

Impact Supplies (Australia) Pty Ltd ACN 90 522 061 753 T/A. Winch Hire Australia

Application for Trading Account



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Short version
(Long version at
www.winchhire.com.au)*



Trading Account Application

TO BE COMPLETED BY APPLICANTS

CREDIT TERMS

1. For approved Customers, accounts are due and payable within thirty (30) days of the end of the month of invoice. Credit may be cancelled and/or suspended without notice if accounts are not paid by the due date.
2. Personal Guarantees are required to be completed in full. Additional copies may be obtained from our Credit Department.
3. Should any dispute arise it shall be dealt with in the court in the district where Winch Hire Australia has its registered office and place of business.
4. The hirer will pay to Winch Hire Australia any commissions, legal costs or expenses paid by Winch Hire Australia to its collection agents and/or Lawyers in relation to the collection of any money's owed to Winch Hire Australia that are not paid within the terms of credit provided.
5. The Company reserves the right to withdraw credit or vary the customer's credit limit at any time and without reason.

Please complete all sections in clear block letters and read the Standard Terms and Conditions attached.
Post completed form to: **35 Boron Street Sumner Park QLD 4074**

CUSTOMER DETAILS

Registered Business/ Company Name					
Trading Name					
Customer A.C.N.			Customer A.B.N.		
Registered Business Address				Postcode	
Postal Address				Postcode	
Phone			Fax		
Email			Mobile		

<input type="checkbox"/> Public Co. <input type="checkbox"/> Sole Trader <input type="checkbox"/> Pty Ltd Co. <input type="checkbox"/> Partnership	How long have you been in business	
	Accountant Name	

Accounts Payable Contact Name		Phone	
Email		Fax	
Type of Business			
Bank		Branch	
Monthly Estimated Hire	<i>Note - This is not a credit limit</i>		

DIRECTORS (IF COMPANY) OR PROPRIETORS (IF PARTNERSHIP OR SOLE TRADER)

Name	Address	Phone
1.		
2.		
3.		
4.		

CREDIT CARD PAYMENT

Credit Card No.: _____

Expiry Date: ____/____/____

Name on card: _____

Signature: _____

TRADE REFERENCES**To expedite processing of your application please ensure companies listed provide trade references upon request**

Name	Phone	Fax
1.		
2.		
3.		

I/We hereby apply for the opening of a Trading Account with Winch Hire Australia, a division of Impact Supplies (Australia) Pty Ltd and provide the above information in support of the application. I/We, in consideration of credit facilities being granted, accept and agree to be bound by Winch Hire Australia's Conditions of Sale and Hire and Conditions of Sale and Warranty, which I/we acknowledge having read and also agree to indemnify Winch Hire Australia for all costs including collection commission that may be incurred should it be necessary to employ Mercantile Agents and/or Solicitors to recover outstanding debts.

In accordance with the Privacy Act (1988), I/We authorize Winch Hire Australia and its related bodies corporate (as defined in Corporation Law) to exchange with credit providers, credit reporting agencies and credit providers named in reports from those agencies, information about my/our personal credit, commercial activities or commercial credit worthiness. I/We also state the details provided above are true and correct.

Signed _____

Signed _____

Name _____

Name _____

Position _____

Position _____

ID _____

ID _____

Date ____/____/____

Date ____/____/____

Office Use Only

- Changed Account Status
- Scanned and attached to Pro IV
- Sent client approval email
- Notified Staff
- Filed Hard Copy

Account approved by _____

Date _____

Account No. _____

THE FOLLOWING GUARANTEE MUST BE COMPLETED IN FULL

I/We being Directors of the Customer request Winch Hire Australia to enter into hire agreements from time to time with the Customer (Hire Agreements), and in consideration of Winch Hire Australia so doing I/we hereby jointly and severally guarantee to Winch Hire Australia the due satisfaction by the Customer of all its obligations under this Application for **Trading Account** or any Hire Agreements. I/We shall be principal debtors to Winch Hire Australia and agree that this guarantee shall not be in any way affected by Winch Hire Australia granting time or other indulgence to the Customer and that this **guarantee will bind** me/us to make payment of any amount outstanding under this Application for Trading Account or any such Hire Agreement. I/We agree that this Guarantee shall be a continuing Guarantee and shall not be determined by the death of the Guarantor, nor, in the case where the Guarantor is a company, by its liquidation.

