Uphire Pty Ltd
ABN: 39 159 148 320

Building 3
81-85 Christie St
ST MARYS NSW 2760

Phone: 1300 87 44 73
Website: www.uphire.com.au
Email: hire@uphire.com.au

RENTAL CONTRACT NO. 77071

Customer Code: 1-ALLD01

Deliver To: 1 O'Connell St
SYDNEY NSW 2000

Site Contact: IAN
Mobile: 0474 749 049
Site Phone:

Delivery Instructions: DELIVER TODAY ASAP FRI 24/11 1-DAY AUTO OFF HIRE
SAME DAY PICK UP **** CALL 30MIN PRIOR TO DELIVERY ***

Invoice To: All Doors NSW Pty Ltd
125 Denham Court Road
Denham Court NSW 2170

Start Date: 24/11/2023
Start Time: 7:00AM
Expected Off Rental Date: 24/11/2023
Served By: Steve Carter

Order No.: 23399
Ordered By: Jayme
Payment Method:
Deposit: $0.00

Qty.	Item No.	Description	Min. Charge	Hourly Rate	Day Rate	Weekly Rate	Monthly Rate	Unit Cost	Days a Week
1	XH20TS	26FT Track Scissor Lift Worksite #1090TS-001			$500.00	$2,000.00			5
1	DEL230	Delivery						$230.00	
1	COL230	Pickup						$230.00	
1	Delivery	Delivery for Line Item(s) 1 24 Nov 2023							

Please note some of our daily rates have recently changed - please review or chat to our friendly team*
Please sign and return this Rental Agreement to hire@uphire.com.auPlease provide a Purchase Order reference if not previously supplied.
The complete list of Terms and Conditions that apply to this Rental Agreement are attached . Key items to note are:
***** Please note, Stand Downs are not applicable to Public Holidays ******
1.In order to terminate hire, the customer must call Uphire on 1300 874 473 for an Off-Hire number to be issued and collection to be arranged.
2. Uphire owned equipment complies with Workplace Safety regulations and comes supplied with EWPA Log Book , Risk Assessment, Operators Manuals and Service Inspection Reports. In the event these documents are not returned with the equipment, a replacement cost will be charged.
3. All boom lifts are supplied with 2 x safety harnesses (unless you supply your own) at a cost of $5.00 per harness per hire. In the event the harnesses are not returned or are damaged a replacement cost will be charged.
4. All EWP/MH rates are based on a maximum10hrs/day Monday to Friday unless stated otherwise.
5. Hire Rates do not include the Rental Level or GST. Rental levy of 12.5% applies unless a Hired in Plant COC is provided.
6. Off Hire equipment must be ready and easily accessible for collection - Futile and/or Waiting charges my apply
7. Machines are refueled upon return after hire. Fuel usage will be charged.
8. I acknowledge that operators must be trained in the safe operations of the above equipment in line with the local regulations.

Authorised Signatory: _____

Name of Signatory: _____

UPHIRE Equipment Hire Agreement - Terms and Conditions

This document records the Hire Terms and Conditions on which UPHIRE agrees to hire Equipment to the Customer. UPHIRE may in its absolute discretion decline to hire any Equipment to a Customer.
These Hire Terms and Conditions apply even were a written Rental Agreement is not provided and/or acknowledged by the Customer.
UPHIRE may at any time vary these terms and conditions without notice. Variations to these terms and conditions will only apply to hire agreements entered into after the variations have occurred.

1 Definitions and interpretation

1.1 Definitions

In these Terms and Conditions, unless the context requires otherwise:
Accident means an unintended and unforeseen incident, including:
(a) a collision between the Equipment and another vehicle or object, including animals and roadside infrastructure;
(b) rollovers; or
(c) a weather event, including hail Damage,
that results in Rental Excess, Damage or Third Party Loss.
Agreement means the agreement between UPHIRE and the Customer for the hire of the Equipment, consisting of:
(a) the Credit Application;
(b) any Special Conditions;
(c) these Terms and Conditions; and
(d) the Guarantee Terms.
Approvals means any certificate, licence, consent, permit, approval or other requirement of any Authority having jurisdiction in connection with the activities contemplated by these terms and conditions.
Australian Consumer Law means the Australian Consumer Law set out in Schedule 2 of the Competition Consumer Act 2010 (Cth).
Authority means any government, semi-governmental, statutory, administrative, fiscal or judicial body, department, commission, authority, tribunal, public or other person.
Bank Account means:
Account Name:
BSB:
Account Number:
Business Day means a day which is not a Saturday, Sunday or public holiday in New South Wales.
Change in Control means:
(a) any alteration in the legal or beneficial ownership of, or any issue of shares in, the Customer, or any other fact, matter or circumstance, the effect of which is to alter the Control of the Customer, from the Control which exists as at the date of this document. It may be direct or indirect and may be as a result of or by means of any trust, agreement, arrangement or understanding whether legally enforceable or not; or

