



HIRE CONTRACT CONDITIONS

These Hire Contract Conditions apply to the exclusion of any other conditions proposed by the Customer, unless otherwise agreed by Mansfield Hire and the Customer in writing. Mansfield Hire agrees to hire Equipment to the Customer on terms set out in this document. If the Customer wishes to hire Equipment the Customer must complete and sign (or otherwise accept in the manner required by Mansfield Hire) a Hire Schedule and such other documents as Mansfield Hire may require. Each Hire Schedule executed between Mansfield Hire and the Customer shall form a part of this hire agreement between Mansfield Hire and the Customer, together with any credit application, guarantee and indemnity or other contractual documents. Mansfield Hire may in its absolute discretion decline to hire Equipment to the Customer at any time if it has reasonable cause to do so.

Amendments: These Hire Contract Conditions may be amended by Mansfield Hire from time to time by Mansfield Hire giving notice of the amendment to the Customer. Notice is deemed given to the Customer (whether or not actually received) when Mansfield Hire does any of the following: (a) sends notice of the amendment to the Customer at any address (including an email address) supplied by the Customer; (b) publishes the amended terms on its website www.mansfieldhire.com.au; or (c) displays the amended terms at premises from which Mansfield Hire conducts hire operations.

Changes to these Hire Contract Conditions will only apply to Hire Schedules entered into between Mansfield Hire and the Customer after the date on which the amendment to the Hire Contract Conditions takes effect.

1. Interpretation of Words in this Contract;

Commencement – The date when the Customer takes possession of the Equipment.

Equipment – Means any kind of equipment listed in the Hire Schedule, and includes any accessories provided to the Customer for use with the equipment.

Hire Charge – The amounts shown on the Hire Schedule, payable by the Customer to Hire the Equipment.

Hire Period – Means the period commencing on the Commencement and ending on the period shown in the Hire Schedule. The Hire Period may only be extended for one or more Hire Periods upon the request of the Customer and approval of Mansfield Hire. Mansfield Hire may at its discretion issue the Customer with an amended Hire Schedule for any further Hire Period and may require the Customer to sign the amended Hire Schedule prior to the commencement of any further Hire Period.

Hire Schedule – Means a document which Mansfield Hire may require the Customer to sign (or accept in a way Mansfield Hire requires) including particulars of the Equipment and the Hire Period and such other information as Mansfield Hire may reasonably require.

Mansfield Hire – The company or companies listed on the Hire Schedule.

2. Mansfield Hire Obligations

Mansfield Hire will:

- 2.1. Hire the equipment to the Customer for use during the Hire Period; and
- 2.2. Provide the Equipment to the Customer in a reasonably clean condition and in good working order.

3. Obligations of the Customer

The Customer must:

- 3.1. Return the Equipment to Mansfield Hire no later than 5pm on the final day of the Hire Period. The Customer must ensure that any fuel and other consumables (oil, coolant etc) consumed during the Hire Period is refilled prior to the return of the Equipment to Mansfield Hire;
- 3.2. Return the Equipment to Mansfield Hire in a clean condition and in good working order;
- 3.3. Upon the commencement of the Hire period, satisfy itself that the Equipment is suitable for the Customer's intended use of the Equipment. The Customer must ensure at all times that the Equipment is used for its intended purpose only as approved by Mansfield Hire and not for any other purpose;
- 3.4. Operate the Equipment safely, strictly in accordance with the law and in accordance with any manufacturer's instructions or guidelines supplied by Mansfield Hire or displayed on the Equipment;

Initials.....



