

TINGALPA CRANE HIRE PTY LTD
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TERMS AND CONDITIONS OF HIRE

TINGALPA CRANE HIRE PTY LTD

ABN: 13 604 146 429

THESE TERMS AND CONDITIONS APPLY TO ALL HIRERS

AS DEFINED IN THESE HIRE TERMS.



1. PARTIES AND APPLICATION OF AGREEMENT

1.1 These Hire Terms are issued by Tingalpa Crane Hire Pty Ltd (ABN 13 604 146 429) ("Owner").

1.2 These Hire Terms apply to any person, company, trust, partnership, or other entity (the "Hirer") that requests, accepts, or receives Equipment or Labour Hire Personnel from the Owner. These Hire Terms govern all current and future hire of Equipment and supply of Labour Hire Personnel by the Owner, including Wet Hire, Dry Hire and Labour Hire, unless the Owner agrees otherwise in writing.

1.3 These Hire Terms, together with:

- a. any Credit Application completed by the Hirer;
- b. any Director's Guarantee, Indemnity, or Charge securing the Hirer's obligations;
- c. any Special Conditions;
- d. any quotation, work order, purchase order, job confirmation issued by the Owner; and
- e. any Schedule of Rates issued to the Hirer from time to time,

form the agreement between the Owner and the Hirer ("Hire Agreement"). The applicable hire rates are those set out in the relevant quotation, job confirmation, or Schedule of Rates issued by the Owner for the particular hire.

1.4 A binding hire contract is formed upon the earlier of:

- a. acceptance of a quotation;
- b. issue of a purchase order;
- c. request for supply;
- d. delivery, collection, or use of Equipment or Labour Hire Personnel; or
- e. continued engagement after receipt of these Hire Terms.

1.5 Where a Special Condition or written quotation issued by the Owner is inconsistent with these Terms, that document prevails to the extent of the inconsistency.

1.6 The Hirer acknowledges that it has had a reasonable opportunity to review these Hire Terms before requesting or accepting supply.

2. DEFINITIONS

To assist, when We refer to the following terms in this document:

"Credit Account" means You have properly completed and submitted a Credit Application to Us and We have approved You for an account with Us.

"Environmental Laws" means any statute, regulations or other laws made or issued by a regulatory body or government regulating or otherwise relating to the environment including without limitation the use or protection of the environment.

"Equipment" means any crane, lifting equipment, vehicles, machinery, attachments, accessories, rigging, tools, and associated items supplied by the Owner for hire.

"Expected Off Hire Date/Time" means the date or time You advised Us at the commencement of the hire that You would no longer require the Equipment/Labourer.



"Hire Period" means the period during which the Equipment or Labour is supplied under the Hire Agreement, as described in clause 4.

"Hirer" has the meaning given in clause 1.2.

"Hire Agreement" means each agreement between the Owner and the Hirer for the hire of Equipment or supply of Labour Hire Personnel, whether made verbally, electronically, in writing, or formed by conduct, and which is governed by these Hire Terms.

"Labour Hire" means the provision of a qualified operator, rigger/Dogman, or other personnel by Us to work under Your direction and control, whether or not Equipment is supplied by Us.

"Licence to Perform High Risk Work" means a validly issued licence issued by the relevant workplace health and safety departments of each respective state government required for the operation of equipment considered to be high risk.

"Long Distance" is a location in excess of 50km from the Brisbane Metro area.

"Non Excludable Provision" has the meaning set out in clause 15.3.

"Off Hire Date/Time" has the meaning set out in clause 5.5.

"PPS Act" means the Personal Property Securities Act 2009 (Cth).

"PPSA" means the Personal Property Securities Act 2009 (Cth) and any regulations made under it. Unless the context otherwise requires, the following terms used in these Hire Terms have the meanings given to them in the PPSA: collateral, financing change statement, financing statement, interested person, purchase money security interest, register, registration, security agreement, security interest and verification statement.

"Owner/We/Us/Our" means Tingalpa Crane Hire Pty Ltd (TCH) ABN 13 604 146 429.

"Wet Hire" means hire of Equipment supplied with an operator provided by the Owner.

"You/Your" refers to the person, firm, organization, partnership, corporation, trust or other entity hiring Equipment (where You do not hold a Credit Account). The reference to "You" includes any employees, agents and contractors.

3. OUR HIRE COMMITMENT TO YOU

3.1 We agree to supply the Equipment and/or Labour Hire Personnel to You and will:

- a. provide the Equipment in good working order; and
- b. for Dry Hire only, allow You exclusive use and possession of the Equipment during the Hire Period; and
- c. for Wet Hire and Labour Hire, supply qualified personnel to perform the work under Your reasonable direction and in accordance with clause 8.12.

3.2 We may subcontract or engage third parties to supply Equipment or Labour Hire Personnel without obtaining Your consent.



4. THE HIRE PERIOD

4.1 The Hire Period commences:

- a. When You take possession of the Equipment; OR
- b. if You request delivery and collection of the Equipment – the time that We deliver the Equipment to the address You provide Us for delivery; OR
- c. For Labour Hire Personnel – when they arrive to Site or another agreed location and are ready to commence work, (whichever occurs first).

4.2 The Hire Period is for an indefinite term and ends:

- a. for Equipment – when the Equipment is returned/released to Our custody and possession; and
- b. for Labour Hire Personnel – when You release them from site/duty and conclude all engagements.

4.3 The Hire Period can only be changed if You request a variation and We agree to that variation in writing.

5. HOW WE CALCULATE YOUR HIRE CHARGES

5.1 You will pay Us for the hire of the Equipment and/or Labour at the hire rate as set out in the Hire Agreement. Unless otherwise agreed, Dry Hire charges do not include Labour Hire Personnel.

