

1. Definitions

- 1.1 "CA & LHS" means Compaction Australia Pty Ltd and/or associated trading entity Lockyer Hire Service, its successors and assigns or any person acting on behalf of and with the authority of Compaction Australia Pty Ltd and/or associated trading entity Lockyer Hire Service.
- 1.2 "Client" means the Client or any person acting on behalf of and with the authority of the Client, as specified in any invoice, document or order, and if there is more than one Client is a reference to each client jointly and severally.
- 1.3 "Equipment" means all Equipment (including any accessories) supplied on hire by CA & LHS to the Client (and where the context so permits shall include any incidental supply of services). The Equipment shall be as described on the invoices, quotation, authority to hire, or any other work authorisation forms as provided by CA & LHS to the Client.
- 1.4 "Minimum Hire Period" means the Minimum Hire Period as described on the invoices, quotation, authority to hire, or any other forms as provided by CA & LHS to the Client.
- 1.5 "Price" means the cost of the hire of the Equipment as agreed between CA & LHS and the Client subject to clause 5 of this contract.

2. Acceptance

- 2.1 The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Client places an order for, or accepts delivery of, the Equipment.
- 2.2 These terms and conditions may only be amended with the consent of both parties in writing, and shall prevail to the extent of any inconsistency with any other document or agreement between the Client and CA & LHS.

3. Electronic Transactions (Queensland) Act 2001

- 3.1 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 14 of the Electronic Transactions (Queensland) Act 2001 or any other applicable provisions of that Act or any Regulations referred to in that Act.

4. Change in Control

- 4.1 The Client shall give CA & LHS not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client and/or any other change in the Client's details (including but not limited to, changes in the Client's name, address, contact phone or fax number/s, or business practice). The Client shall be liable for any loss incurred by CA & LHS as a result of the Client's failure to comply with this clause.

5. Price and Payment

- 5.1 At CA & LHS' sole discretion the Price shall be either;
- (a) as indicated on invoices provided by CA & LHS to the Client in respect of Equipment supplied on hire; or
- (b) CA & LHS' quoted Price (subject to clause 5.2) which shall be binding upon CA & LHS provided that the Client shall accept in writing CA & LHS' quotation within thirty (30) days.
- 5.2 CA & LHS reserves the right to change the Price in the event of a variation to CA & LHS' quotation. Any variation from the plan of scheduled services or specifications (including, but not limited to, any variation as a result of additional services required due to unforeseen circumstances such as poor weather conditions, limitations to accessing the site, availability of machinery or as a result of any increase to CA & LHS in the cost of materials and labour) will be charged for on the basis of CA & LHS' quotation and will be shown as variations on the invoice. Payment for all variations must be made in full at their time of completion.
- 5.3 At CA & LHS' sole discretion a bond may be required which shall be refunded upon return of the Equipment in a condition acceptable to CA & LHS.
- 5.4 Time for payment for the Equipment being of the essence, the Price will be payable by the Client on the date/s determined by CA & LHS, which may be:
- (a) on delivery of the Equipment; or
- (b) before delivery of the Equipment; or
- (c) for approved Clients made by instalments in accordance with CA & LHS' payment schedule; or
- (d) due thirty (30) days following the end of the month in which a statement is posted to the Client's address or address for notices;
- 5.5 Payment may be made by cash, cheque, bank cheque, electronic/on-line banking, credit card (plus a surcharge of two and a half percent (2.5%) of the Price), or by any other method as agreed to between the Client and CA & LHS.
- 5.6 The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by CA & LHS nor to withhold payment of any invoice because part of that invoice is in dispute.
- 5.7 Unless otherwise stated the Price does not include GST. In addition to the Price the Client must pay to CA & LHS an amount equal to any GST CA & LHS must pay for any supply by CA & LHS under this or any other agreement for the hire of the Equipment. The Client must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Client pays the Price. In addition, the Client must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.
- 5.8 Receipt by CA & LHS of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.

