

Conditions of Hire & Sales

1 DEFINITIONS

In these Conditions of Hire & Sales

- (a) "Customer" means to the person, firm, organisation or corporation purchasing or hiring Plant from the Owner.
- (b) "Environmental Law" means any legislation, other law or regulation of the State or otherwise relating to the environment.
- (c) "Owner" means Conveying and Hoisting Solutions Pty Ltd ABN 78 163 105 744
- (d) "Plant" means all equipment including tools, leads, plugs, accessories, parts and any item specified on the face of the contract or otherwise hired from time to time by the Customer from the Owner.
- (e) "PPSA" means the Personal Property Securities Act 2009 (Cth).
- (f) "Security Interest" means:
 - (i) a security interest under the PPSA;
 - (ii) any other mortgage, pledge, lien or charge; and
 - (iii) any other interest or arrangement of any kind that in substance secures the payment of money or performance of an obligation, or that gives a creditor priority over unsecured creditors in relation to any property.
- (g) "State" means the state of New South Wales.
- (h) "Long Distance Location" means a location further than 250kms from the Owner address.

2 HIRE

The Owner agrees to hire to the Customer and the Customer agrees to hire from the Owner, the Plant on the terms set out in these Conditions of Hire & Sales.

3 CUSTOMER'S HIRING OBLIGATIONS

The Customer shall:

- (a) Not lend or re-hire the Plant to any other person, firm, organisation or corporation. When Plant is hired to other hire companies (that are recognised by the Owner to carry on that role), then such Customers have the right to re-hire for value.
- (b) Ensure that the Plant shall remain the property of the Owner and shall not be deemed to be a fixture.
- (c) Prior to the use of the Plant determine the condition, quality and suitability of the Plant hired for the purpose required. The Customer accepts that the Owner gives no warranty that the Plant is suitable for the Customer's purpose.
- (d) Use the Plant in a safe, skilful and proper manner in accordance with the law, only for its intended use, within the capacity for which it was designed, acknowledging that the Owner can give no warranty as to the said capacity and in accordance with any instructions whether supplied by the manufacturer or the Owner.
- (e) Ensure that all persons operating or erecting the Plant are suitably instructed in its safe and proper use and where necessary hold a current Certificate of Competency and/or are fully licensed.
- (f) Comply with all work health and safety laws relating to the Plant and its operation.
- (g) At their own expense service, clean, fuel, lubricate and maintain the Plant in good and substantial repair and condition, except for prearranged major servicing which will be carried out by the Owner during normal working hours.
- (h) Clean the Plant thoroughly upon completion of the hire or pay to the Owner a cleaning fee (as reasonably set by the Owner) for any cleaning required to be performed by the Owner or its representatives.
- (i) Accept full responsibility for the safe-keeping and insuring of the Plant during the period of the hire and where applicable, until the Plant is

collected by or returned to the Owner, and indemnify the Owner for any loss, theft of or damage to the Plant 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 Customer.

- (j) Accept full responsibility for, and indemnify the Owner to the fullest extent permitted by law for and against all claims, judgement, demands, damage, loss, expense (including all reasonable legal costs and disbursements of lawyers) or liability incurred or suffered by or brought or made or recovered by any person whatsoever against the Owner whether in respect to any injury to persons, or loss or damage to property, arising out of the delivery, servicing, storage, possession or use (including unauthorised use) of the Plant during the Hire Period however arising whether from negligence of the Customer or otherwise and without limiting the generality of the foregoing whether or not the Plant was being operated by a servant of the Owner or any other person for whose acts the Owner might be or is held to be responsible in connection with the operation of the Plant.
- (k) Not be entitled to claim any lien over the Plant nor sell, transfer, dispose, mortgage, charge, pledge or encumber in any way the Plant nor, without the Owner's prior written consent, sub-let, lend, part with possession of the Plant nor assign the benefit of the hire agreement. The Customer can only deal with the Plant on such terms and conditions as the Owner shall in its absolute discretion determine.
- (l) Not be entitled to remove the Plant or allow it to be removed from the State or site if applicable from which it was hired without the Owner's written permission.
- (m) Not alter, make any addition to, deface or erase any identifying mark, plate or number on or in the Plant or in any other manner interfere with the Plant.
- (n) Ensure that no illegal, prohibited or dangerous substances are carried in or on the Plant.
- (o) Pay to the Owner all hire and related charges and other costs as stipulated in accordance with this agreement.
- (p) Ensure that all safety information, notices, terms and conditions, operating instructions and risk assessments supplied with the Plant will be conveyed to any person using the Plant.
- (q) Display with the Plant and maintain any safety signs supplied with the Plant or as required by State or Federal legislation and bring them to the attention of any person using the Plant, and ensure that they are clearly visible to or by the operator of the Plant.
- (r) Ensure that all safety and operating instructions and notices are observed and not defaced or removed from the Plant.
- (s) Ensure that all operators of the Plant wear suitable clothing and any protective equipment required or recommended by the manufacturer's safety and operating instructions, or as recommended by the Owner.
- (t) Ensure that a job safety analysis is conducted prior to operating any electrical or mechanical Plant to ensure safe working methods apply.
- (u) Comply with all Environmental laws from time to time and immediately rectify any breach of an Environmental Law caused by the use of the Plant.
- (v) The Customer indemnifies and agrees to keep the Owner indemnified against any loss, cost, damage or expense incurred or which may be incurred by the Owner arising from the use of the Plant under this contract.
- (w) Allow the Owner to inspect the Plant from time to time during the Hire Period and the Customer shall permit or procure admission for representatives of the Owner to the premises upon which the Plant is situated for the purpose.
- (x) Accept full responsibility for any damage to Plant excluding normal wear and tear.