5.2 Except for in circumstances per clause 13.1, You will be charged for the hire of Equipment for the full Hire Period.

5.3 We reserve the right to charge for a minimum hire period for Equipment, and You will be advised of such before You commence hire.

5.4 For Labour Hire, except if sudden or unforeseen circumstances affect the availability of Our personnel to work as agreed, You will be charged Labour Hire for the full Hire Period. Unless otherwise agreed in a writing:

a. Overtime rates apply during Public Holidays & outside Our normal working hours (7am – 3pm Monday to Friday).

b. A minimum hire of eight (8) hours applies to after-hours callouts, weekend work, and public holiday work.

c. Special overtime rates and conditions may apply to night work, shift work, or extended operations.

d. Rest break charges may apply if Labour Hire personnel are required to remain on site during mandatory breaks.

e. Additional travel charges may apply if the site is located outside Our normal service area, or if Labour Hire personnel are otherwise needed to undertake extra travel. Travel charges may include time travelling to and from the site. Any applicable travel charges will be established during the Hire Agreement, or included as negotiated if/when additional travel requirements become apparent.

f. If working at Long Distance, all associated costs including travel, accommodation, and meals (if applicable) are payable by the Hirer per the Hire Agreement. Labour Hire charges continue until personnel are released from the site and returned to Our premises or other agreed location.

5.5 Charges will continue until the date and time You notify Us *and we acknowledge* that the Equipment and/or Personnel are no longer required, and are available for collection or release (the "Off Hire Date/Time"). For the avoidance of doubt, the Expected Off Hire Date set out in the Hire Agreement is not considered to be sufficient notice that Equipment and/or Personnel are in fact available for collection or have been released from duty.



For Equipment on daily hire: on the Off Hire Date, You must notify Us that the Equipment is available for collection no later than the time of day at which the hire commenced (e.g. if hire commenced at 10:00am, notification must be given by 10:00am), otherwise We reserve the right to charge an extra day of hire.

5.6 No allowance will be made for periods during the Hire Period where the Equipment or Labour Hire Personnel are not actively working due to site delays, weather conditions, site access issues, or other circumstances outside Our control, and hire charges will continue to apply during those periods.

6. OTHER CHARGES

In addition to hire charges, You agree that You will be required to pay:

- a. for any consumables, fuel used (\$3.50/L to refuel), or relevant equipment We supply to You;
- b. if You require Us to deliver or collect the Equipment; the cost of delivery and/or collection as per the Hire Agreement.
- c. if You do not return the Equipment in clean and good working condition, charges for the cleaning of the Equipment (depending on cleaning required).
- d. any stamp duty or GST arising out of a Hire Agreement;
- e. any other applicable levies, fines, penalties and any other government charges arising out of Your use of the Equipment;
- f. charges for payment made by credit card, as detailed in the Hire Agreement;
- g. an environment charge in relation to any item of Equipment, as detailed in the Hire Agreement;
- h. if You request operational guidance or training on the use of the Equipment and Our staff are available to provide this, the cost for the provision of these services at rates agreed with Us;
- i. equipment working for periods in a corrosive environment include but not limited to wash plants, open cut mines, sugar mills, cement works and other places that potable water is not used to wash down equipment – the cost to bring the piece of equipment back to an acceptable standard e.g. repaint, rewire remove or replace panels etc. will be worn by the hirer; and
- j. any charges or associated costs arising from loss, theft or damage (as per Clause 14).

7. PAYMENT

7.1 You agree that time is of the essence in respect of all payment obligations made under the Hire Agreement.

7.2 The Hirer must pay all undisputed amounts in full by the due date stated on the invoice. Any disputed amount must be notified in writing within 7 days of the invoice date, setting out the reasons for dispute.

7.3 The Owner may determine payment terms at its discretion, including requiring payment prior to delivery, payment on the day of service, or extended credit terms.



7.4 If the Hirer does not pay the invoice in full by the payment due date, the Owner reserves the right to charge, in addition to any other costs recoverable under these Hire Terms:

- a. interest on the overdue amount at a rate of 10% per annum, calculated daily and compounded monthly, until payment is made in full; and
- b. any costs and expenses (including any commission payable to any commercial or mercantile agents and legal costs) incurred by the Owner in recovering any unpaid amounts under these Hire Terms.

7.5 The Hirer must pay all amounts due under these Hire Terms regardless of any delay, set-off, or non-payment under any head contract, subcontract, or other arrangement. The Hirer may not rely on its own insolvency, non-receipt of payment, or any "pay when paid" clause to defer or withhold payment to the Owner.

8. YOUR OBLIGATIONS TO US

DRY HIRE:

8.1 The Hire Agreement is between the Hirer and the Owner. You must not allow nor authorise any other person or entity to use, re-hire or have possession of the Equipment at any time, unless expressly agreed by Us in writing.

8.2 You agree that before accepting the Equipment, You have satisfied Yourself as to the suitability, condition and fitness for purposes of the Equipment for the job you intend to use it for. Subject to clause 15.2 and 15.3, We make no representations and give no guarantee or warranty that the Equipment is suitable for Your intended purpose.

