.15 17.16 17.17 17.18 17.19 17.20 17.21 17.22 17.23 17.24 17.25 17.26 17.27 17.28 17.29 17.30 17.31 17.32 17.33 17.34 17.35 17.36 17.37 17.38 17.39 17.40 17.41 17.42 17.43 17.44 17.45 17.46 17.47 17.48 17.49 17.50 17.51 17.52 17.53 17.54 17.55 17.56 17.57 17.58 17.59 17.60 17.61 17.62 17.63 17.64 17.65 17.66 17.67 17.68 17.69 17.70 17.71 17.72 17.73 17.74 17.75 17.76 17.77 17.78 17.79 17.80 17.81 17.82 17.83 17.84 17.85 17.86 17.87 17.88 17.89 17.90 17.91 17.92 17.93 17.94 17.95 17.96 17.97 17.98 17.99 18.00 18.01 18.02 18.03 18.04 18.05 18.06 18.07 18.08 18.09 18.10 18.11 18.12 18.13 18.14 18.15 18.16 18.17 18.18 18.19 18.20 18.21 18.22 18.23 18.24 18.25 18.26 18.27 18.28 18.29 18.30 18.31 18.32 18.33 18.34 18.35 18.36 18.37 18.38 18.39 18.40 18.41 18.42 18.43 18.44 18.45 18.46 18.47 18.48 18.49 18.50 18.51 18.52 18.53 18.54 18.55 18.56 18.57 18.58 18.59 18.60 18.61 18.62 18.63 18.64 18.65 18.66 18.67 18.68 18.69 18.70 18.71 18.72 18.73 18.74 18.75 18.76 18.77 18.78 18.79 18.80 18.81 18.82 18.83 18.84 18.85 18.86 18.87 18.88 18.89 18.90 18.91 18.92 18.93 18.94 18.95 18.96 18.97 18.98 18.99 19.00 19.01 19.02 19.03 19.04 19.05 19.06 19.07 19.08 19.09 19.10 19.11 19.12 19.13 19.14 19.15 19.16 19.17 19.18 19.19 19.20 19.21 19.22 19.23 19.24 19.25 19.26 19.27 19.28 19.29 19.30 19.31 19.32 19.33 19.34 19.35 19.36 19.37 19.38 19.39 19.40 19.41 19.42 19.43 19.44 19.45 19.46 19.47 19.48 19.49 19.50 19.51 19.52 19.53 19.54 19.55 19.56 19.57 19.58 19.59 19.60 19.61 19.62 19.63 19.64 19.65 19.66 19.67 19.68 19.69 19.70 19.71 19.72 19.73 19.74 19.75 19.76 19.77 19.78 19.79 19.80 19.81 19.82 19.83 19.84 19.85 19.86 19.87 19.88 19.89 19.90 19.91 19.92 19.93 19.94 19.95 19.96 19.97 19.98 19.99 20.00
1.7	"Equipment" means all equipment (including any earthmoving 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 equipment, including allocation data from a global positioning system and other data (including, but not limited to, speed, battery voltage and ignition status) of such Equipment.	The Supplier may in its discretion allocate any payment received from the Client towards any invoice that the Supplier determines and may do so at the time of receipt or at any time afterwards. On any default by the Client the Supplier may re-allocate any payments previously received and allocated. In the absence of any payment allocation by the Supplier, payment will be deemed to be allocated in such manner as preserves the maximum value of the Supplier's or its Money Security Interest (as defined in the PPSA) in the Equipment.	13.1 13.2 13.3 13.4 13.5 13.6 13.7 13.8 13.9 13.10 13.11 13.12 13.13 13.14 13.15 13.16 13.17 13.18 13.19 13.20 13.21 13.22 13.23 13.24 13.25 13.26 13.27 1

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16.8	<p>(b) limited to any warranty to which the Supplier is entitled, if the Supplier did not manufacture the Equipment;</p> <p>(c) otherwise negated absolutely.</p> <p>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:</p> <p>(a) the Client failing to properly maintain or store any Equipment;</p> <p>(b) the Client interfering with the Equipment in any way without the Supplier's written approval to do so;</p> <p>(c) the Client using the Equipment for any purpose other than that for which it was designed;</p> <p>(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;</p> <p>(e) the Client failing to follow any instructions or guidelines provided by the Supplier;</p> <p>(f) fair wear and tear, any accident, or act of God.</p>	19.2	<p>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.</p> <p>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, compulsory under any relevant legislation or policy, etc.).</p>	24.3	<p>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.</p> <p>The Client agrees that the Supplier may exchange information about the Client with those credit providers and with related body corporates for the following purposes:</p> <p>(a) to assess an application by the Client; and/or</p> <p>(b) to notify other credit providers of a default by the Client; and/or</p> <p>(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</p> <p>(d) to assess the creditworthiness of the Client including the Client's repayment history in the preceding two (2) years.</p>
16.9	<p>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 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.</p>	19.3	<p>The Client shall be responsible for ensuring that the Supplier is notified of the location of any underground services on the Site and;</p> <p>(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</p> <p>(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.</p>	24.4	<p>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.</p> <p>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):</p> <p>(a) the provision of Equipment; and/or</p> <p>(b) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Equipment; and/or</p> <p>(c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or</p> <p>(d) enabling the collection of amounts outstanding in relation to the Equipment.</p>