HIRE AGREEMENT:

The Customer and the Directors of the Customer agree that all equipment hired by the Customer from Winch Hire Australia will be hired in accordance with the attached Conditions of Sale and Hire and Conditions of Sale and Warranty which are governed by the laws and procedures in the state of Queensland.

JOINT AND SEVERAL:

An agreement, representation or warranty on the part of two or more persons binds them jointly and severally. An agreement, representation or warranty for the benefit of two or more persons is for the benefit of them jointly and severally.

Dated this _____ day of _____ 20 _____

Registered Business / Company name: _____

Signature(s) of Directors or Proprietor(s): 1 _____ Name _____

2 _____ Name _____

3 _____ Name _____

WINCH HIRE AUSTRALIA STANDARD TERMS AND CONDITIONS

1. **Definitions**
- 1.1 "Owner" shall mean Impact Supplies (Australia) Pty Ltd T/A Winch Hire Australia, its successors and assigns or any person acting on behalf of and with the authority of Impact Supplies (Australia) Pty Ltd T/A Winch Hire Australia.
- 1.2 "Hirer" shall mean the Hirer or any person acting on behalf of and with the authority of the Hirer.
- 1.3 "Guarantor" means that person (or persons), or entity who agrees herein to be liable for the debts of the Hirer on a principal debtor basis.
- 1.4 "Equipment" shall mean Equipment supplied on hire by the Owner to the Hirer (and where the context so permits shall include any supply of services) and is as described on the invoices, quotation, authority to hire, or any other work authorisation forms as provided by the Owner to the Hirer.
- 1.5 "Minimum Hire Period" shall mean the Minimum Hire Period as described on the invoices, quotation, authority to hire, or any other forms as provided by the Owner to the Hirer.
- 1.6 "Price" shall mean the cost of the hire of the Equipment as agreed between the Owner and the Hirer subject to clause 3 of this contract.
2. **Acceptance**
- 2.1 Any instructions received by the Owner from the Hirer for the hire of Equipment and/or the Hirer's acceptance of Equipment supplied on hire by the Owner shall constitute acceptance of the terms and conditions contained herein.
- 2.2 The person signing the document for and on behalf of the Hirer hereby covenants with the Owner that s/he has the authority of the Hirer to make this agreement on the Hirer's behalf and is empowered by the Hirer to bind the Hirer to this Agreement and hereby indemnifies the Owner against all losses, costs, and claims incurred by the Owner arising out of the person so signing this agreement not in fact having such power and/or authority.
- 2.3 This agreement replaces and supercedes all previously issued agreements, or conditions of sale and hire.
- 2.4 Where more than one Hirer has entered into this agreement, the Hirers shall be jointly and severally liable for all payments of the Price.
- 2.5 Upon acceptance of these terms and conditions by the Hirer the terms and conditions are irrevocable and can only be amended with the written consent of the Owner.
- 2.6 The Hirer undertakes to give the Owner at least fourteen (14) days notice of any change in the Hirer's name, address and/or any other change in the Hirer's details.
- 2.7 The Owner is in no way obliged to hire any Equipment to the Hirer and may refuse to hire Equipment to a Hirer at its absolute discretion, including, but not limited to, if the Hirer fails to provide adequate identification or if in the opinion of the Owner the Hirer's safety is put at risk by providing them with such Equipment.
3. **Price And Payment**
- 3.1 At the Owner's sole discretion the Price shall be either:
 - (a) as indicated on invoices provided by the Owner to the Hirer in respect of Equipment supplied on hire; or
 - (b) the Owner's current Price, at the date of delivery of the Equipment, according to the Owner's current Price list; or
 - (c) the Owner's quoted Price (subject to clause 3.2) which shall be binding upon the Owner provided that the Hirer shall accept in writing the Owner's quotation within thirty (30) days.
- 3.2 The Owner reserves the right to change the Price in the event of a variation to the Owner's quotation.
- 3.3 The Hirer acknowledges and agrees that the Price only covers the sale or hire of the Equipment, in the event the Hirer requires any additional services (including, but not limited to, freight and transport costs, loading and unloading fees, instruction/training Services), the Hirer shall be charged for these as a variation to the Price as per clause 3.2.
