

AGREEMENT DETAILS

DATE:

AGREEMENT NUMBER:

NEWRENTAL PTY LTD:
("we", "us", "ours"):

Company	NewRental Pty Ltd
ABN	89 632 782 328
Address	90 Ewing Street, Welshpool WA 6106
Contact	Harry Rowsthorn, General Manager
Mobile	0409 375 187
Email	harry@newrental.com.au
Accounts Email	

RENTER:
("you", "your", "yours"):

Company	INSERT FULL CORPORATE NAME
ABN	INSERT
ACN	INSERT
Address	INSERT
Company Email	INSERT
Company Phone	INSERT
Contact	INSERT
Mobile	INSERT
Email	INSERT

EQUIPMENT DETAILS:

DB ID Number	
Year/Make/Model	
VIN Number	
Registration	
Replacement value	

HIRE DETAILS

Permitted Purpose	INSERT
Hire Period Commencement	INSERT If nothing stated, on collection or delivery of the Equipment
Off-Hire Date	INSERT If nothing stated, on collection of the Equipment by us or return of the Equipment to us.
Collection Address	
Delivery Address	
Hire Charge	INSERT \$/Interval (e.g., \$/day) Limited to a maximum of 150km mileage per day, per vehicle. Excess mileage will be charged at 15 cents per km.
Minimum Charge	INSERT If nothing stated, 3 months
Location of use	INSERT
Additional Charge	
Collected by Renter	Yes / No

AGREEMENT DETAILS

RENTER RESPONSIBILITIES

To be performed by Renter and/or at Renter's cost

Insurance
Mobilisation
Supply of competent, licensed and qualified operator
Monthly reporting of servicing to NewRental
Daily Servicing: fuel, grease, oil top ups
Logbook Servicing during Hire Period
Minor Repairs to \$1000
Tyre supply – replacement (other than Fair, Wear and Tear)
Damage – repair/replacement of panels, glass, and cab interior
Cleaning of equipment upon completion of rental period to same standard as received on site
Demobilisation

SPECIAL CONDITIONS

RENTAL AGREEMENT

- This Rental Agreement is a contract between you and us, under which we agree to hire you the Equipment, in return for which you must pay us the rental charges.
- The following documents comprise the Rental Agreement, in order of precedence:
 - this Agreement Instrument;
 - Agreement Details;
 - Terms and Conditions;
 - Special Conditions; and
 - any other documents attached or referred to in this Subcontract, in the order in which they are attached (together, the **Agreement**).

EXECUTED AS AN AGREEMENT

Signed for and on behalf of
NewRental Pty Ltd (ABN 89 632 782 328):

Signed for and on behalf of [RENTER]
(ABN XX XXX XXX XXX):

Signature of authorised representative

Harry Rowsthorn, General Manager

Name and Position

Date

Signature of authorised representative

Name and Position

Date

AGREEMENT CONDITIONS

1 AGREEMENT TO HIRE

- 1.1 We agree to hire the Equipment to you for the Hire Period under the terms of this Agreement, in return for payment of the Hire Charges.
- 1.2 The Agreement Details set out:
 - (a) the details of the Equipment; and
 - (b) your responsibilities in relation to the Hire.
- 1.3 You will be deemed to have accepted the terms of the Agreement by doing any of the following:
 - (a) issuing a purchase order referring to this Agreement or a quotation attaching this Agreement;
 - (b) instructing us (in writing or orally) to proceed with the Hire after this Agreement has been provided to you;
 - (c) paying us any deposit or Hire Charge;
 - (d) collecting or accepting delivery of the Equipment; or
 - (e) signing and returning the Agreement.
- 1.4 The Hire Period commences on the earlier of:
 - (a) acceptance of this Agreement; or
 - (b) the Commencement Date,
 and will continue until the Off Hire Date, unless terminated earlier in accordance with this Agreement.
- 1.5 You may request an extension of the Hire Period. We may agree to an extension, subject to renegotiation of the terms, but we are not obliged to do so.
- 1.6 Any terms that may have been attached to or included in your purchase order, instruction or other correspondence, whether before, at or after the commencement of the Agreement are not applicable and are deemed withdrawn in favour of this Agreement. A purchase order is not a counteroffer.

