

EQUIPMENT HIRE RENTAL AGREEMENT GENERAL TERMS AND CONDITIONS

For the purpose of the hire agreement, the following terms shall apply :

- * "Owner" shall mean G & R Brown & Sons Pty Ltd and its successors in title, permitted assigns, trustees, executors and administrators.
- * "Equipment" shall mean the plant, the attachments and the guidance listed in item 3 hereof.
- * "Manufacturer's Recommendations" are those recommendations specified in the OEM plant operator's manual.
- * "Short term hire agreement" means those conditions contained in paragraphs 2.1 to 2.16 of the equipment rental, general terms and conditions, a copy of which is supplied with this agreement.
- * "Tyre condition assessment system" means the report provided by the tyre manufacture's agent of which the Hire acknowledges receiving.

- * "Hirer" shall mean the person described in paragraph 1 hereof and shall include the Hirer, its successors in title, corporate representatives including but not limited to, receivers, liquidators or administrators.
- * "CTS" dealer undercarriage inspection report is the report provided by the OEM agent of which the hirer acknowledges receipt.
- * "Long term hire agreement" shall mean those conditions being all of the "Short term hire agreement" and conditions listed 3.1 to 3.5 contained in the schedule of conditions provided, where there is a difference between conditions 3.1 to 3.5 and conditions 2.1 to 2.16 then the provisions of conditions 3.1 to 3.5 shall apply to the extent conditions 2.1 to 2.16 inclusive shall be amended.

For the purpose of the hire agreement, the following general terms & conditions shall apply :

1.1 Insurance Cover

Refer to Appendix A in relation to G & R Brown & Sons Pty Ltd requirements on equipment insurance cover by Hirer.

1.2 Damages

Hirer agrees to repair or replace any part of the hired equipment that is damaged during hire period. The owner will ensure all equipment is inspected and free from damage prior to the period of agreed hire. Refer to Appendix B for existing equipment damage report that has been recorded by G & R Brown & Sons prior to the delivery of equipment. Any unlisted damage will be deemed to have been caused by the hirer and will be repaired at the costs of the Hirer in addition to any hire changes upon final equipment inspection.

1.3 Equipment Plant Hire

(i) G & R Brown & Sons Pty Ltd will not be held responsible for any delays in delivery or installation or failure to deliver equipment due to causes beyond its control. This includes, although not limited to events from natural disasters, war, terrorism, mobilisation, civil commotion, riots, embargoes, orders of regulations or governments of any relevant jurisdiction, fires, strikes, lockouts or other labour difficulties, shortages of or inability to obtain shipping space or land transportation.

(ii) Equipment hourly rate is based upon equipment being hired for a minimum hire period in accordance to any set minimum hours under 'additional charges' on page 1 of hire agreement. Hours operated in excess of the minimum hire will be charged at the agreed hourly rate inclusive of penalty rates and rest hours incurred.

(iii) Hire period will commence at the time the operator commences pre-start at Hirer's project location / depot and is completed when the task is deemed to have completed or moved onto the next job unless other agreed to in writing by owner.

(iv) An after hours call-out fee may apply when the hirer requests unplanned work to be completed outside of normal business hours (6am - 6pm Monday to Friday). This fee is in addition to all other plant hire equipment and labour charges.

1.4 Sales Orders and Cancellation

(i) Upon equipment hire conformation, hirer is to provide G & R Brown & Sons Pty Ltd with a purchase order stating the date, time, rate and equipment required to secure the availability of the equipment when required.

(ii) When the owner receives from the hirer notification of cancellation of a job less than twelve (12) hours prior to the commencement of the job, then a cancellation fee will be charged. The cancellation fee will be equivalent to the minimum hire period unless otherwise agreed in writing by G & R Brown & Sons Pty Ltd.

(iii) Cancellation requests must be processed via G & R Brown & Sons Pty Ltd administration and a written cancellation advise will be provided. Hirer verbal instruction to plant operators will not be accepted as an authorised cancellation of the hire agreement.

(iv) Non account or Cash Hirer's will be required to make full payment prior to work commencing on-site. Special conditions may be agreed upon when support with an approved 'Cash Hire' agreement.

(v) Ownership title of any equipment hired to a hirer does not pass on from owner to hirer.

1.5 Breakdown of Equipment

(i) In the event of any equipment breakdown, the hirer will not be charged for the time that the equipment hired was unavailable for use. However, it is the responsibility of the hirer to advise G & R Brown & Sons Pty Ltd of any breakdown within 10 hours of the event and seek in writing, written authority from the owner to organise repairs to the item of plant, all costs incurred will be the responsibility of the hirer.

