



## HIRE TERMS AND CONDITION

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### 1. **INSPECTION**

The Hirer has inspected the equipment prior to taking possession of the equipment and:

- 1.1. Is satisfied that the equipment is clean, in good repair and in safe working order;
- 1.2. Is aware of the proper use for which the equipment is designed and is satisfied that it is suitable for the purpose required;
- 1.3. Is satisfied with the instructions given in the proper and safe manner of using the equipment and is familiar with its proper and safe use.

### 2. **USE OF EQUIPMENT**

The Hirer agrees that the equipment is to be used:

- 2.1. In a skilful and proper manner; by a trained and sufficiently accredited person for that plant or equipment hired.
- 2.2. For the purpose and within the capacity for which it was designed for; and will seek further guidance if unsure on machine capacity.
- 2.3. For legal purposes or in a legal manner the Hirer will comply at its own expense with requirements of all Government Authorities in relation to the equipment;
- 2.4. At the address provided by the Hirer and the equipment is only to be removed from this address for the purpose of returning it to the Owner;
- 2.5. By the Hirer or suitably competent direct employees or directly insured persons of the hirer with the approval hirer by a suitably competent, certified or licensed operator.



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### 3. **PERIOD OF HIRE**

The period of Hire shall commence from either:

- 3.1. The commencement date and time as shown overleaf; (std time is 7am hire start time) or
- 3.2. From the agreed start date of long-term fixed term hire agreement.
- 3.3. The time when the equipment is delivered to the Hirer at the address contained overleaf, whichever is the earlier; or standard time start 7am (even when delivery or pickup is later) time due back is 6.30 am the day due, (unless agreed in writing.)
- 3.4. A minimum Hire Period of 1 day Applies to all hires unless agreed in writing via the "Hire Agreement Contract"
- 3.5. At the time when the equipment is returned to the Owner; or
- 3.6. If fixed long-term hire, then finalisation date will be return date as specified in agreement and all charges will be charged up to and including that date unless, accepted and agreed in writing by WA Digger Hire.
- 3.7. At the time the Hirer notifies the Owner that the equipment is ready for collection by the Owner. Such notification will be deemed to have been properly given only when the Hirer has received from a member of the office hire control staff of the Owner, an off-hire number;
- 3.8. At the time and date of the "Due date" as per booking or hire agreement.
- 3.9. If not a long-term fixed hire agreement, this period of hire shall terminate on whichever is the later event of 3.3, 3.4, or 3.5. Notification by the Hirer that the equipment is ready for collection and the receipt by the Hirer of an off-hire number shall not relieve the Hirer for liability for the equipment until it is collected by the Owner.



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### **4. RETURN OF EQUIPMENT AND TERMINATION**

4.1 The Hirer agrees to return this equipment to the Owner during regular business hours. The Owner may terminate this agreement at its sole discretion and the Hirer authorizes the Owner and servants to enter upon such land as may be necessary to recover the equipment.

#### **4.2 Unlawful Use of Equipment**

Failure to return equipment by the agreed due date and time, or failure to make payment in accordance with the agreed terms, may constitute unlawful use of the equipment. The Owner reserves the right to pursue civil and/or criminal action for any unauthorised possession, use, or retention of equipment beyond the agreed hire period, or for willful non-payment. The Hirer acknowledges that continued possession without payment may be treated as theft or conversion of property, and may result in legal recovery actions including police involvement, repossession without notice, and recovery of all legal and enforcement costs.

### **5. HIRING CHARGES**

The Hirer will pay the hire charges at the rate and in the manner specified during the hire period. The Hirer schedule of rates may be subject to alteration by mutual agreement between the Hirer and Owner if the agreed period of hire is altered in any way by the Hirer. The customer agrees that payments are made in advance and authorizes deductions, debits via EFT / Credit Card and bank details provided. All credit card authorizations will remain in force until all outstanding amounts have been charged in full.

6. Where the Equipment is hired with the Hire Charges based on a daily or weekly rate, the Equipment is agreed to be used by Hirer for no more than eight (6) hours in a 24-hour period. Where the Equipment is used by Hirer for more than eight (6) hours in a 24-hour period, proportionate additional Hire Charges are payable by Hirer.