2 PAYMENT AND INVOICING

- 2.1 You agree:
 - (a) to pay the Hire Charges to us in return for the hire of the Equipment; and
 - (b) the Hire of the Equipment is subject to the Minimum Hire Charge specified in the Agreement Details.
- 2.2 The Hire Charges (apart from the Minimum Hire Charge) are calculated:
 - (a) daily, from and including the Commencement Date, with part of a day charged as if it were a full day;
 - (b) on the basis that the daily rate applies up to a maximum of 150 kilometres per day, beyond which we may charge you an additional charge of 15 cents per kilometre travelled in addition to the initial 150km, during any given day.
- 2.3 You must pay the Hire Charges for the longest of the following periods:
 - (a) Minimum Hire Period;
 - (b) duration of the Hire Period;
 - (c) the period from the Commencement Date until the date of return of the Equipment to us; or
 - (d) if we repossess the Equipment, the period from the Commencement Date until the date of repossession.
- 2.4 If we repossess the Equipment, you must pay all charges and expenses incurred by us in the repossession. These charges are in addition to the Hire Charges and will be claimed in the next invoice following the repossession.
- 2.5 If you terminate this Agreement for any reason prior to the expiration of the Minimum Hire Period, you must pay us the balance of any Hire Charges for the remainder of the Minimum Hire Period, and any other associated costs incurred by us as a result of the termination.
- 2.6 In addition to the Hire Charges, you must pay us for:
 - (a) any consumables or spare parts supplied by us and used in connection with the hire of the Equipment;
 - (b) any other services provided by us at your request in connection with the Equipment, including attendance at site to give instructions regarding the operation of the Equipment;
 - (c) any costs incurred by us in connection with a failure by you to observe the Renter's Responsibilities set out in the Agreement Details;
 - (d) the cost of returning the Equipment to us or a location nominated by us in the event of Damage or a Major Incident caused by you; and
 - (e) any Additional Charges specified in the Agreement Details or otherwise notified to you in writing.
- 2.7 If you terminate this Agreement before the end of the Minimum Hire Period (for any reason), any Hire Charges paid in advance will be retained by us.
- 2.8 If you do not return the Equipment to us on the earlier of the expiry of the Hire Period or on the termination of this Agreement, the Hire Charges will continue to accrue at the rate specified in the Agreement Details until the Equipment is returned. Any additional Hire Charges payable as a result of the late return of the Equipment will be a debt due by you to us and payable on demand.
- 2.9 If:
 - (a) there is a change in relation to the Equipment required; or
 - (b) we are required to perform work in connection with the Equipment, which could not reasonably have been contemplated by us at the time of entering into this Agreement and is beyond our reasonable control, then we may charge an Additional Charge in respect of any additional resources utilised to fulfil our obligations under this Agreement.
- 2.10 We may issue an invoice to you for the Hire Charges and any other amounts that you owe to us, on a monthly basis and at the end of the Hire Period or at such other intervals as we determine.
- 2.11 You must pay us the total amount invoiced by the time stated in the invoice, or if no time is stated, within 30 days of the date of the invoice.

- 2.12 Unless stated otherwise, the amount of payment for any taxable supply under this Agreement has been calculated exclusive of GST or any other tax, duty, levy or charge imposed in connection with the supply, delivery or installation of the Equipment and may be increased by the amount of any GST, in which case a tax invoice will be provided in respect of the taxable supply.
- 2.13 All amounts payable under this Agreement must be paid in full on the due date for payment without set-off or deduction by you of any kind.
- 2.14 We may set off any monies owed to you against monies owed by you to us under this Agreement or any other agreement.
- 2.15 Any amount that is not paid within 7 days of the date of the invoice may attract interest, which will be a debt payable on demand. Interest will be calculated on the daily balance which is unpaid from time to time until the date of payment, at rate of 10%.
- 2.16 If any payment is not made when due, we may suspend the Hire until payment is received, or alternative arrangements acceptable to us are made.
- 2.17 We reserve the right to assign our entitlements to payment under this Agreement and/or to employ the services of a debt collector if any fees remain unpaid 7 days after they were due.
- 2.18 If you do not pay a debt due to us, we may require you to pay part or all of the costs and expenses associated with ensuring payment of such debt. This may include commission and fees payable to a mercantile collection agency or solicitor.
- 2.19 All costs that we incur in delivering and recovering possession of the Equipment, will be a debt due to us by you, payable on demand.