6. Hire Period

- 6.1 A Minimum Hire Period may be applied and shall be specified on the applicable documentation provided by CA & LHS to the Client.
- 6.2 Hire charges shall commence from the time the Equipment departs from CA & LHS' premises and will continue until the return of the Equipment to CA & LHS' premises, and/or until the expiry of the Minimum Hire Period, whichever last occurs. All charges shall be based on CA & LHS's daily rate.
- 6.3 The date upon which the Client advises of termination shall in all cases be treated as a full day's hire.
- 6.4 No allowance whatsoever can be made for time during which the Equipment is not in use for any reason, unless CA & LHS confirms special prior arrangements in writing. In the event of Equipment breakdown provided the Client notifies CA & LHS immediately, hiring charges will not be payable during the time the Equipment is not working, unless the condition is due to negligence or misuse on the part of or attributable to the Client.

- 6.5 Off-hire receipts will only be issued when the Equipment has been either collected by CA & LHS, or returned to CA & LHS' premises.
- 6.6 If the Client wishes to terminate the hire of the Equipment during the term stipulated, the Seller may (at their sole discretion) require the Client to pay CA & LHS the remaining hire fees which would otherwise have been payable to Client during the Hire Period.
- 7. Delivery**
- 7.1 Delivery ("**Delivery**") of the Equipment is taken to occur at the time that:
- the Client or the Client's nominated carrier takes possession of the Equipment at CA & LHS' premises; or
 - CA & LHS (or CA & LHS' nominated carrier) delivers the Equipment to the Client's nominated address even if the Client is not present at the address.
- 7.2 At CA & LHS' sole discretion the cost of delivery is in addition to the Price.
- 7.3 Where CA & LHS is to deliver the Equipment the Client shall make all arrangements necessary to take delivery of the Equipment whenever it is tendered for delivery. In the event that the Client is unable to take delivery of the Equipment as arranged then CA & LHS shall be entitled to charge a reasonable fee for redelivery.
- 7.4 The Client shall be responsible for free access by CA & LHS to the site on which the Equipment is located. If there are any delays due to free access not being available, then the Client shall be responsible and shall reimburse CA & LHS for all lost hire fees associated with the Equipment being unavailable. The Client shall also be responsible for all other expenses and costs incurred by CA & LHS due to delays in access to the Equipment.
- 7.5 The off-hire receipt will be issued when the Equipment is picked up by CA & LHS or returned to CA & LHS' premises.
- 7.6 CA & LHS may deliver the Equipment in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.
- 7.7 Any time or date given by CA & LHS to the Client is an estimate only. The Client must still accept delivery of the Equipment even if late and CA & LHS will not be liable for any loss or damage incurred by the Client as a result of the delivery being late.
- 8. Risk**
- 8.1 CA & LHS retains property in the Equipment nonetheless all risk for the Equipment passes to the Client on Delivery.
- 8.2 The Client accepts full responsibility for the safekeeping of the Equipment and indemnifies CA & LHS for all loss, theft, or damage to the Equipment howsoever caused and without limiting the generality of the foregoing whether or not such loss, theft, or damage is attributable to any negligence, failure, or omission of the Client.
- 8.3 The Client will insure, or self-insure, CA & LHS' interest in the Equipment against physical loss or damage including, but not limited to, the perils of accident, fire, theft and burglary and all other usual risks and will affect adequate Public Liability Insurance covering any loss, damage or injury to property arising out of the Equipment. Further the Client will not use the Equipment nor permit it to be used in such a manner as would permit an insurer to decline any claim.
- 8.4 The Client accepts full responsibility for and shall keep CA & LHS indemnified against all liability in respect of all actions, proceedings, claims, damages, costs and expenses in respect of any injury to persons, damage to property, or otherwise arising out of the use of the Equipment during the hire period and whether or not arising from any negligence, failure or omission of the Client or any other persons.
- 9. Title**
- 9.1 The Equipment is and will at all times remain the absolute property of CA & LHS, and the Client must return the Equipment to CA & LHS upon request to do so.
- 9.2 If the Client fails to return the Equipment to CA & LHS as is required under this agreement or when requested to do so, then CA & LHS or CA & LHS' agent may (as the invitee of the Client) enter upon and into any land and premises owned, occupied or used by the Client, or any premises where the Equipment is situated and take possession of the Equipment, without being responsible for any damage thereby caused. Any costs incurred by CA & LHS as a result of CA & LHS so repossessing the Equipment shall be charged to the Client.
- 9.3 The Client is not authorised to pledge CA & LHS' credit for repairs to the Equipment or to create a lien over the Equipment in respect of any repairs.
- 10. Personal Property Securities Act 2009 ("PPSA")**
- 10.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- 10.2 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Equipment that has previously been supplied and that will be supplied in the future by CA & LHS to the Client.
- 10.3 The Client undertakes to:
- promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which CA & LHS may reasonably require to:
 - register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
 - register any other document required to be registered by the PPSA; or
 - correct a defect in a statement referred to in clause 10.3(a)(i) or 10.3(a)(ii);
 - indemnify, and upon demand reimburse, CA & LHS for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Equipment charged thereby;
 - not register a financing change statement in respect of a security interest without the prior written consent of CA & LHS;
 - 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 the prior written consent of CA & LHS.
- 10.4 CA & LHS and the Client agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
- 10.5 The Client waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.