- 3.4 At the Owner's sole discretion a deposit may be required.
- 3.5 Time for payment of the Equipment shall be of its essence and will be stated on the invoice or any other forms. If no time is stated then payment shall be due thirty (30) days following the date of the invoice.
- 3.6 At the Owner's sole discretion payment for approved Hirer's shall be due on thirty (30) days following the end of the month in which a statement is posted to the Hirer's address or address for notices.
- 3.7 The date upon which the Hirer advises of termination shall in all cases be treated as a full day's hire.
- 3.8 Payment will be made by cheque, or by bank cheque, or by direct credit, or by any other method as agreed to between the Hirer and the Owner.
- 3.9 GST and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.
4. **Hire Period**
- 4.1 The hire period shall commence from the time the Equipment leaves the Seller's premises, until returned to the same premises. In the event the Hirer fails to return the Equipment to the Seller's premises until after 8am on the day following the day of hire, then the Hirer will be charged a minimum of an additional full day hire if the Equipment is returned before 12 noon, or an additional full day's hire if the Equipment is returned after 12 noon.
- 4.2 If the Owner agrees with the Hirer to deliver and/or collect the Equipment, hire charges shall commence from the time the Equipment leaves the Owner's premises and continue until the Equipment is returned to the Owner's premises.
- 4.3 No allowance whatever can be made for time during which the Equipment is not in use for any reason, unless the Owner confirms special prior arrangements in writing. In the event of Equipment breakdown provided the Hirer notifies the Owner immediately, hiring charges will not be payable during the time the Equipment is not working, unless the condition is due to negligence or misuse on the part of or attributable to the Hirer.
- 4.4 The daily rate for hire of Equipment is based upon the Equipment being hired for a minimum hire period of eight (8) hours. In the event the Equipment is used in excess of eight (8) hours per day, an additional hiring charge may apply.
5. **Delivery Of Equipment**
- 5.1 In the event the Hirer requests the Owner to arrange transport for the Equipment, the Hirer shall be liable for all transport costs incurred by the Owner in delivering the equipment to the worksite and transporting it back to the Owner's premises.
- 5.2 At the Owner's sole discretion delivery of the Equipment shall take place when:
 - (a) the Hirer takes possession of the Equipment at the Owner's address; or
 - (b) the Hirer takes possession of the Equipment at the Hirer's address; or
 - (c) the Hirer's nominated carrier takes possession of the Equipment in which event the carrier shall be deemed to be the Hirer's agent.
- 5.3 At the Owner's sole discretion the costs of Delivery are:
 - (a) are in addition to the Price, or
 - (b) are for the Hirer's account.
- 5.4 The Hirer shall make all arrangements necessary to take delivery of the Equipment whenever it is tendered for delivery. In the event that the Hirer is unable to take delivery of the Equipment as arranged then the Owner shall be entitled to charge a reasonable fee for redelivery.
- 5.5 The Owner may deliver the Equipment by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions in these terms and conditions.
- 5.6 Delivery of the Equipment to a third party nominated by the Hirer is deemed to be delivery to the Hirer for the purposes of this agreement.
- 5.7 The Hirer shall be responsible for free access by the Owner to the site on which the Equipment is located. If there are any delays due to free access not being available then the Hirer shall be responsible and shall reimburse the Owner for all lost hire fees associated with the Equipment being unavailable. The Hirer shall also be responsible for all other expenses and costs incurred by the Owner due to delays in access to the Equipment.
- 5.8 The failure of the Owner to deliver shall not entitle either party to treat this contract as repudiated.
- 5.9 The Owner shall not be liable for any loss or damage whatever due to failure by the Owner to deliver the Equipment (or any of them) promptly or at all.
6. **Risk**
- 6.1 The Owner retains property in the Equipment nonetheless all risk for the Equipment passes to the Hirer on delivery.
