



Wodonga, Victoria 3690 AU

www.state2statehire.com.au

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ABN: 89 510 431 844

TERMS AND CONDITIONS OF HIRE

All equipment hired to the Customer by State 2 State Hire will be hired on the following Terms and Conditions, which form part of the Hire Agreement.

DEFINITIONS

In these terms and conditions:

S2S means State 2 State Hire ABN 89 510 431 844 and is the owner of the Hired Equipment.

S2S's Premises means the premises nominated by S2S as to the location for the collection and return of the Hire Equipment by the Customer as specified in the Equipment Hire Schedule.

Commercial Customer means an entity who is the holder of a current registered Australian Business Number and with whom S2S makes the agreement.

Customer in general terms means the person or persons, corporation, firm, organisation, trust or any person acting on behalf of and with the authority of the Customer hiring equipment from S2S, as identified in the Equipment Hire Schedule, quotation or Invoice.

Customer's Premises means the premises nominated by the Customer as to the location of the Hire Equipment as specified in the Equipment Hire Schedule.

Daily Hire means the minimum period of hire of one 24 hour period. The hire equipment is taken as a daily hire between the Date Out time of 6.30am and the Return Date of 6.30am the following day, and will be charged at the Daily Hire rate as detailed in the Equipment Hire Schedule.

Date Out means the date:

(a) in relation to the Customer collecting the Hire Equipment, when the Customer collects the Hire Equipment from S2S's premises, or

(b) In relation to S2S delivering the Hire Equipment, when S2S loads the Hire Equipment onto any vehicle for delivery to the Customer's premises as specified in the Equipment Hire Schedule.

Defined Wear Items means parts or accessories of a nature that are susceptible to fair wear and tear, that being tyres, tracks, wheels, buckets, cutting edges, adaptors, teeth, side cutters, breaker moil, blades, mouldboards, wheel guards and undercarriage.

Delivery means the act of handing over of the Hire Equipment to the Customer and is taken to occur at the time that:

(a) the Customer or the Customer's nominated carrier takes possession of the Hire Equipment at S2S's Premises or the last site at which the Hire Equipment was situated prior to transport, or

(b) S2S or S2S's nominated carrier delivers the Hire Equipment to the Customer's nominated address even if the Customer is not present at the address.

Equipment Hire Schedule means the document provided by S2S to the Customer entitled "Equipment Hire Schedule", which contains information including but not limited to the specific equipment the Customer has hired, the applicable hire rates, any other relevant charges or instructions, dates of the Hire Period including the Date Out, the Expected End Date, and the address for delivery of the Equipment.

GST has the meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth), and refers to any tax imposed by or through the Act on a supply including, where relevant, any related interest, penalties, fines or other charges to the extent they relate to a supply under this Hire Agreement.

Hire Agreement means the agreement between State 2 State Hire and the Customer for the hire of equipment, and comprises but not limited to:

(a) the Quotation

(b) the Equipment Hire Schedule

(c) these Terms and Conditions of Hire; and

(d) any applicable Special Conditions of Hire

Hire Charge means the calculated fees, costs, amounts and charges payable for the hire of the equipment as agreed between S2S and the Customer, as detailed in any Quotation and or the Equipment Hire Schedule.

Hire Equipment means any equipment supplied by way of hire by S2S to the Customer as specified in the Equipment Hire Schedule, quotation or invoices and includes any and all associated accessories, parts, tools, attachments, substitute and replacement equipment, manuals and instructions.

Hire Period in respect of an item of hired equipment means the period of hire from and including the Date Out until the Return Date as specified in the Equipment Hire Schedule, Quotation, or Invoice, and may only be extended by one or more fixed periods by S2S on request by the Customer; and as described in clause 2.

Hire Rate means the rate of hire specified in the Equipment Hire Schedule.

Invoice means the document entitled "Tax Invoice" issued by S2S to the Customer that sets out the required information for a tax invoice in accordance with subsection 29-70(1) of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).

Liability means any liability (whether actual, contingent or prospective), loss, damage, cost and expense howsoever arising.

Loss Theft Damage Waiver means an agreement by State 2 State Hire to limit the Customer's liability in certain circumstances for loss, theft or damage to the Hire Equipment to an amount outlined in clause 12.

Monthly Hire means equipment that is hired for a period of at least 28 consecutive days, and will be charged at the Monthly Hire rate as detailed in the Equipment Hire Schedule.

Off-Hire Date means the date the Customer informs S2S the Hire Equipment is no longer required.