8.3 To help You stay safe during the Hire Period, You and Your employees, agents and contractors must:

- a. operate Equipment safely, strictly in accordance with all law, only for its intended use and in accordance with the manufacturer's instructions;
- b. ensure any persons operating or using the Equipment are suitably trained and qualified on its safe and proper use and where necessary, hold a current Licence to Perform High Risk Work and working at heights;
- c. wear suitable clothing and protective equipment when operating the Equipment as required or recommended by Us or the manufacturer;
- d. ensure that no persons operating the Equipment are under the influence of drugs or alcohol;
- e. conduct a job safety analysis prior to using the Equipment;
- f. ensure that no persons carry illegal, prohibited or dangerous substances in or on the Equipment;
- g. display all safety signs and instructions (as required by law), and ensure that all instruction and signs are observed by operators of the Equipment; and
- h. identify and ensure the safe clearance from all underground and overhead services at the site, including powerlines, telecommunications infrastructure, water, gas, sewer and other utilities.

8.4 It is important to take care of the Equipment during the Hire Period. You must:

- a. Clean, fuel, lubricate and keep the Equipment in good condition and in accordance with the manufacturers and Our instructions at Your own cost;



b. Not in any way alter, modify, tamper with, damage or repair the Equipment without Our prior written consent;

c. Not deface, remove, vary or erase any identifying marks, plate, number, notices or safety information, on the Equipment; and

d. Immediately notify Us of any accident, breakdown, damage or loss involving the Equipment.

8.5 At all times during the Hire Period, You must store the Equipment safely and secure and protected it from theft, seizure, loss or damage.

8.6 You will allow Us to enter Your premises and inspect the Equipment from time to time during the Hire Period. You can also request to conduct a joint inspection of the Equipment with Us at the end of the Hire Period.

8.7 Whenever You are moving the Equipment, You must ensure the safe loading, securing and transporting of all Equipment in accordance with all laws and manufacturer's guidelines. You (or any contractor You engage) must observe any safety directions advised by Us and/or the manufacturer of the Equipment to ensure its safe loading and handling.

8.8 You must not remove the Equipment from the State or Territory in which You hired it without Our written consent.

8.9 You must not use the Equipment off-shore, in a mine, in an area where friable asbestos is present, or move the Equipment over water without Our prior written consent, which may be reasonably withheld.

8.10 You warrant that You will comply with all Environmental Laws from time to time and immediately rectify any breach of an Environmental Law caused by Your use of the Equipment.

8.11 You must use best endeavours to ensure that the Equipment is not contaminated with any hazardous substances (including asbestos). Subject to clause 8.9, You must advise Us of any risks of hazardous substance contamination to the Equipment as soon as they become apparent. Where Equipment may have been subjected to contamination, you must effectively decontaminate the Equipment, as well as provide Us with written details of decontamination processes applied. If, in Our opinion acting reasonably, the Equipment has not been properly decontaminated or is not capable of being decontaminated, You will be charged for the proper decontamination or new replacement cost of the Equipment as relevant.

WET AND LABOUR HIRE

8.12 The Hire Agreement is between the Hirer and the Owner. Labour Hire/Wet Hire Personnel supplied by Us, including Operators and external contractors, work under Your reasonable direction and control for the purposes of the work being performed. All such Personnel remain employees or contractors of the Owner, or of a third-party contractor engaged by the Owner. The respective responsibilities are as follows:

a. Owner Responsibilities

i. Ensure Labour Hire Personnel are qualified, competent, trained, and hold all required licences for the Equipment they operate or tasks they perform.

ii. Ensure Labour Hire Personnel comply with all statutory obligations, health and safety laws, and safe work practices.

iii. Carry out daily checks, routine maintenance, and servicing of the Equipment during the Hire Period.

iv. Retain ultimate responsibility for the acts, omissions, or negligence of Labour Hire Personnel.



b. Hirer Responsibilities

- i. Provide a safe working environment, including site access/conditions, inductions, and compliance with site rules.
- ii. Give reasonable instructions and directions necessary for the work to be performed safely.
- iii. Notify the Owner promptly of any unsafe conditions, hazards, or instructions that may compromise safe work.
- iv. Notify the Owner immediately of any incidents involving the Owners Labour Hire Personnel.
- v. Before establishing a Hire Agreement for Wet Hire, satisfy Yourself as to the suitability, condition and fitness for purposes of the Equipment for the job you intend it for. Subject to clause 15.2 and 15.3, We make no representations and give no guarantee or warranty that the Equipment is suitable for Your intended purpose.

c. Indemnity

- i. The Hirer indemnifies the Owner against all claims, losses, costs, or expenses arising from:
 - directions given to Labour Hire Personnel that are inconsistent with Owner instructions, or
 - site conditions, access, hazards, or risks under the Hirer's control.
- ii. Labour Hire Personnel are not required to follow instructions that are unsafe or inconsistent with their qualifications, training, or statutory obligations.

9. REMEMBER, WE OWN THE EQUIPMENT

- 9.1 You acknowledge that We own the Equipment and, in all circumstances, We retain the title to the Equipment (even if You go into liquidation or become bankrupt during the Hire Period). Your rights to use the Equipment are as bailee only.
- 9.2 You are not entitled to offer, sell, assign, sub-let, charge, mortgage, pledge or create any form of security interest over, or otherwise deal with the Equipment in any way.
- 9.3 In no circumstances will the Equipment be deemed to be a fixture.

10. PPSA

10.1 You consent to the Owner registering and maintaining a registration on the Personal Property Securities Register (PPS Register), in any manner the Owner considers appropriate, in relation to any security interest created by these Hire Terms over the Equipment and any proceeds arising from the Equipment.

You agree to sign any documents and provide any information or assistance reasonably required by the Owner to enable the registration, maintenance, or enforcement of that security interest.

The Owner may at any time register a financing statement or financing change statement in relation to the security interest, including a purchase money security interest.