- 6.2 The Hirer accepts full responsibility for the safekeeping of the Equipment and indemnifies the Owner for all loss theft or damage to the Equipment or any attached tools or accessories however caused and without limiting the generality of the foregoing whether or not such loss theft or damage is attributable to any negligence failure or omission of the Hirer.
- 6.3 The Hirer will insure, or self insure, the Owner's interest in the Equipment against physical loss or damage including, but not limited to, the perils of accident, fire, theft and burglary and all other usual risks and will affect adequate Public Liability Insurance covering any loss, damage or injury to property arising out of the Equipment. Further the Hirer will not use the Equipment nor permit it to be used in such a manner as would permit an insurer to decline any claim.
- 6.4 The Hirer accepts full responsibility for and shall keep the Owner indemnified against all liability in respect of all actions, proceedings, claims, damages, costs and expenses in respect of any injury to persons or damage to property arising out of the use of the Equipment during the hire period however arising and whether or not arising from any negligence, failure or omission of the Hirer or any other persons.
- 6.5 The Hirer acknowledges and agrees that the Hirer cannot recover from the Owner compensation for any damages (including, for consequential loss) in respect of these Terms and Conditions of Trade or the hiring or use of any Equipment.
- 6.6 The Hirer acknowledges and agrees that the Hirer cannot remove the Equipment from the site without the prior written consent of the Owner.
- 6.7 The Hirer shall be responsible for any damage caused by exposure to any corrosive or caustic substance, such as cyanide, salt water, or acid, as well as for any damage or loss caused during transport of the Equipment.
- 6.8 All electrical equipment has been safety checked, tested and tagged by the Owner prior to any hire. While the electrical Equipment is on hire, the Hirer is responsible for arranging at the Hirer's costs, the re-testing and re-tagging of the electrical Equipment in accordance with the applicable Australian Standard(s) and Regulatory Authority Requirements. The Owner is able to arrange, at the Hirer's cost, for such re-testing and re-tagging of the electrical Equipment.
7. **Title**
- 7.1 The Equipment is and will at all time remain the absolute property of the Owner.
- 7.2 If the Hirer fails to return the Equipment to the Owner, or if the Hirer breaches any provisions of this agreement, then the Owner or the Owner's agent may enter upon and into land and premises owned, occupied or used by the Hirer, or any premises where the Equipment is situated as the invitee of the Hirer and take possession of the Equipment, without being responsible for any damage thereby caused.
- 7.3 The Hirer is not authorised to pledge the Owner's credit for repairs to the Equipment or to create a lien over the Equipment in respect of any repairs.
8. **Defects**
- 8.1 The Hirer shall inspect the Equipment on delivery and shall immediately notify the Owner of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Hirer shall afford the Owner an opportunity to inspect the Equipment within a reasonable time following delivery if the Hirer believes the Equipment is defective in any way. If the Hirer shall fail to comply with these provisions the Equipment shall be presumed to be free from any defect or damage. For defective Equipment, which the Owner has agreed in writing that the Hirer is entitled to reject, the Owner's liability is limited to either repairing or replacing the Equipment, except where the Hirer has hired Equipment as a consumer within the meaning of the Trade Practices Act 1974 (Cwlth) or the Fair Trading Acts of the relevant state or territories of Australia, and is therefore also entitled to, at the consumer's discretion either a refund of the hire price of the Equipment, or repair of the Equipment, or replacement of the Equipment free on board from the Owner's premises in Brisbane.
9. **The Commonwealth Trade Practices Act 1974 ("TPA") and Fair Trading Acts ("FTA")**
- 9.1 Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the TPA or the FTA in each of the States and Territories of Australia, except to the extent permitted by those Acts where applicable.
10. **Warranty**
- 10.1 No Warranty is provided by the Owner in respect of the condition of the Equipment or its fitness for any particular purpose. The Hirer shall indemnify and hold harmless the Owner in respect of all claims arising out of use of the Equipment.
11. **Hirer's Disclaimer**