- 10.6 The Client waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 10.7 Unless otherwise agreed to in writing by CA & LHS, the Client waives their right to receive a verification statement in accordance with section 157 of the PPSA.
- 10.8 The Client must unconditionally ratify any actions taken by CA & LHS under clauses 10.3 to 10.5.
- 10.9 Subject to any express provisions to the contrary (including those contained in this clause 10), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions the PPSA.

11. Security and Charge

- 11.1 In consideration of CA & LHS agreeing to supply Equipment, the Client charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Client either now or in the future, to secure the performance by the Client of its obligations under these terms and conditions (including, but not limited to, the payment of any money).
- 11.2 The Client indemnifies CA & LHS from and against all CA & LHS' costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising CA & LHS' rights under this clause.
- 11.3 The Client irrevocably appoints CA & LHS and each director of CA & LHS as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 11 including, but not limited to, signing any document on the Client's behalf.

12. Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)

- 12.1 The Client must inspect the Equipment on delivery and must within forty-eight (48) hours of delivery notify CA & LHS in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Client must notify any other alleged defect in the Equipment as soon as reasonably possible after any such defect becomes evident. Upon such notification the Client must allow CA & LHS to inspect the Equipment.
- 12.2 Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions (Non-Excluded Guarantees).
- 12.3 CA & LHS acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.
- 12.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, CA & LHS makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Equipment. CA & LHS' liability in respect of these warranties is limited to the fullest extent permitted by law.
- 12.5 If the Client is a consumer within the meaning of the CCA, CA & LHS' liability is limited to the extent permitted by section 64A of Schedule 2.
- 12.6 If CA & LHS is required to rectify, re-supply, or pay the cost of re-supplying any services or Equipment under this clause or the CCA, but is unable to do so, then CA & LHS may refund any money the Client has paid for the services or Equipment but only to the extent that such refund shall take into account the value of any services or Equipment and consumables which have been provided to the Client which were not defective.
- 12.7 If the Client is not a consumer within the meaning of the CCA, CA & LHS' liability for any defect or damage in the services or Equipment is:
- limited to the value of any express warranty or warranty card provided to the Client by CA & LHS at CA & LHS' sole discretion;
 - limited to any warranty to which CA & LHS is entitled, if CA & LHS did not manufacture the Equipment;
 - otherwise negated absolutely.
- 12.8 Notwithstanding clauses 12.1 to 12.7 but subject to the CCA, CA & LHS shall not be liable for any defect or damage which may be caused or partly caused by, or arise as a result of:
- the Client failing to properly maintain or store any Equipment;
 - the Client interfering with the Equipment in any way without CA & LHS' written approval to do so;
 - the Client using the Equipment for any purpose other than that for which it was designed;
 - the Client continuing the use of the Equipment after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
 - the Client failing to follow any instructions or guidelines provided by CA & LHS;
 - fair wear and tear, any accident, or act of God.