Claim includes any claim, including a notice, demand, debt, account, action, expense, damage, the loss, cost, lien, liability, proceeding, litigation (including reasonable legal costs), investigation or judgment of any nature, whether known or unknown.
Commencement means the date set out in the Rental Agreement or when the Customer takes possession of the Equipment, whichever is earlier.
Consumer Guarantee means a consumer guarantee as it applies to supplies made under these terms and conditions, as set out in under Part 3-2, Division 1 of the *Australian Consumer Law*.
Credit Application means any credit application completed and submitted by the Customer to UPHIRE, which has been approved and accepted by UPHIRE.
Customer means the customer described in the Credit Application, Rental Agreement, Invoice or any other document which UPHIRE presents to the Customer.
Damage means:
(a) any loss or damage in relation to the costs of new Equipment;
(b) any loss or damage to the Equipment including its parts, components and accessories, that is not Fair Wear and Tear;
(c) towing and salvage costs;
(d) assessing fees; and
(e) Loss of Use,
and for the removal of doubt, any damage to the windscreen, headlights, lights or tyres that makes any of the Equipment unroadworthy is not Fair Wear and Tear.
Dangerous Goods means substances or articles which pose a risk to people, property or the environment due to their chemical or physical properties and includes asbestos, explosives, fireworks, ammunition, toxic, flammable or combustible liquids, solids and gases, refrigerant gases, dangerous when wet chemicals, oxidising substances, infectious substances, clinical or medical waste, radioactive substances, corrosives and dry ice.
Deal means to grant options or rights of pre-emption over, to sell, transfer, assign, part with the benefit of, declare a trust over, encumber or otherwise deal with, and includes a Change in Control.
Default Rate means 10% per annum.
Delivery Address means the delivery address described in a Rental Agreement, Invoice or any other document the Customer presents to UPHIRE or otherwise agreed in writing.
Delivery Date means:
(a) the estimated delivery date described in a Rental Agreement, Invoice or any other document UPHIRE presents to the Customer or otherwise agreed in writing; or
(b) the date when the Customer first takes possession of the Equipment and/or signs a receipt acknowledging delivery,
whichever is earlier.
Equipment means any item or kind of equipment, Vehicles, tools, accessories, attachments, parts, manuals, instructions, packing and transportation materials or substitute and replacement equipment including any other equipment owned by UPHIRE and hired to the Customer in accordance with these Terms and Conditions.
Event of Default means an event of default described in clause 11.1.
Fair Wear and Tear means minor damage, in the reasonable opinion of UPHIRE, caused by ordinary day-to-day use of the Equipment in compliance with this Agreement.

Force Majeure Event means an act of God, fire, lightning, earthquake, explosions, flood, subsidence, insurrection or civil disorder or military operations or act of terrorism, expropriation, strikes, lock-outs or other industrial disputes of any kind not relating solely to the party affected, and any other event which is not within the reasonable control of the party affected but does not include any act or omission of the other party.
Guarantors means the directors of the Customer listed in the Credit Application.
GST has the meaning given in GST Law.
GST Law has the meaning given in *A New Tax System (Equipment and Services Tax) Act 1999* (Cth).
Hire Charge means the amounts shown in the Rental Agreement, Invoice or any other document produced by UPHIRE to the Customer which are payable by the Customer to hire the Equipment, including any carriage fees and other amounts owing under these Terms and Conditions.
Hire Period if no term is specified in the Rental Agreement, means 11 months and 14 days from Commencement. The Hire Period may only be extended for one or more definite periods and in each case, this can only be done if the Customer requests it and if UPHIRE agrees. UPHIRE may issue and require the Customer to sign an amended Agreement for any extension of or change to, the Hire Period. The Hire Period only ends once the Customer has off hired the machine with UPHIRE by written notice and UPHIRE has collected the Equipment from the Customer. It is the Customer's responsibility to off-hire the Equipment otherwise Hire Charges will continue to accrue. The Customer may request an off-hire number from UPHIRE to confirm the end hire date.
Insolvency Event means the happening of any one or more of the following events:
(a) in relation to a natural person:
(i) that person being unable to pay his or her debts as and when they fall due;
(ii) an application and filing for bankruptcy being made in respect of that person; or
(iii) a receiver, or receiver and manager, trustee for creditors or trustee in bankruptcy or analogous person being appointed over that person's assets or undertakings or any of them; or
(b) in relation to a body corporate:
(i) that body corporate being unable to pay its debts as and when they fall due;
(ii) a receiver, receiver and manager, administrator or liquidator being appointed over that body corporate's assets or undertakings or any of them;
(iii) an application for winding up or other process seeking orders which, if granted, would render that body corporate an externally-administered body corporate being filed and not being withdrawn within 20 Business Days;
(iv) that body corporate being or becoming the subject of an order, or a resolution being passed, for the winding up or dissolution of that body corporate; or
(v) that body corporate entering into, or resolving to enter into, a deed of company arrangement or an arrangement, composition or compromise with, or proceedings being commenced to sanction such a deed of company arrangement or arrangement, composition or compromise, other than for the purposes of a bona fide scheme of solvent reconstruction or amalgamation.