4 COMPANY OBLIGATIONS

- (a) Allow the Customer to take and use the Plant for the Hire Period, subject to the terms of these Conditions of Hire & Sales.
- (b) Provide the Plant to the Customer in clean and good working order.

- (c) Collect the Plant within 5 working days of being requested to do so by the Customer and issuing the Customer an off-hire number.

5 TAXES AND DUTIES

Except as otherwise provided by the law all sales, excise, goods and services and similar taxes or duties which the Owner may be required to pay or collect with respect to the Plant or its supply to the Customer shall be paid by the Customer immediately, or at such time or times as otherwise determined by the Owner. Where the Customer claims exemption from duty or tax the Customer must furnish appropriate exemption certificates to the Owner.

6 TERMS OF PAYMENT

- (a) Where the Owner is responsible for delivery and/or installation of Plant, it will not be responsible for the delays in delivery or installation, or failure to deliver due to causes beyond its control including and not limited to acts of God, war, terrorism, mobilisation, civil commotion, riot, embargoes, orders or regulations or governments of any relevant jurisdiction, fires, floods, strikes, lockouts or other labour difficulties, shortages of or inability to obtain shipping space or land transportation.
- (b) Where the Customer arranges pickup, delivery and/or installation of Plant at the Customer's expense and without the Owner's involvement, if requested by the Owner the Customer must give to the Owner written acknowledgement of delivery of the Plant.
- (c) Hire is charged for the time the Plant is out of the possession of the Owner at the Customer's request (inclusive of weekends and public holidays) and when held on standby, not only the time during which the Plant is used.
- (d) Unless otherwise agreed, payment of all hire fees and charges for the Plant is required in advance.
- (e) The Owner reserves the right to revise its hire rates and related charges without notice.
- (f) In the event of payment default, the Owner reserves the right to involve the appropriate authority in obtaining outstanding funds. This may include placing a default notice against the Customer's credit rating.
- (g) Hire charges cover only the fee for hiring the Plant to the Customer. If the Customer requires the Plant to be delivered and/or installed, the Customer shall in addition pay the Owner all freight and other charges incurred in transporting the Plant, including loading and unloading at site. The Owner shall, if requested by the Customer, but only if personnel are available, attend the site and instruct the Customer in the operation of the Plant, and the Customer shall in addition pay the Owner for such services. Any other additional services provided to the Customer, shall be paid for by the Customer.
- (h) Payment in full by account Customers for all hiring charges and any other amounts payable in accordance with these Conditions of Hire and Sales is required 30 days from the date of the invoice.
- (i) A LATE FEE may be imposed by the Owner on all amounts not paid by the due date. The LATE FEE amount is clearly specified on all invoices issued by the Owner. Should no payment be received within 30 days the Customer agrees to incur an additional LATE FEE per month until the debt is paid in full.
- (j) Where payment is not made by the due date, the Customer shall, in addition to any other obligation imposed hereunder, pay to the Owner on demand all costs of the Owner (including but not limited to, recovery of equipment, debt recovery commission costs, interest and legal costs on a full indemnity basis) incurred by the Owner in recovering overdue amounts from the Customer.
- (k) By signing this agreement the Customer gives the Owner the right to deduct monies owing from the supplied credit card on a periodic basis throughout the Hire Period. This also includes deposits made prior to commencement of hire and monies due at the end of hire.
- (l) The Owner may set-off against any credit owed to the Customer any amount owing by the Customer to the Owner.
- (m) The Owner may charge the Customer a surcharge for accepting payment by credit card.