3 DELIVERY AND RETURN

- 3.1 If the Agreement Details specify that you will collect the Equipment, you or your agent must collect the Equipment from the Collection Address.
- 3.2 If we agree to deliver or to arrange delivery of the Equipment to you, you must pay on demand all mobilisation fees, freight, insurance and other delivery costs incurred by us in connection with that delivery.
- 3.3 We will not be liable for any Loss suffered by you as a result of any delays in the collection or delivery of the Equipment for any reason.
- 3.4 You are deemed to have inspected the Equipment on collection or delivery and accepted it as being in good working order and condition, unless you notify us otherwise within 4 hours.
- 3.5 Subject to clause 3.6, at the end of the Hire Period, you must deliver the Equipment to the Collection Address in clean and good working condition, with the oil reservoirs and fuel tank full.
- 3.6 If we agree to collect or arrange collection of the Equipment from you, you must pay on demand all demobilisation fees, freight, insurance and other costs incurred by us in connection with the collection.

4 CONDITIONS OF USE

- 4.1 The Equipment must only be used for the Permitted Purpose by you and your authorised employees and contractors.
- 4.2 You must not permit the Equipment to be used by any other party or for any other work except with our prior written permission.
- 4.3 You are solely responsible for the security, use, supervision, management and control of the Equipment whilst in your possession, custody or control.
- 4.4 We will supply you with one copy of any operating manuals, user manuals or other written guidelines or procedures that are designed to assist in the use of the Equipment. You must not copy or reproduce any part of these documents without our prior written consent.
- 4.5 You must:
 - (a) ensure that the Equipment remains fuelled, lubricated, serviced and clean throughout the Hire Period;
 - (b) keep a record of the Equipment and notify us each month of mileage travelled and any services or repairs performed on the Equipment;
 - (c) ensure that any security device fitted or supplied with the Equipment is used;
 - (d) regularly visually inspect the Equipment for Damage or wear and tear;
 - (e) protect the Equipment from inclement weather (including but not limited to fire, flood, severe storms and hail damage etc);
 - (f) not remove, alter or obscure any notification of ownership incorporated in or on the Equipment;
 - (g) only use the Equipment in accordance with any documents referred to in clause 4.3;
 - (h) not reverse engineer, reverse assemble, reverse compile or allow or cause any other person to reverse engineer, reverse assemble or reverse compile the whole or any part of the Equipment;
 - (i) not use the Equipment for any illegal purpose;
 - (j) ensure that the Equipment is protected at all times from misuse, Damage, unauthorised access and any form of unauthorised use;
 - (k) ensure that the Equipment is not used beyond capacity or in a manner likely to result in Damage or excessive wear; and
 - (l) notify us immediately and in any event within 48 hours of any Major Incident involving the Equipment, any Damage to the Equipment, or any damage, injury or death caused by the Equipment to any person or property;
 - (m) comply at your expense with all our requirements and directions in relation to the Equipment, including the Renter Responsibilities set out in the Agreement Details, and the requirements of any applicable law (including work, health and safety law), government body or other authority, including relating to the handling, lifting or carriage of any Dangerous Goods, or the use, operation or storage of the Equipment;
 - (n) obtain at your expense all necessary approvals, permits and consents for any use, operation or storage of the Equipment;
 - (o) ensure that all safety and operating instructions and notices are observed and are not defaced or removed from any Equipment; and
 - (p) return the Equipment to us on the expiry of the Hire Period in the same condition it was in at the Commencement Date, except for Fair Wear and Tear.
- 4.6 You acknowledge and agree that:

- (a) the use and operation of the Equipment is entirely at your risk and expense;
 - (b) you will be liable for all Damage caused to the Equipment whilst the Equipment is in your possession, custody or control; and
 - (c) this Agreement does not transfer title in the Equipment.
- 4.7 We will inspect the Equipment within 2 Business Days of it being returned to our premises and determine and notify you of the nature and extent of any Damage.
- 4.8 You must pay the cost of any repairs required to the Equipment, which will be a debt due by you to us and payable on demand.