Invoice means an invoice issued by UPHIRE to the Customer with respect to the supply of Equipment to the Customer.
Loss means any damage, loss, liability, expense or cost whether direct or indirect, consequential or incidental including but not limited to:
(a) stamp duties, GST any other taxes or duties;
(b) tolls, fines, penalties, levies or charges;
(c) fuels and consumables;
(d) legal costs; and/or
(e) any Rental Excesses payable to UPHIRE or such other amount charged by UPHIRE's insurer regarding any age or circumstance as notified by UPHIRE to the Customer.
Loss of Use means UPHIRE's loss calculated on a weekly basis at the weekly rate shown in the Rental Agreement or Invoice because the Equipment is being repaired or replaced, or if it is written off as a result of an Accident or if deemed by UPHIRE to be beyond reasonable repair, or it has been stolen, lost or destroyed.
Major Breach means a breach of any of clauses 3 and 16, that causes Damage, theft of the Vehicle or Third Party Loss.
Overhead Damage means:
(a) Damage at or above the level of the top of the front windscreen of the Equipment; or
(b) Third Party Loss,
caused by:
(c) contact between the part of the Equipment that is at or above the level of the top of the front windscreen with objects overhanging or obstructing its path;
(d) objects being placed on the roof of the Equipment; or
(e) the Customer or any person standing or sitting on the roof of the Equipment.
PPSA means the *Personal Property Securities Act 2009* (Cth).
PPSR means the Personal Properties Security Register.
Rental Agreement means a document which UPHIRE may issue to the Customer including particulars of the Equipment to be supplied to the Customer, the Hire Charges, the Hire Period and such other information as UPHIRE may require, whether or not signed by the Customer.
Rental Excess means the amount, excluding GST, the Customer must pay UPHIRE in the event of an Accident that causes Damage or Third Party Loss or the Equipment has been lost and/or stolen. The amounts are as follows:
(a) $1,000 or 1% of the Claim, whichever is greater; plus
(b) $2,500 for operators 24 years of age or less; plus
(c) $1,000 theft excess,
or such other amount charged by UPHIRE's insurer regarding any age or circumstances as notified by UPHIRE to the Customer. The Customer acknowledges and agrees that drivers of or under the age of 24 years will be subject to higher rental excesses.
Rental Levy means the rental levy set out in clause 7.
Rental Levy Fee means 12.5% of the Hire Charge, excluding carriage fees.
Security Interest has the meaning given in the PPSA.
Sites mean sites specified by the Customer in writing and approved by UPHIRE from which it will use or store the Equipment.
Site Procedures means the Approvals, policies and procedures in respect of each Site.
Special Conditions means any special conditions set out in the Credit Application, Rental Agreement or Invoice.
Taxes means any tax, levy, charge, impost, rates, duty, fee, deduction, compulsory loan or withholding tax which is (or is able to be) assessed, levied, imposed or collected by or payable to any Authority and includes, but is not limited to, any interest, fine, penalty, charge, fee or other amount imposed or made on or in respect of the above.
Terms and Conditions means these terms and conditions.
Third Party Loss means loss or damage to third party property, including other motor vehicles and any claim for third party loss of income.
Underbody Damage means any damage to the Equipment caused by or resulting from contact between the underside of the Equipment and any part of the roadway or any object or obstruction, including kerbs, gutters, speed or road humps, barriers or wheel stops and does not arise as a result of an impact with another vehicle.
UPHIRE means UP HIRE Pty Limited ABN 39 159 148 320.
Vehicle means a vehicle, truck or utility specified in the Rental Agreement and includes its parts, components and accessories.
Warranties mean the warranties specified in clause 8 or otherwise under these Terms and Conditions.

2 Hire of Equipment: UPHIRE

2.1 In consideration of the Customer agreeing to pay the Hire Charge, UPHIRE agrees to hire the Equipment to the Customer for the Hire Period in accordance with these Terms and Conditions.
2.2 Upon acceptance by the Customer of these Terms and Conditions, the Rental Agreement and the Customer paying the Hire Charge (if required to be paid upfront), either:
(a) the Customer shall collect or caused to be collected, the Equipment from UPHIRE on the Delivery Date; or
(b) UPHIRE shall deliver or cause to be delivered the Equipment to the Delivery Address on the Delivery Date.
2.3 All costs for the transport, collection, delivery and return of any Equipment between UPHIRE and the Customer must be paid for by the Customer, unless otherwise stated in the Rental Agreement or Invoice. Such charge may also include a waiting fee if the nominated time for delivery or collection of the Equipment is delayed by the Customer.
2.4 UPHIRE will ensure that the Equipment is clean and in good working order as at the Delivery Date.
2.5 The Hire Period for Equipment is based on a 5-day week with the exception of Vehicles which is based on a 7-day week. The Hire Period includes public holidays irrespective of whether the Equipment is being used by the Customer or not.
2.6 Upon expiration of the Hire Period, the Hire Period can be terminated on 24 hours written notice by either party.
2.7 UPHIRE may, at its discretion, require the Customer to procure a guarantee of its obligations under these Terms and Conditions in the format set out in the attached "Guarantee" which forms part of this Agreement.

3 Hire of Equipment: The Customer

3.1 The Customer must:
(a) satisfy itself at the Commencement that the Equipment is suitable for its purposes.
(b) make arrangements for UPHIRE to collect the Equipment, at the Customer's cost, at the end of the Hire Period. If UPHIRE agrees to allow the Customer to itself deliver the Equipment to UPHIRE at the end of the Hire Period, the Customer must take out insurance for the Equipment at full replacement value to cover the transit.
(c) return the Equipment to UPHIRE in clean and good working order. In the event the Equipment is not returned in clean and good working order, UPHIRE may charge and the Customer must pay for all cleaning and repair costs incurred by UPHIRE.
(d) operate the Equipment safely, strictly in accordance with the law, only for its intended use, and in accordance with any manufacturer's instructions whether supplied by UPHIRE or posted on the Equipment.
(e) indemnify UPHIRE for all injury and/or damage caused or contributed to by the Customer to persons and property in relation to the Equipment and its operation and have adequate insurance to cover all liabilities incurred as a result of the use of the Equipment.
(f) ensure that any person collecting or taking delivery of Equipment on behalf of the Customer is authorised by the Customer to do so and the Customer will not allege that any such person is not so authorised.
(g) ensure that all persons operating or erecting the Equipment are suitably instructed in its safe and proper use and where necessary hold all necessary Approvals and qualifications required at law to operate the Equipment.
(h) conduct a thorough hazard and risk assessment before using the Equipment and comply with all Occupational Health and Safety laws relating to the Equipment and its operation. The Hirer acknowledges that a Safety Checklist is located on each piece of Equipment ("the Checklist"). The Hirer agrees to undertake a daily safety check using the Checklist before using the Equipment.
(i) safely secure all items loaded in or on the Equipment or in or on the Customer's vehicle and indemnify UPHIRE in respect of any injury and/or damage caused by items falling from the Equipment or from any vehicle or trailer operated by or on behalf of the Customer.
(j) operate the Equipment with an adequate motor vehicle and/or power source.
(k) immediately report and provide full details to UPHIRE as soon as any fault, accident or damage occurs in respect of the Equipment.
(l) allows UPHIRE's employees, servants, agents and/or sub-contractors to enter the Delivery Address or Sites or any other premises where the Equipment is located to inspect, test, repair, replace or remove the Equipment at reasonable times during the Hire Period on reasonable notice to the Customer.
(m) except for Fair Wear and Tear, pay UPHIRE for any damage to, loss, theft or destruction of, the Equipment that occurs during the Hire Period.
(n) inform UPHIRE of the location of the Equipment at all times.
(o) comply with all laws and Site Procedures in connection with the Equipment.
(p) ensure that the ground conditions are safe and adequate for all Equipment and personnel.
(q) supervise the unloading and loading of the Equipment at the Delivery Address or Sites.