(ii) The owner will make every effort to make good the repair although, gives no guarantee to a time frame. In the event that the equipment cannot be repaired in a reasonable timeframe, the owner will attempt to supply another piece of equipment suitable for hired task.

(iii) G & R Brown & Sons Pty Ltd will not be liable for any expenditure, damages, loss of income or inconveniences incurred by the hirer arising from any breakdown in the equipment whether caused by fair wear and tear, lack of repair or negligence on the part of the owner or any other reason whatsoever.

1.6 Payment

Full payment must be received no later than thirty (30) days from the receipt of each month's invoice. Interest will be charged on overdue accounts outstanding beyond our normal terms until the date of payment at a rate of 11% per annum calculated on a daily basis. The Hirer will, in the event any monies are outstanding after demand had been made for the same, be responsible to pay G & R Brown & Sons Pty Ltd.'s costs of recovery and, where a solicitor is engaged, on a full indemnity basis.

SHORT TERM HIRE AGREEMENT

These conditions relate to a Dry or Wet Hire Agreement between G & R Brown & Sons Pty Ltd and Hirer named herein

2.1 Rental Charges:

Wet hire rates shall be charged based on SMU hours (clock hours). Labour rates shall be charged for all hours the hirer requires the operator onsite not operating a machine

2.2 Equipment Operator

The Hirer shall ensure and provide such evidence as is reasonably required by G & R Brown & Sons Pty Ltd, the equipment when on "dry hire" will be operated by an experienced and qualified person in accordance with the Manufacturer's Recommendation. The Hirer will ensure, at all times to the satisfaction of G & R Brown & Sons Pty Ltd, the equipment will be used in a safe and prudent manner, having regard to all relevant occupation and safety requirements and the prevailing operating conditions.

2.3 Pre Start Checks

The Hirer is responsible to carry out daily pre start checks as per the Manufacturer's Recommendations. This includes, but is not limited to, visual inspection of the equipment, checking and maintaining all fluid levels and greasing all relevant points. Any faults are to be rectified prior to use. Equipment is not to be operated in a manner that may cause damage to the equipment

2.4 Fuel and Lubricants

Only lubricating oils and engine fuel as specified in the Manufacturer's Recommendations may be used on the equipment. All oil reservoirs must be full on return of the equipment. The equipment fuel tank will be filled at end of the rental period and is to be returned with a full tank, otherwise the Hirer will be obliged to reimburse G & R Brown & Sons Pty Ltd for the fuel and oil provided by G & R Brown & Sons Pty Ltd at the price paid by G & R Brown & Sons Pty Ltd at that time.

2.5 Attachments:

Normal blade, ripper, bucket, fork, water tank and truck body wear is to G & R Brown & Sons Pty Ltd.'s account. Wear and impact damage caused to an attachments used in conditions which the owner considers is abnormal or adverse is to the Hirer's account.

EQUIPMENT HIRE RENTAL AGREEMENT GENERAL TERMS AND CONDITIONS

2.6 Tyres

Abnormal or incorrect tyre pressure or staking and impact damage is to the Hirer's account. Recommended Manufacturer's tyre pressure must be adhered to at all times by the Hirer.

2.7 Ground Engaging Tools

All cutting edges, bucket teeth, hardware, ripper teeth, ripper tyres, roller feet and all other ground engaging tools are to the Hirer's account. All ground engaging tools are to be returned in a good and clean condition and similar to the condition they were supplied by G & R Brown & Sons Pty Ltd. Usage of ground engaging tools will be measured by comparing the percentage use at commencement of the rental period with the percentage use at the end of the hire as compared to a new ground engaging tool. The measurement will be undertaken by G & R Brown & Sons Pty Ltd and recorded on the rental agreement. The agreed difference in value, if any, shall be paid by Hirer to G & R Brown & Sons Pty Ltd

2.8 Mobilisation and Demobilisation

Transport of the equipment to and from site will be arranged by G & R Brown & Sons Pty Ltd with associated costs to be charged to the Hirer. Other than when G & R Brown & Sons Pty Ltd is required to arrange mobilisation and demobilisation, the Hirer must provide satisfactory details of the methods and modes of mobilisation and demobilisation for approval by G & R Brown & Sons Pty Ltd. If G & R Brown & Sons Pty Ltd does not approve the method suggested by the Hirer, then G & R Brown & Sons Pty Ltd may arrange, at the Hirer's cost, mobilisation and demobilisation. G & R Brown & Sons Pty Ltd

2.9 Location of Machine

The Hirer will keep the equipment at the agreed work site and will notify G & R Brown & Sons Pty Ltd of any change in location. The equipment will not leave the state of Queensland without the written approval of G & R Brown & Sons Pty Ltd, whose consent may be arbitrarily withheld.