### **7. TYRES, TRACKS AND GET – POWERED MOBILE PLANT**

If the Equipment utilizes tyres and/or tracks, the parties shall compare the actual wear on the tyre or track on the Equipment at the Completion Date of Hire with the figures in the Condition Inspection Report. Hirer shall be responsible for all wear of tyres and/or tracks during the Actual Hire Period and shall pay for all tyre / track wear as a percentage of new tyre / track cost. If the Equipment utilizes ground engaging tools, the parties shall compare the actual wear on the ground engaging tools on the Equipment at the Completion Date of Hire with the figures in the Condition Inspection Report. Hirer shall be responsible for all wear of ground engaging tools during the Actual Hire Period and shall pay for all ground engaging tools wear as a percentage of new ground engaging tools cost.



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### 8. **LATE RETURN & FUEL**

- 8.1 If the equipment is not returned at the end of the hire period additional costs will be incurred.
- 8.2 Additional charges will apply if the equipment is more than 30 minutes late on return. From 30 mins – 1 hour \$40.00; From 1 hour – 2 hours \$100.00; Past 2 hours full days hire fee will be charged.
- 8.3 If the equipment is not returned at the end of the hire period additional costs will be incurred. The Hirer will ensure at the time of off hire, the plant, equipment will be returned with the same quantity of fuel as received. In the event that the machine requires fuel the owner will charge the Hirer to recover costs associated with replenishing fuel at \$3.50 Per Liter.

### 9. **DELIVERY, INSTALLATION AND COLLECTION**

If the Hirer requests the Owner to deliver, install or collect the equipment, the Hirer agrees to pay to the Owner all of the Owner's reasonable expenses incurred in complying with this request in addition to the hire charges. These expenses may include costs due to any delay incurred, or additional labour performed due to the Hirer's failure to prepare the site.

### 10. **LOADING AND UNLOADING EQUIPMENT**

The Hirer is responsible for loading and unloading equipment. If an employee of the Owner assists in the loading or unloading of the equipment the Hirer agrees to indemnify the Owner for any property damage or personal injuries in relation to this assistance whether or not due to negligence.

### **EQUIPMENT MAINTENANCE**

The Hirer agrees to:

- 11.1. Keep and maintain the equipment in a clean condition and good repair and working order;
- 11.2. Service the equipment in a skilful and proper manner and to supply all oil and grease necessary for operation of the equipment at its own expense.
- 11.3. Supply all fuel necessary for the operation of the equipment at its own expense.
- 11.4. Repair or replace damaged tires.
- 11.5. Give the Owner access to the equipment for inspection at any reasonable time without the Owner giving prior notice.



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### **11. OUTSIDE METRO AREA**

- 12.1. Where the Equipment is at any time hired by the Customer to be located or transported outside the metro area, the following clauses will also apply, in addition to the obligation of the Customer under Clause 3 and elsewhere in these Hire Contract Conditions;
- 12.2. The customer will pay an additional charge for any delivery, servicing and repair or return costs of the Equipment, and for any other attendance at the location of the hired plant or machinery ('Out of metro area charges'). The out of metro area charges will be calculated on a per kilometre rate travelled by WA Digger Hires staff or contractor to and from the out of metro area, plus direct traveling costs including all airfares and accommodation charges incurred by WA Digger Hire/ Contractors or its staff in connection with travel to and from the out of metro area;
- 12.3. Multiple items of Equipment hired by a customer on the one site will only be charged for one call out fee.
- 12.4. The customer is responsible at its cost for daily maintenance and care of all Multiple items of Equipment hired by a customer on the one site.

### **13. EQUIPMENT FAILURE**

If equipment becomes unsafe or in a state of disrepair, the Hirer agrees to immediately discontinue use of equipment and to notify the Owner immediately. The Hirer will on no account attempt to repair the equipment without the consent of the Owner and will immediately return the equipment to the Owner's premises if required to do so by the Owner. If the failure is caused by reasonable wear and tear and for no other reason including the Hirer's negligence or misuse, the Owner agrees, in its discretion, to:

- 13.1. Repair the equipment within a reasonable time.
- 13.2. Make similar equipment available, or
- 13.3. Adjust the rental charge. The Owner shall in no circumstances be liable for any loss sustained by the Hirer.