(r) ensure that the Equipment must never be used or driven in prohibited areas which include:
(i) roads that are prone to flooding or are flooded;
(ii) beaches, streams, rivers, creeks, dams and floodwaters;
(iii) any road where the police or an authority has issued a warning;
(iv) any road that is closed; and
(v) any road where it would be unsafe to use or drive the Equipment.

3.2 The Customer must NOT:
(a) tamper with, damage, tow or repair the Equipment;
(b) lose or part with possession of the Equipment;
(c) rely upon any representation relating to the Equipment or its operation other than those contained in these terms and conditions;
(d) allow any person to drive a Vehicle or operate Equipment if the person :
(i) does not hold a suitable licence to drive that class of motor vehicle; or
(ii) is affected by drugs and/or alcohol.
(e) exceed the recommended or legal load and capacity limits of the Equipment;
(f) exceed the recommended or legal speed limit for the Equipment;
(g) sell, charge, encumber, grant any right, interest or lien (of any nature) in or over the Equipment;
(h) store any illegal, prohibited and/or Dangerous Goods in or on the Equipment.

4 Fee

4.1 UPHIRE charges for periodic amounts for hires. The Hire Charge will be charged for the duration of an estimated hire period.
4.2 Unless UPHIRE has approved the Customer to pay the Hire Charge for the Equipment on credit, the Customer must pay the Hire Charge in full on Commencement and prior to UPHIRE releasing the Equipment to the Customer.
4.3 If UPHIRE has approved the Customer to pay for the Hire Charge for the Equipment on credit, UPHIRE may render Invoices to the Customer at Commencement or completion of the Hire Period or periodically throughout the Hire Period, at its sole discretion
4.4 All Hire Charges must be paid on the terms set out in the Invoice.
4.5 All payments made under this Agreement must be paid to UPHIRE's Bank Account or via credit card. If payment is made via credit card, the Customer is responsible for any credit card fees charged by UPHIRE.
4.6 The Customer must pay all amounts due to UPHIRE:
(a) without set-off, deductions, counter-claims or conditions; and
(b) in available cleared funds to the Bank Account .
4.7 If the Customer owes any amount to UPHIRE then UPHIRE may, in its sole discretion and without prejudice to any of its other rights, do one or more of the following:
(a) collect the Equipment; or
(b) set-off that amount against any amount owing by UPHIRE to the Customer.
4.8 Immediately on request by UPHIRE, the Customer will pay the current retail price of any Equipment as advised by UPHIRE which is for whatever reason not returned to UPHIRE and any charges for Damages.
4.9 If an amount due under these Terms and Conditions is paid after the due date the Customer must pay UPHIRE, in addition to the overdue amount:
(a) interest at the Default Rate calculated based on a 365-day year from the date of the default until the date the amount (together with all accrued interest) is paid in full; and
(b) all costs and expenses incurred by UPHIRE in collecting the overdue amount.
4.10 The Customer's obligation to pay an amount owing applies notwithstanding any alleged delay in delivery.
4.11 Without limiting the ability of UPHIRE to recover all amounts owing to it, the Customer authorises UPHIRE to charge any amounts owing by the Customer to any credit account with UPHIRE pursuant to a Credit Application .
4.12 UPHIRE may increase the Hire Charge by providing 7 days' notice in writing to the Customer.
4.13 UPHIRE reserves its rights under security of payment legislation.

5 Title and Risk

5.1 Risk in the Equipment passes to the Customer upon dispatch of the Equipment from UPHIRE's premises by UPHIRE or its agent or representatives or by the Customer's agent or representative. This clause 5.1 does not apply if this is a consumer contract or a small business contract for the purposes of section 23 of the Australian Consumer Law, in which case risk and responsibility passes on delivery to the Customer.
5.2 Until UPHIRE has received payment in full for all Equipment supplied by UPHIRE under this Agreement:
(a) title to the Equipment shall remain with UPHIRE;
(b) until payment in full is received under this Agreement , the Customer holds the Equipment as bailee for the Company; and
(c) the Equipment shall, so far as practicable, be kept separate from other goods of the Customer, so as to be readily identifiable as the property of UPHIRE.
5.3 Upon default of the Customer of the due performance or observance of any other obligation under these Terms and Conditions , including an Insolvency Event UPHIRE may by notice in writing to the Customer enter upon the Customer's premises or the Delivery Address or any Site to remove any of the Equipment to which UPHIRE has retained title and for this purpose the Customer shall afford UPHIRE all reasonable assistance to locate and take possession of the Equipment.
5.4 In the event that UPHIRE repossesses the Equipment, the Customer authorises UPHIRE to take possession of any property in, on or attached to the Equipment which is not the property of UPHIRE.
5.5 The Customer acknowledges that by virtue of clause 5.2, UPHIRE has or will have a Security Interest in the Equipment, the proceeds from the sale of the Equipment, the proceeds of any insurance policy for the purposes of the PPSA.
5.6 The Customer also grants UPHIRE a security interest in all of the Customer's present and after acquired property and any proceeds until UPHIRE is paid in full under this Agreement.
5.7 The Customer acknowledges that UPHIRE may do anything reasonably necessary, including but not limited to registering its Security Interest on the personal property securities register established under the PPSA in order to perfect this Security Interest and comply with the requirements of the PPSA. The Customer agrees to do all things reasonably necessary to assist UPHIRE to achieve perfection of this Security Interest under the PPSA.
5.8 The Customer and UPHIRE agree that, pursuant to section 115 of the PPSA, the following provisions in the PPSA do not apply in relation to this Security Interest to the extent, if any, mentioned (words in this provision have the same meaning as in the PPSA):
(a) section 117 (obligations secured by interests in personal property and land);
(b) section 118 (enforcing Security Interest in accordance with land law decisions), to the extent that it allows a secured party to give a notice to the grantor;
(c) section 125 (obligation to dispose of or retain collateral);
(d) section 129 (disposal by purchase);
(e) section 130 (notice of disposal), to the extent that it requires the secured party to give a notice to the grantor and other secured parties before disposal;
(f) paragraph 132(3)(d) (contents of statement of account after disposal);
(g) subsection 132(4) (statement of account if no disposal);
(h) section 142 (redemption of collateral); and
(i) section 143 (reinstatement of security agreement).
5.9 The Customer waives its right to receive a verification statement under section 157 of the PPSA.
5.10 UPHIRE retains any rights of enforcement arising on the PPSA, under this Agreement, or otherwise, including but not limited to a right to seize the collateral under section 123 of the PPSA.