17.	<p>Limitation of Liability of Hired Equipment</p> <p>The Client acknowledges and agrees that the Supplier is not liable:</p> <p>(a) to the Client for any loss (whether indirect or consequential) or damage or delay through breakdown, mechanical defect or accident to or of the Equipment;</p> <p>(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 return of the Equipment to the Supplier's nominated address (or depot); and</p> <p>(c) to the Client for any form of breakdown, whether mechanical electrical or structural to the Equipment whilst on hire to the Client.</p>	19.4	<p>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.</p> <p>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.</p>	24.5	<p>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.</p> <p>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):</p> <p>(a) the provision of Equipment; and/or</p> <p>(b) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Equipment; and/or</p> <p>(c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or</p> <p>(d) enabling the collection of amounts outstanding in relation to the Equipment.</p>
17.2	<p>The Client consents 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:</p> <p>(a) the total cost of such loss or damage shall be based upon the replacement value of new plant; and</p> <p>(b) all other losses, damages, claims or actions or proceedings, penalties, liabilities, costs and expenses, including legal costs, howsoever arising incurred 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 out of 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 persons) or the seizure or the taking of possession of the Equipment by the Supplier.</p>	19.5	<p>Damage Waiver</p> <p>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.</p> <p>For the purpose of this clause the term "Equipment" does not include any tools, accessories, parts, grease guns, hoses, electrical cords, lights, light globes, and other similar accessories, ground engaging tools, tracks, tyres, tubes, windscreen, mirrors, glass, and perspex.</p> <p>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 required 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 repair or replacement costs of the Equipment following payment of any amount received under the Client's insurance, including any amount the Client suffers as a result of not being able to hire the Equipment.</p>	24.6	<p>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.</p> <p>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):</p> <p>(a) the provision of Equipment; and/or</p> <p>(b) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Equipment; and/or</p> <p>(c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or</p> <p>(d) enabling the collection of amounts outstanding in relation to the Equipment.</p>
17.3	<p>Wet Hire:</p> <p>(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, compulsory under any relevant legislation or policy, etc.);</p> <p>(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:</p> <p>(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;</p> <p>(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.</p>	19.6	<p>Cancellation</p> <p>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 exercised its rights under the clause.</p>	24.7	<p>The information given to the CRB may include:</p> <p>(a) Personal Information as outlined in 24.3 above;</p> <p>(b) name of the credit provider and that the Supplier is a current credit provider to the Client;</p> <p>(c) whether the credit provider is a licensee;</p> <p>(d) type of consumer credit;</p> <p>(e) details concerning the Client's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);</p> <p>(f) advice of consumer credit defaults (provided the Supplier is a member of an approved OAC 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);</p> <p>(g) information that, in the opinion of the Supplier, the Client has committed a serious credit infringement;</p> <p>(h) advice that the amount of the Client's overdue payment is equal to or more than one hundred and fifty dollars (\$150).</p>