- 11.1 The Hirer hereby disclaims any right to rescind, or cancel the contract or to sue for damages or to claim restitution arising out of any misrepresentation made to the Hirer by the Owner and the Hirer acknowledges that the Equipment is hired relying solely upon the Hirer's skill and judgement.
12. **Hirer's Responsibilities**
- 12.1 The Hirer shall:
 - (a) notify the Owner immediately by telephone of the full circumstances of any mechanical breakdown or accident. The Hirer is not absolved from the requirements to safeguard the Equipment by giving such notification. In the event of a breakdown the Hirer shall not repair, or attempt to repair the Equipment without prior consent of the Owner in writing. If the Equipment broke down or becomes unsafe the Hirer must immediately stop using the Equipment and must take all necessary steps to prevent injuries to any persons or damage to any property as a result of the condition of the Equipment. The Owner shall not be liable for any expenditure, damages, loss or inconvenience incurred by the Hirer arising out of any breakdown in the Equipment whether caused by fair wear and tear, lack of repair or negligence on the part of the Owner or for any reason whatsoever. If the Equipment breaks down or is damaged due to the Hirer's negligence or willful misuse the Owner is entitled to continue to charge hire charges until the Equipment has been repaired, replaced or the Owner may recover the costs of any repairs that are carried out to the Plant;
 - (b) before accepting the Equipment satisfy itself as to the suitability, condition and fitness for the purpose of the Equipment;
 - (c) operate the Equipment safely, strictly in accordance with the law, only for its intended use, and in accordance with any manufacturer's instruction whether supplied by the Owner or posted on the Equipment;
 - (d) ensure that all persons operating or erecting the Equipment are suitably instructed in its safe and proper use and where necessary hold a current Certificate of Competency and/or are fully licensed to operate the Equipment and shall provide evidence of the same to the Owner upon request;
 - (e) comply with all occupational health and safety laws relating to the Equipment and its operation;
 - (f) on termination of the hire, the Hirer shall deliver the Equipment complete with all parts and accessories clean and in good order as delivered, fair wear and tear accepted, to the Owner;
 - (g) keep the Equipment in their own possession and control and shall not assign the benefit of the hire contract nor be entitled to lien over the Equipment;
 - (h) not alter or make any additions to the Equipment including but without limitation altering, make any additions to, defacing or erasing any identifying mark, plate or number on or in the Equipment or in any other manner interfere with the Equipment;
 - (i) employ the Equipment solely in its own work and shall not permit the Equipment of any part thereof to be used by any other party for any other work;
 - (j) not fix any of the Equipment in such a manner as to make it legally a fixture forming part of any freehold.
- 12.2 Immediately on request by the Owner the Hirer will pay:
 - (a) the new list price of any Equipment that is for whatever reason destroyed, written off or not returned to the Owner;
 - (b) all costs incurred in cleaning the Equipment;
 - (c) all costs of repairing any damage caused by the ordinary use of the Equipment;
 - (d) the cost of repairing any damage to the Equipment caused by the negligence of the Hirer or the Hirer's agent;
 - (e) the cost of repairing any damage to the Equipment caused by vandalism, or (in the Owner's reasonable opinion) in any way whatsoever other than by the ordinary use of the Equipment by the Hirer;
 - (f) the cost of fuels and consumables provided by Owner and used by the Hirer;
 - (g) for the service, cleaning, fuel, lubrication and maintenance of the Equipment to keep the Equipment in good and substantial condition;
 - (h) all costs of repairing or replacing the Equipment or vehicle;
 - (i) all fines, tolls, penalties and other charges arising out of the use of the motor vehicle and must reimburse the Owner if the Owner has made such payment even if received by the Owner after completion of the hire period;
 - (j) the cost of repairing or replacing flat or damaged tyres and other damage to tyres arising outside the ordinary and reasonable use of the motor vehicle.
- 12.3 The Hirer will not allow any person to drive a motor vehicle if the person does not hold an unrestricted licence to drive that class of motor vehicle, or has a breath or blood alcohol concentration exceeding the minimum lawful concentration or is under the influence of any drug, toxic or illegal substance.