5 MODIFICATIONS

- 5.1 You must not modify, deface, change or add to the Equipment (including by erasing any identifying mark, plate or number on or in any Equipment) or carry out any work on the Equipment, without our prior written consent.
- 5.2 If the Equipment is modified or altered by us at your request, or by you with our consent under clause 5.1:
- (a) you must pay the costs associated with the modifications or alterations or the costs arising out of the investigation of the effects of proposed modifications or alterations; and
 - (b) you indemnify us against all liability incurred by us if such modifications or alterations infringe any Intellectual Property rights of a third party or otherwise cause us to suffer any Loss.
- 5.3 The Equipment as modified or altered remains our property in all respects, regardless of who modified it and whether the modification was authorised pursuant to this Agreement. You assign to us all Intellectual Property rights arising out of any modifications made to the Equipment.
- 5.4 This Agreement applies to the Equipment as modified or altered.
- 5.5 You must execute any documents and take the steps reasonably required by us to give effect to clause 5.3.

6 EQUIPMENT FAILURE

- 6.1 If the Equipment fails, is involved in a Major Incident, breaks down or becomes unsafe to use during the Hire Period, you must:
- (a) stop using the Equipment and notify us immediately and in any event within 48 hours;
 - (b) take all steps necessary to prevent injury occurring to persons or property as a result of the condition of the Equipment;
 - (c) take all steps necessary to prevent any further Damage to the Equipment; and
 - (d) not repair or attempt to repair the Equipment without our written consent.
- 6.2 If required by us, you must return the faulty Equipment immediately to us, at your expense unless the reason for the return results from our act or omission.
- 6.3 You must allow or procure access for us to any location where the Equipment is being held, as necessary to inspect the Equipment, observe its use and carry out any necessary repairs.
- 6.4 If, on the repair of a failure or breakdown, it is determined by us that the breakdown is due to an act or omission by you (negligent or otherwise), then you must pay us the costs of the repairs.
- 6.5 If the Equipment breaks down or becomes unsafe to use through no fault, negligence, recklessness or misuse by you, we will:
- (a) repair the Equipment; or
 - (b) if the Equipment cannot be repaired within a period or at a cost acceptable to us (in our absolute discretion), replace the Equipment or supply equivalent Equipment as soon as reasonably possible; and
 - (c) not charge the Hire Charges for such Equipment for the period the Equipment is unavailable for use by you.
- 6.6 We are not liable for any Loss incurred by you arising from the breakdown or unsafe condition of the Equipment.

7 DANGEROUS GOODS

- 7.1 Dangerous Goods must only be handled, lifted or carried using the Equipment with our prior written consent.
- 7.2 As a condition of our consent, we may require you to make special arrangements for the handling and storage of the Dangerous Goods at your expense. You will be liable for all Damage caused to any property (including the Equipment) and any injury to and illness or death of any person resulting from the handling or storage of the Dangerous Goods.
- 7.3 For the purpose of this Agreement, we are not a common carrier and do not accept the obligations or liability of common carriers. We may refuse to, or allow the Equipment to be used to, handle, lift or carry any type of goods or particular goods in our sole discretion without being obliged to give a reason for refusal.

8 RISK AND TITLE

- 8.1 We retain title to or all legal rights to possession of the Equipment at all times. Your right to use the Equipment is limited under the terms of this Agreement as a mere bailee.
- 8.2 You must not:
- (a) claim any lien over the Equipment;
 - (b) part with possession of the Equipment; or
 - (c) offer or agree, or purport to offer or agree, to sell, pledge, mortgage, let, hire or otherwise dispose of the Equipment or any part of it at any time.
- 8.3 The risk of Damage to the Equipment passes to you as soon as you or your agent collects the Equipment from us or as soon as the Equipment leaves our premises for delivery to the Site, as the case may be.
- 8.4 We will not arrange or maintain insurance cover in respect of the Equipment for your benefit, unless expressly requested by you and then at your sole expense. The cost of any such insurance will be a debt due by you to us, payable on demand.
- 8.5 Without limiting clause 4.6(b), if the Equipment (or any part of it) is lost or Damaged beyond repair whilst it is in your possession, custody or control, including whilst in transit and before it is returned to us:
- (a) you must immediately notify us of the Damage;