13. Client's Responsibilities

- 13.1 The Client shall:
- maintain the Equipment as is required by CA & LHS (including, but not limited to, maintaining water, oil and fluid levels and tyre pressures);
 - notify CA & LHS immediately by telephone of the full circumstances of any mechanical breakdown or accident in connection with the Equipment. The Client is not absolved from the requirements to safeguard the Equipment by giving such notification.
 - satisfy itself prior to taking delivery of the Equipment that the Equipment is suitable for its purposes;
 - operate the Equipment safely, strictly in accordance with the law, only for its intended use, and in accordance with any manufacturer's instruction, whether supplied by CA & LHS or posted on the Equipment;
 - ensure that all persons operating or erecting the Equipment are suitably instructed in its safe and proper use, and where necessary, hold a current certificate of competency and/or are fully licensed;
 - comply with all occupational health and safety laws relating to the Equipment and its operation;
 - not alter or make any additions to the Equipment including but without limitation altering, make any additions to, defacing or erasing any identifying mark, plate or number on or in the Equipment or in any other manner interfere with the Equipment;
 - employ the Equipment solely in its own work and not permit the Equipment of any part thereof to be used by any other party for any other work;
 - not exceed the recommended or legal load and capacity limits of the Equipment;
 - not use or carry any illegal, prohibited or dangerous substance in or on the Equipment;
 - keep the Equipment in their own possession and control and shall not assign the benefit of the hire contract nor be entitled to take a lien, or grant any encumbrance over the Equipment.

- 13.2 Immediately on request by CA & LHS the Client will pay:
- the new list price of any Equipment that is for whatever reason destroyed, written off, or not returned to CA & LHS;
 - all costs incurred in cleaning the Equipment;
 - all costs of repairing any damage caused by the ordinary use of the Equipment up to an amount equal to 10% of the new list price of the Equipment;
 - the cost of repairing any damage to the Equipment caused by the negligence of the Client or the Client's agent;
 - the cost of repairing any damage to the Equipment caused by vandalism, or (in CA & LHS' reasonable opinion) in any way whatsoever other than by the ordinary use of the Equipment by the Client;
 - any lost hire fees CA & LHS would have otherwise been entitled to for the Equipment, under this, or any other hire agreement;
 - the cost of fuels and consumables provided by CA & LHS and used by the Client.
- 14. Wet Hire**
- 14.1 "Wet Hire" shall mean that the Equipment is hired with an operator who shall at all times remain an employee of CA & LHS.
- 14.2 In the event of Wet Hire, the operator of the Equipment remains an employee of CA & LHS and operates the Equipment in accordance with the Client's instructions. As such CA & LHS shall not be liable for any actions of the operator in following the Client's instructions.
- 15. Cancellation**
- 15.1 CA & LHS may cancel these terms and conditions or cancel delivery of Equipment at any time before the Equipment is delivered by giving written notice to the Client. On giving such notice CA & LHS shall repay to the Client any sums paid in respect of the Price. CA & LHS shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 15.2 In the event that the Client cancels delivery of the Equipment the Client shall be liable for any and all loss incurred (whether direct or indirect) by CA & LHS as a direct result of the cancellation (including, but not limited to, any loss of profits).
- 16. Default and Consequences of Default**
- 16.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and one half percent (2.5%) per calendar month (and at CA & LHS' sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 16.2 If the Client owes CA & LHS any money the Client shall indemnify CA & LHS from and against all costs and disbursements incurred by CA & LHS in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, CA & LHS' contract default fee, and bank dishonour fees).
- 16.3 Further to any other rights or remedies CA & LHS may have under this contract, if the Client has made payment to CA & LHS, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by CA & LHS under this clause 16 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under this agreement.
- 16.4 Without prejudice to any other remedies CA & LHS may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms of hire CA & LHS may repossess the Equipment as per clause 9.2, or suspend or terminate the supply of Equipment to the Client and any of its other obligations under the terms and conditions. CA & LHS will not be liable to the Client for any loss or damage the Client suffers because CA & LHS has exercised its rights under this clause.
- 16.5 Without prejudice to CA & LHS' other remedies at law CA & LHS shall be entitled to cancel all or any part of any order of the Client which remains unperformed and all amounts owing to CA & LHS shall, whether or not due for payment, become immediately payable in the event that:
- any money payable to CA & LHS becomes overdue, or in CA & LHS' opinion the Client will be unable to meet its payments as they fall due; or
 - the Client has exceeded any applicable credit limit provided by CA & LHS;
 - the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
 - a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.
- 17. Privacy Act 1988**
- 17.1 The Client agrees for CA & LHS to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, previous credit applications, credit history) about the Client in relation to credit provided by CA & LHS.
- 17.2 The Client agrees that CA & LHS may exchange information about the Client with those credit providers and with related body corporates for the following purposes:
- to assess an application by the Client; and/or
 - to notify other credit providers of a default by the Client; and/or
 - to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or
 - to assess the creditworthiness of the Client including the Client's repayment history in the preceding two (2) years.
- 17.3 The Client consents to CA & LHS being given a consumer credit report to collect overdue payment on commercial credit.
- 17.4 The Client agrees that personal credit information provided may be used and retained by CA & LHS for the following purposes (and for other agreed purposes or required by):
- the provision of Equipment; and/or
 - analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Equipment; and/or
 - processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or
 - enabling the collection of amounts outstanding in relation to the Equipment.
- 17.5 CA & LHS may give information about the Client to a CRB for the following purposes:
- to obtain a consumer credit report;