6 Insurance

6.1 Upon risk in the Equipment passing to the Customer and until all monies owed under this Agreement by the Customer are paid to UPHIRE , the Customer must procure and maintain in its own name and UPHIRE's name public liability insurance up to $20m in any one occurrence, business insurance as well as insurance for theft, and damage of the Equipment up to the value of the Equipment.
6.2 Subject to clause 7.6, at the request of UPHIRE, the Customer must produce a certificate of currency for an appropriate policy of insurance that covers loss, theft or damage to the Equipment during the Hire Period for an amount not less than the new replacement value of the Equipment. The Customer is responsible for any excess and any other costs associated with any insurance taken out by the Customer under this clause and the Customer is responsible for any shortfall in repair or replacement of the Equipment following payment of any amount received under insurance, including any loss UPHIRE suffers as a result of not being able to hire the Equipment.

7 Rental Levy

7.1 The Rental Levy is in addition to the Hire Charge. The Rental Levy is not separate to insurance. Subject to this clause, if the Customer elects to pay the Rental Levy Fee, the Customer shall be entitled to a limitation on liability for loss, theft and damage as set out under this Agreement (**Rental Cover**).

7.2 Subject to these Terms and Conditions, if the Customer or the Customer's personnel have an Accident or if the Equipment is stolen, UPHIRE will indemnify the Customer for the theft, any Damage or Third Party Loss but the Customer must pay up to the Rental Excess shown in the Rental Agreement for each Accident or theft unless UPHIRE agrees that:

(a) the Customer and/or the Customer's personnel were not at fault; and
(b) a third party's insurance company accepts liability.

7.3 The Rental Excess payable under clause 7.2, will not be charged:

(a) for single vehicle Accidents, until a repairer's estimate or tax invoice verifying the amount charged for Damage has been sent to the Customer;
(b) if the Equipment has been stolen, until UPHIRE has made reasonable enquiries and in UPHIRE's opinion it is unlikely the Equipment will be recovered; and
(c) for Accidents in which there is also Third Party Loss, until:
    (i) a reasonable estimate of the Third Party Loss has been made;
    (ii) a repairer's estimate or tax invoice verifying the amount charged for Damage has been obtained; and
    (iii) all documents verifying the Third Party Loss and Damage have been sent to the Customer,

unless the Customer has expressly authorised the charge.

7.4 There is no Rental Cover, and the Customer and any authorised representative of the Customer are liable for:

(a) Loss or Damage or Third Party Loss arising from:
    (i) a Major Breach of these Terms and Conditions; or
    (ii) the use of the Equipment by any driver who is not the Customer's personnel or who is less than 21 years of age;
(b) Overhead Damage;
(c) Underbody Damage;
(d) Loss or Damage caused by immersion of the Equipment in water;
(e) breach of any laws or regulations relating to the use of the Equipment;
(f) misuse, abuse, willful or malicious use, negligent, careless or reckless use, overloading, exceeding rated capacity, or improper servicing of Equipment;
(g) Loss or Damage by whatever cause to tools and/or accessories supplied with the Equipment including but not limited to hoses, drills, bits, leads, tyres and tubes;
(h) lack of lubrication or non-compliance with maintenance requirements that could reasonably be expected of the Customer under this Agreement;
(i) disregard of instructions given to the Customer by UPHIRE or the manufacturer in respect of the proper use of the Equipment or a breach of this Agreement;
(j) failure to reasonably secure the Equipment against theft or vandalism;
(k) Loss or Damage to the Equipment during transit (including while on any wharf, bridge or over water);
(l) glass breakage or exposure to corrosive substances or erosion or earth movement;
(m) Loss or Damage to electric motors or tools caused by unsuitable leads and/or leads being too long;
(n) Loss or Damage to Equipment paintwork;
(o) Loss or Damage due to mysterious disappearance;
(p) Loss or Damage caused by misappropriation or wrongful conversion;
(q) use of the Equipment on a vessel, rig or underground; and/or
(r) Loss or Damage if UPHIRE reasonably believe that the Customer has failed to take reasonable precautions to protect and secure the Equipment.

7.5 There is also no Rental Cover for:

(a) the full cost of replacing or repairing any accessories supplied by UPHIRE including, but not limited to lost keys, keyless start and remote-control devices; or
(b) personal items that are left in or stolen from the Equipment or for Loss or Damage to property belonging to or in the custody of:
    (i) the Customer;
    (ii) any relative, friend or associate of the Customer ordinarily residing with the Customer or with whom the Customer ordinarily resides;
    (iii) any relative, friend or associate of the Customer's personnel; or
    (iv) the Customer's employees.

7.6 For the avoidance of doubt, the Customer is not required to pay the Rental Levy Fee if a Certificate of Currency is provided to UPHIRE in accordance with clause 6.2.