Payment Period in relation to Commercial Customers, means 30 days from the date specified on an Invoice, or such longer period as S2S has, in its discretion, specified to the Customer in writing.

Personal Property Securities Act means the Personal Property Securities Act (Cth) 2009, as amended from time to time. Security Agreement, Financing Statement, Financing Change Statement, Collateral, Personal Property, All Present and After Acquired Property, Purchase Money Security Interest, PPS Lease, Registration, and Security Interest have the meanings given to them in the Personal Property Securities Act.

Quotation means a quotation given by S2S to the Customer detailing the Hire Equipment, Hire Rate, Hire Charge, any special Terms and related Conditions, such Quotation being subject at all times to these Terms and Conditions.

Return Date means the date on which the Hire Equipment is returned to the physical possession of S2S at its premises as specified in the Equipment Hire Schedule.

Terms and Conditions means these terms and conditions.

Weekly Hire means equipment that is hired for at least 5 consecutive days in a seven day continuous period, and will be charged at the Weekly Hire Rate as detailed in the Equipment Hire Schedule.

AGREEMENT

- 1.1 S2S agrees to hire the Hire Equipment to the Customer on the terms and conditions set out in the Hire Agreement for the duration and Hire Rate specified in the Equipment Hire Schedule, and for any extension that may be agreed between S2S and the Customer, or as may be extended by operation of these Terms and Conditions.
- 1.2 S2S agrees to provide Hire Equipment that is in good working order and that is serviced and maintained in accordance with the manufacturers' recommendations. The Customer agrees that they have examined the equipment and declares that they have received all of such equipment in a good working condition. The Customer's failure to inform S2S of their objection to the condition of the Hire Equipment at the time of inspection prior to possession and or within one (1) hour of use as clocked on the Hire Equipment thereof shall be deemed conclusive that all of the equipment was in good working order from the commencement of the Hire Period.
- 1.3 S2S agrees to provide the Customer with operational guidance or instruction on the use of the Hire Equipment if requested by the Customer in addition to providing the manufacturer's operation manual.
- 1.4 The Customer is taken to have exclusively accepted and is immediately bound, jointly and individually, by these terms and conditions if the Customer places an order for, or accepts delivery of, the Hire Equipment.
- 1.5 The Customer is to be charged for the Hire Period and the Customer is entitled to exclusively use the Hire Equipment for the Hire Period. Any variation to the Hire Period must be agreed to by S2S.
- 1.6 The Equipment Hire Schedule will specify the Hire Rates and Hire Charges applicable.
- 1.7 S2S hires the Hire Equipment to the Customer at its absolute discretion and may refuse to hire to the Customer for reasons including but not limited to failing to provide adequate identification and perceived safety risks.
- 1.8 This Hire Agreement commences on the Date Out date and continues for the period up to the Return Date as specified in the Equipment Hire Schedule, unless terminated sooner in accordance with these terms.
- 1.9 Any Quotation from S2S shall remain valid for thirty (30) business days from the date of receipt.
- 1.10 The Customer agrees to return the Hire Equipment:
 - (a) at its own expense;
 - (b) in the same condition as the Hire Equipment were in at the commencement of the hire, cleaned and properly maintained in accordance to this Hire Agreement; and
 - (c) with full tanks of fuel and lubricating oils otherwise S2S will charge the Customer for the costs of refuelling.
- 1.11 The Customer will be responsible for ensuring that all attachments are safely packed prior to the return of the Hire Equipment and in accordance with any and all instructions given by S2S.
- 1.12 The Customer will be solely responsible for the operation of the Hire Equipment after delivery, and S2S and the Customer agree and the Customer specifically acknowledges that:
 - (a) the Customer must not modify or alter the Hire Equipment in any manner whatsoever, including without limitation the removal of any item or parts of the Hire Equipment, without S2S's prior consent; and
 - (b) the Customer must, and at its own cost and prior to the return of the Hire Equipment at the expiry of the Hire Period or the earlier termination of the Hire Agreement, rectify all modifications and alterations of any nature whatsoever to the Hire Equipment, and any damage caused to the Hire Equipment.
 - (c) the Customer will be fully and solely responsible for any loss or damage to the Hire Equipment and will notify S2S immediately and will pay for any loss or damage to the Hire Equipment, however occasioned (Defined Wear Items excluded).
- 1.13 Risk in the Hire Equipment passes to the Customer in accordance to Clause 8.
- 1.14 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