Mansfield Hire ABN 20 843 948 969

2/10 Crosbys Lane, Mansfield VIC 3722

Ph: 03 5775 2642

admin@mansfieldhire.com.au www.mansfieldhire.com.au

3.5. Indemnify Mansfield Hire for any and all injury and/or damage caused by, contributed to or sustained by the Customer as a result of the use or operation of the Equipment by the Customer including but not limited to any damage to property or death or injury of any persons. The Customer undertakes to obtain adequate public liability insurance prior to the commencement of the Hire Period and to ensure such insurance policy provides adequate coverage to both the Customer and Mansfield Hire for the Customer's intended use of the Equipment, and the shall present evidence of such public liability insurance upon the request of Mansfield Hire.;

3.6. Ensure that any person collecting or taking delivery of Equipment on behalf of the Customer is authorised by the Customer to do so and the Customer will not allege that any such person is not so authorized. Mansfield Hire reserves the right to request written proof from the Customer of such authorisation;

3.7. Ensure that all persons operating or assembling 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;

3.8. Conduct a thorough hazard and risk assessment before using the Equipment and comply with all Occupational Health and Safety laws relating to the Equipment and its operation;

3.9. Safely secure all items loaded in or on to the Equipment and/or in or on to the Customer's vehicle when transporting the Equipment, and indemnify Mansfield Hire in respect of any injury and/or damage caused by items falling from the Equipment or from any vehicle or trailer operated by or on behalf of the Customer when transporting the equipment;

3.10. Operate the Equipment with an adequate motor vehicle and/or power source;

3.11. Report and provide full details to Mansfield Hire of any accident or damage to the Equipment within 2 business days of the accident or damage occurring;

The Customer must not:

3.12. Tamper with or damage the Equipment;

3.13. Conduct any repair to the Equipment without the prior consent of Mansfield Hire;

3.14. Lose or part with possession of the Equipment;

3.15. Rely upon any representation or Mansfield Hire or any agent of Mansfield Hire relation to the Equipment or its operation other than those contained in this Hire Contract;

3.16. Allow any person to operate the Equipment if the person is affected by drugs and/or Alcohol;

3.17. Exceed the recommended or legal load and capacity limits of the Equipment;

3.18. Use or carry any illegal, prohibited or dangerous substance in or on the Equipment;

3.19. Exceed the recommended or legal speed limit for the Equipment.

3.20. Allow any person under the age of 18 years to operate the Equipment.

4. Payments by the Customer to Mansfield Hire

4.1. On or before Commencement (or as otherwise specifically agreed with Mansfield Hire), the Customer will pay the Hire Charge to Mansfield Hire in full prior to collection of the Equipment. Mansfield Hire reserves the right to refuse to provide the Equipment to the Customer if the Customer fails to make any payment in full prior to the collection of the Equipment on the Commencement.

4.2. Immediately on request by Mansfield Hire, the Customer will pay

- a) The recommended retail price of any Equipment which is for whatever reason not returned to Mansfield Hire.
- b) All costs incurred by Mansfield Hire in cleaning the Equipment should the Customer fail to return the Equipment to Mansfield Hire in a clean condition;
- c) The full cost of repairing any damage to the Equipment caused or contributed to by the Customer, unless expressly agreed otherwise in this Contract including damage to tyres, wheels and other accessories not being 'wear and tear';
- d) Stamp duties, GST, any other taxes or duties, and all tolls, fines, penalties, levies or charges payable in respect of this Contract or arising from the Customer's use of the Equipment;
- e) All costs incurred by Mansfield Hire in delivering and/or recovering possession of the Equipment from the Customer;

Initials.....



- f) A late payment fee calculated daily at 3% per month on all overdue amounts owing by the Customer to Mansfield Hire;
- g) Any additional Hire Charges incurred by the Customer and not paid for in full on the Commencement;
- h) The cost of all fuel and consumables provided by Mansfield Hire to the Customer and not refilled by the Customer prior to the return of the Vehicle/Equipment to Mansfield Hire;
- i) Any expenses and legal costs (including commission payable to a commercial agent) incurred by Mansfield Hire in enforcing this Contract due to the Customers default.; and
- j) If any damage and/or theft waiver applies, the amount for which the Customer is liable as set out in this Contract.