- (b) allow the CRB to create or maintain a credit information file about the Client including credit history.
- 17.6 The information given to the CRB may include:
- (a) personal information as outlined in 17.1 above;
 - (b) name of the credit provider and that CA & LHS is a current credit provider to the Client;
 - (c) whether the credit provider is a licensee;
 - (d) type of consumer credit;
 - (e) details concerning the Client's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);
 - (f) advice of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the Client no longer has any overdue accounts and CA & LHS has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);
 - (g) information that, in the opinion of CA & LHS, the Client has committed a serious credit infringement;
 - (h) advice that the amount of the Client's overdue payment is equal to or more than one hundred and fifty dollars (\$150).
- 17.7 The Client shall have the right to request (by e-mail) from CA & LHS:
- (a) a copy of the information about the Client retained by CA & LHS and the right to request that CA & LHS correct any incorrect information; and
 - (b) that CA & LHS does not disclose any personal information about the Client for the purpose of direct marketing.
- 17.8 CA & LHS will destroy personal information upon the Client's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this agreement or is required to be maintained and/or stored in accordance with the law.
- 17.9 The Client can make a privacy complaint by contacting CA & LHS via e-mail. CA & LHS will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Client is not satisfied with the resolution provided, the Client can make a complaint to the Information Commissioner at www.oaic.gov.au.

18. Service of Notices

- 18.1 Any written notice given under this contract shall be deemed to have been given and received:
- (a) by handing the notice to the other party, in person;
 - (b) by leaving it at the address of the other party as stated in this contract;
 - (c) by sending it by registered post to the address of the other party as stated in this contract;
 - (d) if sent by facsimile transmission to the fax number of the other party as stated in this contract (if any), on receipt of confirmation of the transmission;
 - (e) if sent by email to the other party's last known email address.
- 18.2 Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post, the notice would have been delivered.

