

## 1. HIRE AGREEMENT BETWEEN THE HIRER AND INTEGRATED LIFTING SOLUTIONS

These Terms of Hire, together with:

(a) each Hire Quotation provided to You by Us, whether signed or not; and

(b) any Special Conditions specific to the type of Equipment You have hired,

set out the terms of the hire agreement (the "Hire Agreement") between You and Us. The provision or acceptance of a Hire Quotation shall not form a separate agreement between You and Us, but shall constitute part of this Hire Agreement. Any terms contained in any document supplied by You, including any terms on Your purchase order, will not form part of the Hire Agreement.

## 2. DEFINITIONS

When We refer to the following terms in this document:

"ACL" means the Australian Consumer Law which is contained in Schedule 2 of the Competition and Consumer Act 2010 (Cth).

"Consumer" means a consumer as that term is defined in the ACL.

"Consumer Guarantees" means the guarantees relating to the supply of goods and services contained in the ACL.

"Credit Application" means any application for a Credit Account completed by You.

"Credit Account" means any billing arrangement We have extended to You upon Our approval of the Credit Application.

"Equipment" means any equipment provided by Us to You under the Hire Agreement, including any associated or attached tools, accessories and parts.

"Hire Charge" or "Hire Charges" means the rates and charges payable by You for the hire of the Equipment.

"Hire Period" means the period described in clause 3.

"Hirer" means the person, firm, company, government instrumentality, entity or corporation (including any person representatives or permitted assigns of such) that hires Equipment from Us with or without Our personnel and or engages Us to provide services in relation to the hire of Equipment ("the Services").

"Non Excludable Provision" has the meaning set out in clause 14.3.

"PPSA" means the Personal Property Securities Act 2009 (Commonwealth) as amended from time to time.

"We/Us/Our" means Integrated Lifting Solutions (ABN 85 119 930 362)

"You/Your" refers to the person, firm, organisation, partnership, corporation, trust or other entity hiring Equipment from Us. The reference to "You/Your" includes any of your employees, agents and contractors.

## 3. THE HIRE PERIOD

3.1 The Hire Period commences on the earlier of the following:

(a) when You take possession of the Equipment; OR

(b) if You request delivery and collection of the Equipment, the time We deliver the Equipment to the address in the Hire Schedule.

3.2 The Hire Period is the fixed period described in the Hire Schedule but these Terms & Conditions (including the obligation to pay the Hire Charge) continue to apply until the Equipment is back in Our control or possession.

3.3 The Hire Period includes weekends and public holidays.

3.4 A minimum Hire Period may apply in respect of certain items of Equipment. We will advise you at the time of hiring if a Minimum Hire Period applies.

## 4. PAYMENT & HOW HIRE CHARGES ARE CALCULATE

4.1 You must pay all Hire Charges and other fees, charges and costs that become due and payable under this Hire Agreement in the manner described in the Hire Schedule.

4.2 Hire Charges will commence from the beginning of the Hire Period and continue until the equipment is back in our possession and fit for use.

4.3 Unless otherwise specified in the Hire Schedule, We may invoice You for all charges in advance or at the completion of the Hire Period or at the end of every calendar week during the Hire Period at Our discretion. The Hirer agrees to pay each Tax invoice in full within 7 days of the Tax Invoice date unless expressly stated to the contrary in the

Hire Schedule. If You fail to pay any Tax Invoice by the due date, each outstanding amount shall bear interest at the rate of 10% per annum calculated on a daily basis from the day it falls due until the day it is paid. If you pay by credit card you authorise Us to debit that card with any payments due by You to Us under these Terms and Conditions. No claims for credit will be recognized by Us after 14 days following the date of the Tax Invoice.

## 5. OTHER CHARGES

In addition to the Hire Charges, You agree to pay:

(a) if You require Us to deliver, collect or install the Equipment, the cost of delivery, collection or installation, as detailed in the Hire Schedule.

Such charge may include a waiting fee (charged at cost) in addition to the delivery and collection fee if the nominated time for delivery or collection of the Equipment is delayed by You.

(b) if You do not return the Equipment in clean and good working condition, charges for the cleaning and repair of the Equipment;

(c) if You request operational guidance or training on the use of the Equipment and our staff is available to provide this, the cost for the provision of the Services will be charged at rates agreed with Us.

## 6. INTEGRATED LIFTING SOLUTIONS OBLIGATIONS

6.1. We will use Our reasonable endeavours to ensure that the Equipment is in good working order at the commencement of the Hire Period, as set out in the specifications supplied by the Manufacturer.

6.2. We will perform the Services where specified in the Hire Agreement to the standard of skill and care of an experienced competent person.

## 7. THE HIRER'S OBLIGATIONS

7.1 This Hire Agreement is personal to You and 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.

7.2 You agree that before taking delivery of the Equipment, You have satisfied Yourself as to the suitability and condition of the Equipment and You will ensure that the Equipment is used only for the purpose for which it was designed by the manufacturer. Subject to clauses 14.2 and 14.3, We make no representations and give no guarantee or warranty that the Equipment is suitable for Your intended purpose.