- 12.4 The Hirer acknowledges that the Owner will arrange motor vehicle accident insurance for each Toyota Land Cruiser to cover any damage caused through a motor vehicle accident and the Hirer must pay a charge for such insurance. This insurance will not cover the Hirer for the loss, theft or other damage to the motor vehicle (other than a motor vehicle accident). If the motor vehicle is damaged in a motor vehicle accident then the Hirer will be liable for the following additional costs:
 - (a) the first two and a half thousand dollars (\$2500) of the cost of any damage if the driver is twenty-five (25) years or over; and
 - (b) the first three and a half thousand dollars (\$3500) of the cost of any damage if the driver is under twenty-five (25) years; and
 - (c) the cost of repairing damage:
 - (i) to the motor vehicle; and/or
 - (ii) to or caused by a truck mounting device; and/or
 - (iii) to tyres; and/or
 - (iv) caused other than by the normal use of the motor vehicle; and/or
 - (v) caused while the motor vehicle is being driven on any road that is unsealed or that is not a public road; and/or
- 12.5 In the event that damage is caused that is not covered by the above insurance, the Hirer acknowledges and agrees they shall be liable for all costs incurred by the Owner in repairing the motor vehicle.
- 12.6 The Owner reserves the right to set-off against any credit owed to the Hirer, any amount owing by the Hirer to the Owner.
- 12.7 The Hirer agrees it shall be their responsibility to ensure that a job safety analysis is conducted prior to operating any electrical or mechanical Equipment to ensure safe working methods apply.
- 12.8 The Hirer agrees that they shall comply with all Environmental laws from time to time and immediately rectify any breach of an Environmental Law caused by the use of the Equipment.
- 12.9 The Hirer indemnifies and agrees to keep the Owner indemnified against any loss, damages or costs howsoever resulting which may be incurred by the Owner arising from the use of the Equipment under this contract.
- 12.10 In the event the Owner needs to make any type of insurance claim due to damage, loss or theft to any Equipment during the hire period, the Hirer shall be liable for any costs incurred including the excess costs.
- 12.11 The Hirer agrees that they shall be responsible and maintain the liability for the Equipment and/or vehicle whilst waiting for the Owner to collect the items.
- 12.12 The Hirer acknowledges and agrees that in the event the Equipment or vehicle or trailer is required to be towed, the Hirer's vehicle shall be suitable for doing so.
13. **Cancellation**
- 13.1 The Owner may cancel these terms and conditions or cancel delivery of Equipment at any time before the Equipment is delivered by giving notice. The Owner shall not be liable for any loss or damage whatever arising from such cancellation.
- 13.2 In the event that the Hirer cancels delivery of the Equipment the Hirer shall be liable for any loss incurred by the Owner (including, but not limited to, any loss of profits) up to the time of cancellation.
- 13.3 In addition to the Owner's right to retake possession of the Equipment and/or vehicle, 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, charges or loss suffered by the Owner, and/or cancel any insurances effective in respect of the vehicle or Equipment hired.
14. **Default & Consequences Of Default**
- 14.1 At the Owner's sole discretion interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at the Owner's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 14.2 If the Hirer defaults in payment of any invoice when due, the Hirer shall indemnify the Owner from and against all costs and disbursements incurred by the Owner in pursuing the debt including legal costs on a solicitor and own client basis and the Owner's collection agency costs.
- 14.3 Without prejudice to the other remedies the Owner may have, if at any time the Hirer is in breach of any obligation (including those relating to payment); the Owner may suspend or terminate the supply of Equipment to the Hirer and any of its other obligations under the terms and conditions. The Owner will not be liable to the Hirer for any loss or damage the Hirer suffers because the Owner has exercised its rights under this clause.
- 14.4 At the Owner's sole discretion if any account remains overdue after thirty (30) days then an amount of 10.00% of the amount overdue shall be levied for administration fees which sum shall become immediately due and payable.
- 14.5 Without prejudice to the Owner's other remedies at law the Owner shall be entitled to cancel all or any part of any order of the Hirer which remains unperformed in addition to and without prejudice to any other remedies the Owner may have and all amounts owing to the Owner shall, whether or not due for payment, become immediately payable in the event that:
 - (a) any money payable to the Owner becomes overdue, or in the Owner's opinion the Hirer will be unable to meet its payments as they fall due; or
 - (b) the Hirer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
 - (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Hirer or any asset of the Hirer.
15. **Privacy Act 1988**
- 15.1 The Hirer and/or the Guarantor/s agree for the Owner to obtain from a credit reporting agency a credit report containing personal credit information about the Hirer and Guarantor/s in relation to credit provided by the Owner.
- 15.2 The Hirer and/or the Guarantor/s agree that the Owner may exchange information about the Hirer and the Guarantor/s with those credit providers either named as trade referees by the Hirer or named in a consumer credit report issued by a credit reporting agency for the following purposes:
 - (a) to assess an application by the Hirer; and/or
 - (b) to notify other credit providers of a default by the Hirer; and/or
 - (c) to exchange information with other credit providers as to the status of this credit account, where the Hirer is in default with other credit providers; and/or
 - (d) to assess the credit worthiness of the Hirer and/or Guarantor/s.
- 15.3 The Hirer consents to the Owner being given a consumer credit report to collect overdue payments on consumer credit accounts (Section 18K (1) (h) Privacy Act 1988).
- 15.4 The Hirer agrees that personal credit information provided may be used and retained by the Owner for the following purposes and for other purposes as shall be agreed between the Hirer and Owner or required by law from time to time:
 - (a) the provision of Equipment on hire; and/or
 - (b) marketing of services by the Owner, its agents or distributors in relation to the Equipment; and/or
 - (c) analysing, verifying and/or checking the Hirer's credit, payment and/or status in relation to provision of Equipment on hire; and/or
 - (d) processing of any payment instructions, direct debit facilities and/or credit facilities requested by Hirer; and/or
 - (e) enabling the daily operation of Hirer's account and/or the collection of amounts outstanding in the Hirer's account in relation to the hire of the Equipment.
- 15.5 The Owner may give information about the Hirer to a credit reporting agency for the following purposes:
 - (a) to obtain a consumer credit report about the Hirer; and/or
 - (b) allow the credit reporting agency to create or maintain a credit information file containing information about the Hirer.
16. **General**
- 16.1 If any provision of these terms and conditions shall be invalid, void, illegal or unenforceably the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 16.2 These terms and conditions and any contract to which they apply shall be governed by the laws of Queensland and are subject to the jurisdiction of the courts of Brisbane, Queensland.
- 16.3 The Owner shall be under no liability whatever to the Hirer for any indirect loss and/or expense (including loss of profit) suffered by the Hirer arising out of a breach by the Owner of these terms and conditions.
- 16.4 The Hirer shall not be entitled to set off against or deduct from the Price any sums owed or claimed to be owed to the Hirer by the Owner.
- 16.5 The Owner may license or sub-contract all or any part of its rights and obligations with respect to the Hirer's consent.
- 16.6 The Owner reserves the right to review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which the Owner notifies the Hirer of such change.
- 16.7 The Owner shall not be liable for any default due to any cause (including but not limited to, act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, drought, storm, mobilisation, civil commotion, riots, embargoes, orders or regulations of government of any relevant jurisdiction, or inability to obtain shipping space or land transportation or other event beyond the reasonable control of either party).
- 16.8 The failure by the Owner to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect the Owner's right to subsequently enforce that provision.