4.3. Without limiting the ability of Mansfield Hire to recover all amounts owing to it, the Customer authorises Mansfield Hire to charge any amounts owing by the Customer to any credit card or account details of which are provided to Mansfield Hire.

5. PPS Law

5.1. This clause applies to the extent that this Contract creates a 'security interest' for the purposes of the Personal Property Securities Act 2009 (Cth) ("PPS Law).

5.2. References to PPS Law in this Agreement include references to amended, replacement and successor provisions.

5.3. Mansfield Hire may register its security interest as a PMSI. The Customer must do anything (such as obtaining consents and signing documents) Which Mansfield Hire requires for the purposes of:

- a) Ensuring that Mansfield Hire's security interest is enforceable, perfected and otherwise effective under the PPS Law;
- b) Enabling Mansfield Hire to gain first priority (or any other priority agreed to by Mansfield Hire in writing) for its security interest; and
- c) Enabling Mansfield Hire to exercise rights in connection with the security interest.

5.4. Mansfield Hire may recover from the Customer the cost of doing anything under this clause, including but not limited to registration fees.

5.5. The rights of Mansfield Hire under this document are in addition to and not in substitution for Mansfield Hire's rights under other law (including PPS Law) and Mansfield Hire may choose whether to exercise rights under this document, and/or under other law, as it sees fit.

5.6. To the extent that Chapter 4 of the PPS applies to the security interest under this agreement, the following provisions of the PPS Law do not apply and, for the purposes of section 115 of the PPS Law are "contracted out" of this Agreement in respect of all goods to which that section can be applied: section 95 (notice of removal of accession to the extent it requires Mansfield Hire to give notice to the Customer); section 96 (retention of accession); section 121(4) (notice to grantor); section 125 (obligations to dispose of or retain collateral); section 130 (notice of disposal to the extent it requires Mansfield Hire to give notice to the Customer); section 129(2) and 129(3); section 132(3)(d) (contents of statement of account after disposal); section 132(4) (statement of account if no disposal); section 135 (notice of retention); section 142 (redemption of collateral); and section 143 (re-instatement of security agreement).

5.7. The following provisions of the PPS Law confer rights to Mansfield Hire: section 123 (seizing collateral); section 126 (apparent possession); section 128 (secured party may dispose of collateral); section 129 (disposal by purchase); and section 134(1) (retention of collateral). The Customer agrees that in addition to those rights, Mansfield Hire shall, if there is default by the Customer, have the right to seize, purchase, take possession or apparent possession, retain, deal with or dispose of any goods, not only under those sections but also, as additional and independent rights, under this document and the Customer agrees that Mansfield Hire may do so in any manner it sees fit, including (in respect of dealing and disposal) by private or public sale, lease or licence.

Initials.....



Mansfield Hire ABN 20 843 948 969

2/10 Crosbys Lane, Mansfield VIC 3722

Ph: 03 5775 2642

admin@mansfieldhire.com.au www.mansfieldhire.com.au

5.8. The Customer waives its rights to receive a verification statement in relation to registration events in respect of commercial property under section 157 of the PPS Law.

5.9. Mansfield Hire and the Customer agree not to disclose information of the kind that can be requested under section 275(1) of the PPS Law. The Customer must do everything necessary on its part to ensure that section 275(6)(a) of the PPS Law continues to apply. The Agreement in this sub-clause is made solely for the purposes of allowing Mansfield Hire the benefit of section 275(6)(a) and R shall not be liable to pay damages or any other compensation or be subject to injunction if Mansfield Hire breaches this sub-clause.

6. Security Interest and sub-hire

6.1. Customer must not dispose or purport to dispose of, or create or purport to create or permit to be created any 'security interest' (as defined in PPS Law) in the Equipment other than with the express written consent of Mansfield Hire.