18.	<p>Client's Responsibilities</p> <p>(a) satisfy itself at commencement that the Equipment is suitable for its purposes;</p> <p>(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 such notification;</p> <p>(c) 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);</p> <p>(d) replacing wear items which have become worn out or used during the hire period;</p> <p>(e) operate the Equipment safely including calibration 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;</p> <p>(f) be responsible for undertaking the daily operator safety checks and updating the operator safety check logbook;</p> <p>(g) ensure that:</p> <p>(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;</p> <p>(ii) the operator of any Equipment is not under the influence of alcohol or any drug that may impair their ability to operate the Equipment;</p> <p>(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.</p>	20.1	<p>Default and Consequences of Default</p> <p>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 any other judgements or court orders.</p> <p>If the Client owes the Supplier any money, the Client shall indemnify the Supplier from and against all costs and disbursements:</p> <p>(a) incurred; and/or</p> <p>(b) for which by the Client would be liable;</p> <p>(c) in regard to legal costs on a solicitor and own client basis incurred in exercising the Supplier's right to enforce the terms and conditions, internal administration fees, 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 dishonour fees.</p>	24.8	<p>The Client shall have the right to request (by e-mail) from the Supplier:</p> <p>(a) a copy of the Personal Information about the Client related by the Supplier and the right to request that the Supplier correct any incorrect Personal Information; and</p> <p>(b) that the Supplier does not disclose any Personal Information about the Client for the purpose of direct marketing.</p> <p>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.</p> <p>The Client can make 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.</p>
18.1	<p>(h) be liable for any judgment or court order 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 the GDPR (where relevant) and must be approved by the Client by written consent, unless subject to an operation of law.</p> <p>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:</p> <p>(a) IP address, browser, email client type and other similar details;</p> <p>(b) tracking website usage and traffic; and</p> <p>(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").</p>	20.2	<p>Privacy Policy</p> <p>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 the GDPR (where relevant) and must be approved by the Client by written consent, unless subject to an operation of law.</p> <p>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:</p> <p>(a) IP address, browser, email client type and other similar details;</p> <p>(b) tracking website usage and traffic; and</p> <p>(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").</p>	24.9	<p>Service of Notices</p> <p>Any written notice given under this Contract shall be deemed to have been given and received:</p> <p>(a) by handing the notice to the other party, in person;</p> <p>(b) by leaving it at the address of the other party as stated in this Contract;</p> <p>(c) by sending it by registered post to the address of the other party as stated in this Contract;</p> <p>(d) if sent by facsimile transmission to the fax number of the other party as stated in this Contract; or</p> <p>(e) if sent by email to the other party's last known email address.</p> <p>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.</p>
18.2	<p>The Client shall hold:</p> <p>(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;</p> <p>(b) exceed the recommended or legal load and capacity limits of the Equipment (including the recommended number of passengers (if applicable));</p> <p>(c) expose the Equipment to any corrosive or caustic substances i.e., cyanide, salt water, acid etc.;</p> <p>(d) transport the Equipment on or over water, wharves, bridges or vessels of any kind without the express approval of the Supplier;</p> <p>(e) carry any animals, illegal, prohibited or dangerous on, or in, the Equipment supplied without the prior written permission of the Supplier;</p> <p>(f) use or carry any illegal, prohibited or dangerous substance in or on the Equipment;</p> <p>(g) fix any of the Equipment in such a manner as to make it legally a fixture forming part of any freehold.</p>	20.3	<p>Compliance with Laws</p> <p>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.</p>	24.10	<p>Trusts</p> <p>If the Client at any time upon or subsequent to entering into this Contract is acting in the capacity of trustee of any trust or as an agent for a trust ("Trust") then whether or not the Supplier may have notice of the Trust, the Client shall be deemed to have notice of the Trust as follows:</p> <p>(a) the Contract extends to all rights of indemnity which the Client now or subsequently may have against the Trust, the trustees and the trust fund;</p> <p>(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 Contract 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. 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;</p> <p>(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:</p> <p>(i) the removal, replacement or retirement of the Client as trustee of the Trust;</p> <p>(ii) any alteration to or variation of the terms of the Trust;</p> <p>(iii) any release or distribution of the trust fund; or</p> <p>(iv) any resettlement of the trust fund or trust property.</p>