19. Insurance

- 19.1 CA & LHS provides protection insurance against accidental loss, damage, or theft of the Equipment subject to the terms of its policy with its insurer. Protection is subject to the following conditions;
- (a) policy exclusions set out in CA & LHSs insurance policy.
 - (b) the Clients duty of disclosure, to co-operate with the insurer and to provide a detailed report of any incident.
 - (c) the submission by the Client of a written police report in the case of theft.
 - (d) payment by the Client of an excess of;
 - (i) \$3000 per item or 10% of the replacement cost of the Equipment (whichever is the greater) where lost or stolen.
 - (ii) \$3000 per item or 10% of the cost of repairs to the Equipment (whichever is the greater) where damaged other than as a result of it overturning.
 - (iii) the actual cost of repairs up to \$5000 or 10% of the repair cost of the Equipment (whichever is the greater) where damaged as a result of it overturning, subject to clause (iv).
 - (iv) \$5000 per item or 10% of the replacement cost of the Equipment (whichever is the greater) where damages as a result of it overturning causes the Equipment to be written off.
 - (e) the Client having otherwise complied with the full terms and conditions of this hire agreement.
 - (f) adequate precautions have been taken to safeguard the Equipment.
- 19.2 This protection does not extend to;
- (a) damage due to misuse, abuse or overloading of the Equipment.
 - (b) loss or damage from use in violation of any statutory laws and regulations.
 - (c) loss or damage to tools, accessories, grease guns, hoses and similar electric cords, welding cable, pneumatic tools, steels and other similar accessories.
 - (d) damage caused to tyres and tubes by blow out, cuts or other causes inherent in the use of the Equipment.
 - (e) loss or damage relating to lack of lubrication or other normal servicing of the Equipment.
 - (f) loss or damage to the Equipment whilst located, used, loaded, unloaded, transported on or over water, wharves, bridges or vessels of any kind.
 - (g) loss or damage to motors or other electrical equipment or devices caused by overloading or artificial electrical current, including the use of underrated extension leads on electrical powered tools and machines.
 - (h) loss or damage caused by mysterious disappearance or wrongful conversion of the Equipment.
 - (i) loss or damage during transport except where transported by CA & LHS.
 - (j) loss or damage to items on which the waiver premium is not charged.

- (k) loss or damage caused by theft or burglary at a site location where the Equipment is not placed in a secure building or enclosure with adequate security or where the insurer of the Equipment states the Client contributed or failed to provide adequately secure premises at the site location.
- (l) Equipment damaged by reason of electrical, electronic, mechanical breakdown, explosion, sinking in water, wear, tear or corrosion.
- (m) consumables used in conjunction with the Equipment (including cutting tools, drills, blades, edges etc.
- (n) any loss or damage excluded by CA & LHSs insurance policy.
- (o) loss or damage in contravention of the conditions of this hire agreement.

20. Building and Construction Industry Payments Act 2004

- 20.1 At CA & LHS' sole discretion, if there are any disputes or claims for unpaid invoices relating to the Hire of Equipment and/or services then the provisions of the Building and Construction Industry Payments Act 2004 may apply.
- 20.2 Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the Building and Construction Industry Payments Act 2004 of Queensland, except to the extent permitted by the Act where applicable.

21. General

- 21.1 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 21.2 These terms and conditions and any contract to which they apply shall be governed by the laws of Queensland the state in which CA & LHS has its principal place of business, and are subject to the jurisdiction of the Beenleigh Courts in Queensland.
- 21.3 Subject to clause 12, CA & LHS shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by CA & LHS of these terms and conditions (alternatively CA & LHS' liability shall be limited to damages which under no circumstances shall exceed the Price).
- 21.4 Neither party shall assign or sub-contract all or any part of their rights and obligations under this agreement without the written consent of the other party.
- 21.5 The Client agrees that CA & LHS may amend these terms and conditions by notifying the Client in writing. These changes shall be deemed to take effect from the date on which the Client accepts such changes, or otherwise at such time as the Client makes a further request for CA & LHS to provide Equipment on hire to the Client.
- 21.6 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
- 21.7 Both parties warrant that they have the power to enter into this agreement and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this agreement creates binding and valid legal obligations on them.