2. HIRE PERIOD

- 2.1 The Hire Period will commence from the time being the earlier of:
 - (a) when the Hire Equipment leaves S2S's Premises to be transported to the Customer's Premises, or
 - (b) when the Hire Equipment leaves the last site at which the Hire Equipment was situated prior to transport to the Customer's Premises, or
 - (c) the Date Out as specified in the Equipment Hire Schedule as being the date for commencement of the hire.
- 2.2 The Period of Hire will cease either:
 - (a) when the Hire Equipment is returned to the physical possession of S2S at its premises on but not limited to the Return Date as specified in the Equipment Hire Schedule, or
 - (b) the hire is terminated by either party in accordance with these terms and conditions. In which case the Customer is responsible for payment of the Hire Charge for both the Hire Period and any additional period until the Hire Equipment is in possession of S2S or an alternative arrangement is agreed to by S2S.
- 2.3 The Hire Period will include any time that the Hire Equipment is inoperative due to loss or damage caused by the negligence or wrongful act or omission of the Customer. However, if the Hire Equipment is irreparable, the Hire Period will cease when S2S receives reimbursement equal to the insured value of the Hire Equipment.
- 2.4 If S2S is unable to gain access to the Hire Equipment upon or after termination due to an act or omission of the Customer, the Hire Period will continue at the Hire Rate until S2S is provided with access to the Hire Equipment.

- 2.5 The Hire Period may be extended past the Return Date by the Customer in agreement with S2S. However, the Period of Hire can only be reduced or terminated in accordance with Clause 12 or by agreement between S2S and the Customer.
- 2.6 The date upon which the Customer advises of termination shall in all cases be treated as a full day's hire and charged a Daily Hire rate.
- 2.7 No allowance whatsoever can be made for time during which the Hire Equipment is not in use for any reason, unless S2S confirms special prior arrangements. In the event of a Hire Equipment breakdown, provided the Customer notifies S2S immediately, hiring charges will not be payable during the time the Hire Equipment is not working, unless the condition is due to negligence or misuse on the part of or attributable to the Customer.

3. COLLECTION AND DELIVERY OF HIRE EQUIPMENT

- 3.1 Unless otherwise agreed between S2S and the Customer, the Customer will collect the Hire Equipment from the site nominated by S2S at the start of the Hire Period, to which a copy of the Customer's driver license will be required, and return the Hire Equipment to S2S at the end of the Hire Period.
- 3.2 Where the Customer requests S2S to make delivery of the Hire Equipment specified in the Equipment Hire Schedule, S2S will use its best endeavours to have the Hire Equipment delivered on time. Any time or date given by S2S to the Customer is an estimate only. The Customer must still accept delivery of the Hire Equipment even if late and S2S will not be liable to the Customer for late delivery, non-delivery or any loss or damage occasioned to the Customer as a result of the late or non-delivery.
- 3.3 Where the Customer requires S2S to deliver or collect the Hire Equipment the Customer must do all that is practicable to facilitate the delivery or collection, including ensuring that the Hire Equipment is in an appropriate state and position for removal.
- 3.4 At S2S's sole discretion the cost of delivery is either included in the Hire Charge or is in addition to the Hire Charge. In the event that the Customer is unable to take delivery of the Hire Equipment as arranged then S2S shall be entitled to charge a reasonable fee for redelivery.
- 3.5 Unless specifically stated otherwise in the Hire Equipment Schedule or the Quotation, the Customer is responsible for all transport charges incurred by S2S in relation to the return of the Hire Equipment to S2S's Premises or such premises as may be agreed to between S2S and the Customer.
- 3.6 S2S may decline a request by the Customer to either deliver or collect the Hire Equipment, in which case the Customer must collect from, and return to S2S's Premises, the Hire Equipment.