### **14.ACCIDENT**



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The Hirer will immediately notify the Owner of any accident or damage including breakdown involving its equipment.

## 15. DAMAGE TO EQUIPMENT

### 15.1 Hirer's Responsibility

The Hirer is responsible for any loss, theft, or damage to the equipment from the time it is delivered or collected until it is returned and accepted by the Owner. This includes but is not limited to:

- Accidental or negligent damage
- Damage due to misuse, overloading, or improper operation
- Vandalism, theft, or unexplained disappearance
- Damage caused by failing to maintain equipment as instructed (e.g. fluid levels, filter cleaning)
- Damage during transportation or loading/unloading not conducted by the Owner

### 15.2 Repair and Replacement Costs

Where equipment is returned damaged, the Hirer agrees to pay the cost of repairs or, if the equipment is beyond repair, the full replacement cost based on current supplier list pricing. Cleaning and restoration fees may also apply.

## **16.CLEANING AND REPAIR**

- 16.1 If the equipment is not returned in a clean condition or in good repair and working order (fair wear and tear excepted) the Owner may at its absolute discretion charge the Hirer for all reasonable costs of cleaning the equipment, restoring it to good repair and working order, or replacement of equipment which cannot reasonably be repaired.
- 16.2 The Hirer agrees to Deep Clean and wash / clean machine daily if in harsh conditions (worksites, contaminated area, etc.)
- 16.3 The hirer agrees to keep all filters clean and free from dust, water, dirt etc.... If dusty conditions the hirer shall maintain the cleaning of all filters as required, and the cost for replacement filters or damage due to excessive dust or dust ingress from lack of maintenance shall be at hirers expense.

## **17. LOSS**



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The Hirer will be liable for the full cost of replacement of equipment lost or stolen while in its possession. No form of insurance is offered on Plant and Equipment without prior arrangement. The hirer further agrees to incur all costs associated with recovering and or replacing the equipment e.g. covering insurance costs, losses or excesses. The Hirer agrees and must advise the Owner immediately of the loss, theft, damage or vandalism a waiver does not apply to loss or theft damage or vandalism. It is the sole responsibility of the hirer to ensure adequate insurance is held for all plant and equipment provided.

### **18. WAIVER CLAUSE**

- 18.1. Waiver Clause The hirer agrees to take full responsibility and hold sufficient insurance cover for any, loss or damage which in any way relates to or arises out of:
- 18.1.1. Burglary, theft or vandalism.
  - 18.1.2. Breach of any statutory laws or regulations in connection with the use of the Hired Goods by the Hirer.
  - 17.1.3. Misuse, abuse, wilful and or malicious acts, negligent and or reckless use and or overloading of the Hired Goods.
  - 18.1.4. Theft, loss or damage by whatever cause to tools and or accessories supplied with the Hired Goods including but not limited to, hoses, points, drills bits, grease guns, electric leads, tires and tubes
  - 18.1.5. Lack of lubrication or non-adherence to other normal maintenance regimes that could reasonably be expected of the Hirer under the Hire Agreement.
  - 18.1.6. Disregard for instructions given to the Hirer by the Company in respect of the proper use of the Hired Goods or in contradiction of the Manufacturer's instructions if supplied with the Hired Goods at the time of hiring.
  - 18.1.7. Unexplained disappearance of the Hired goods and equipment.
  - 18.1.8. Theft of the Hired Goods regardless if on site security is available including, but not limited to, locked yards, building and sheds, where this security is not used by the Hirer to secure the Hired Goods whilst they are left unattended any wharf or bridge or over any body of water.
  - 18.1.9. Loading or off-loading of Hired Goods using any lifting device causing the Hired Goods to leave the earth's surface of any sort for any reason Damage Waiver Clause.