8 Warranties and Liability

8.1 Where the *Australian Consumer Law* applies the Customer has the benefit of guarantees in relation to the hire of the Equipment which cannot be excluded.

8.2 Where the *Australian Consumer Law* applies and the goods are not of a kind ordinarily acquired for personal domestic or household use or consumption, UPHIRE's liability in respect of any guarantee is limited to the replacement or repair of the goods, or the cost of having the goods repaired or replaced.

8.3 To the extent that the *Australian Consumer Law* (or any other law which cannot be excluded) does not apply. UPHIRE makes no representations and gives no warranties other than those set out in these terms and conditions, and will not be liable to the Customer for any Loss, Claims, damages, costs or other liabilities whatsoever (including for consequential loss) in relation to the hiring of the Equipment by the Customer.

8.4 Subject to this clause 8, the Customer indemnifies and holds UPHIRE harmless to the full extent permitted by law for any Claim, Loss or damage whatsoever arising in connection with the hire of the Equipment to the Customer or these Terms and Conditions, including any third party Claims.

8.5 UPHIRE's liability under this Agreement is limited to the Hire Charge and UPHIRE is not liable for any indirect or consequential loss (including loss of profit or opportunity).

9 Release and Indemnity

9.1 The Customer agrees to use and possess the Equipment at its own risk. The Customer agrees that UPHIRE bears no responsibility or liability for any Loss to any of the Customer's property (including the Equipment).

9.2 To the fullest extent permitted by law, the Customer releases and discharges UPHIRE and its agents and employees from:

(a) all Claims and demands on UPHIRE; and
(b) any Loss whatsoever and whenever caused to the Customer or its agents or employees or any third party whether by way of death of, or injury to, any person of any nature or kind, accident or damage to property, delay, financial Loss or otherwise,

arising directly or indirectly from or incidental to a defect in any Equipment or any accident to or involving any Equipment or its use, repair, maintenance or storage (whether occasioned by the Company's negligence or otherwise) or which may otherwise be suffered or sustained in, upon or near any Equipment.

9.3 The Customer indemnifies and holds UPHIRE harmless to the full extent permitted by law for any Loss whatsoever arising in connection with the supply of and use of the Containers by the Customer, including any breach of this Agreement.

10 Repair and replacement

10.1 In addition to any other rights of entry granted under this Agreement, the Customer grants UPHIRE the right, and will use its best endeavours to ensure that others grant UPHIRE the right, at all times until all monies owing under this Agreement by the Customer are paid to UPHIRE to:

(a) inspect the state of repair of the Equipment;
(b) carry out such tests on the Equipment as may seem necessary to UPHIRE;
(c) observe the use of the Equipment;
(d) inspect any maintenance records in respect of the Equipment; and
(e) do any act, matter or thing which may be required to be done to give proper effect to the terms of this Agreement or to protect UPHIRE's rights in the Equipment.

10.2 In order to protect its rights in the Equipment, UPHIRE may, at its discretion, at all times prior to risk in the Equipment passing to the Customer:

(a) serve a notice in writing on the Customer of any defect or deficiency in the Equipment or its use or both requiring repair or replacement;
(b) if UPHIRE decides repairs are required to the Equipment it may:
    (i) enter upon premises with workmen (if necessary) and all necessary materials for the purpose of carrying out those repairs; or
    (ii) replace the Equipment with equivalent Equipment.

10.3 Where damage to or unsatisfactory maintenance of the Equipment requires UPHIRE to incur costs and expense repairing or replacing the Equipment, the cost of all repairs and replacements (if any) of the Equipment will be borne by the Customer.

10.4 If, during the Hire Period, the Equipment is lost, stolen, destroyed or damaged beyond Fair Wear and Tear, the Customer must notify UPHIRE immediately. The Customer must pay UPHIRE the new replacement value of the Equipment as fairly determined by UPHIRE and continue paying the Hire Charge, Claim, Damage and/or Loss until the replacement value is paid to UPHIRE.

10.5 Harnesses lost or damaged will be charged to the Customer at a rate of $300 each.

11 Default and termination

11.1 Each of the following events is an Event of Default, namely:

(a) the Customer fails to perform or observe any of the covenants or provisions of these terms and conditions and (if capable of remedy) such default continues for more than 5 Business Days after notice from the non-defaulting party requiring remedy the breach;

(b) the Customer fails to perform or observe any of the covenants or provisions of this Agreement and (if capable of remedy) such default continues for more than ten (10) Business Days after notice from UPHIRE requiring the Customer remedy the breach;

(c) the Customer fails to return any Equipment to UPHIRE within five (5) Business Days of request by UPHIRE;

(d) the Customer sells or closes its business or relocates the Equipment without written notice to UPHIRE;

(e) the Customer suffers an Insolvency Event or if it is a partnership, is dissolved or if it is a natural person, dies.

11.2 If an Event of Default occurs UPHIRE may at its option:

(a) by proceeding by appropriate court action, either at law or in equity, enforce performance of the applicable terms and provisions of these Terms and Conditions or recover damages for the breach concerned; and / or

(b) terminate these Terms and Conditions; and/ or

(c) repossess the Equipment (and is authorised to enter any premises where the Equipment is located to do so).

11.3 Without prejudice to UPHIRE's right to pursue the Customer for Loss arising from a breach of this Agreement, upon the expiry of this Agreement or early termination under this clause, the Customer must immediately pay UPHIRE all amounts owing under this Agreement.

11.4 On termination of this Agreement, the Customer must immediately return any Equipment to UPHIRE and pay all Hire Charges, Claim, Damage and/or Loss. If the Customer does not return the Equipment within fourteen (14) days of termination of the Agreement, the Customer must pay to UPHIRE an amount equal to the new replacement value of the Equipment as fairly specified by UPHIRE and any Claim, Damage and/or Loss.

11.5 The Customer grants in favour of UPHIRE an irrevocable licence to enter upon its premises, without prior notice, to repossess the Equipment.

12 Force Majeure

12.1 UPHIRE will not be liable for any Loss incurred as a result of delay or failure to observe any of these Terms and Conditions due to an event of Force Majeure. UPHIRE's obligations under these Terms and Conditions will be suspended and will resume as soon as the cause of the Force Majeure has ceased to have effect.

13 Privacy

13.1 UPHIRE may provide details of this Agreement to a credit reporting agency for the purpose of:

(a) obtaining a credit report; and

(b) allowing the credit agency to maintain a file,

in respect of the Customer.

13.2 UPHIRE will endeavour to take reasonable commercial steps to protect all personal information provided by the Customer in accordance with the Australian Privacy Principles of the *Privacy Act 1998* (Cth).

14 Third Party Rights

14.1 The parties acknowledge and agree that some or all of the Equipment may be owned by a third party or under finance from a third party (**Third Party**), giving that Third Party an interest in the relevant Equipment (**Third Party Rights**).

14.2 Where a Third Party Interest is valid and subsisting, the Customer acknowledges that:

(a) a person other than UPHIRE may be the legal owner of the Equipment;

(b) the Third Party may enforce the terms of this Agreement, as if it were UPHIRE;

(c) the Third Party shall at all times be entitled to register its interest on the PPSR, if applicable; and

(d) nothing in this Agreement shall limit, reduce, vary or otherwise qualify the rights of the Third Party against UPHIRE or the Equipment.

15 General

15.1 These Terms and Conditions, the Credit Application, the Rental Agreement, Invoice, the Guarantee document and any other documents produced by UPHIRE to the Customer constitutes the entire understanding between the parties and supersedes all prior agreements, understandings and communications, whether written or oral.

15.2 These Terms and Conditions operate as a 'standing agreement' and each Rental Agreement and Invoice shall constitute a separate contract for supply of the Equipment between the parties. UPHIRE may enforce its rights under these Terms and Conditions against a Rental Agreement or Invoice, multiple Rental Agreements or Invoices or the Agreement as a whole.

15.3 Except as required by law, the parties must not disclose to any person without the other's prior written consent the existence of, or details in, these Terms and Conditions or any other information which is confidential and not otherwise in the public domain.

15.4 If any provision of the agreement is illegal or unenforceable in any relevant jurisdiction, it must be enforced to the maximum extent possible, and if unenforceable may be severed for the purposes of that jurisdiction, without affecting its enforceability in any other jurisdiction or the enforceability of any other part of these Terms and Conditions.

15.5 All waivers must be in writing. A single or partial exercise or waiver by a party of a right relating to these terms and conditions does not prevent any other exercise of that right or the exercise of any other right.

15.6 Clauses 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 16 and any Warranties and indemnities survive termination or expiration of these Terms and Conditions.

15.7 The Special Conditions set out in the Credit Application and/or Rental Agreement prevail to the extent of any inconsistency with these Terms and Conditions.

15.8 These Terms and Conditions are governed by and is to be construed in accordance with the laws applicable New South Wales, Australia.

16 Vehicles

16.1 This clause 16 applies in respect of Vehicles in addition to any other provision of these Terms and Conditions.

16.2 We set a minimum age limit for those hiring the Vehicles. The Customer warrants that:

(a) the Customer and the Customer's personnel are at least 21 years of age and have no less than 12 months driving experience, unless UPHIRE has agreed to a variation of that restriction before the Commencement;

(b) the Customer and the Customer's personnel have a valid licence to drive the class of Vehicle which is issued in an Australian state or territory or an international licence (with a valid international driving permit if the Customer's licence is not issued in English) appropriate for the class of the Vehicle and not subject to any restriction or condition;

(c) the Customer and the Customer's personnel are not learner drivers or provisional or probationary licence holders;

(d) the Customer and the Customer's personnel have not had their licence cancelled within 2 years of Commencement.

16.3 The Customer acknowledges and agrees that it is a Major Breach of these Terms and Conditions, if the Customer breaches any of clauses 16.2(a) to 16.2(d). If there is a Major Breach of these Terms and Conditions there is no cover for the Customer or the Customer's Personnel for any Damage, theft of the Vehicle or Third Party Loss.

16.4 At Commencement, the Customer must inspect the Vehicle to ensure that any pre-existing damage is noted and shown in the Rental Agreement.

16.5 At the end of the Hire Period, the Customer must:
- (a) return the Vehicle:
  - (i) in the same condition it was in at Commencement, Fair Wear and Tear excepted; and
  - (ii) with a full tank of fuel;
- (b) pay the balance of the Hire Charge (if any);
- (c) pay any Claim, Damage and/or Loss;
- (d) pay the Rental Excess if there is Damage or Third Party Loss as a result of an Accident or the Vehicle is stolen;
- (e) pay for all Overhead Damage and/or Underbody Damage; and
- (f) pay for any Damage caused by the immersion of the Vehicle in water.

16.6 If the Customer returns the Vehicle with less than a full tank of fuel a refuelling charge, in addition to the cost of the fuel, will apply.

16.7 The Customer must comply with all mandatory seat belt laws and fines may be imposed by the police on any driver or passenger who does not have a seat belt properly adjusted and fastened.

16.8 The Customer is responsible for the payment of any parking fines or any other traffic violation, including penalties or fines and charges which are claimed from UPHIRE which are incurred during the Hire Period even if received by UPHIRE after the end of the Hire Period. The Customer must, if requested by UPHIRE, nominate a driver for any parking fines or any other traffic violations.

16.9 The Hire Charge includes a 100km a day allowance. Any excess km's will be charged at a rate of $0.30 per km.

16.10 The Customer and the Customer's personnel must make sure that the Vehicle is locked when not in use or unattended and the keys or remote-control device must be kept in the Customer's possession, or that of the Customer's personnel, at all times.