4. HIRE CHARGES

- 4.1 The Customer will pay S2S for the hire of the Hire Equipment at the Hire Charge specified in the Quotation or Hire Equipment Schedule, which details the specific Hire Equipment the Customer has hired, the applicable hire rates, method of calculation, and any other relevant charges.
- 4.2 The Customer will be charged for the Hire Equipment for the full Hire Period specified in the Equipment Hire Schedule, and will continue to pay the Hire Charge and any other applicable charges for any period thereafter the Return Date until the Hire Equipment is returned to S2S's Premises or possession.
- 4.3 Hire Charges are calculated at a Daily Rate, Weekly Rate or Monthly Rate, and for the purposes of calculating the Hire Charge the minimum charge will be that shown in the Equipment Hire Schedule and on any related Invoice.
- 4.4 The Customer must pay to S2S the following amounts as stated on any Invoice:
- (a) the Hire Charge; and
 - (b) any other additional costs; and
 - (c) the cost of repairing any damage to the Hire Equipment, fair wear and tear of Defined Wear Items excepted, which will include the cost of any parts and labour supplied by S2S; and
 - (d) the value of degradation in Defined Wear Items at the end of the Hire Period, which are not reinstated to the same condition and standard as those originally supplied with the Hired Equipment; and
 - (e) the cost of replacing the hired equipment which is beyond repair due to an act or omission by the Customer; and
 - (f) the fee specified in the Equipment Hire Schedule for any additional accessories or parts chosen by the Customer if they are lost, stolen or damaged; and
 - (g) any other amounts that become owing by the Customer under this Hire Agreement; and
 - (h) all government charges and taxes relating to this Hire Agreement
- 4.5 The Customer must pay to S2S:
- (a) all Hire Charges and other amounts stated in a Commercial Customer's Invoice within the Payment Period (30 days from date of invoice); and
 - (b) costs and expenses incurred in the exercise or attempted exercise by S2S of S2S's rights under this Hire Agreement, including but not limited to collection agency fees and legal fees (calculated on a solicitor and own client basis); and
 - (e) S2S is entitled to charge interest on all amounts that may become due by the Customer to S2S under this Hire Agreement which are not paid by the end of the Payment Period, and such interest will accrue and be payable at the rate of 10 per cent per month, compounded monthly from the due date for payment until paid.
- 4.6 In the event of a hire ceasing part way through an invoice period where the Customer is not in default of these Terms and Conditions, the minimum charge will be calculated on a pro rata basis.
- 4.7 S2S reserves the right to amend the Hire Charges in accordance with any change to its standard pricing for the Hire Equipment.

5. OTHER CHARGES

- 5.1 In addition to the Hire Charges, the Customer agrees to pay:
- (a) for all Hire Equipment operating costs (including fuels, oils and lubricants) incurred, and all consumables used, during the Hire Period;
 - (b) if the Customer requests S2S to deliver, collect or install the Hire Equipment, the cost of delivery, collection or installation, as detailed in the Equipment 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 Hire Equipment is delayed by the Customer;

- (c) if the Customer does not return the Hire Equipment in clean and good working condition, charges for the cleaning and repair of the Hire Equipment;
- (d) any GST or government charges arising out of this Hire Agreement;
- (e) any other applicable levies, transactions, fines, penalties and any other charges arising out of the Customer's use of the Hire Equipment;
- (f) any reasonable charges incurred by S2S if we are unable to inspect or carry out maintenance on the Hire Equipment during normal working hours.
- (g) any other costs payable under any other provision of this Hire Agreement.

6. PAYMENT

- 6.1 Payment may be made by cash, bank cheque, money order, electronic/on-line banking, direct bank deposit into an account nominated by S2S or by any other method as agreed to between the Customer and S2S.
- 6.2 The Commercial Customer is required to pay all fees, charges and costs within 30 days of the Invoice date in full. S2S will issue an Invoice to the Commercial Customer after the completion of the Hire Period and at least monthly during the Hire Period.
- 6.3 For non-Commercial Customers, payment in full is required once the Customer accepts the Equipment Hire Agreement and prior to the Hire Equipment leaving S2S's Premises, to which S2S will issue an Invoice to the Non-Commercial Customer upon receipt of payment.
- 6.4 If a Commercial Customer fails to pay any applicable Invoices by the due date, a late payment fee of 10 per cent per month, compounding monthly, will be imposed. In addition the Commercial Customer indemnifies S2S for all expenses in recovering any unpaid amounts.
- 6.5 If the Customer terminates the Hire Agreement prior to expiry of the Hire Period, it shall pay S2S all monies owing at the time of termination plus all amounts which would have become due for the balance of the Hire Period, provided that, if S2S is able to re-hire the Hire Equipment to another Customer before the date on which the Hire Period would otherwise have expired, this will be deducted from the amount which would otherwise be due under this clause such amount as S2S receives or is entitled to receive from that other Customer during the period ending on the date on which the Hire Period would otherwise have expired.