18.3	<p>Immediately on request by the Supplier the Client will pay:</p> <p>(a) the new list price of any Equipment that is for whatever reason destroyed, written off or not returned to the Supplier;</p> <p>(b) all costs incurred in cleaning the Equipment;</p> <p>(c) all costs of repairing any damage caused by:</p> <p>(i) the ordinary use of the Equipment;</p> <p>(ii) the negligence of the Client or the Client's agent;</p> <p>(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;</p> <p>(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.</p> <p>(d) the cost of fuels and consumables provided by the Supplier and used by the Client;</p> <p>(e) any:</p> <p>(i) lost or excess hire fees the Supplier would have otherwise been entitled to for the Equipment, under this, or any other hire agreement;</p> <p>(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;</p> <p>(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.</p>	20.4	<p>Default and Consequences of Default</p> <p>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 any other judgements or court orders.</p> <p>If the Client owes the Supplier any money, the Client shall indemnify the Supplier from and against all costs and disbursements:</p> <p>(a) incurred; and/or</p> <p>(b) for which by the Client would be liable;</p> <p>(c) in regard to legal costs on a solicitor and own client basis incurred in exercising the Supplier's right to enforce the terms and conditions, internal administration fees, 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 dishonour fees.</p> <p>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 under this clause 22 where it can be proven that such reversal is found to be the result of any fraud or other intentional breach of the Client's obligations under this Contract.</p> <p>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:</p> <p>(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;</p> <p>(b) the Client has become insolvent, or is being liquidated or is in liquidation;</p> <p>(c) the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or</p> <p>(d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.</p>	24.11	<p>Building and Construction Industry Security of Payment Act 2002</p> <p>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.</p> <p>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.</p>
19.	<p>Wet Hire</p> <p>"Wet Hire" shall mean that the Equipment is hired with an operator who shall at all times remain an employee of the Supplier.</p>	20.5	<p>Default and Consequences of Default</p> <p>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 any other judgements or court orders.</p> <p>If the Client owes the Supplier any money, the Client shall indemnify the Supplier from and against all costs and disbursements:</p> <p>(a) incurred; and/or</p> <p>(b) for which by the Client would be liable;</p> <p>(c) in regard to legal costs on a solicitor and own client basis incurred in exercising the Supplier's right to enforce the terms and conditions, internal administration fees, 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 dishonour fees.</p> <p>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 under this clause 22 where it can be proven that such reversal is found to be the result of any fraud or other intentional breach of the Client's obligations under this Contract.</p> <p>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:</p> <p>(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;</p> <p>(b) the Client has become insolvent, or is being liquidated or is in liquidation;</p> <p>(c) the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or</p> <p>(d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.</p>	24.12	<p>General</p> <p>Any dispute or difference arising as to the interpretation of these terms and conditions or as to any matter arising hereon, shall be submitted to, and settled by, mediation before resorting to any external dispute resolution process (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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>The Client cannot assign or licence without the written approval of the Supplier.</p> <p>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.</p> <p>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.</p> <p>Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm, natural or global pandemics 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 worldwide destination ports), etc. ("Force Majeure") or other event 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.</p> <p>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 does not conflict with any legal obligations on them.</p> <p>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.</p> <p>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.</p>