

HIRE TERMS & CONDITIONS

1. Term

These terms and conditions form part of the Hire Agreement between M&P Services (Qld) Pty Ltd (hereinafter referred to as M&P) and the Customer (the person(s) or company named in the Hire Agreement).

- a) The hire will be for the term and rental provided on this agreement. If the Customer retains possession of the hired items at the end of the contract term, the hire will continue on a month to month basis at the prevailing market rates applicable at the time on the same terms and conditions of this contract.
- b) Hire rates as quoted will remain fixed for the agreed rental period or twelve months from the commencement date (whichever is the lesser). At the expiration of the agreed rental period or twelve months from the commencement date, and every quarter thereafter, M&P may in its absolute discretion adjust the hire rates.
- c) The hire period commences from the date the hired items leave M&P's yard and continues until they are returned to a nominated yard in a condition deemed satisfactory for off-hire purposes by M&P, or until the agreed rental period ends, whichever is longer.

2. Prior Commitment of Hired Items

In the event that M&P has committed the hired items to a third party after the date of this quotation and prior to receipt by M&P's Contract Administration Department of this quotation duly accepted by the Customer, then M&P will have the right to declare this Contract void without further liability to the Customer by sending a notice to the Customer by mail or otherwise within 2 business days of receipt by M&P's Contract Administration Department of the accepted quotation.

3. Credit Approval and Payment

- a) All orders are subject to M&P's credit approval within 15 days from the date of the receipt by M&P of the Customer's acceptance of this quotation.
- b) The Customer must pay to M&P in advance the monthly rental payment provided in this quotation. The first rental payment is to be made on the commencement date and each subsequent payment on the first day of each succeeding month during the Contract term, and any extensions of the Contract term. If the Contract term commences or terminates during a month, then the rent payable for the portion of the month will be pro-rated.
- c) Weekly hire rates quoted are based on a 7 day week.
- d) The Customer irrevocably and unconditionally authorises M&P to charge a credit card and/or account as determined by reference to the Hire Agreement, with all charges payable by the Customer under the Hire Agreement.
- e) The Customer will be responsible for all costs and expenses including solicitor's fees, on a solicitor and own client basis, incurred by M&P in collecting overdue amounts. Interest will be charged on overdue amounts at the prevailing Westpac Bank Reference Rate.
- f) The Customer must not withhold any payment under this Contract or make a deduction from it for any reason, including because:
 - i) the hired items are damaged, will not operate or are not in the possession of the Customer; or
 - ii) the Customer claims to have a set-off, counter-claim or any other right against M&P or any other person.
- g) The Customer accepts that M&P shall be entitled to list payment defaults with the Credit Reference Association of Australia or any other relevant credit reference organisation, which may affect the Customer's credit rating.

4. Title

- a) Title in the hired goods shall not pass to the Customer. The Customer only has a right to use the hired items during the Contract term.
- b) The hired items must be kept in the Customer's custody and control and the Customer must not move the hired items from the location stipulated on this quotation without the prior written consent of M&P.
- c) The Customer must not make or cause to be made any alterations to the hired items without M&P's prior written consent.
- d) The hired items must not be attached to any property without M&P's prior consent. Under no circumstances do the hired items become a fixture and the Customer must obtain an acknowledgement that the hired items are not a fixture from any third party on whose land the hired items are placed.

5. Transport, Installation and Demobilisation

- a) The Customer is responsible for all transport charges incurred by M&P in relation to delivery and return of the hired items.
- b) If the Customer elects to use M&P's building demobilisation and transport services for the return of the hired items, then a minimum of 7 days advance notice is required.
- c) The Customer is responsible for ensuring all ancillary items are securely packed prior to return of the hired items.
- d) The Customer is responsible to ensure all tanks are emptied prior to return of the hired items.

- e) If the Customer arranges for installation it warrants it will comply with all relevant building codes and good building practice.
- f) Return transport will be at ruling market rates unless otherwise specified.

6. Maintenance, Alterations & Repairs

- a) The Customer will, at its own expense, service, clean, maintain and keep the hired items in good and substantial repair and condition (reasonable wear and tear only excepted). The Customer shall ensure that the hired items are received by M&P in good condition and repair (reasonable wear and tear only excepted) at the end of the hire period.
- b) If the hired items are not returned as described in 6 a) then the Customer shall pay M&P the cost of repairs and cleaning at rates based on current competitive prices chargeable for the repair and cleaning at the location of the hired items.
- c) M&P can inspect the hired items at any time with reasonable notice and if the hired items are damaged, may repair the hired items at the Customer's expense or repossess them at its discretion.
- d) The hired items shall not be altered or repaired in any way by the Customer unless M&P agrees in writing.

7. Insurance

- a) The Customer must insure at all times against loss or damage to the hired items caused by fire, lightning, explosion, theft or accident for the full insurance value as specified by M&P, and public liability for bodily injury or damage to property arising in connection with the hired items for no less than \$20,000,000.00 or a higher amount notified by M&P.
- b) The Customer must not:
 - i) do anything or fail to do anything which would allow the insurer to refuse or reduce an insurance claim, or
 - ii) vary the insurances effected for the hired items without M&P's prior consent; or
 - iii) enforce, conduct, settle or compromise any claim without M&P's prior consent.

8. Warranties and Limitations

- a) Except as expressly provided to the contrary in the Contract and to the full extent permitted by law, all terms, conditions, warranties, undertakings, inducements or representations whether express, implied, statutory or otherwise relating in any way to the provision of goods by M&P to the Customer or otherwise relating to this Contract are excluded.
- b) Where any Act of Parliament implies in the Contract any term, and that Act voids or prohibits provisions under a contract which exclude or modify the operation of such term, such term is deemed to be included in the Contract. However, M&P's liability for breach of such term will be, if permitted by law, limited to one of the following remedies (at M&P's option):
 - i) If the breach relates to services:
 - A) the resupply of the services; or
 - B) the payment of the cost of resupplying the services: and
 - ii) If the breach relates to goods:
 - A) the replacement of the goods or the supply of equivalent goods;
 - B) the repair of such goods;
 - C) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
 - D) the payment of the cost of having the goods repaired.
- c) By accepting delivery under this Contract, the Customer acknowledges that it has examined the hired items and they are received in good condition.
- d) No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on, this agreement or any part of it.
- e) The Customer acknowledges that in entering this Contract it has not relied on any representations or warranties about its subject matter except as expressly provided by the written terms of this agreement.

9. Indemnities

- a) The Customer must indemnify M&P against any liability or loss, arising from and any damages, costs, claims, legal fees and expenses arising from or incurred in connection with: the use, occupation, operation, maintenance, repair, storage, transportation or keeping of the hired items, or M&P exercising a right under this Contract (including doing anything the Customer should have done under this Contract), or the Customer not doing what the Customer should have done under this Contract.
- b) This indemnity is a continuing obligation, separate and independent from the Customer's other obligations under this Contract. It continues after this Contract ends or is terminated. It is not necessary for M&P to incur expense or make a payment before M&P can enforce its right of indemnity.

10. Default and Termination

- a) If the Customer: fails to pay rent or other moneys required to be paid under the terms of the Contract by the due date for payment; or fails to insure the hired items as required by this Contract; or is insolvent; or does or causes to be done any act or thing whereby M&P's rights in the hired items is prejudiced or jeopardised, M&P may, without notice, terminate this Contract.
- b) If M&P terminates this Contract, M&P may retake possession of the hired items and is permitted to enter the premises of the Customer to do so.
- c) The Customer may terminate this Contract at any time, after the agreed rental period, by giving 10 days notice in writing to M&P, and by returning the hired items to M&P at the Customer's own risk and expense.
- d) The Customer must pay to M&P on termination of this Contract all monies owing to M&P under this Contract.
- e) M&P may, at any time after the end of the Contract term, terminate this Contract by giving 10 days notice in writing to the Customer. The Customer must then return the hired items to M&P at the Customer's own risk and expense.
- f) If the Customer terminates this Contract prior to the expiry of the agreed rental period, then the customer must pay to M&P all monies outstanding at the time of termination plus all amounts for the balance of the agreed rental period.

11. Taxes and Charges

- a) Unless otherwise stated, GST and other taxes and duties levied by any level of government are not included in this quotation.
- b) Where GST is imposed on a supply made under this contract by M&P to the Customer, the Customer must pay or provide the GST exclusive amount of consideration for the supply and, in addition to and at the same time as the GST exclusive amount of consideration is payable or to be provided for the supply, an additional amount which is equal to the amount of M&P's GST liability for that supply.
- c) The Customer must pay all stamp and other duties, taxes and charges incurred and which may be payable in connection with this Contract or a payment or receipt under it.

12. Sale of Hired Items

Should M&P agree to sell the hired items to the Customer, the hired items will be deemed to remain on hire until the sale invoice is paid in full.

13. On-Hire / Cross-Hire of Hire Items

- a) The Customer must not on-hire or cross-hire the hired items to a third party without the prior written consent of M&P, which M&P may withhold in its absolute discretion, and any consent given by M&P will be on the condition that:
 - i) The sub-hirer or cross-hirer (as the case may be) agrees to be bound at these Hire Terms & Conditions.
 - ii) The Customer protects M&P's title in the hired items including, but not limited to, the Customer ensuring that the sub-hirer or cross-hirer (as the case may be) grants the Customer a PMSI (Purchase Money Security Interest) in the hired items and the Customer registers an interest on the PPSR (Personal Property Securities Register) in accordance with the PPSA (Personal Property Securities Act 2009).
- b) The on-hiring or cross-hiring of the hire items does not relieve the Customer from any liability or obligation under this Contract. The Customer remains liable to M&P for the acts and omissions of any sub-hirer or cross-hirer (as the case may be), and employees and agents of sub-hirer or cross-hirer, as if they were the Customer's acts or omissions.

14. Tie Downs

M&P recommends that all transportable buildings be secured to the ground with tie downs. The costs of tie downs will be an additional cost to the Customer unless provided for in this Contract.

15. Subcontracting

M&P may subcontract any part of its obligations under this Contract.

16. Liquidated Damages

Notwithstanding that M&P may fail to deliver the hired items to any delivery point, have available for collection or, carry out any Site Works or perform and other obligation under this Contract by a specific date, M&P is not liable to the Customer for any damages, whether liquidated or unliquidated.

17. Industrial Relations

The Customer shall bear the costs of all industrial relations matters applicable to the Contract outside of M&P's reasonable control. M&P shall be reimbursed by the Customer for all reasonable costs incurred by M&P as a consequence of any changes to any award or applicable site conditions after the date of this Contract.

18. Alterations

The provisions of this Contract shall not be altered in any way unless by express written agreement between the parties.

19. PPSA

If M&P determines that this Contract (or a transaction in connection with it) is or contains a security interest or transitional security interest for the purposes of the Personal Property Securities Act (hereinafter referred to as PPSA), then the conditions in this Clause 19 will apply to the Contract.

- a) The Customer acknowledges that this Contract constitutes a security agreement which creates a security interest in favour of M&P in the hired items (including all hire items previously supplied by M&P to the Customer (if any) and all after acquired hired items supplied by M&P to the Customer, or for the Customer's account).
- b) The Customer agrees to grant a Personal Money Security Interest (hereinafter referred to as PMSI) in the hired items and all future hire items supplied to the Customer by M&P.
- c) The Customer agrees that the PMSI has attached to all hire items now or in the future supplied to the Customer by M&P.
- d) The Customer agrees to keep all hire items free of any charge, lien or security interest except as created under this Contract and not otherwise deal with the hire items in a way that will or may prejudice the rights of M&P under the Contract or the PPSA.
- e) The Customer undertakes to sign any further documents and/or provide any further information (which information the Customer warrants to be complete, accurate and current) which M&P may reasonably require to enable registration of a financing statement or financing change statement on the Personal Property Securities Register (hereinafter referred to as PPSR) or to ensure that the security interest is otherwise enforceable, perfected and effective.
- f) The Customer undertakes to indemnify, and upon demand, reimburse M&P for all costs and/or expenses incurred in registering, maintaining or releasing a financing statement or financing change statement on the PPSR.
- g) The Customer undertakes to give to M&P not less than 14 days prior written notice of any proposed change in the Customer's details, including, but not limited to, changes of directorships, ownership, registered and place of business addresses, company or business name and/or contact details.
- h) Unless otherwise agreed to by M&P in writing, M&P and the Customer shall not disclose to any third party any information of the kind referred to in Section 275(6) of the PPSA.
- i) M&P is not obliged to give the Customer any notice or provide copies of any documents under the PPSA (including notice of a verification statement under section 157(3) of the PPSA) unless the notice is required by the PPSA and cannot be excluded and the Customer consents to the waiver of the requirement for notice or copies of any documents under this clause 19.
- j) M&P and the Customer agree that the following provisions of the PPSA do not apply to or in relation to the security interest to the extent that the PPSA permits the parties to contract out of or waive such provisions:-
 - i) section 95 (notice of removal of accession) to the extent that it requires M&P as secured party to give a notice to the Customer as grantor;
 - ii) section 96 (when person may retain an accession);
 - iii) section 117 (obligations secured by land and personal property);
 - iv) section 118 (enforcing securities in accordance with land law);
 - v) section 125 (obligation to dispose of or retain collateral);
 - vi) section 126 (apparent possession);
 - vii) section 128 (secured party may dispose of collateral);
 - viii) section 129 (disposal by purchase);
 - ix) section 130 (notice of disposal); to the extent that it requires M&P as secured party to give a notice to the Customer as grantor;
 - x) section 132(3)(d) (secured party to give statement of account);
 - xi) subsection 132(4) (statement of account if no disposal);
 - xii) section 135 (notice of retention of collateral); and
 - xiii) section 143 (reinstatement of security agreement).