- (b) you must pay the Replacement Value in full to us on demand;
- (c) this Agreement will terminate upon payment by you of the Replacement Value in full; and
- (d) until the Replacement Value is paid in full:
 - (i) it remains a debt due by you to us, payable on demand; and
 - (ii) the Hire Charges will continue to accrue and be payable at the rate specified in the Agreement Details.

9 INSURANCE

- 9.1 Throughout the term of the Hire Period, you must effect and maintain, at your own expense:
- (a) any insurance which is compulsory by law in Western Australia or any other place in which the Equipment is used, including workers' compensation insurance;
 - (b) public liability insurance to cover your and your subcontractors' liability to us and to third parties for loss of or damage to property (including loss of use) and the death of or injury to any person (including the Operator), for an amount not less than \$20,000,000 per occurrence and unlimited in the aggregate; and
 - (c) any other insurance reasonably specified by us or required as a matter of prudent business practice including insurance covering the Equipment for its replacement value for Damage during transit or as a result of other risks.
- 9.2 Such insurance must:
- (a) name us as a joint insured for our rights and interest in the Agreement and in the Equipment;
 - (b) include a cross liability provision noting that we and you are separate entities and that the insurance applies as if a separate policy had been issued to each party to the same effect;
 - (c) include a waiver of subrogation against us; and
 - (d) include a provision that a breach of condition or term of insurance by one insured will not adversely affect the cover provided to another insured.

10 LIABILITY & INDEMNITY

- 10.1 You are liable for and agree to indemnify and keep us indemnified from and against any claim, action or Loss, arising directly or indirectly out of or in connection to the Equipment, including but not limited to:
- (a) damage to any of your or a third party's property;
 - (b) damage to the Equipment; and
 - (c) the death, illness or injury to any person, including any of your officers, employees, or agents or any operator of the Equipment, caused or contributed to by:
 - (d) your use of the Equipment, (regardless of who operates it);
 - (e) any act or omission by you or your employees, officers, agents or contractors;
 - (f) any breach by you of any of your obligations under this Agreement; or
 - (g) the re-taking of possession of the Equipment pursuant to clause 12.
- 10.2 Under no circumstances will we be liable to you for any Loss arising out of:
- (a) any of the events referred to in clause 10.1;
 - (b) any delay in the delivery or return of the Equipment;
 - (c) any Force Majeure event;
 - (d) any unavailability of the Equipment;
 - (e) any Loss suffered by third parties, including your contractors, servants, agents or clients; or
 - (f) any accident involving the Equipment, or from any breakdown or defect in the Equipment or any part of it, or from any other cause whatsoever.
- 10.3 To the maximum extent permitted by law, all terms and warranties expressed or implied by any legislation, the common law, equity, trade custom or usage or otherwise in relation to the Equipment are expressly excluded.
- 10.4 To the extent that any legislation or law implies any term or warranty or prohibits provisions in a contract excluding or modifying the application of, exercise of or liability under, that term or warranty, our liability for breach of that term or warranty is limited, in our absolute discretion to:
- (a) the replacement of the defective Equipment or the supply of equivalent equipment;
 - (b) the repair of the defective Equipment; or
 - (c) the payment of the cost of having the defective Equipment repaired or replaced.
- 10.5 Subject to this clause 10, to the extent (if any) that we are held liable to you under this Agreement, our liability will be limited to the amount of the Hire Charges.
- 10.6 Notwithstanding any other provision of this Agreement, we are not liable for Consequential Loss arising out of or in connection with the provision of the Equipment or this Agreement.

11 FORCE MAJEURE AND SUSPENSION

- 11.1 If either Party is prevented from carrying out any of its obligations under this Agreement by reason of Force Majeure, that obligation will be suspended but only to the extent and so far as affected by, and during the continuance of, such Force Majeure.
- 11.2 Neither Party shall be liable to the other for delay, inconvenience or Loss due to Force Majeure.
- 11.3 Clause 11.1 does not apply to any of your obligations to pay money.