2.10 Site Access

The Hirer grants G & R Brown & Sons Pty Ltd a right of entry on to the site and, to the extent required, warrants G & R Brown & Sons Pty Ltd to be the Hirer's agents. The Hirer will not preclude or cause any owner of the site to preclude G & R Brown & Sons Pty Ltd from entering the site to:

- a) inspect the equipment; or
- b) remove or reclaim the equipment

2.11 Condition on Return

The equipment shall be returned in a clean and serviceable condition and in the condition in which it was supplied. If, in the reasonable opinion of G & R Brown & Sons Pty Ltd, the equipment is not returned in such condition, then the cost of reinstating the equipment to a clean and serviceable condition will be paid for by the Hirer within seven (7) days of an invoice issued by G & R Brown & Sons Pty Ltd. If the Hirer has requested the equipment to be delivered to a site to a weed and seed free standard, it is a condition the equipment is returned to the same standard.

The Hirer shall be responsible to inspect the equipment at the commencement of the hire period and to ensure the equipment is clean and serviceable and is satisfactory and capable for the Hirer's use. G & R Brown & Sons Pty Ltd makes no warranty or expresses no opinion as to the capability or usability of the equipment for the Hirer's purposes. On completion of the hire and at the time of return of the equipment, there shall be a joint inspection to ensure the equipment is returned in a good, clean and serviceable condition.

2.13 Limitation and Liabilities

It is a condition of the contract that to the extent permitted by law, we (and our employees and agents) shall not be liable in any way whatsoever to you or any other person for any loss or damage, loss of profit, business revenue, goodwill or anticipated savings) resulting directly from any act, omission, error, default or delay (whether negligent or not). The Hirer acknowledges that hiring of the equipment is at the Hirer's risk at all times.

2.14 Governing Law

This contract and contract conditions shall be governed and interpreted in accordance with the Laws of Queensland in which we have issued this contract and any dispute arising under the contractor these conditions is to be heard and determined within the jurisdiction of QLD.

2.15 Entire Agreement

This contract and these conditions constitute the entire agreement of the parties about the rental and any previous arrangements, understandings and or negotiations on the rental made prior to the execution of this agreement.

2.16 Notices

Any notice to be issued pursuant to this Hiring Agreement shall be deemed sufficiently issued and served by email to the address if the Hirer. A notice served after 4pm on any business day is deemed served on the next business day. Notices may also be served by registered post. Any notice served by registered post is deemed served on the second business day after postage, regardless of whether the party to be served receives the same.

LONG TERM HIRE AGREEMENT

(These conditions are in addition to the Short Term Hire Agreement)

These conditions relate to a Dry or Wet Hire Agreement between G & R Brown & Sons Pty Ltd and the Hirer named herein.

3.1 Undercarriage

The Hirer and G & R Brown & Sons Pty Ltd shall agree, using the Dealer "CTS" Undercarriage Inspection Report, the condition and value of tracks on the plant at commencement of the hire and at completion of the hire. The agreed difference in value, if any, shall be discussed with the Hirer by G & R Brown & Sons Pty Ltd. G & R Brown & Sons Pty Ltd will issue an invoice for the agreed value if excessive undercarriage wear has been the result of equipment being used in conditions which G & R Brown & Sons Pty Ltd considers adverse or abnormal. The Manufacturer's Recommendations as to track tension must be adhered to by the Hirer at all times and, in the event it is determined the Hirer has failed to comply with the Manufacturer's track tension, all of G & R Brown & Sons Pty Ltd's cost in the repair or replacement of the tracks shall be recoverable from the Hirer.

3.2 Tyres and Maintenance

The Hirer and G & R Brown & Sons Pty Ltd shall agree using a Tyre Condition Assessment System, the condition of the tyres on the plant at commencement of the hire and at completion of the hire. Tyre wear shall be charged using a measure in - measure out basis to determine millimetre wear of the hire duration. Millimetre wear value will then be calculated using current market pricing for new tyres. Where there is any difference or dispute as to the current market prices for new tyres the determination of G & R Brown & Sons Pty Ltd, acting reasonably, shall be binding.

3.3 Minor and Major Servicing

All daily servicing requirements to the equipment is the responsibility of the hirer and are to be carried out as per Manufacture's Recommendations. Any breakdown repairs are to be communicated back to G & R Brown & Sons Pty Ltd including (not limited to) electrical, hydraulic hoses, oil leaks, attachments etc. so appropriate repairs can be undertaken. Copies of any mechanical checks must be forwarded to G & R Brown & Sons Pty Ltd.