7 PERIOD OF HIRE

- (a) The daily and weekly rates are based upon 8 hours or 40 hours respectively. If used in excess of these hours, an additional hiring charge may be applied.
- (b) The period of hire shall commence from the time the Plant is picked-up by the Customer or delivered to the Customer (as applicable).

8 TERMINATION OF HIRE & RECOVERY OF PLANT

- (a) Without prejudice to any other remedies available to the Owner and notwithstanding any period of hire specified, the Owner may terminate this hire agreement:
- (i) At any time by giving the Customer 24 hours notice of its intention to terminate, such termination to be effective as of the expiry of the 24 hours notice or as agreed under the hire contract.
- (b) If the Owner has terminated the hire agreement or if the Customer has failed to make payment to the Owner in accordance with the terms of the agreement, then upon giving the Customer 24 hours notice of its intention to remove the Plant, the Customer expressly authorises the Owner to enter the premises where the Plant is located and arrange for its removal. The Hire Period shall not cease until the Plant has been removed and returned to the Owner. The costs associated with any removal will be charged to the Customer. The Owner and the representatives of the Owner shall not be liable for any damage caused to the Customer's property as a result of removing the Plant. The Owner and the representatives of the Owner will not be responsible or liable for any personal property left inside the Plant when it is removed or returned to the Owner. The Customer indemnifies the Owner in respect of any claims, damages and expenses arising out of any action taken under this condition.

9 BREAKDOWN OR CONTAMINATION OF HIRE PLANT

9.1 Breakdown

In the event of any Plant breakdown the Customer is required to notify the Owner immediately. Such notification does not absolve the Customer from its obligations to safeguard the Plant until it is returned to or collected by the Owner. In the event of a breakdown the Customer shall not repair, or attempt to repair the Plant without the prior written consent of the Owner. If the Plant breaks down or becomes unsafe, the Customer must immediately stop using the Plant and must take all necessary steps to prevent injuries to any persons or damage to any property as a result of the condition of the Plant. The Owner shall not be liable for any expenditure, damages, loss or inconvenience incurred by the Customer arising out of any breakdown in the Plant whether caused by fair wear and tear, lack of repair or negligence on the part of the Owner or any other reasons whatever. If any Plant breaks down or is damaged due to the Customer's negligence or wilful misuse the Owner is entitled to continue to charge hire charges until the Plant has been repaired, replaced or the Owner may recover the cost of any repairs that are carried out to the Plant.

9.2 Contamination

- (a) In the event that any Plant is used with contaminated or potential contaminated waste or in a contaminated or potential contaminated area, the Customer is required to notify the Owner immediately upon becoming aware of the contamination or potential contamination of the Plant. The Customer shall provide to the satisfaction of the Owner a third party clearance certificate which confirms the equipment has been properly cleaned and inspected and that the Plant is safe for handling.
- (b) If the Customer fails to provide a third party clearance certificate to the Owner's satisfaction, the Owner may at the Customer's cost arrange for a third party to conduct the inspection of the Plant. The Customer must procure admission for such a third party to the premises upon which the Plant is situated for the purposes of the inspection.
- (c) If the Plant fails the inspection in clause (b), the Customer must pay for the costs to safely dispose of the Plant and for the full replacement of the Plant.

10 ELECTRICAL EQUIPMENT - RETESTING AND TAGGING

All electrical equipment has been safety checked, tested and tagged by the Owner prior to hire in accordance with the relevant latest applicable Australian Standard(s) and Regulatory Authority requirements. While any electrical equipment is on hire, the Customer is responsible for arranging

at the Customer's cost the re-testing of the electrical equipment by the manufacturer's agent in accordance with the manufacturer's instructions and the applicable Australian Standard(s) and Regulatory Authority requirements. The Owner is able to arrange, at the Customer's cost, for such retesting and re-tagging of the electrical equipment. Any damage caused to the Plant resulting from incorrect testing shall be at the Customer's cost.

11 SALES ORDERS & CANCELLATION

- (a) Upon placing an order to purchase any Plant, the Customer must pay the Owner a deposit nominated by the Owner at the time of sale (the "Deposit").
- (b) The Customer will forfeit the Deposit if the order is cancelled at any time after 24 hours have passed from the time of the making of the order. Waiver of this condition is in the absolute discretion of the Owner.
- (c) The Customer shall make payment in full prior to the Plant being handed over or delivered. Special conditions may be agreed in writing with an approved account Customer in good standing.
- (d) Title to any Plant sold to a Customer shall not pass until the Owner has received payment in full and all funds cleared.
- (e) Title to any Plant hired to a Customer does not pass from the Owner to Customer.