7.3 You must:

(a) operate the Equipment safely and only for its intended use and in accordance with the manufacturer's instructions and in particular, not to exceed the lifting capacity of any Equipment;

(b) ensure persons operating or erecting the Equipment are suitably trained on its safe and proper use, qualified to use the Equipment and where necessary, hold a current licence to perform high risk work;

(c) wear suitable protective equipment when operating the Equipment as required or recommended by the manufacturer;

(d) conduct a job safety analysis prior to using the Equipment;

7.4 You must:

(a) Keep the Equipment in good condition and in accordance with the manufacturer's 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

7.5 At all times during the Hire Period, You must store the Equipment safely and securely.

7.6 You will allow Us to enter Your premises and inspect and maintain the Equipment from time to time during the Hire Period during normal working hours. If We cannot inspect or maintain the Equipment during normal working hours, then additional charges may apply. You can also request to conduct a joint inspection of the Equipment with Us at the end of the Hire Period.

7.7 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.

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

7.9 You must use best endeavours to ensure that the Equipment is not contaminated with any hazardous substances. 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 is not capable of being decontaminated, You will be charged for the replacement cost of the Equipment. Australian Standard(s) and Regulatory Authority requirements must be complied with by You at Your cost.

## 8. OWNERSHIP OF THE EQUIPMENT

8.1 Except as detailed in clause 8.4, You acknowledge that We own the Equipment and in all circumstances We retain 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 a Bailee only.

8.2 Except in the circumstances set out in clause 9, 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.

8.3 In no circumstances will the Equipment be deemed to be a fixture.

8.4 You acknowledge that We may hire or lease Equipment from a third party if we cannot provide the Equipment to You ("Third Party Owner"), and if this occurs, title in the Equipment remains with the Third Party Owner.

## 9. PPSA

9.1 We may register any actual or impending security interest (in any manner We consider appropriate) in relation to any security interest contemplated or constituted by this Hire Agreement in the Equipment and the proceeds arising in respect of any dealing in the Equipment.

9.2 You undertake to:

(a) do anything that is 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 contemplated or constituted by this Hire Agreement without Our prior written consent; and
- (c) not create or purport to create any security interest in the Equipment, nor 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.

9.3 You:

- (a) waive Your right under section 157 of the PPSA to receive a copy of the verification statement relating to a security interest created under the Hire Agreement;
- (b) agree that to the extent permitted by the PPSA, the following provisions of the PPSA will not apply and are contracted out of: 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
- (c) agree that the following provisions of the PPSA will not apply and You will have no rights under them:

- 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.

9.4 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 PPSA to authorise the disclosure of the above information.

9.5 For the purposes of section 20(2) of the PPSA, the collateral is Equipment including any Equipment which is described in any Hire Schedule provided by Us to You from time to time. This Hire Agreement is a security agreement for the purposes of the PPSA.

9.6 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.

## 10. RESPONSIBILITY FOR THE EQUIPMENT

You are responsible for any loss, theft or damage to the Equipment from any and every event whatsoever and howsoever and by whosoever caused during the Hire Period except where any such loss, theft or damage was caused by Our actions.

## 11. RETURN OF EQUIPMENT

11.1 You must return the Equipment to Us in the same clean condition and good working order it was in when You received it, ordinary fair wear and tear excluded. If You do not properly clean the Equipment, We will charge You a cleaning cost in accordance with clause 5(b).

11.2 Except in the circumstances set out in clause 11.3 below, it is Your responsibility to return the Equipment Integrated Lifting Solutions You hired it from during normal business hours.

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

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

12.1 If the Equipment has become unsafe to use as a result of Your acts or omissions, (or the acts or omissions of Your employees or contractors) or if the Equipment is lost, stolen or damaged beyond fair wear and tear during the Hire Period, You will be liable for:

- (a) any costs incurred by Us to recover and repair or replace the Equipment;
- (b) any excess payable by Us under Our insurance policy and any difference between the amount paid under any insurance policy and the cost of replacing the Equipment; and

(b) the Hire Charges for that portion of the Hire Period during which the Equipment is being recovered and repaired or replaced.

## 13. INDEMNITIES AND EXCLUSION OF LIABILITIES

13.1 Subject to clause 13.3, and except as expressly provided to the contrary in this Hire Agreement, all guarantees, terms, conditions, warranties, undertakings, inducements or representations whether express or implied, statutory or otherwise, relating to this Hire Agreement or its subject matter are excluded to the maximum extent permitted by law.

13.2 Nothing in this Hire Agreement 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 Consumer Guarantees.

13.3 Where We are not able to exclude a guarantee, term, condition, warranty, undertaking, inducement or representation imposed by legislation in relation to this Hire Agreement, ('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 hire of Equipment, the repair or replacement of the Equipment or the supply of substitute Equipment (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 services supplied again.

