



## TERMS AND CONDITIONS OF HIRE CONTRACT

Hire Contract between the hirer Westend Pty Ltd trading as Atlas Hire ABN 65 075 059 960 (Atlas Hire) of 16 Hall Street, St Marys NSW 2760 and the Hiree named in the Schedule:

The Equipment the subject of the hire is set out in the Schedule , for a term of set out in the Schedule on a fully maintained basis.

The hire is subject to the terms and conditions set out below.

1. This Hire Contract shall begin on the Commencement Date and shall terminate at the election of Atlas Hire on the earlier of:
  - a) the Expiry Date, or
  - b) that date upon which the Hiree
    - i. commits any breach of this Hire Contract
    - ii. commits or suffers any act of bankruptcy
    - iii. (being a company) goes into liquidation or has a receiver appointed over any part of its undertaking
    - iv. has execution or distress levied against him or his goods.
  
2. The Hiree agrees to pay to Atlas Hire:
  - a) The Hire Charges in the amounts and at the times and place specified in the Schedule
  - b) all stamp duty and other duties, GST and taxes that may now or hereafter be incurred in respect of this Hire Contract,
  - c) all costs incurred in cleaning the Equipment at the conclusion of the Hire Contract,
  - d) the full cost of repairing any damage to the Equipment caused or contributed to by the Hiree, and
  - e) all costs incurred by Atlas Hire associated with the registration of its security interest under the Personal Property Securities Act 2009 (PPSA), including in relation to any amendment, communication, notice or enforcement under the PPSA or in relation to its security interest

For the purposes of 2(e) it is agreed this Hire Contract constitutes a PPS lease and will give rise to a security interest under the PPSA.
  
3. Atlas Hire retains the right to increase the Hire Rate by up to, but not exceeding, 50% of the change in the consumer price index (all Groups Sydney) on the 12 month anniversary of this Hire Contract.
  
4. The Hiree agrees:
  - a) to insure the Equipment against fire accident and theft for its full insurable value in the names of Atlas Hire and the Hiree as to their respective interests.
  - b) to keep the Equipment in good repair and to carry out all daily maintenance checks and to make good any damage to the Equipment or any part thereof except to the extent that such damage or maintenance is due to fair wear and tear.
  - c) to ensure that the person responsible for picking up the Equipment on behalf of the Hiree:
    - i. is authorised to by the Hiree to pick up or take delivery of the Equipment and the Hiree will not allege that any such person is not so authorised; and
    - ii. holds a suitable licence to enable the Equipment to be appropriately transported to the Location and back to Atlas Hire

- d) to ensure that any trailer used to transport the Equipment is correctly fitted to the tow vehicle before leaving the hire depot and that the manufacturer's specified tow capacity of the towing vehicle will not be exceeded by the laden weight of the trailer.
  - e) to deliver the Equipment to Atlas Hire when it is due back.
  - f) to ensure that all persons operating the Equipment are suitably instructed in its safe and proper use and where necessary hold appropriate certification and/or be licensed to operate the relevant piece of Equipment.
  - g) for hire contracts of seven (7) days or more to charge and top up with distilled water all batteries being part of the Equipment and to keep a daily log thereof.
  - h) if applicable to use in connection with the Equipment only the best procurable fuels and lubricants of a type and in accordance with the directions specified by Atlas Hire.
  - i) to conduct a thorough hazard and risk assessment before using the Equipment.
  - j) to use or operate the Equipment safely, strictly in accordance with any applicable legislation, only for its intended use, and in accordance with any manufacturer's instructions whether supplied by Atlas Hire or posted on the Equipment,
  - k) not to re-locate the Equipment away from the Location set out in the Schedule without the prior written permission of Atlas Hire.
  - l) not to do or omit to do any act or thing likely to endanger the safety or condition of the Equipment or any person using or operating the Equipment,
  - m) to comply with all relevant Acts regulations and by laws relating to the Equipment and its use.
  - n) to allow the authorised representative of Atlas Hire to enter upon any premises on which the Equipment is located for the purpose of inspecting and testing the Equipment.
  - o) to make the Equipment available for service and repair at a pre agreed time during normal working hours or to pay an additional charge if Atlas Hire is required to service or repair the machine outside or normal working hours.
5. The Hiree acknowledges that he has no property or interest in the Equipment or any part thereof and is a bailee only. Accordingly the Hiree agrees that he:
- a) will make no additions or alterations to the Equipment without the prior written consent of Atlas Hire. Any additions made to the Equipment whether by replacement substitution or otherwise shall form part of the Equipment and shall be subject to this Hire Contract.
  - b) will not remove obscure or deface any identifying mark label or device on the Equipment or any part thereof.
  - c) subject to d) will not purport or attempt to sell dispose of charge or encumber the Equipment or to assign his rights under this Hire Contract.
  - d) will be permitted to on-hire or sub lease the Equipment strictly on the basis that the terms of any on-hire or sub lease create a security interest under the PPSA in favour of the Hiree, that the Hiree does everything necessary to perfect that security interest immediately and that the Hiree notifies Atlas Hire in writing of the details of the registration of that security interest. PROVIDED THAT Hiree must not lease, hire, bail or give possession of the Equipment to anyone else unless Atlas Hire (in its absolute discretion) first consents in writing.
6. a) All warranties representations promises conditions or statements regarding the Equipment whether express or implied including, without limiting the generality of the foregoing, warranties or conditions as to the suitability or fitness of the Equipment for any particular purpose are expressly excluded to the full extent permitted by law.
- b) The liability of Atlas Hire for the breach of any condition or warranty implied in this Hire Contract shall be limited to such one of the following that Atlas Hire in its discretion may decide.
- the replacement of the defective Equipment or part thereof

- the payment of the cost of replacing the Equipment or part or acquiring equivalent Equipment or part thereof .
  - c) Subject to b), Atlas Hire shall not be liable for any damages for delay in delivery of the Equipment or any consequential or economic loss or damage caused or contributed to by the Equipment.
  - d) The Hiree agrees to indemnify and hold Atlas Hire harmless from all claims costs and damages that Atlas Hire may suffer in respect of injury to person or property arising out of the Hiree's negligence in its use and custody of the Equipment.
7. a) Subject to 8 upon the termination of this Hire Contract in accordance with Clause 1, the Hiree shall
- promptly return the Equipment to Atlas Hire to the Atlas Hire depot from which the Equipment was hired during normal business hours.
- b) pay to Atlas Hire all Hire Charges that would otherwise have been payable from the date of termination of this Hire Contract to the Expiry Date. If the Hiree does not promptly return the Equipment, Atlas Hire shall have the right to enter into any premises at which it reasonably suspects the Equipment to be and to retake possession of the Equipment.
- c) If Atlas Hire does not retake possession of the Equipment the Hiree shall immediately upon demand by Atlas Hire pay to Atlas Hire the current market value of the equipment.
- Without limiting the ability of Atlas Hire to recover all amounts owing to it, the Hiree authorises Atlas Hire to charge any amounts owing by the Hiree to any credit card or account details of which are provided to Atlas Hire. Atlas Hire may tokenize the Hiree's credit card or account details to facilitate credit card or online payments.
8. If the Hiree does not return the Equipment to Atlas Hire in accordance with 7 a) Atlas Hire may, in its absolute discretion extend the term of this Hire Contract on a daily basis and the Hiree must pay to Atlas Hire on demand for each day until the Hiree returns the Equipment to Atlas Hire an amount calculated in accordance with this Hire Contract. In this event Atlas Hire may, at any time in its absolute discretion, demand that the Equipment be immediately returned to it.
9. In addition to the amounts previously referred to Atlas Hire shall be entitled to charge and the Hiree shall pay:
- a) all costs and expenses of or associated with retaking possession of the Equipment.
  - b) interest at the rate of three per centum (3%) per month on any moneys owing under this Hire Contract that may be overdue.
10. a) The certificate of the Secretary of Atlas Hire shall be conclusive (absent manifest error) of any amounts due owing or recoverable under this Hire Contract, including in relation to the current market value of the equipment.
- b) Expressions used in these terms and conditions shall have the respective meanings attributed to them in the Schedule.
- c) The laws of New South Wales shall govern this Hire Contract.
11. Subject to clause 12, in the case of mechanical breakdown, Atlas Hire guarantees an average response time of three hours. Should the Equipment be inoperative for a period exceeding 48 hours (scheduled repairs excepted) a replacement machine will be made available.
12. Where the Equipment to be hired by the Hiree is located more than 50 kilometres from the Atlas Hire branch where the Equipment was picked up from, the following provisions shall apply:

- a) the Hiree shall pay an additional charge for any servicing and repair of the Equipment, and for any other attendance by Atlas Hire, such charge to be calculated on a per kilometre rate travelled by Atlas Hire staff to and from the location, plus labour costs per staff member (including travel times) at scheduled rates, plus direct travel costs including airfares and accommodation incurred by Atlas Hire in connection with travel by Atlas Hire staff to and from the location;
- b) multiple items of Equipment hire by Hiree on the one site will only be charged for one call out fee;
- c) Hiree is responsible at its cost for maintenance and care of all Equipment in its possession.

Atlas Hire must promptly provide the Hiree with an invoice or receipt which is an approved form for GST purposes.

For Insurance purposes this unit is valued at the amount set out in the Schedule.

**Schedule**

Hiree: \_\_\_\_\_

ABN: \_\_\_\_\_

Address: \_\_\_\_\_

Term of Hire: \_\_\_\_\_

Hours of use per week: \_\_\_\_\_

Location: \_\_\_\_\_

Delivery Point: \_\_\_\_\_

Commencement Date: \_\_\_\_\_

Expiry Date of Hire Contract: \_\_\_\_\_

Description of Equipment: \_\_\_\_\_

Hire rate per week incl GST: \_\_\_\_\_

Total charge per week: \_\_\_\_\_

Terms of payment: \_\_\_\_\_

Insurance Value: \_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Position

\_\_\_\_\_  
Position

\_\_\_\_\_  
Signed for and on behalf of the Hiree

\_\_\_\_\_  
Signed for and on behalf of Westend Pty Ltd trading as Atlas Hire

on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.