

TERMS & CONDITIONS

1. In these conditions "Owner" means CMS Plant Hire P/L its servants or agents and any person on whose behalf CMS Plant Hire P/L hires out equipment. "Equipment" means any plant or machinery of whatever nature. "Hirer" means any person to whom Equipment is hired out or work is performed for by the Owner. "Persons" means person, firm, trust or company.
2. The Hirer agrees to hire the Equipment set out in the schedule by the Owner subject to the Terms and Conditions of this Agreement.
3. The hirer will during the currency of the hire pay the Owner hiring charges at the rate and in the manner specified in the Schedule from the commencement of the hire until all the Equipment is returned to the Owner.
4. The Hirer has satisfied himself as to the condition of the Equipment and acknowledges that it is in good order and condition and that it is suitable and fit for the purpose for which he requires all and every item of Equipment. The Hirer acknowledges that he is not relying on upon the skill or judgement of or any representations, warranties or any other statements made by or on behalf of the Owner in respect of the Equipment or its performance.
5. The Hiring is personal to the Hirer only and the Hirer will not sell or offer for sale, assign, charge, mortgage, pledge, underlet, lend, hire or otherwise part with possession of the Equipment or any part or parts thereof or with any interest therein but will keep the goods in his possession and will not remove the same from the place specified in the Schedule without the previous consent in writing by the Owner.
6. Property in the Equipment shall at all times remain in the Owner and the Hirer covenants to do the following:
 - a) properly maintain and care for the Equipment at its own expense;
 - b) properly employ the Equipment at not exceeding its rated capacity;
 - c) use the Equipment in a prudent and cautious manner;
immediately report any damage to the Equipment of whatsoever kind to the Owner in writing; and
 - d) to properly house or secure the Equipment when not in use.
7. The Hirer hereby indemnifies and agrees to keep indemnified the Owner against any claim, demand, suit, action, proceeding, cost, expense, loss or damage arising from accidents, damage to the Equipment, and/or loss or injury to any person or property in connection with the hiring and the use of the Equipment and from industrial disputes or delay during the period of hire in circumstances where plant cannot be removed from site.
8. Unless the Owner shall otherwise agree the Equipment shall be loaded transported and unloaded by the Owner at the risk and expense of the Hirer.
9. If the Equipment is hired after 4:00pm and before 7:00am or on a Saturday, Sunday or Public Holiday and work is not obtained for the Equipment for a continuous 6 hour period the Owner may charge 6 hours hire charges irrespective of actual time worked, such charge covering the plant operators minimum award wages and allowances and the other expenses necessarily incurred by the Owner.
10. The Hirer covenants that it will not overload or exceed safe working specifications of any Equipment or breach any law or licence warranty or condition applicable to any Equipment and agrees to indemnify (are hereby indemnifies) the Owner against any claim, demand, suit, action, proceedings, cost, expense, loss or damage arising from or incidental to a breach by the Hirer of this covenant.
11. The Hirer will permit the Owner or its agents to have access to the Equipment and to inspect the state and condition thereof at all reasonable times and without notice by the Owner.
12. If the Hirer shall make default in any of the following:
 - a) in the observance or performance of any of these changes; or
 - b) fails to pay the scheduled hiring charges by the due date; or
 - c) if any order shall be made for the sequestration of his estate; or
 - d) if he shall enter or attempt to enter, into any composition or arrangements with his creditors; or
 - e) if the Hirer (being a company) shall have a petition presented for its winding up, or has a resolution passed (or attempted to be passed) for its winding up or have a receiver or official manager appointed of the whole or any part of its property or undertaking or shall call a meeting of creditors pursuant to Part XI of the Companies (New South Wales) Code; or
 - f) do or cause to be done or permit or suffer any act or thing whereby the Owners rights in the said Equipment may be prejudiced or put into jeopardy; or
 - g) contravene these conditions in any way;The Owner may without notice to the Hirer determine the hiring and the Hirer hereby agrees to allow the Owner to take possession of the Equipment and for that purpose to enter into and upon the premises where the same may be located. The Hirer's authorisation for such entry is hereby expressly given and the determination of the hiring under this clause shall not affect the right of the Owner to recover from the Hirer any monies due to the Owner in respect of the hiring or damages for breach of these conditions.
13. The Owner shall have the right to determine the hire Agreement in its absolute discretion without giving notice whereupon the Equipment shall be immediately returned to the Owner by the Hirer at the Hirer's expense and the Owner shall have the powers conferred by clause 10 hereof to enter the Hirer's premises and take possession of the Equipment.
14. The Hirer shall not use the Equipment or allow or suffer the Equipment to be used by any other person unless the Hirer or such other person as the case may be is the holder of any necessary certificate of competency, permit, license or other lawfully prescribed qualification in respect of the use of the Equipment.
15. The Hirer hereby releases all and any claims it may have against the Owner arising from the period of hire and thereafter or whatsoever nature except for any claim arising from negligence directly attributable to the Owner.
16. With respect to payment of all accounts rendered the Hirer hereby agrees to abide by the terms and conditions as set out on accounts raised by the Owner as follows:
 - a) no claims for adjustment will be recognized after fourteen (14) days from the date of all accounts. All claims must be made in writing;
 - b) any account not paid within the time specified on such accounts will be liable for interest at a rate of 2.5% p/mth and such interest will be added to the account (capitalized) at the end of each month and will form part of the principle debt.
 - c) Any account outstanding for more than sixty (60) days will be liable to meet in full the Owner's debt recovery, legal costs and/or commissions and internal accounting charges (recovery fees) and will form part of the principle debt.
 - d) The Owner reserves the right to alter these terms and conditions with respect to payment without notification to the Hirer.
 - e) Acceptance of our goods and/or services is automatic acceptance of these terms and conditions with respect to payment.
17. Privacy Act 1998 (as amended) - With respect to all accounts provided on credit I/We agree that:
 - a) CMS Plant Hire P/L may obtain from a credit reporting agency or any other provider a credit report containing commercial and personal credit information about the customer/owner;
 - b) CMS Plant Hire P/L may give to and seek from any credit reporting agency any information about the customer/owner and me/or us including personal information at any time;
 - c) CMS Plant Hire P/L may give to and seek from any credit provider or the customer and/or me/us any information relating to the personal or commercial credit arrangements of the customer/owner. I/We understand that this information can include any information about the credit worthiness, credit standing, credit history or credit capacity of the customer/owner and/or me/us that credit providers are allowed to receive from each other under the Privacy Act.
18. No waiver of any rights or conditions hereunder or of any breach of the Agreement or of any of the terms and conditions hereof shall be effective unless such waiver is in writing signed by all Directors of the Owner. No waiver of any breach shall be deemed to be a waiver of any other or subsequent breach.