13.4 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 this Hire Agreement or its subject matter, whether in contract, tort (including without limitation negligence), in equity, under statute, under an indemnity, is limited to an amount equal to the Hire Charge paid by You under this Hire Agreement. In calculating Our aggregate liability under this clause, the parties must include any amounts paid or the value of any goods or services replaced, repaired or supplied by Us for a breach of any Non-Excludable Provisions.

13.5 Subject to clauses 13.3 and 13.4, 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 this Hire Agreement or its subject matter, whether in contract, tort (including without limitation negligence), in equity, under statute, under an indemnity, whether or not such loss or damage was foreseeable and even if advised of the possibility of the loss or damage.

13.6 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 property; or
- (c) a claim by a third party,

in respect of Your hire or use of the Equipment or Your breach of the Hire Agreement. Your liability under this indemnity is diminished to the extent that Our breach of the Hire Agreement or Our negligence causes the liability, claims, damage, loss, costs or expenses.

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

13.8 We will not be liable to You for any acts or omissions of any person supplied by Us where that person is acting under Your direction and control during the Hire Period and you 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) arising from or incurred in connection with such acts or omissions.

## 14. TERMINATION OF HIRE AGREEMENT

14.1 Either party may terminate this 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 7 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.

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

14.3 We may terminate the Hire Agreement immediately if You or any third party has made a false statement in, or breached any provision of the Relevant Documents.

14.4 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.

## 15. 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 14, We may, at Your cost, take all steps necessary (including legal action) to recover the Equipment, including entering Your premises (or any other premises at which the Hire Equipment is located) to do so, You expressly consent to Us entering Your premises or any other premises at which the Hire Equipment is located for the purposes of recovering the Hire Equipment and You agree to indemnify Us and to keep us indemnified 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) for which we may be liable as a consequence of Our attempts to recover the Hire Equipment.

## 16. SECURITY

(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 do so 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; and

(c) You will indemnify Us on a full indemnity basis against all costs and expenses incurred by Us in connection with the preparation and registration of any such charge and mortgage document.

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

If You collect or receive the Equipment 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.

## 18. PRIVACY

18.1 We will comply with the Australian Privacy Principles in all dealings with the hirer.

18.2 We may need to collect personal information about You, including but not limited to, Your full name and address, drivers licence details, credit card details, date of birth, and credit or business history. You consent to Us using Your personal information in order to:

- (a) fulfill functions associated with the hire of Equipment to You, including but not limited to assessing Your credit worthiness, or exercising Our rights under clause 9;
- (b) provide services to You;
- (c) prevent theft of Our Equipment;
- (d) enter into contracts with You or third parties, and
- (e) to market to You and maintain a client relationship with You.

18.3 You also consent to Us disclosing Your personal information:

- (a) to any credit provider or credit reporting agency for the purposes of obtaining information about Your consumer or commercial credit or business history or Your commercial activities or credit worthiness; and
- (b) to Our service providers, contractors and affiliated companies from time to time to help improve and market Our services to You.

18.4 You have the right to access the personal information We hold about You.

## 19. FORCE MAJEURE

19.1 Subject to clause 19.2, neither party will be responsible for any delays in delivery or installation 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 of any relevant jurisdiction, fires, floods, strikes, lockouts or other labour difficulties, shortages of or inability to obtain shipping space or land transportation.

19.2 Nothing in clause 19.1 will limit or exclude Your responsibility and liability under the Hire Agreement for Equipment that is lost, stolen or damaged beyond fair wear and tear during the Hire Period, or has broken down or become unsafe to use as a result of Your conduct or negligence.

## 20. SEVERABILITY

If any part of this Hire Agreement 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.

## 21. GOVERNING LAW

These terms and conditions and any contract including them shall be governed by and construed in accordance with the laws of the State of Western Australia and the Seller and the Buyer submit to the non-exclusive jurisdiction of the Courts of Western Australia.

## 22. SIGNING THIS HIRE AGREEMENT

22.1 The person signing any document which forms part of the Hire Agreement or Relevant Documents for and on behalf of You hereby warrants that he or she has Your authority to enter into the Hire Agreement on Your behalf and grant the security interests in connection with it and is empowered to bind You to the Hire Agreement and each security interest granted in connection with it.

22.2 The person signing this Hire Agreement indemnifies Us against all losses, costs and claims incurred by us arising out of the person so signing this Hire Agreement not in fact having such power and/or authority.

## 23. VARIOUS

23.1 The Parties to the Agreement are independent contractors and nothing shall imply that they are in partnership, agency or legal representatives of the other except where expressly stated to the contrary.

23.2 All notices shall be served on a Party to the address first set out in the Agreement or as subsequently notified in writing to the other Party. Notices in writing shall be deemed to be received when they are personally received at the address first set out or the registered office of a Party unless sent by post in which receipt is three days after posting.

23.3. The terms of this Agreement are confidential and shall not be disclosed to any third party except where required by law.