

CIVIL HIRINGS PTY LTD - TERMS AND CONDITIONS

1. In these conditions:
 - (a) Civil Hirings Pty Ltd is hereinafter referred to as "the Company" which expression includes its servants and agents.
 - (b) "The Hirer" shall mean the person referred to on the reverse hereof as the Client and includes that persons servants, agents or subcontractors.
 - (c) "The Machinery" shall mean the Equipment described on the reverse hereof.
 - (d) "The Operator" (if applicable) shall mean the person described as the Operator of the Machinery on the reverse hereof.
 - (e) "The Owner" shall mean and include the Owner of the Machinery and shall include its successors, subsidiaries and assigns.
 - (f) "The Consideration" shall mean the total of the hire rate referred to on the reverse hereof calculated in the manner referred to on the reverse together with mobilisation, demobilisation and/or services including but not limited to the supply of materials and cartage and/or other applicable charges referred to on the reverse hereof as determined by the Company and a cost of provision plus profit margin and shall be increased by the amount of any GST and other taxes and duties which may be applicable.
 - (g) "Person" shall include any Firm Corporation or other entity.
2. Any instructions received by the Company from the Hirer for the supply of Machinery and/or the Hirer's acceptance of Machinery supplied by the Company shall constitute acceptance of the terms and conditions contained herein and hire rates on the reverse hereof.
3. The Company's servants and agents and/or the Owner are not authorised to make any representations, statements, conditions or agreements not expressed by the Managing Director of the Company in writing, nor is the Company bound by any such unauthorised statements.
4. The Company is not the Owner of the Machinery and does not employ the Operator thereof if any. The Company is the agent of the Owner for the purpose of arranging this Contract of Hire of the Machinery and Operator (if applicable) by the hirer from the Owner. The Owner acknowledges that the Company has no control or authority over the Machinery and/or its operation.
5. The Company shall not be liable in tort or contract or otherwise howsoever for any loss or damage of any nature or kind whatsoever including loss of and/or damage to the Machinery and/or any other property whatsoever and including personal injury to or the death of any person whomsoever caused by contributed to or arising out of the use or operation of the Machinery including loss or damage caused by a defect in the Machinery whether or not such defect is due to negligence of the Company and including loss or damage arising out of breach of Contract or negligence whether alleged or proven against the Company or its servants or agents.
6. The Machinery and its Operator (if applicable) provided pursuant to this Contract shall as between the Owner and the Company be at the risk of the Owner and the Operation of the Machinery and any work carried out shall as between the Owner and the Company be entirely at the risk of the Owner and the Owner shall insure itself accordingly against all risks of all loss and damage relating in any way whatsoever to the machinery and/or its Operator and/or any work carried out. Should an Operator of the Machinery be provided by the Owner it is agreed that as between the Owner and the Company the Operator shall be and remain at all times the employee of the Owner and the Owner shall insure itself accordingly against any and all liability whatsoever pursuant to Workers' Compensation Legislation and otherwise howsoever.
7. The Machinery and Operator (if applicable) shall be delivered and/or supplied by the Owner to the Hirer on the date(s) referred to on the reverse hereof. The Owner warrants that the Machinery shall be free from all defects whether arising from defective design, defective materials, defective equipment, defective manufacture or defective workmanship and that the operator of the Machinery shall be fully qualified and experienced in the safe and proper operation of the Machinery and shall at all times operate the machinery and undertake the work required by the Hirer in a competent and proper manner.
8. For the Consideration the Owner shall supply the Machinery and Operator (if applicable) in the manner set out on the reverse hereof. The Company shall be liable to account to the Owner for the Consideration provided that the Company shall be entitled to deduct from the Consideration any monies whatsoever payable to the Company by the Owner on any account whatsoever. Any monies received by the Company from the Hirer in excess of the Consideration shall be retained by the Company.
9. The Hirer shall indemnify and keep indemnified the Company in respect of any actions, suits proceedings, costs, claims, and demands brought or made by any person in respect of any personal injury to or the death of any person whomsoever or loss of and/or damage to the Machinery and/or any other property whatsoever arising out of or as a consequence of any accident or circumstance involving the Machinery and/or its Operator including loss or damage caused by contributed to or arising out of the use or operation of the Machinery including loss or damage caused by a defect in the Machinery whether or not such defect be due to negligence and including loss or damage arising out of breach of Contract or negligence whether alleged or proven against the Company.
10. During the period between the time that the Machinery is delivered to the Hirer and the time that the Machinery is redelivered to its Owner the Machinery and its Operator shall be under the entire direction and control of the Hirer who shall be entirely responsible for any and all directions given to the Operator including but without limiting the generality of the foregoing directions relating to the location of water pipes, gas pipes, electricity pipes and cables sewage pipes and facilities, telephone lines and cables and any other obstacles whatsoever buried or not. The Hirer shall be responsible for the provision of any additional safety equipment and/or documentation to satisfy the Hirer's and any applicable OH&S Regulations.
11. The Consideration shall be paid by the Hirer to the Company for the period between the time that the Machinery is mobilised for delivery to the Hirer and the time that the Machinery is redelivered to its Owner notwithstanding that the Machinery may not have operated for this entire period for any reason whatsoever including but without limiting the generality of the foregoing non-operation due to Machinery break down or bogging, industrial strife, acts of terrorism, natural disaster or non availability of fuel, grease, oil, ground engaging equipment of any other items whatsoever necessary for the safe and proper operation of the Machinery PROVIDED THAT the Hirer shall not be responsible for the payment of any monies with respect to any period where the Machinery is non operational due to the default of the Owner.
12. The Consideration is payable to the Company upon completion of the Machine Hire as referred to on the reverse hereof unless a 30 Day Credit account or other arrangements have been agreed to by the Company with the Hirer.
13. In the event of any break down and/or damage to the Machinery or damage to or destruction of any other property whatsoever or injury to any person whatsoever involving the Machinery and/or its operator the Hirer shall immediately give notice thereof to the Company. Failure of immediate notification by the Hirer shall waive any right to contest the Consideration on the reverse hereof.
14. If any Term or Condition contained herein shall be rendered void by the Trade Practices Act (1974) as amended this Contract shall take effect as if any such term or Condition were severed from this Contract and the remaining Terms and Conditions shall continue in full force and effect.