To the extent permitted by law, you waive the right to receive notice of a verification statement in relation to any such registration.

10.2 You undertake to:

- a. do anything (in each case, including executing any new document or providing any information) required by Us:
 - (i) so that We acquire and maintain one or more perfected security interests under the PPSA in respect of the Equipment and its proceeds,



(ii) to register a financing statement or financing change statement and
(iii) to ensure that Our security position, and rights and obligations, are not adversely affected by the PPSA;

b. not register a financing change statement in respect of a security interest completed or constituted by these Hire Terms without Our prior written consent; and

c. not register, or permit to be registered, a financing statement or a financing change statement in relation to the Equipment in favour of a third party without Our prior written consent.

10.3 If Chapter 4 of the PPS Act would otherwise apply to the enforcement of a security interest arising under or in connection with these Hire Terms and;

a. Section 115(1) of the PPS Act allows for the contracting out of provisions of the PPS Act, the following provisions of the PPS Act will not apply and you will have no rights under them: section 95 (to the extent that it requires the secured party to give notices to the grantor); section 96; section 118 (to the extent that it allows a secured party to give notices to the grantor); section 121(4); section 125; section 130; section 132(3)(d); section 132(4); section 135; section 142 and section 143; and

b. Section 115(7) of the PPS Act allows for the contracting out of provisions of the PPS Act, the following provisions of the PPS Act will not apply and You will have no rights under them: section 95 (to the extent that it requires the secured party to give notices to the grantor); section 127; section 129(2) and (3); section 130(1); section 132; section 134(2); section 135; section 136(3), (4) and (5) and section 137.

10.4 Unless otherwise agreed and to the extent permitted by the PPSA, You and We agree not to disclose information of the kind referred to in section 275(1) of the PPS Act to an interested person, or any other person requested by an interested person. You waive any right You may have, or but for this clause may have had, under section 275(7)(c) of the PPS Act to authorise the disclosure of the above information.

10.5 For the purpose of section 20(2) of the PPS Act, the collateral is Equipment including any Equipment which is described in any Hire Agreement between Us and You from time to time. These Hire Terms form a security agreement for the purposes of the PPS Act.

10.6 We may apply amounts received in connection with these Hire Terms to satisfy obligations secured by a security interest contemplated or constituted by these Hire Terms in any way We determine in Our absolute discretion.

10.7 You agree to notify Us in writing of any change to Your details set out in the Credit Application, within 5 days from the date of such change.

11. RESPONSIBILITY FOR THE EQUIPMENT

11.1 The Hirer is wholly responsible for the Equipment during the Hire Period and bears all risk of loss, theft, or damage to the Equipment (other than fair wear and tear), except to the extent caused by the Owners negligence, and regardless of whether the Owner maintains insurance over the Equipment. The Equipment Responsibilities and Insurance Matrices (Tables A, B, C, and D) form part of these Hire Terms and set out the respective responsibilities of the Owner and the Hirer.



11.2 Unless otherwise specified in the Hire Agreement, the hire is deemed to be a Dry Hire. During Dry Hire, the Hirer has exclusive possession, custody, and control of the Equipment and must ensure it is used safely, in accordance with all laws, manufacturer instructions, and these Hire Terms.

11.3 Where the Equipment is supplied with an operator ("Wet Hire"), the Equipment remains under the care, custody, and control of the Owner at all times. The operator acts under the direction and control of the Hirer in accordance with clause 8.12. The Hirer may give reasonable instructions regarding the work to be performed and must ensure those instructions and the site conditions are safe.

11.4 For Labour Hire; Personnel work under the Hirers' direction but remain Owner employees/contractors. The Owner is responsible for training, licensing, and compliance of their Personnel with statutory obligations.

12. RETURN OF EQUIPMENT

12.1 You must return the Equipment to Us in the same clean condition and good working order (ordinary fair wear and tear excluded), and with the same fuel level as when You received it. If You do not properly clean or refuel (as applicable) the Equipment, We will charge a refuelling and/or cleaning cost in accordance with clause 6(a)/6(c).

12.2 Except in the circumstances set out in clause 12.3 below, it is Your responsibility to return the Equipment to the Hire branch You hired it from, during normal business hours.

12.3 If You have requested, and We have agreed, to collect the Equipment from You, You must ensure it is kept safe and secure until the time of collection.

13. WHAT TO DO IF EQUIPMENT BREAKS DOWN

13.1 In the event that the Equipment breaks down or becomes unsafe to use during the Hire Period You must:

- a. immediately stop using the Equipment and notify Us;
- b. take all steps necessary to prevent injury occurring to persons or property as a result of the condition of the Equipment;
- c. take all steps necessary to prevent further damage to the Equipment itself; and
- d. not repair or attempt to repair the Equipment without Our written consent.

13.2 Upon receiving notice from You under clause 13.1, We will:

- a. take all steps necessary to repair the Equipment or provide suitable substitute Equipment as soon as reasonably possible after being notified by You; and
- b. not impose a hire charge for that portion of the Hire Period for which the Equipment was broken down or unsafe, nor the costs associated with any repair or replacement of the Equipment, provided that the breakdown was not caused by Your negligence, misuse, or failure to comply with these Hire Terms (in which case Clause 14 applies).



14. WHAT TO DO IF EQUIPMENT IS LOST, STOLEN OR DAMAGED

14.1 The Hirer bears all risk of loss, theft or damage to the Equipment during the Hire Period (other than fair wear and tear). If the Equipment breaks down or becomes unsafe to use as a result of the Hirer's negligence, or if the Equipment is lost, stolen or damaged beyond fair wear and tear during the Hire Period, the Hirer will be liable for:

- a. all costs incurred by the Owner to recover, repair or replace the Equipment; and
- b. hire charges for the portion of the Hire Period during which the Equipment is being recovered, repaired or replaced.