7. INSPECTION AND WARRANTIES OF HIRE EQUIPMENT

- 7.1 S2S and the Customer will conduct a joint inspection of the Hire Equipment prior to the Hire Equipment leaving S2S's Premises to which the Customer is then required to sign an inspection declaration sited in the Hire Agreement Schedule as conclusive evidence of the external condition of the Hire Equipment. If for whatever reason the Customer does not sign the inspection report and fails to notify S2S immediately or within a clocked hour of the Hire Equipment being used, the Customer will be deemed to have accepted and be satisfied as to the condition, working order and safety of the Hire Equipment, the Hire Equipment's fitness for the Customer's purposes and their compliance with the description.
- 7.2 Implied terms and conditions regarding Hire Equipment:

To the fullest extent permitted by law, the Customer agrees that S2S has not given or made any warranty or representation whatsoever in favour of the Customer:
 - (a) as to the condition or quality of the Hire Equipment including, without limitation, latent and other defects and whether or not discoverable by S2S or the Customer; and
 - (b) as to the suitability or fitness for ordinary or any special use or purpose of the Hire Equipment.
- 7.3 Under applicable State, Territory and Commonwealth Law, including without limitation the Competition and Consumer Act 2010, certain statutory implied guarantees and warranties may be implied into these terms and conditions.
- 7.4 S2S acknowledges that nothing in these Terms and Conditions purports to modify or exclude the implied guarantees and warranties in accordance with the Competition and Consumer Act 2010.

8. RISK, TITLE AND THE PERSONAL PROPERTY SECURITIES ACT (PPSA)

- 8.1 Hire Equipment supplied by S2S to the Customer will be at the Customer's risk upon
 - (a) delivery to the Customer;
 - (b) collection by the Customer; and
 - (c) delivery to the Customer's custody, possession or control, whichever is the sooner.
- 8.2 The Customer must store the Hire Equipment in a safe legal manner and in a manner that they are readily distinguishable from other equipment held by the Customer so they clearly show that they are the property of S2S.
- 8.3 S2S retains full title to the Hire Equipment notwithstanding their delivery to the Customer, their possession and use by the Customer.
- 8.4 The Customer acknowledges that the Hire Agreement and these Terms and Conditions constitute a Security Agreement which creates a Security Interest in favour of S2S in the Hire Equipment supplied by S2S from time to time pursuant to this Hire Agreement. The Customer agrees that the Hire Agreement may constitute a PPS Lease. The Customer grants to S2S a Purchase Money Security Interest. Further, the Customer grants to S2S Security Interest in the Customer's All Present and After Acquired Property to secure the payments and obligations of the Customer under this Hire Agreement.
- 8.5 The Customer accepts, acknowledges and agrees that:
 - (a) S2S can, without notice to the Customer, affect and maintain Registration (in any manner that S2S considers appropriate) of its Security Interest on the Personal Property Securities Register (PPSR) in relation to any Security Interest contemplated or constituted by the Hire Agreement including but not limited to the Hire Equipment, Contract rights or intellectual property; and
 - (b) Pursuant to Section 275(6) of the PPSA, the Customer agrees S2S is not required to disclose to an interested person information pertaining to S2S's Security Interest unless required to do so pursuant to the PPSA or at law generally.
- 8.6 The Customer will:
 - (a) sign any documents and or provide any further information (which information the Customer warrants to be complete, accurate and up-to-date in all respects) and or assistance which S2S may reasonably require to enable perfection of its Security Interest or Registration of a Financing Statement or Financing Change Statement on the PPSR;
 - (b) not register a Financing Change Statement or make a demand to alter the Financing Statement pursuant to Section 178 of the PPSA

in respect of the Hire Equipment, including any services, without the prior written consent of S2S.

(c) not offer, sell, assign, sub-hire, charge, mortgage, pledge or create any form of security interest or otherwise deal with the Hire Equipment in any way.

(d) give S2S not less than 14 days written notice of any proposed change in their name and or any other changes in their details, including but not limited to, changes in their address, phone number, email address, trading name or business activities.

(e) indemnify S2S against any costs S2S incurs in perfecting and maintaining its perfected Security Interest in the Hire Equipment or such other Personal Property under the PPSA and any costs S2S may incur in the course of enforcing any rights under this Hire Agreement, the PPSA or at law generally.

(f) procure from any persons considered by S2S to be relevant to its security position, such agreement and waivers as S2S may at any time reasonably require.

(g) the Customer undertakes to not register, or permit to be registered, a Financing Statement or a Financing Charge Statement in respect of a Security Interest contemplated or constituted by the Hire Agreement in favour of a third party without S2S's prior written consent.

8.7 if Chapter 4 of the PPSA would otherwise apply to the enforcement of a Security Interest arising in connection with this Hire Agreement to which these Terms and Conditions apply, the Customer agrees that the following provisions of the PPSA will not apply to the enforcement of the Hire Agreement:

(a) Section 95 (notice of removal of accession), to the extent that it requires S2S to give a notice to the Customer;

(b) Section 96 (when a person with an interest in the whole may retain an accession);

(c) Section 121(4) (enforcement of liquid assets – notice to grantor);

(d) Section 125 (obligation to dispose of or retain collateral);

(e) Section 129 (disposal by purchase);

(f) Section 130 (notice of disposal by collateral), to the extent that it requires S2S to give a notice to the Customer;

(g) Section 132(3)(d) (contents of statement of account after disposal);

(h) Section 132(4) (statement of account if no disposal);

(i) Section 135 (notice of retention of collateral);

(j) Section 142 (redemption of collateral); and

(k) Section 143 (reinstatement of security agreement).

8.8 Notices or documents required or permitted to be given to S2S for the purpose of the PPSA must be given in accordance with the PPSA.

8.9 In the event that any person attempts to enforce any Security Interest or judgement against the Customer or otherwise purports to seize the Hire Equipment, the Customer must notify such person of S2S's Security Interests in the Hire Equipment and must immediately contact S2S to advise of such enforcement.

9. PRIVACY

9.1 The privacy and confidentiality of information provided by the Customer is adhered to by S2S in accordance with Australian Privacy legislation and principles.

9.2 The Customer agrees that S2S may exchange information about the Customer with related body corporates for the following purposes:

(a) to notify other credit providers of a default by the Customer;

(b) to notify any legal body when necessary in relation to the Hire Equipment and the Hire Agreement.

9.3 The Customer agrees that personal information provided may be used and retained by S2S for the following purposes, and for other agreed purposes or required by:

(a) the provision of Hire Equipment;

(b) to verify and or check the Customer's credit, payment and or status in relation to the provision of the Hire Equipment;

(c) processing of any payment instructions, direct debit facilities and or credit facilities requested by the Customer;

(d) enabling the collection of amounts outstanding in relation to the Hire Equipment.

9.4 The Customer shall have the right to request from S2S:

(a) a copy of the information about the Customer retained by S2S and the right to request that S2S correct any incorrect information;

(b) that S2S does not disclose any personal information about the Customer for the purpose of direct marketing.

9.5 S2S will destroy personal information upon the Customer's request 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.

9.6 The Customer can make a privacy complaint by contacting S2S via e-mail. S2S 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 Customer is not satisfied with the resolution provided, the Customer can make a complaint to the Information Commissioner at www.oaic.gov.au.

10. USE OF EQUIPMENT

10.1 The Customer must operate and maintain the Hire Equipment and all parts thereof in accordance with any applicable Commonwealth and or State legislation, including without limitation Worksafe regulations and legislation relating to Occupational Health and Safety, and in accordance with the requirements and recommendations of the manufacturer or supplier of the Hire Equipment, and all recognised methods and standards for equipment of their type.

10.2 The Customer will ensure at all times that only competent, and where appropriate, trained and qualified personnel, using appropriate methods and standards of operation, are permitted to operate the Hire Equipment.

10.3 The Customer will ensure that the operator of any Hire Equipment is not under the influence of alcohol or any drug that may impair their

ability to operate the Hire Equipment.

- 10.4 The Customer will ensure that all reasonable care is taken by the operator in handling and or parking the Hire Equipment and that the Hire Equipment is left locked and or securely stored when not in use.
- 10.5 The Customer will not exceed the recommended or legal load and capacity limits of the Hire Equipment (including the recommended number of passengers if applicable).
- 10.6 The Customer warrants that it will comply with all applicable legislation and regulations, including without limitation any relevant equipment operating codes, and that it will comply with all applicable equipment operating standards and good equipment operating practice.
- 10.7 Without limiting in any manner whatsoever any other indemnity given by the Customer under the Hire Agreement, the Customer will indemnify S2S and hold it harmless in respect of all claims, costs, damages, expenses and losses which S2S may incur or suffer arising out of any failure or default in respect of the Customer's obligations under this clause including without limitation any remedial or rectification action in respect of improper or unlawful installation and operation of the Hire Equipment.

11. LOSS OF OR DAMAGE TO HIRE EQUIPMENT

- 11.1 If the Hire Equipment is lost, breaks down or is damaged, the Customer must immediately notify S2S of the details. Notification shall not absolve the Customer from its obligations under this agreement to safeguard the Hire Equipment.
- 11.2 In the event that the Hire Equipment breaks down or becomes unsafe to use, the Customer shall:
- (a) Immediately stop using the Hire Equipment;
 - (b) Take all steps necessary to prevent the Hire Equipment from sustaining any further damage;
 - (c) Take all steps necessary to prevent injuries from occurring to any person or property as a result of the condition of the Hire Equipment; and
 - (d) Not repair or attempt to repair the Hire Equipment without S2S's prior instruction and consent.
- 11.3 If the Hire Equipment is lost or damaged, and the loss of or damage to the Hire Equipment is caused by the negligence of the Customer or the breach of any term of this agreement by the Customer, the Customer shall be liable for the following:
- (a) Any costs incurred by S2S in repairing or replacing the Hire Equipment;
 - (b) Hire charges for the Hire Equipment until the Hire Equipment is repaired or replaced; and
 - (c) Any other costs whatsoever incurred by the Customer as a result of the damage to or loss of the Hire Equipment.
- 11.4 If S2S is required by any relevant authority, is requested by the Customer, or elects in its unfettered discretion to salvage the Hire Equipment, then all salvage costs shall be payable by the Customer.

12. LOSS THEFT AND DAMAGE WAIVER

- 12.1 Loss Theft Damage Waiver is an agreement by S2S to limit the Customer's liability in certain circumstances for loss, theft or damage to the Hire Equipment to an amount called the Loss Theft Damage Waiver Excess, as explained in clause 12.5. Note the limitations set out in clause 12.6.
- 12.2 Subject to clause 12.3, the Loss Theft Damage Waiver Fee will be automatically charged to the Customer in addition to the Customer's Hire Charges and will be set out in the Equipment Hire Schedule.
- 12.3 The Customer is not required to pay the Loss Theft Damage Waiver Fee if the Customer produces a certificate of currency for an appropriate policy of insurance that covers loss, theft or damage to the Hire Equipment during the Hire Period for an amount not less than the replacement value of the Hire Equipment. The Customer is responsible for any excess and any other costs associated with the Customer's insurance and the Customer is responsible for any shortfall in repair or replacement costs of the Hire Equipment following payment of any amount received under the Customer's Insurance, including any loss S2S may suffer as a result of not being able to hire the Equipment.
- 12.4 Where the Customer has paid the Loss Theft Damage Waiver Fee, S2S will waive our right to claim against the Customer for loss, theft or damage to the Hire Equipment if:
- (a) for theft, the Customer has promptly reported the incident to the police and provided S2S with a written police report;
 - (b) the Customer co-operated with S2S and provided S2S with the details of the incident, including any written or photographic evidence required;
 - (c) the loss, theft or damage does not fall into one or more of the circumstances set out in clause 12.6; and
 - (d) the Customer has paid to S2S the Loss Theft Damage Waiver Excess.
- 12.5 The Loss Theft Damage Waiver Excess for each item of Hire Equipment is the amount equal to:
- (a) \$500.00 or (if the replacement cost of the Hire Equipment is less than \$500.00) the replacement cost of the Hire Equipment; or
 - (b) 15% of the cost of the repairs (if the Hire Equipment is partially damaged and can be repaired) OR 15% of the full new replacement cost of the Hire Equipment (if the Hire Equipment is lost, stolen or damaged beyond repair), whichever is greater.
- 12.6 Even if the Customer has paid the Loss Theft Damage Waiver Fee, S2S will not waive its rights to claim against the Customer for loss, theft or damage to the Hire Equipment and the Loss Theft Damage Waiver will not apply if the loss, theft or damage:
- (a) has arisen as a result of the Customer's breach of a clause of this Hire Agreement;
 - (b) has been caused by the Customer's negligent act or omission;
 - (c) has arisen as a result of the Customer's use of the Hire Equipment in violation of any laws;
 - (d) has been caused by the Customer's failure to use the Hire Equipment for its intended purpose or in accordance with S2S's instructions or the manufacturer's instructions;
 - (e) occurs to the Hire Equipment whilst it is located, used, loaded, unloaded, transported on or over water, wharves, bridges or vessels of any kind;
 - (f) has been caused by a lack of lubrication or a failure to properly service or maintain the Hire Equipment ;