6.2. Customer must not lease, hire, bail or give possession ('sub-hire') of the Equipment to anyone else unless Mansfield Hire (in its absolute discretion) first consents in writing. Any such sub-hire must be in writing in a form acceptable to Mansfield Hire and must be expressed to be subject to the rights of Mansfield Hire under this agreement.

6.3. Customer may not vary a sub-hire without the prior written consent of Mansfield Hire (which may be withheld in its absolute discretion).

6.4. Customer must ensure that Mansfield Hire is provided at all times with up-to-date information about the sub-hire including the identity of the sub-hirer, the terms of and state of accounts and payment under the sub-hire and the location and condition of the Equipment.

6.5. Customer must take all steps including registration under PPS Law as may be required to:

- a) Ensure that any security interest arising under or in respect of the sub-hire is enforceable, perfected and otherwise effective under the PPS Law;
- b) Enabling the Customer to gain (subject always to the rights of Mansfield Hire) first priority (or any other priority agreed to by Mansfield Hire in writing) for the security interest; and
- c) Enabling Mansfield Hire and the Customer to exercise their respective rights in connection with the security interest.

6.6. To assure performance of its obligations under this agreement, the Customer hereby gives Mansfield Hire an irrevocable power of attorney to do anything Mansfield Hire considers the Customer should do under this agreement. Mansfield Hire may recover from Customer the cost of doing anything under this clause 5, including registration fees

7. Damage Waiver

7.1. Damage Waiver is not insurance, but is an agreement by Mansfield Hire that the Customer's liability for damage to the Equipment can be limited in some circumstances only, to an amount called the Damage Waiver Excess. Mansfield Hire may apply the Damage Waiver Excess at its absolute discretion and is not obligated to provide the Customer with the Damage Waiver Excess.

7.2. Damage Waiver can be applied to all hires, subject to the conditions below, for a fee of 12.5% of the hire cost. The Damage Waiver Excess is the actual recovery and repair cost of the Equipment, or 20% of the current replacement cost of the Equipment as reasonably determined by Mansfield Hire using supplier's list prices, whichever is the lesser amount.

Initials.....



Mansfield Hire ABN 20 843 948 969

2/10 Crosbys Lane, Mansfield VIC 3722

Ph: 03 5775 2642

admin@mansfieldhire.com.au www.mansfieldhire.com.au

DAMAGE WAIVER DOES NOT APPLY AND WILL NOT LIMIT THE CUSTOMER'S LIABILITY in the following circumstances;

- a) Where the Equipment is lost or stolen;
- b) Where the operator of the Equipment is not suitably licensed;
- c) Where the operator of the Equipment is affected by drugs and/or alcohol;
- d) Where the Equipment has been wilfully damaged by the Customer or its employees or agents;
- e) Where the damage is caused to the Equipment by a collision with a bridge, carpark, awning, gutter, tree or any other structure or object whatsoever due to insufficient clearance;
- f) Where the damage is caused while the Equipment is being driven or towed by the Customer or its employee or agent on any road that is unsealed or is not a public road; or
- g) Where the damage is caused in any way by overloading of the Equipment.

7.3. The Customer may pay an additional Equipment Waiver Plus Fee in relation to the hire of medium and large equipment (being such Equipment as determined by Mansfield Hire from time to time), which will;

- a) Reduce the Damage Waiver Excess in relation to medium and large equipment; and
- b) Add a Theft Waiver component for medium and large machinery. Theft Waiver is not insurance, but is an agreement by Mansfield Hire that the Customer's liability for theft or loss of the Equipment can be limited in some circumstances only to an amount called the Theft Waiver Excess.

Mansfield Hire may ask the Customer to pay the Equipment Waiver Plus Fee on the hire of medium and large equipment, but the Customer may decide to opt out of that payment in which case Mansfield Hire may request a copy of the Customer's Certificate of Insurance prior to the Commencement.

The reduced Damage Waiver Excess and the Theft Waiver Excess which may apply to medium and large equipment when the Equipment Waiver Plus Fee is paid will be shown on the Hire Contract and will vary for different types of Equipment.