12 EXCLUSION OF CONDITIONS, WARRANTIES & LIABILITY

- (a) To the full extent permitted by law the Owner excludes all implied terms and conditions and warranties including, without limitation, terms, conditions and warranties implied by Commonwealth or State legislation.
- (b) The Owner and Customer agree that the Owner shall not be liable to the Customer or to any person using the Plant for any loss, damage or injury (including any consequential damages or loss) howsoever arising from the hiring, use or operation of the Plant.

13 MISCELLANEOUS

- (a) The person signing the document for and on behalf of the Customer hereby covenants with the Owner that he or she has the authority of the Customer to make this agreement on the Customer's behalf and is empowered by the Customer to bind the Customer to this agreement and hereby indemnifies the Owner against all losses, costs and claims incurred by the Owner arising out of the person so signing this agreement not in fact having such power and/or authority.
- (b) This agreement replaces and supersedes all previously issued Conditions of Hire and Sales.

14 PRIVACY

The Owner will comply with the Australian Privacy Principles in all dealings with customers. A copy of the Owners Privacy Statement is available upon request.

15 SECURITY INTEREST

- (a) This clause has effect despite any other provision in this agreement. A term defined in the PPSA has the same meaning when used in this clause.
- (b) The Customer agrees:
 - (i) that this agreement creates a Security Interest in the Plant and in any proceeds arising from dealing with the Plant and that this Security Interest attaches or otherwise takes effect immediately upon the Customer obtaining possession of the Plant;
 - (ii) to not create or register, or allow a third party to create or register, a Security Interest in the Plant without the Owner's express written consent;
 - (iii) that the Owner does not need to comply with any provision of the PPSA that the parties may contract out of in relation to the Plant or the Security Interest; and
 - (iv) to take any action, obtain any consents, produce any documents or do any other thing as reasonably required by the Owner to:

- (A) ensure that this agreement or any Security Interest arising under this agreement is enforceable;

- (B) register, protect, perfect, record or better secure the Owner's position in respect of this agreement under the PPSA;

- (C) preserve the Owner's priority position as contemplated by this agreement; or

- (D) overcome any defect or adverse effect arising from the PPSA.

- (c) The Customer consents that:

- (i) the Owner may register its Security Interest on the Personal Property Securities Register in any manner it thinks appropriate;

- (ii) unless the obligation to do so cannot be lawfully excluded, the Owner is not required to give any notice, statement or documents required under the PPSA;

- (iii) the Owner may take all such steps as required by it to register, protect, perfect, record or better secure its position or any Security Interest in respect of this agreement under the PPSA.

- (iv) The Customer must reimburse the Owner on demand for any costs which the Owner incurs relating to the registration, perfect or enforcement of the Owner's Security Interest in the Plant and any proceeds. Anything the Customer is required to do under this clause must be done at its own expense.

16 LONG DISTANCE MAINTENANCE

- (a) The planned Maintenance or Breakdown Support of all Plant located at a Long Distance Location will be subject to a per kilometre charge both to and from the premises nominated by the Customer. There will be no charge for the first 250kms both ways for land transport. Air or sea will be charged from the time the Owners Employee or Contractor leave the Owners location at 54 Allingham Street, Condell Park NSW 2200

- (b) For the avoidance of doubt, The Customer remains responsible for daily maintenance and care of all Plant in accordance with clause 2 (g) of Our Conditions of Hire & Sales, including but not limited to, maintaining a current electrical test tag, checking of wire and electrical cables for damage or wear, general tightening of any loose nuts, bolts, belts or fittings and lubrication of all grease points.

- (c) The Planned Maintenance or Breakdown Support for multiple items of Plant which are located at the same Long Distance Location will only be charged as one call out.

- (d) If the Plant breaks down at a Long Distance Location, You will also pay Us the costs associated with any attendance to the Long Distance Location in addition to any other costs payable under this Hire Agreement.

- (e) The Owner reserves the right to elect the most cost-effective means of support on the Customers behalf. This could be phone support and parts distribution to the Customer site.

17 PREVIOUS EDITIONS

This edition of the Conditions of Hire & Sales replaces and supersedes all previous editions of the Condition of Hire & Sales We have issued.