12 TERMINATION

- 12.1 We may terminate this Agreement at any time and re-take possession of the Equipment, by giving written notice to you, if:

- (a) you fail to make any payment required under this Agreement and do not remedy that breach within 3 days after being requested to do so;
 - (b) we believe you are subjecting the Equipment to unreasonable wear and tear or that the Equipment is at risk of Damage;
 - (c) subject to clause 12.1 (a), you breach or fail to perform an obligation under this Agreement, and fail to remedy that breach or non-observance within 7 days of written notice requiring you to do so;
 - (d) for any reason in our absolute discretion, having provided 7 days written notice to you;
 - (e) you become unable to pay your debts when they fall due, file for bankruptcy, enter into liquidation, have a receiver or administrator appointed, are acquired by another entity or become insolvent or are deemed to be insolvent under the Corporations Act 2001 (Cth).
 - (f) you cease or threaten to cease to carry on business;
 - (g) the Equipment is unable to be used (including due to any Damage, break down or unsafe condition of the Equipment) due to any act or omission by you; or
 - (h) the Equipment is otherwise unable to be used (including due to any Damage, break down or unsafe condition of the Equipment), cannot be repaired within a period of time or at a cost that is acceptable to us (in our absolute discretion) and replacement or equivalent Equipment is unavailable.
- 12.2 On the expiry or termination of this Agreement for any reason, you must immediately cease using and return the Equipment to us.
- 12.3 If you fail to comply with your obligations under clause 12.2, you must give us access to the location where the Equipment is being held, to repossess the Equipment. Where the Equipment is located on the property of any third party, you must obtain pre-approval from the third party or parties for unconditional access.
- 12.4 Any costs incurred by us in exercising our rights under this clause 12 will be a debt due by you to us, payable on demand.
- 12.5 If you default in any of your obligations under this Agreement, including your obligation to pay the Hire Charges, then all amounts unpaid as at the date of that default shall immediately become due and payable.
- 12.6 You may terminate the Agreement by giving us 30 working days' written notice. If you terminate the Agreement under this clause 12.6, you must pay to us:
- (a) all Hire Charges that accrue until the Off Hire Date;
 - (b) the costs of demobilisation, collection and/or return; and
 - (c) any other costs that we incur in connection with the termination.
- 12.7 Termination of this Agreement does not affect any of our rights and remedies arising prior to the date of termination, including our right to recover payment of the Hire Charges for the whole or remainder of the Hire Period. Any provisions of the Agreement which by their nature survive termination (including clauses 8, 9, 10 and 12), will continue to operate.

13 DISPUTES

- 13.1 Where a dispute arises in connection with the Agreement, we will attempt to resolve the dispute first by mutual negotiation. If we are unable to resolve the dispute within 30 days, the dispute will be submitted to mediation in accordance with the Resolution Institute Rules for Mediation.
- 13.2 If we cannot agree on a mediator, either party may request a nomination from the Resolution Institute.
- 13.3 The costs of the mediation will be dealt with as follows:
- (a) the costs of each of the parties must be borne by the party that incurred them; and
 - (b) the fees and expenses of the mediator and any costs of the mediation must be shared equally between the parties.
- 13.4 Nothing in this clause 13 prevents either party from commencing proceedings to seek urgent injunctive or declaratory relief or us from commencing proceedings at any time to recover unpaid Hire Charges.

14 PERSONAL PROPERTY SECURITIES ACT

- 14.1 Terms used in clause 14 that have a defined meaning in the *Personal Property Securities Act 2009* (Cth) (PPSA), have the same meaning in this clause.
- 14.2 This clause applies if:
- (a) this Agreement is a PPS Lease; or
 - (b) this Agreement gives us a security interest in the Equipment or any other property; or
 - (c) the PPSA applies to this Agreement for any other reason.
- 14.3 You acknowledge and agree that:
- (a) this Agreement constitutes a Security Agreement under the PPSA; and
 - (b) any security interest granted to us under this Agreement is a purchase money security interest in connection with the relevant Collateral.
- 14.4 You must not:
- (a) create any form of security interest over the Equipment in favour of any third party;
 - (b) register, or arrange for the registration of a financing statement or financing change statement in relation to the Equipment in favour of any third party without our prior written consent; or
 - (c) register, or arrange for the registration of a financing statement or financing change statement in respect of a security interest given or deemed created by this Agreement without our prior written consent.
- 14.5 You grant us a security interest in the Equipment and acknowledge that we may register a security interest in the Equipment at any time before or after collection or delivery of the Equipment. You waive your right under section 157 of the PPSA to receive notice of the registration.
- 14.6 We can apply amounts we receive from you towards amounts owing to us in such order as we choose.
- 14.7 If you default in the performance of any obligation to us under this Agreement or any other agreement for us to supply personal property to you, we may enforce our security interest in the Equipment by exercising all or any of our rights under this Agreement or the PPSA.

- 14.8 To the maximum extent permitted by law, the following provisions of the PPSA do not apply to our enforcement of a security interest in the Equipment: sections 95, 118, 121(4), 125, 130, 132(3)(d), 132(4), 135, 142 and 143.
- 14.9 You must not disclose information of the kind mentioned in section 275(1) of the PPSA except in circumstances required by sections 275(7)(b)-© of the PPSA. You waive any right you may have, or but for this clause may have had, under section 275(7)(c) of the PPSA to authorise the disclosure of such information.
- 14.10 You must promptly do anything required by us to ensure that our security interest is a perfected security interest and has priority over all other security interests in the Equipment.
- 14.11 Nothing in this clause is limited by any other provision of this Agreement or any other agreement between the parties.

15 GENERAL

- 15.1 This Agreement is the entire agreement between the parties concerning its subject matter and supersedes all prior oral or written representations and agreements. If any terms appear on a purchase order or other instruction issued by you, this Agreement prevails, and those terms are deemed to have been withdrawn in favour of this Agreement.
- 15.2 Time is of the essence in this Agreement.
- 15.3 You agree that the terms and subject matter of this Agreement are confidential and you will not disclose any Confidential Information or other information regarding the Agreement, its existence or its terms, or acquired as a result of the Agreement, to any third party (including by making any media release) without our prior written consent.
- 15.4 This Agreement can only be amended in writing and signed by both parties.
- 15.5 We may subcontract or assign our rights or obligations under this Agreement without your consent. You may not assign your rights or obligations under this Agreement without our written consent.
- 15.6 Nothing in this Agreement creates a relationship of employer and employee, client and agent, partnership or joint venture between the parties or between us and any third party, including your employees, contractors or other personnel.
- 15.7 Neither party has the authority to act for, bind, or incur liabilities on behalf of the other unless agreed otherwise in writing.
- 15.8 A waiver by either party of a breach of this Agreement does not constitute a waiver of any succeeding breach of the same or any other provision.
- 15.9 If any part of this Agreement is invalid or unenforceable, that provision will be deemed deleted but only to the extent necessary. The remaining provisions of the Agreement will remain in full force and effect.
- 15.10 The laws of Western Australia govern this Agreement. The parties submit to the non-exclusive jurisdiction of the courts of Western Australia.

16 DEFINITIONS AND INTERPRETATION

- 16.1 Unless otherwise specified, capitalised terms have the meaning given to them in this clause 15 and/or in the Agreement Details.

Additional Charge means a charge calculated on a time and materials basis in accordance with our standard rates set out in the Agreement Details as revised from time to time.

Commencement Date means the earliest of:

- (a) the date we notify you that the Equipment is ready for collection; or
- (b) the date you (or your agent or contractor) collect the Equipment from our premises.

Consequential Loss means loss of revenue, loss of profit or anticipated profit, loss of production, loss of use of any plant or facility, business interruption of any nature, loss of business opportunity, loss of business reputation, loss of contract, value of shares, wasted overheads, payment of liquidated sums, penalties or damages under any agreement or any other indirect, remote, consequential, punitive, exemplary or special loss.

Damage means loss, theft, damage, destruction or defacement of the Equipment, but does not include Fair Wear and Tear.