7.4. THEFT WAIVER DOES NOT APPLY AND WILL NOT LIMIT THE CUSTOMER'S LIABILITY FOR THEFT in the following circumstances;

- a) Where the Customer has failed to keep the Equipment locked in a secure holding facility; , or
- b) Where the Customer has failed to submit to Mansfield Hire a Police Report on the theft within 7 days of the theft allegedly occurring. In the event of Theft Waiver applying, hire fees will be charged to the Customer until a satisfactory Police Report is provided to Mansfield Hire.

7.5. Damage Waiver or Theft Waiver will NOT apply where Mansfield Hire determines that any of the applicable circumstances in clauses 7.2(a)-(g) or 7.3(a)- (b) respectively have occurred, unless the Customer is able to establish otherwise to the reasonable satisfaction of Mansfield Hire.

8. Exclusion of Warranties and Liabilities.

8.1. Where the Australian Consumer Law applies, the Customer has the benefit of guarantees in relation to the hire of the Equipment which cannot be excluded.

Initials.....



Mansfield Hire ABN 20 843 948 969
2/10 Crosbys Lane, Mansfield VIC 3722
Ph: 03 5775 2642

admin@mansfieldhire.com.au www.mansfieldhire.com.au

8.2. Where the Australian Consumer Law applies and the goods are not of a kind ordinarily acquired for personal domestic or household use or consumption, Mansfield Hire’s liability in respect of any guarantee is limited to the reimbursement of the Hire Charge paid by the Customer to Mansfield Hire .or the remedy of any damage caused by the Equipment as a result of any breach of the Australian Consumer Law by Mansfield Hire.

8.3. To the extent that the Australian Consumer Law (or any other law which cannot be excluded) does not apply. Mansfield Hire makes no representations and gives no warranties other than those set out in these Hire Contract Conditions, and will not be liable to the Customer for any damages, costs or other liabilities whatsoever (including for consequential loss) in relation to the hiring of the Equipment by the Customer.

9. Breach of Hire Contract by Customer

If the Customer breaches any clause whatsoever of this Contract, or becomes bankrupt, insolvent or ceases business then;

9.1. Mansfield Hire shall be entitled to:

- a) Terminate this Contract; and/or
- b) Commence legal proceedings for recovery of all monies owing to Mansfield Hire by the Customer; and/or
- c) Repossess the Equipment (and is authorized to enter any premises where the Equipment is located to do so), and any Damage and/or Theft Waiver referred to in clause 7 is immediately invalidated.

9.2. The Customer indemnifies Mansfield Hire in respect of any damages, costs or loss resulting from a breach by the Customer of any provision of this Contract.

10. Disputes

10.1. The Customer must immediately check all Hire Charges, and any disputes in relation to those Hire Charges must be communicated to Mansfield Hire in writing within 30 days of the Hire Contract date. In the event that no communication is received from the Customer within that 30 day period, the Hire Charges are deemed to be accepted by the Customer.

10.2. If a dispute arises relating to this Contract, the hiring or the use of the Equipment (except in regard to payments due to Mansfield Hire), the parties agree to negotiate to settle the dispute with the assistance of the Hire and Rental Association of Australia before litigation.

11. Privacy

Mansfield Hire will comply with the Australian Privacy Principles in all dealings with Customers.

12. Governing Law

The Hire Agreement is governed by the laws of the State or Territory of Australia where the Hire Agreement is entered into by the parties and each party submits to the non-exclusive jurisdiction of the courts of that State or Territory.

I have read and accept the above terms and conditions of hire. In particular I am aware that the hirer is responsible for the safekeeping of the equipment against damage or theft and that the owners insurance will not cover the hirer, subject to any damage waiver agreement. I also agree that these “Hire Contract Conditions” apply to all hires from the date below.

Authorised person: Company:

Signature: Date: