

Definitions

Owner is the proprietor of the plant and equipment listed in the Schedule to this agreement.

Hirer includes an agent of the hirer and agrees to hire the equipment specified in the schedule from the owner upon the terms and conditions in this agreement.

Equipment means any item of plant and equipment listed in the Schedule to this agreement including accessories.

Terms and conditions

1. Hire of equipment

- 1.1 The hiring of the equipment will commence from the commencement date specified in the Schedule and continue for the term specified in the Schedule.
- 1.2 The hirer is entitled to use the equipment for the hire period. Any extension of the period must be agreed to by the owner.
- 1.3 The hirer agrees to return the equipment to the address of the owner on or before the end of the hire period as outlined in the Schedule.

2. Payment for Rental

- 2.1 The hirer agrees to pay the owner the hire fee and the damage waiver fee specified in the Schedule for the equipment for the hire period including any applicable GST, stamp duties, tolls, fines, penalties, levies or freight and other charges relevant to this agreement and the hire.
- 2.2 The required fees must be paid to the owner prior to or on the commencement date of the hire period. Equipment not returned on time and in accordance with this agreement will be subject to a continuance of the agreed rental until return is complete.
- 2.3 A cancellation fee may be charged by the owner where equipment has been reserved by booking and the hirer cancels the booking without reasonable notice or fails to take delivery of the equipment.
- 2.4 The owner may charge the hirer a fee for accepting payment by credit card.

3. Damage Waiver Fee

- 3.1 Upon payment by the hirer of the damage waiver fee the owner shall be responsible for the cost of repairs or replacement of the equipment due to damage occurring during the hire period. All costs of repairing any damage caused by the ordinary use of the equipment up to an equivalent amount to 10% of the new list price of the equipment.
- 3.2 This clause in no way entitles the hirer to, or implies the availability of, compensation from the owner for any liability incurred by the hirer in relation to the use of the hired equipment.
- 3.3 This clause will not continue to operate after the expiration of the hire agreement unless an extension by the owner is granted in writing and an additional agreed fee is paid.
- 3.4 This clause will not apply to loss or damage which relates to or arises from:
 - (i) breach of any statutory laws or regulations in connection with the use of the equipment by the hirer;
 - (ii) misuse, abuse, wilful and/or malicious acts, negligent and/or reckless use and/or overloading of the equipment;
 - (iii) theft, loss or damage by whatever cause to tools and/or accessories supplied with the equipment including but not limited to; hoses, drills, bits, grease guns, electric leads, tyres and tubes;
 - (iv) lack of lubrication or non-adherence to other normal maintenance requirements that could reasonably be expected of the hirer under the agreement;
 - (v) disregard for instructions given to the hirer by the owner in respect of the proper use of the equipment or in contradiction of the Manufacturer's Instructions if supplied with the equipment at the commencement of hire;
 - (vi) unexplained disappearances of the equipment;
 - (vii) theft of the equipment in circumstances where site security is available including, but not limited to, locked yards, buildings and sheds, where proper security is not used by the hirer to secure the equipment whilst they are left unattended;
 - (viii) loading or off-loading equipment from maritime vessels, transportation of equipment on maritime vessels or the use of equipment on any wharf or bridge or over any body of water.

4 Use, Operation and Maintenance

- 4.1 The hirer agrees that the use of the equipment carries with it dangers and risks of injury and the hirer agrees to accept all dangers and risks.
- 4.2 The equipment shall not be used by anyone other than the hirer without the express permission of the owner.
- 4.3 The hirer will ensure that all persons operating or erecting the equipment are instructed in its safe and proper use and where required hold a valid Certificate of Competency or are fully licenced to use it.
- 4.4 The hirer agrees to operate, maintain, store and transport the equipment strictly in accordance with any instruction provided by the owner and with due care and diligence.
- 4.5 The hirer agrees that the equipment will only be used for its intended purpose and in accordance with any manufacturer's instructions and recommendations whether supplied by the owner or posted on the equipment in regard to its operation, maintenance and storage.
- 4.6 The hirer agrees to comply with all occupational health and safety laws and regulations relating to the use of the equipment and associated operations.
- 4.7 The hirer shall ensure the equipment is returned to the owner clean of all foreign matter or agrees to a reasonable cleaning fee being charged by the owner.
- 4.8 The reasonable costs of fuel or other consumables provided by the owner and used by the hirer are to be paid to the owner at the completion date.

5 Hirer's Warranties

- 5.1 The hirer warrants that:
 - (i) the equipment will be used in accordance with the conditions outlined in the Schedule;
 - (ii) the particulars in the Schedule are correct in every respect and are not misleading in any way including, without limitation, by omission;
 - (iii) the hirer holds a valid current driver's licence, operating licence or permit valid for the type of equipment hired;
 - (iv) the equipment will not be used for any illegal purpose;
 - (v) the hirer's vehicle is suitable for towing the equipment if required;
 - (vi) the hirer will not, without prior written consent of the owner, tamper with, repair or modify the equipment in any way, or permit another to do so;
 - (vii) the hirer agrees that the equipment complies with its description, is in merchantable condition and is fit for the hirer's purpose.
 - (viii) the hirer agrees that the equipment has been received by the hirer clean and in good working order.

6 Indemnity

- 6.1 To the full extent permitted by law the hirer releases, discharges, and indemnifies the owner from all claims and demands on the owner arising out of or consequent of the use or misuse of the equipment during the hire period.
- 6.2 Without limiting clause 6.1 of this agreement, the hirer agrees that to the full extent permitted by law, no warranties are given by the owner of the equipment.

Any liability of the owner pursuant to any warranty which cannot be excluded by law will not exceed either the cost of repairing the equipment or the cost of resupplying the equipment, at the discretion of the owner.

7 Loss, Damage or Breakdown of Plant or Equipment

- 7.1 Subject only to the obligations of the owner following payment of the damage waiver fee by the hirer in accordance with clause 3, the hirer will be responsible for any loss or damage to the equipment irrespective of how the loss or damage occurred, except for fair wear and tear, during the hire period.
- 7.2 The hirer is liable for the payment of the new list price of any equipment not returned to the owner.
- 7.3 If there is a breakdown or failure of the equipment, the hirer shall notify the owner immediately for the appropriate action to be taken.

8 Insurance

- 8.1 The owner will maintain current insurance policies in respect to the equipment to its full insurable value.

9 Liability

- 9.1 The hirer will assume all risks and liabilities for, and in respect of, the equipment and for all injuries to, or deaths of persons and any damage to property howsoever arising from the hirer's possession, use, maintenance, repair, storage or transport of the equipment.

10 Disclaimer

- 10.1 To the extent permitted by law, the owner disclaims all liability for and does not give any warranties to the hirer as to the condition of the equipment.

11 Title to Equipment

- 11.1 The hirer acknowledges that the owner retains title to the equipment and that the hirer has rights to use the equipment as a mere bailee only. The hirer agrees the hirer has no rights to pledge the owner's credit in connection with the equipment.
- 11.2 The hirer agrees not to agree, offer or purport to sell, assign, sub-let, lend, pledge, mortgage, let or hire or otherwise part with or attempt to part with personal possession or otherwise not to deal with the equipment or not to conceal, or alter the goods or make any addition or alteration to the equipment.

12 Repossession and Remedies on Default

- 12.1 The owner may retake possession of the equipment if the hirer breaches any provision of this agreement, notwithstanding anything else herein contained.
- 12.2 If repossession takes place, the owner shall only charge the hire fee up to and including the time of repossession.
- 12.3 All costs incurred by the owner, incurred in repossessing due to a breach are to be paid by the hirer.
- 12.4 In the case of repossession due to a breach of this agreement, the hirer agrees to grant the owner permission to enter any premises where the equipment listed in the schedule is situated to disconnect, decommission and/or remove that equipment.
- 12.5 In addition to the owner's right to retake possession, the owner is entitled in its discretion, following any breach of any provision of this agreement by the hirer to terminate this agreement and/or sue for recovery of any damages or charges or loss suffered by the owner, and/or to cancel any insurances effective in respect of the equipment hired.

13 Completion of the Hire period.

- 13.1 The hire period is completed when the equipment has been returned to the owner in the same condition as when it was hired:
 - (i) on or by the date outlined in the schedule, or
 - (ii) will be deemed completed on the date agreed for pick-up by the owner.
- 13.2 Where pick-up is agreed, the owner will arrange to pick-up the equipment within a reasonable period after a request to do so and issue the hirer with a pick-up number.
- 13.3 The hirer agrees to maintain the responsibility for the equipment whilst it is awaiting pick-up.

14 Non-merger

- 14.1 The covenants agreement and obligations contained in this agreement will not merge or terminate upon the termination of this agreement and to the extent that they have not been fulfilled or satisfied or are continuing obligations they will remain in force and effect.

15 Severance

- 15.1 If any provision of this agreement is wholly or partly invalid, unenforceable, illegal, void or voidable, this agreement must be construed as if that provision or part of a provision had been severed from this agreement and the parties remain bound by all of the provisions and part provisions remaining after severance.

16 Governing Law

- 16.1 This agreement is governed by the laws of the state or territory where the agreement is made and each party submits to the exclusive jurisdiction of the court of that State or Territory.

17. Privacy Policy

- 17.1 The owner will comply with the national privacy principles in all dealings with hirers. Information on our privacy policy is available on request.

18 Disputes

- 18.1 Both the owner and the hirer agree that any disputes arising from the hire and use of the equipment (except in regard to payment of fees or charges) shall be negotiated with a view to settlement with the assistance of Hire and Rental Industry Association Limited (telephone 02 9997 5166), before litigation is pursued.

19 Interpretation of Words in this Agreement

19.1 Words	Meaning
Charges	All of the amounts owing by the Customer to the Company for any reason whatsoever from time to time (including those listed in Clause 3).
Commencement	The time when the Customer takes possession of the Equipment.
Company	Prorant ABN: 70 112 218 630
Customer	Hirer or other person liable for or in possession of the Equipment other than the Company.
Damage Waiver Fee	Payment made by the Hirer at the time of Hire in respect of damage which may be caused to the Hired Goods throughout the Hire Period.
Equipment	The Equipment, tools and accessories hired to the Customer.
Hire Agreement	The whole document detailing all aspects of the hire transaction as set out under the heading "Hire Agreement" together with these Hire Agreement Conditions and the application to the Company by the Customer.
Hire Fees	All fees invoiced by the Company to the Hirer under the Hire Agreement.
Hired Goods	The item/s noted in the Hire Agreement as being passed to the Hirer for a finite period in return for financial consideration.
Hirer	The person, persons, body or corporate entity hiring the goods for the period stated in the Hire Agreement.
Hire Period	The period from Commencement until the Equipment is returned to the Company (ie time out rather than time used).
	NOTE TO CUSTOMER: You are responsible for the equipment until it is back in possession of the Company, even after obtaining a Customer Pick Up number.

- 19.2 A reference to two or more parties, or a party that comprises two or more persons is to them jointly and severally.