14.2 Provided that the Hirer pays the costs and charges described in clause 14.1, the Owner will return the Equipment to the Hirer once it has been repaired or replaced, and the Hirer will continue to pay hire charges for the remainder of the Hire Period.

14.3 The Owner has the right to claim against the Hirer for loss, theft or damage to the Equipment except in circumstances where these Hire Terms expressly excludes such liability. Any such exclusion does not apply where the loss, theft or damage:

- a. arises from a breach of the Hire Agreement or these Hire Terms;
- b. is caused by the Hirer's negligent act or omission;
- c. arises from the Hirer's use of the Equipment in violation of any law;
- d. is caused by failure to use the Equipment for its intended purpose or in accordance with the Owner's or manufacturer's instructions;
- e. occurs while the Equipment is located, used, loaded, unloaded, transported on or over water, wharves, bridges or vessels;
- f. is caused by lack of lubrication or failure to properly service or maintain the Equipment;
- g. is caused by collision with a bridge, carpark, awning, gutter, tree or other overhead structure due to insufficient clearance;
- h. is caused by overloading of the Equipment or any component;
- i. is damage to motors or electrical components caused by electrical overload, surge in current, or use of under-rated or excessive extension leads;
- j. is caused by exposure to corrosive or caustic substances (including salt water, acid or similar substances);
- k. is caused by vandalism;
- l. relates to tyres or tubes; or
- m. relates to glass.

14.4 The Owner may, at its discretion, claim under any insurance policy held in respect of the Equipment. Any such claim does not waive or limit the Hirer's liability under these Hire Terms, and the Hirer remains liable for any insurance excess, uninsured loss, or shortfall between insurance proceeds and the full replacement value of the Equipment.



15. INDEMNITIES AND EXCLUSION OF LIABILITIES

15.1 Subject to clause 15.3, and except as expressly provided to the contrary in these Hire Terms, all guarantees, terms, conditions, warranties, undertakings, inducements or representations whether express or implied, statutory or otherwise, relating to these Hire Terms or its subject matter are excluded to the maximum extent permitted by law.

15.2 Nothing in these Hire Terms excludes, restricts or modifies any right or remedy, or any guarantee, term, condition, warranty, undertaking, inducement or representation, implied or imposed by any legislation which cannot lawfully be excluded or limited. This may include the Australian Consumer Law, which contains guarantees that protect the purchasers of goods and services in certain circumstances.

15.3 Where any legislation implies or imposes a guarantee, term, condition, warranty, undertaking, inducement or representation in relation to these Hire Terms and We are not able to exclude that guarantee, term, condition, warranty, undertaking, inducement or representation ('Non-Excludable Provision'), and We are able to limit Your remedy for a breach of the Non-Excludable Provision, then Our liability for breach of the Non-Excludable Provision is limited to (at Our election):

- a. in the case of goods, the repair or replacement of the goods or the supply of substitute goods (or the cost of doing so); or
- b. in the case of services, the supplying of the services again, or the payment of the cost of having the service supplied again.

15.4 Subject to Our obligations under the Non-Excludable Provisions and to the maximum extent permitted by law, Our maximum aggregate liability for all claims under or relating to these Hire Terms or its subject matter, whether in contract, tort (including without limitation negligence), in equity, under statute, under an indemnity, based on fundamental breach or breach of a fundamental term or on any other basis, is limited to an amount equal to the fees paid by You under these Hire Terms. In calculating Our aggregate liability under this clause, the parties must include amounts paid or the value of any goods or services replaced, repaired or supplied by Us for a breach of any Non-Excludable Provisions.

15.5 Subject to clauses 15.3 and 15.4, We will not be liable to You for any consequential, indirect or special loss or damage, loss of actual or anticipated profits or revenue, loss of business, business interruption, wasted costs You have incurred, amounts that you are liable to Your customers for or any loss suffered by third parties under or relating to these Hire Terms or its subject matter, whether in contract, tort (including without limitation negligence), in equity, under statute, under an indemnity, based on fundamental breach or breach of a fundamental term or on any other basis, whether or not such loss or damage was foreseeable and even if advised of the possibility.

15.6 You are liable for and indemnify Us against all liability, claims, damage, loss, costs and expenses (including, without limitation, legal fees, costs and disbursements on a full indemnity basis, whether incurred or awarded against Us and any environmental loss, cost, damage or expense) in respect of:

- a. personal injury;
- b. damage to tangible property; or
- c. claims by third parties,



arising out of or in connection with Your hire or use of the Equipment or Your breach of these Hire Terms. Your liability under this indemnity is reduced to the extent that Our breach of these Hire Terms or Our negligence causes the liability, claims, damage, loss, costs or expenses.

15.7 Each indemnity in these Hire Terms is a continuing obligation, separate and independent from the other obligations of the parties, and survives termination, completion, and expiration of these Hire Terms. It is not necessary for a party to incur expense or make any payment before enforcing a right of indemnity conferred by these Hire Terms.

15.8 Labour Hire Personnel Liability

a. You acknowledge that Labour Hire Personnel supplied by the Owner work under the Hirer's reasonable direction and control for the purposes of the work being performed, provided such directions are safe and lawful, as set out in clause 8.12.

b. You indemnify the Owner against all claims, losses, costs, or expenses arising from directions given to such Personnel, site conditions under your control, or failure to maintain required insurance under Table D, except to the extent caused by the Owner's breach or negligence.

16. WHEN THESE HIRE TERMS TERMINATE

16.1 For the purposes of this clause, a party will be taken to be insolvent if it is unable to pay its debts as and when they fall due, or where a director has reasonable grounds to suspect insolvency within the meaning of sections 588G or 588V of the Corporations Act 2001 (Cth). Either party may terminate the Hire Agreement and any Hire Period immediately by giving notice to the other party, if:

a. that other party breaches any term of the Hire Agreement and fails to remedy the breach within 14 days of written notification of the breach; or

b. that other party becomes bankrupt or insolvent, executes a personal insolvency agreement, enters into liquidation, administration, receivership or ceases to carry on business.

16.2 Termination under this clause does not release the Hirer from any obligation to pay amounts already due or accruing under these Hire Terms, including hire charges, fees, costs, and any other amounts payable. All such amounts remain immediately payable in full.

16.3 We may terminate the Hire Agreement and any Hire Period for any other reason on 24 hours notice.

16.4 These rights of termination are in addition to any other rights either party has under the Hire Agreement and does not exclude any right or remedy under law or equity.

17. RECOVERY OF THE EQUIPMENT

If You are in breach of the Hire Agreement or if the Hire Agreement or a Hire Period has been terminated under clause 16, We may take all steps necessary (including legal action) to recover the Equipment, including entering Your premises to do so. Upon receiving written notice from Us, You expressly consent to Us entering Your premises for the purpose of recovering Our Equipment.



18. SECURITY

Except where clause 31 applies:

- a. as security for Your obligations and liabilities under this Hire Agreement, You hereby charge for the due and punctual payment and performance of those obligations and liabilities, all of Your legal and equitable interest (both present and future) of whatsoever nature held in any and all real property;
- b. without limiting the generality of the charge in this clause, You agree, on Our request, to execute any documents and do all things necessary required by Us to register a mortgage security or other instrument of security over any real property and against the event that You fail to so do within a reasonable time of being so requested, You irrevocably and by way of security, appoint any credit manager or solicitor engaged by Us to be Your true and lawful attorney to execute and register such instruments;
- c. You will indemnify Us on an indemnity basis against all costs and expenses incurred by Us in connection with the preparation and registration of any such charge and mortgage documents; and
- d. You also consent unconditionally to Us lodging a caveat or caveats noting Our interest in any of Your real property.

19. EQUIPMENT THAT IS COLLECTED OR DELIVERED IN A DAMAGED AND/OR DEFECTIVE CONDITION

If You collect or receive the Equipment (whichever is applicable) and find that it is broken, damaged and/or defective, You must notify Us within 24 hours after You collect or receive the Equipment. If You do not notify Us within this time period, We are entitled to assume that the Equipment You collected or received was in good order and condition.

20. LONG DISTANCE MAINTENANCE

- 20.1 If You hire Equipment for use at a Long Distance Location, this clause 20 applies.
- 20.2 The Preventative Maintenance Program for all Equipment operating in a Long Distance Location will be subject to a per kilometre charge both to and from the premises nominated by You, as specified by Us.
- 20.3 Multiple items of Equipment You hire from Us at the Long Distance Location will only be charged as one call out.
- 20.4 For the avoidance of doubt, You remain responsible for daily maintenance and care of all Dry Hire Equipment in accordance with clause 8.1-8.11, including but not limited to, daily checking of all fluids (fuel, oil, water, battery levels etc), general tightening of any loose nuts, bolts, belts or fitting and lubrication of all grease points.
- 20.5 If the Equipment breaks down at a Long Distance Location, You will also pay Us the costs associated with any attendance to the Long Distance Location in addition to any other costs payable under these Hire Terms.

21. PRIVACY AND PERSONAL INFORMATION

21.1 At Tingalpa Crane Hire Pty Ltd, we take your privacy seriously and will comply with all applicable privacy laws, including the Australian Privacy Principles.



21.2 You acknowledge and agree that We may need to collect personal information about You, including but not limited to:

- Your full name, date of birth, and drivers licence number;
- Your ABN (if applicable) and business details;
- Contact details including address, phone, and email;
- Financial information, credit history, and other information necessary to assess creditworthiness; and
- Any other information reasonably required for the hire of Equipment or compliance with these Hire Terms.

21.3 You agree that the collection, use, and disclosure of this information is necessary for the following purposes:

- a. Assessing Your creditworthiness and eligibility for a Credit Account;
- b. Complying with our obligations under the Personal Property Securities Act 2009 (PPSA) and other laws, including registering security interests in the Equipment;
- c. Managing and administering Your hire of Equipment, including invoicing, payment, maintenance, and recovery;
- d. Ensuring safety, theft prevention, and insurance compliance;
- e. Communicating with You about these Hire Terms, Equipment, and related services; and
- f. Marketing and maintaining a client relationship with You, where You have consented to such communications.

21.4 You also consent to Us disclosing Your personal information to:

- a. credit providers or credit reporting agencies for the purpose of assessing credit or recovering debts;
- b. Our service providers, contractors, or affiliated companies for the purposes described above; and
- c. any other person where required or permitted by law.

21.5 You warrant that all personal information provided to Us is complete, accurate, and not misleading. You acknowledge that providing false or incomplete information may result in refusal, suspension, or withdrawal of credit approval. You must notify Us promptly of any changes to Your personal or business information.

21.6 You have the right to access the personal information We hold about You and request correction of any errors, subject to applicable laws.