#### a. Damage Waiver Clause



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Damage Waiver is not insurance, but is an agreement by the Owner that the hirer's liability for recovery and damage to the Equipment can be limited in some circumstances only, to an amount called the Damage Waiver Excess. Damage Waiver applies to all hires, subject to the conditions below, for no additional fee. The Damage Waiver Excess is \$2,500 or 2% of the sum insured (whichever is greater) as reasonably determined by the Owner using supplier list prices. DAMAGE WAIVER DOES NOT APPLY AND WILL NOT LIMIT THE HIRER'S LIABILITY in the following circumstances:

- 18.2.1. Where the operator is not suitably licensed.
- 18.2.2. Where the operator is affected by drugs and/or alcohol.
- 18.2.3. Where the equipment has been wilfully damaged by the Hirer or its employees or agents.
- 18.2.4. Where the damage is caused by a collision with a bridge, carpark, awning, gutter, tree or any other overhead structure or object whatsoever due to insufficient clearance.
- 18.2.5. Where the damage is caused while the Equipment is being driven or towed on any road that is unsealed or is not a public road.
- 18.2.6. Where the damage is caused in any way by overloading.
- 18.2.7. Damage waiver charge will apply if taken prior to hire.
- 18.2.8. Damage waiver is NOT available unless accepted at beginning of hire contract.

## **19. PAYMENT**

Accounts are due and payable on the end of the Hire period. Hire, delivery, installation and collection charges or other charges where applicable are payable on strictly net cash terms unless otherwise specified. Where credit is extended terms are cash thirty (30) days from date of invoice not end of month. Payments for one-off-hires without accounts are due prior to the hire period starting or upon delivery.

All credit card authorizations will remain in force until all outstanding amounts have been charged in full.

### **19.1 DISHONoured PAYMENTS/CHARGEBACKS**

If in the event of a chargeback/dispute via the bank on behalf of the hirer, all amounts due for hire will be payable immediately and a fee of \$75.00 per chargeback will be charged to the hirer.





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### **20 LATE PAYMENT**

Interest is payable on any amounts outstanding at the end of the hire period at the rate of 15% per annum calculated daily.

### **21 COLLECTION COSTS**

The Hirer agrees to pay all reasonable costs of collection or legal proceedings brought to recover any amounts outstanding after the end of the hire period.

### **22. PURCHASE ORDER**

The use of your purchase order number on this contract is for your convenience and identification only. Absence of a purchase order number shall not constitute grounds for non-payment of rental charges when you have had possession, or the right to possession of the hired equipment. Our equipment is charged on a day rate basis.

### **23. SUBLEASE, LOANS OF EQUIPMENT AND ASSIGNMENTS**

The Owner may assign its rights under the contract without the Hirer's permission but will remain bound by its terms. The Hirer may not sublease or loan the equipment without the Owner's written permission and any secondary assignment shall be void.

### **24. EXCLUSION OF WARRANTIES**

This contract contains no express or implied warranties other than those which appear in this agreement. No warranty is given that the equipment is suited for its intended use. The Hirer warrants that it has made its own independent inspection and has not relied on any representations by the Owner.

### **25. INDEMNITY**

The operator/customer agrees to accept full responsibility for all claims in respect of any injury to persons, loss of productivity or loss or damage to property, arising out of the delivery, servicing, storage, possession, use or failure of the equipment during the hire period whether or not due to the negligence of the Owner, its employee or agent or any other person and agrees to indemnify the Owner with respect to these claims. The Hirer will not allow any lien to be created over the



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equipment nor sell, transfer, mortgage or charge the equipment and will indemnify the Owner against any losses or expenses incurred as a result of its loss of possession of the equipment for any of these reasons.

### **26. SEVERABILITY**

The provisions of this contract shall be severable, so that the invalidity, unenforceability, or waiver of any of the provisions shall not affect the remaining provisions.

### **27. JURISDICTIONS**

The law relating to this agreement shall be the law of the State of Western Australia.

### **28. DEFINITIONS**

In this agreement the following expressions shall have the following meanings:

- 27.1. The "Owner" WA DIGGER Hire.
- 27.2. The "Hirer" is the person, business or corporation hiring equipment from the Owner;
- 27.3. The "Equipment" and the "Hired Goods" means all equipment, plant, tools, accessories, parts and motor vehicles supplied to the Hirer.

### **29. Privacy Policy Acknowledgment Clause**

#### Privacy Notice & Consent

By signing this Hire Agreement, you acknowledge and agree that you have read and accepted our Privacy Policy, available at [www.wadiggerhire.com.au/privacy](http://www.wadiggerhire.com.au/privacy). This policy outlines how we collect, use, store, and share your personal and business information, including participation in a secure, anonymized hire industry rating network.

If you do not agree with the terms of our Privacy Policy, please contact us before proceeding with this hire.