Dangerous Goods means goods that are noxious, dangerous, hazardous, explosive, radioactive, inflammable or capable by their nature of causing damage or injury to their container, other goods or to any person or property.

Equipment means the equipment described in the Agreement Details.

Fair Wear and Tear is limited to the matters set out in the Fair Wear and Tear Guide attached to this Agreement.

Force Majeure means a circumstance beyond the reasonable control of a party and which could not have been contemplated prior to entering the Agreement, which results in the party being unable to observe or perform on time an obligation under this Agreement.

Hire means the hire of the Equipment and such other services as are specified in the Agreement Details or agreed in writing by us.

Hire Charges means the hire amounts payable by you specified in the Agreement Details, which must not be less than the Minimum Hire Charge specified in the Agreement Details.

Loss means any loss, damage, expense, payment or liability, whether direct or indirect, and includes Consequential Loss.

Major Incident means any incident involving the Equipment which prevents the Equipment from being driven, including the theft of the Equipment, any incident that causes material damage to the Equipment including a motor vehicle accident (whether or not another vehicle is involved), or a major breakdown.

FAIR WEAR AND TEAR GUIDE

Fair Wear and Tear means:

Responsibility for repairs, replacement at NewRental cost

General soiling to interior (including seats, covers, mats or carpets), exterior, or load carrying areas from normal usage
Minor rim or trim scuffing and general tyre wear
Minor scratches, dents or abrasions to paint or bodywork– shallow, not penetrating paint layer, shorter than 20mm in length, or fewer than two on any panel
Minor stone damage to bonnet, lower doors, or wheel guards, minor paint touch-ups or evidence of minor paint cracking and flaking

Fair Wear and Tear DOES NOT mean:

Responsibility for repairs, replacement at Renter's cost:

The interior, storage, or load carrying areas containing refuse, debris, or waste.
The exterior having accumulated mud or dirt, heavy soiling, or staining.
The undercarriage having accumulated mud or dirt, heavy soiling, or staining.
Missing or damaged New Rental supplied equipment or accessories
Missing or damaged manufacturer supplied tools or accessories
Chips, cracks, bulls-eyes, or stars
Cracked or broken head light, tail light, or auxiliary light lenses
Premature wear, significant damage, missing or damaged tyres
Missing, damaged, disfigured, or heavily-scuffed rims or trim to tyres
Soiling to seats, covers, mats, or carpets from neglect or misuse
Soiling, stains, or damage to roof lining or other upholstery
Stains or permanent soiling to seats, covers, mats, or carpets
Burns, cuts, holes, rips, or evidence of poor repairs to seats, covers, mats, or carpets
Burns, cuts, holes, or evidence of poor repairs to trim or controls
Tobacco, alcohol, or other smells from organic material
Significant scratches, dents or abrasions to paint or bodywork - greater than 25mm in diameter, paint layer penetration, or more than two on any panel
Damage from animal droppings, tree sap, leaves, seeds, or fruit
Prominent touch-up work, significant paint flaking, or evidence of poor repairs including colour mismatch or misaligned panels
Significant stone chipping, gravel damage, panel buckling, or panel distortion (including hail or storm damage)
Damage from fitment or use of stickers, magnets, mounts, suction cups, cargo carrying accessories, or other similar equipment
Minor scratches, dents or abrasions to external mouldings, grills, bumpers - shallow, < 20mm in length or fewer than two on any panel or piece
Missing pieces of trim, moulds, mud flaps, badging, number plates, decals, high-visibility striping, stickers, caps, or covers
Cracks or significant scratches, dents or abrasions to external mouldings, grills, bumpers - > 25mm in diameter or more than two on any panel or piece
Minor scratches, dents or abrasions- shallow, shorter than 20mm in length or fewer than two on any panel or piece
Significant scratches, dents or abrasions - greater than 25mm in diameter, paint layer penetration, or more than two on any panel
Any corrosion, regardless of cause
Damage, exhaust leaks, or fluid leaks resulting from misuse, neglect, or visible damage
Significant scratches, dents or abrasions - greater than 25mm in diameter, paint layer penetration, or more than two on any panel
Damage from animal droppings, tree sap, leaves, seeds, or fruit