22. FORCE MAJEURE

22.1 Neither party will be responsible for any delays in delivery, installation, or collection due to causes beyond their control, including but not limited to acts of God, war, terrorism, mobilisation, civil commotion, riots, embargoes, orders or regulations of governments, or other labour difficulties, shortages of or inability to obtain shipping space or land transportation.



22.2 Nothing in this clause 22 will limit or exclude Your responsibility and liability under clause 14 of these Hire Terms for Equipment that is lost, stolen, or damaged beyond fair wear and tear during the Hire Period, or that becomes unsafe to use as a result of Your conduct or negligence.

23. SEVERABILITY

If any part of these Hire Terms becomes void or unenforceable for any reason then that part will be severed with the intent that all remaining parts will continue to be in full force and effect and be unaffected by the severance of any other parts.

24. GOVERNING LAW

The Hire Agreement is governed by the laws of the State or Territory of Australia where the Hire Agreement is entered into by the parties and each party submits to the non-exclusive jurisdiction of the courts of that State or Territory.

25. ENTIRE AGREEMENT

The Hire Agreement, as defined in clause 1, constitutes the entire agreement between the parties relating to the hire of Equipment or supply of Labour Hire Personnel. No additional terms and conditions (including any terms contained in any purchase order) apply to the hire of the Equipment or Labour unless agreed in writing by the parties.

26. NO RELIANCE

Subject to clauses 15.1 and 15.3, You acknowledge that neither We nor any person acting on Our behalf have made any representation or other inducement to You to enter into a Hire Agreement; and You have not entered into a Hire Agreement in reliance on any representations or inducements (including in relation to the use of the Equipment and/or Labour) except for those representations contained in these Hire Terms.

27. NO WAIVER

A failure, delay, or partial exercise by the Owner of any right, power, or remedy under these Hire Terms does not operate as a waiver of that right, power, or remedy. Any waiver must be in writing and signed by the Owner. A single or partial exercise of a right does not prevent further exercise of that or any other right.

28. REVIEW OF YOUR CREDIT APPROVAL

28.1 From time to time We may review any Credit Account We have granted to You without notice.



28.2 We may, at Our discretion, decide to withdraw credit for any reason, including but not limited to if Your circumstances change, You fail to make payments on time or You fail to use the Equipment in accordance with the terms of the Hire Agreement.

28.3 If we withdraw credit you may terminate the Hire Agreement immediately by giving Us written notice. However, if You do so You must:

- a. Pay amounts that were subject to credit in accordance with the terms on which that credit was provided; and
- b. Still pay all amounts due to Us under these Hire Terms including hire charges until the Equipment is back in our custody and possession.

29. AUTHORITY AND WORK DOCKETS

29.1 Any person who signs, approves, or otherwise acknowledges a Work Docket, Hire Agreement, quotation, purchase order, Credit Application, or other document on behalf of the Hirer warrants that they have full authority to bind the Hirer.

29.2 A Work Docket signed or acknowledged by the Hirer or the Hirer's employee, agent, contractor, site supervisor, or representative will be taken as evidence of:

- a. the Equipment and/or Labour Hire Personnel supplied;
- b. the hours worked and services performed; and
- c. the Hirer's acceptance of those services.

29.3 The Owner is entitled to rely on the authority of any person who appears to have authority to sign or approve a Work Docket or other document on behalf of the Hirer.

29.4 If a person purports to act on behalf of the Hirer without authority, that person indemnifies the Owner against any loss arising from reliance on that authority.

30. CLAIM FOR PAYMENT

Each invoice issued under these Hire Terms is a claim for payment under the *Building and Construction Industry Security of Payment Act 1999* (NSW), the *Building and Construction Industry Security of Payments Act 2002* (VIC), *Building and Construction Industries Payments Act 2004* (QLD), the *Building and Construction Industry Security of Payment Act 2009* (SA), the *Construction Industry (Security of Payment) Act 2009* (ACT), the *Building and Construction Industry Security of Payment Act 2009* (TAS), and/or the *Construction Contracts (Security of Payments) Act 2009* (NT).

31. PROVISIONS OF THESE HIRE TERMS EXCLUDED FROM CONSUMER CONTRACTS

Where You are an individual acquiring goods or services wholly or predominantly for personal, domestic, or household use, Clause 18 (Security) does not apply to Your Hire Agreement.

TINGALPA CRANE HIRE PTY LTD
ABN 13 604 146 429
102 Lipscombe Rd,
Deception Bay 4508, QLD



Director: Joe 0438 426 676
joe@tingalpacranehire.com.au
Admin: Lisa 0435 919 676
admin@tingalpacranehire.com.au

32. PREVIOUS EDITIONS AND FUTURE AMENDMENTS

This edition of the Hire Terms replaces and supersedes all previous editions of the Hire Terms We have issued. The Hire Terms in force at the time a Hire Agreement is entered into will apply to that Hire. Tingalpa Crane Hire Pty Ltd may amend these Hire Terms from time to time and will always keep the most up to date version available on our website www.tingalpacranehire.com.au



Equipment Responsibilities and Insurance Matrices

Table A: Dry Hire – Equipment Use and Operational Responsibilities.