16.11 The Customer and the Customer's personnel must take reasonable care of the Vehicle by:
- (a) preventing it from being damaged;
- (b) making sure that it is protected from the weather;
- (c) maintaining the engine and brake oils and coolant level and tyre pressures and checking these on no less than a weekly basis;
- (d) using the correct fuel type; and
- (e) making sure it is not overloaded.

16.12 Where UPHIRE has given the Customer UPHIRE's prior authority to repair the Vehicle the Customer must keep and produce to UPHIRE the original tax invoices and receipts for any repairs, towing or salvage and the Customer will be reimbursed only if these expenses have been authorised by UPHIRE. Any entitlement to reimbursement is subject to there being no Major Breach of these Terms and Conditions.

16.13 UPHIRE is not responsible for:
- (a) damage as a result of use of the incorrect fuel type;
- (b) a flat battery because the lights or entertainment systems have been left on;
- (c) tyre changing of the Vehicle;
- (d) lost keys or remote-control device; or
- (e) keys or remote-control device locked in the Vehicle,

and extra charges will apply if any of these services are provided at the Customer's request.

16.14 If the Customer or the Customer's personnel:
- (a) commit a Major Breach of these Terms and Conditions in a way that causes Damage, theft of the Vehicle or Third Party Loss; or
- (b) drive the Vehicle in a reckless manner so that a substantial breach of road safety legislation has occurred,
- (c) the Customer and the Customer's personnel:
  - (i) have no Rental Cover;
  - (ii) are liable for all Damage, theft of the Vehicle and Third Party Loss; and
  - (iii) are liable for and must pay any additional costs or expenses UPHIRE incur as direct consequence.

16.15 Acting reasonably, UPHIRE may terminate these Terms and Conditions and take immediate possession of the Vehicle if a breach of any part of clause 16 has occurred.

16.16 If the Vehicle is stolen or if the Customer or the Customer's personnel have an Accident where:
- (a) any person is injured;
- (b) the other party has failed to stop or leaves the scene of the Accident without exchanging names and addresses; or
- (c) the other party appears to be under the influence of drugs or alcohol,

the Customer or the Customer's personnel must also report the theft or Accident to the Police.

16.17 If the Customer or the Customer's personnel have an Accident, the Customer or the Customer's personnel must:
- (a) exchange names and addresses and telephone numbers with the other driver;
- (b) take the registration numbers of all vehicles involved;
- (c) take as many photos as is reasonable showing:
  - (i) the position of the Vehicles before they are moved for towing or salvage;
  - (ii) the Damage to the Vehicle;
  - (iii) the damage to any Third Party vehicle or property; and
  - (iv) the general area where the Accident occurred, including any road or traffic signs;
- (d) obtain the names, addresses and phone numbers of all witnesses;
- (e) not make any admission of fault or promised to pay the other party's claim or release the other party from any liability;
- (f) forward all Third Party correspondence or court documents to UPHIRE within 7 days of receipt; and
- (g) co-operate with UPHIRE in the prosecution of any legal proceedings that UPHIRE may institute or defence of any legal proceedings which may be instituted against the Customer or UPHIRE as a result of an Accident, including attending UPHIRE's lawyer's office or any Court hearing.

Guarantee Terms

As consideration for UPHIRE Pty Limited (ABN 39 159 148 320) (UPHIRE) hiring the Equipment to the Customer under the Hire Terms and Conditions , where required by UPHIRE, the Guarantor(s) (**I/We**), as joint and several guarantor(s) agree to be personally bound to the following:

The Guarantor(s) hereby:

1 Jointly and severally guarantees to UPHIRE the due and punctual payment of all money presently owing or any money that may be owing in the future by the Customer, in respect of the cost of Equipment supplied to the Customer by UPHIRE and any other sums payable by the Customer to UPHIRE (hereinafter collectively called "**Guaranteed Money**").

2 Jointly and severally agrees to indemnify and keep UPHIRE indemnified from and against all Loss and Claims whatsoever in relation to the supply of Equipment and operation of the Equipment by the Customer.

3 Covenants, acknowledges and agrees as follows:

(a) The provisions of this guarantee shall continue until payment to UPHIRE of the whole of the Guaranteed Money as cleared funds.

(b) The Guarantor is liable hereunder as a principal and as a primary debtor for the payment of the Guaranteed Money to UPHIRE.

(c) This guarantee is valid and enforceable against the Guarantor and the liability of the Guarantor continues and may be enforced by UPHIRE notwithstanding:

(i) that no steps or proceedings have been taken against the Customer or any other Guarantor;

(ii) any indulgence or extension of time granted by UPHIRE to the Customer or any other Guarantor;

(iii) the death or bankruptcy or winding up of the Customer or any other Guarantor.

(d) The Guarantor will not compete with UPHIRE for any dividend or distribution in the event of the Customer being declared bankrupt, going into liquidation or being wound up or entering any deed or scheme of arrangement or assignment or composition in respect of its affairs or its assets and liabilities.

4 The Guarantor hereby acknowledges having given its consent to UPHIRE to obtain from a credit reporting agency consumer credit report containing information about it for the purpose of UPHIRE assessing whether to accept the Guarantor as a guarantor for credit granted to the Customer.

5 In consideration of UPHIRE providing Equipment to the Customer, I/ We hereby grant UPHIRE an equitable charge over all of my/our present and after acquired property, including but not limited to a caveatable charge over all real estate, as security for the guarantee granted by Me/Us.

6 The term "UPHIRE" includes its successors, and assigns and any related entity of UPHIRE involved in the provision of goods and services to the Customer.

7 The terms "Customer" and "Guarantor" include their respective executors, administrators and successors.

Guarantor

Date

Signature

Name (Please print)

Address

Date of Birth

Guarantor

Date

Signature

Name (Please print)

Address

Date of Birth