3.4 Minor Repairs

All minor repairs (not including power train failures), including power train faults, electrical, hydraulic hoses, fuel and oil leaks etc with a value not exceeding \$1,500.00 for any one repair claim, including repairs taken out by G & R Brown & Sons Pty Ltd either during, or at the completion of the hire period are to the Hirer's account. All repairs in excess of \$1,500.00 not caused by misuse of abuse shall be to the account of G & R Brown & Sons Pty Ltd.

3.5 Power Train Repairs

In normal circumstances, providing that all servicing and oil sampling has been compiled with and the equipment was not subject to misuse or abuse, G & R Brown & Sons Pty Ltd will be responsible for all major power train repairs including engine, torque converter, transmission, final drive and differential.

EQUIPMENT HIRE RENTAL AGREEMENT GENERAL TERMS AND CONDITIONS

OBLIGATIONS OF A SUPPLIER

The Supplier must:

- 4.1** provide equipment that complies with Laws, is in good working order, supported by evidence that it has been maintained strictly in accordance with the equipment manufacturer's recommendations (and at recommended service intervals) throughout its life and supported with an equipment inspection / damage report at the commencement of hire agreement
- 4.2** deliver the equipment to site if agreed and (where the equipment hire agreement includes assembly) assemble and erect the equipment ready for use by G & R Brown & Sons and by the due date
- 4.3** comply with the equipment hire agreement and the laws in the performance of its obligations under the equipment hire agreement (and provide such evidence of compliance as may be reasonably required by G & R Brown & Sons from time to time)
- 4.4** supply the equipment in accordance with the plant hire agreement, the specification for the equipment included in any request for availability, the pre-mobilisation checklist and any specific project requirements
- 4.5** ensure that the equipment is suitable for the purpose reasonable anticipated from the equipment hire agreement
- 4.6** if the plant is defective or damaged or made inoperable in any way during the hire period, including as a result of normal wear and tear (and without limiting any other rights G & R Brown & Sons may have)
- (a)** if discovered by G & R Brown & Sons (or a related company), G & R Brown & Sons will notify the Supplier of a reasonable time within which the defect or damage must be repaired; and
- (b)** whether or not discovered by G & R Brown & Sons or the Supplier, the Supplier shall immediately notify G & R Brown & Sons of the defect or damage, specifying the extent and nature of the defect or damage and the steps taken to rectify the problem such that delays or interruptions to G & R Brown & Sons' use of the equipment will be prevented; and
- (c)** if the equipment is inoperable and cannot be repaired within a reasonable time specified by G & R Brown & Sons, remove the equipment from site within the time identified by G & R Brown & Sons in a written notice (at G & R Brown & Sons' option):
- (i) at its own cost replace it with equipment that complies with the equipment hire agreement; or
 - (ii) pay to G & R Brown & Sons the cost to G & R Brown & Sons replacing the inoperable or defective equipment
- 4.7** any loss, damage, expense or other cost incurred by G & R Brown & Sons due to the equipment failing to conform with the requirements of the equipment hire agreement including where the equipment is unfit for purpose, defective, damaged or inoperable during the hire period may be recovered as a debt due and owing by the Supplier to G & R Brown & Sons
- 4.8** to the extent the hire charges permit the Supplier to recover payment for any damaged equipment (whether during or after the hire period), the Supplier will be entitled to payment to the extent only that it :
- (a)** prior to effecting the repairs:
- (i) notifies G & R Brown & Sons of the specific parts damaged and provides G & R Brown & Sons with a reasonable opportunity to inspect the damage not less
 - (i.i) 3 days, where the estimated value of the damage to be claimed is < \$1500; or
 - (i.ii) 5 days, where the estimated value of the damage to be claimed is > \$1500; and
 - (ii) provides to G & R Brown & Sons images of the particular damage and details of the proposed repairs
- (b)** after effecting the repairs, provides evidence of the repairs including any parts used and a claim for payment which itemises parts and labour and is itemised in accordance with the hire charges (to the extent relevant); and
- (c)** if the damage is identified after the hire period , notifies G & R Brown & Sons of the matters identified in clauses 4.8(a) within 72 hours of the relevant equipment arriving back into the Supplier's depot or possession
- 4.9** in the event of total loss of any equipment for which G & R Brown & Sons is responsible for, G & R Brown & Sons liability to the Supplier whether under equipment hire agreements or otherwise shall in no event exceed the insured replacement value