| TASK | Party responsible | |
|---|-------------------------------------|-------------------------------------|
| | Hirer | Owner |
| Mobilization to site | <input checked="" type="checkbox"/> | |
| Crannage – if needed to load or unload | <input checked="" type="checkbox"/> | |
| Inspection of plant & Equipment at commencement | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Inspection of Tyres | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Supply of Tyres | | <input checked="" type="checkbox"/> |
| Equipment Maintenance and Repairs due to fair wear and tear. | | <input checked="" type="checkbox"/> |
| Fuel Costs (charged at \$3.50/L to refuel – if not returned full) | <input checked="" type="checkbox"/> | |
| Pre-start inspection sheets completed at the beginning of EVERY SHIFT and then emailed to TCH Weekly on: joe@tingalpacranehire.com.au | <input checked="" type="checkbox"/> | |
| Equipment damage/breakdown - must notify owner asap | <input checked="" type="checkbox"/> | |
| PPE / Consumables | <input checked="" type="checkbox"/> | |
| Workshop Facilities – if required | <input checked="" type="checkbox"/> | |
| Modifications for site compliance | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Damage to Upholstery, Hoses and/or Wiring due to vermin and/or livestock. | <input checked="" type="checkbox"/> | |
| Daily Servicing (including top ups of oils, grease and water) | <input checked="" type="checkbox"/> | |
| Cleaning of Plant at end of hire period | <input checked="" type="checkbox"/> | |
| Damage to glass and/or panels excluding fair wear and tear | <input checked="" type="checkbox"/> | |



Table B: Fair Wear & Tear vs Excessive Wear & Tear Responsibilities

| OWNER RESPONSIBILITY | HIRER RESPONSIBILITY |
|--|--|
| Normal wear and tear to the treads on tyres. | Destruction to tread and sidewalls of tyres. Punctures, or deflations, Damage to Wheels |
| General cosmetic wear on painted surfaces, glass and windows | Damage where panel, glass or window repairs or replacement is required |
| General cosmetic wear to guards or implements | Panel damage due to intrusion or puncture from external objects. Breakages to implements |
| General wear & tear to undercarriage, engine and driveline | Damaged where undercarriage, engine and driveline repairs or replacement is required |
| Leaking hydraulic hosing and fittings resulting from normal operations | Damage hydraulic hoses, pipes or fittings, Bent or scored hydraulic cylinders, rods, control handles gauges and anchorage points |
| Failure of transmission elements where lubricant and coolant levels were correct grade and levels and have not been caused by negligence or omission of the hirer. | Failure of transmission elements through overloading, ingress of mine, water or dust, misapplication, lack of sufficient correct basic servicing and fluid replenishment |
| Failure of driveline elements where lubricant and coolant levels were correct grade and levels and have not been caused by negligence or omission of the hirer. | Failure of driveline elements through overloading, ingress of mine, water or dust, misapplication, lack of sufficient correct basic servicing and fluid replenishment |
| General wear to nuts, bolts, fasteners and retainers | Damaged or missing nuts, bolts, fasteners and retainers |
| Failure of hydraulic components where fluid levels and grade are correct with low contaminant load and fluid loss has not contributed to failure | Hydraulic failure due to low fluid levels, cavitation. Over temperature operation, broken hose or fittings not being repaired, incorrect fluid application or high levels of contamination |
| Damage to Upholstery, Hoses and/or Wiring due to age, fatigue or natural weather conditions. | Damage to Upholstery, Hoses and/or Wiring due to vermin and/or livestock |

**THE HIRER AGREES TO IMMEDIATELY NOTIFY THE OWNER OF ANY DAMAGE
 OUTSIDE OF FAIR WEAR & TEAR.**



Table C: Insurance Responsibility Matrix (Dry Hire)

| INSURANCE TYPE | HIRER RESPONSIBILITY | OWNER RESPONSIBILITY |
|---|-------------------------------------|-------------------------------------|
| Plant & Equipment Insurance (Full replacement value) | | <input checked="" type="checkbox"/> |
| Public Liability Insurance (minimum \$20,000,000) | <input checked="" type="checkbox"/> | |
| Third Party Property Damage Insurance | <input checked="" type="checkbox"/> | |
| Insurance excess payable in event of claim | <input checked="" type="checkbox"/> | |
| Insurance covering theft, loss or damage during hire period | | <input checked="" type="checkbox"/> |
| Insurance covering transport arranged by hirer | <input checked="" type="checkbox"/> | |
| Insurance covering operator (if hirer supplies operator) | <input checked="" type="checkbox"/> | |
| Workers Compensation for hirer's employees | <input checked="" type="checkbox"/> | |
| Owner's insurance for fair wear and tear | | <input checked="" type="checkbox"/> |
| Owner's insurance outside hire period | | <input checked="" type="checkbox"/> |
| Owner's insurance during transport arranged by owner | | <input checked="" type="checkbox"/> |

Table D Insurance and Liability Responsibility Matrix (Wet Hire) including Labour Hire:

| INSURANCE TYPE | HIRER RESPONSIBILITY | OWNER RESPONSIBILITY |
|--|-------------------------------------|-------------------------------------|
| Plant & Equipment Insurance | | <input checked="" type="checkbox"/> |
| Operator Insurance (Owner employees) | | <input checked="" type="checkbox"/> |
| Operator Insurance (Labour Hire Personnel/external contractors supplied by Owner) | | <input checked="" type="checkbox"/> |
| Workers Compensation (Owner operator/Labour Hire Personnel) | | <input checked="" type="checkbox"/> |
| Public Liability (Owner negligence) | | <input checked="" type="checkbox"/> |
| Public Liability (site conditions) | <input checked="" type="checkbox"/> | |
| Public Liability – directions or instructions given by the Hirer or persons acting on the Hirer's behalf (including unsafe or incorrect instructions). | <input checked="" type="checkbox"/> | |
| Damage to Equipment arising from directions or instructions given by the Hirer or persons acting on the Hirer's behalf | <input checked="" type="checkbox"/> | |
| Site access and ground conditions | <input checked="" type="checkbox"/> | |