(g) has been caused by collision with a bridge, carpark, awning, gutter, tree or any other overhead structure or object due to insufficient clearance;

(h) has been caused by the overloading of the Hire Equipment or any components thereof;

(i) is caused by exposure to any corrosive or caustic substance, such as cyanide, salt water, acid, etc;

(j) is caused by vandalism;

(k) is to tyres or tubes; or

(l) is to windscreens, mirrors, glass, or perspex

13. RELEASE AND INDEMNITY

13.1 The Customer hereby releases S2S from, and agrees to indemnify S2S in respect of, any third-party claims, actions, suits, demands, costs and expenses for damage or injury to person or property arising directly or indirectly out of the hire or use of the Hire Equipment by the Customer of this agreement whether caused by the negligence of S2S, the Customer or any other person, or the breakdown, failure, operation, mis-delivery or non-delivery of the Hire Equipment or any other matter.

14. EQUIPMENT FAILURE

14.1 If the Hire Equipment becomes unsafe, in a state of disrepair or not in working order, the Customer agrees to immediately discontinue the use of the Hire Equipment and to immediately notify S2S. The Customer will on no account attempt to repair the Hire Equipment without the consent of S2S and will immediately return the Hire Equipment to S2S's Premises if required to do so by S2S. If the failure is caused by reasonable wear and tear and for no other reason including the Customer's negligence or misuse, S2S agrees, in its discretion to:

(a) repair the equipment within a reasonable time and adjust the rental charge; or

(b) make similar Hire Equipment available

14.2 S2S shall in no circumstances be liable for any loss sustained by the Customer under this clause.

15. DEFAULT AND TERMINATION

15.1 Each of the following events is a default against these Terms and Conditions and will consequently give rise to the immediate termination of hire:

(a) the due and punctual payment of Hire Charges is a fundamental obligation of the Customer. If the Customer fails to pay the Hire Charges on the due date for payment thereof and such failure continues after notification of such by S2S to the Customer for more than three (3) business days the Customer is deemed to be in default and the hiring will terminate with immediate effect;

(b) if the Customer breaches any provision of this Agreement;

(c) the Customer becomes bankrupt, or is subject to an order for winding up, or has a controller, administrator, receiver, receiver and manager, agent in possession, trustee or guardian of its assets appointed;

(d) if any of the Hire Equipment are abandoned or condemned or are seized or appropriated by any third party.

15.2 If a default occurs S2S may at its option do any one or more of the following:

(a) terminate the Hire Agreement and the Customer's right to possession of the Hire Equipment by notice to the Customer;

(b) take such court action as it considers appropriate, whether to enforce performance by the Customer or otherwise; and

(c) recover damages for the breach concerned.

15.3 Termination of the hiring for default does not affect S2S's right to recover from the Customer the Hire Charges, any related costs under the Hire Agreement that arise and or damages for breach of this Agreement.

16. RETURN OF HIRE EQUIPMENT

16.1 Upon the expiry of the Hire Period or earlier termination of the Hire Agreement, the Customer must at its own expense immediately deliver the Hire Equipment to S2S's Premises or as otherwise directed by S2S.

16.2 Immediately upon the return of the Hire Equipment the Customer will conduct a joint inspection with S2S. If S2S determines at the time of the joint inspection that the Customer has failed to observe the provisions contained in this Hire Agreement, the Customer will pay the costs of any repairs, servicing and or cleaning. To which the Customer must pay the invoice for such repairs, servicing and or cleaning within seven (7) days from the date of the invoice.

16.3 Notwithstanding the expiry of the Hire Period or earlier termination of the Hire Agreement under Clause 12, the Hire Equipment will remain on hire at the Hire Rate then current until they are cleaned and any servicing and or repairs (other than in relation to Defined Wear Items) are completed and the Hire Equipment are able to be re-hired.

16.4 If the Customer does not return the Hire Equipment to S2S as and when required, pursuant to Clause 13.1, S2S may retake possession of the Hire Equipment, and S2S and its agents may for this purpose, without notice, liability or legal process, enter upon or into the Customer's premises and or site where the Hire Equipment is located and may take whatever reasonable means as necessary to retake possession of the Hire Equipment and the Customer will pay all costs incurred.



Wodonga, Victoria 3690 AU

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ABN 89 510 431 844

Phone: Ben Evans 0428 1985 90

EQUIPMENT HIRE SCHEDULE

This Equipment Hire Schedule forms part of the Hire Agreement between State 2 State Hire and the Customer, and coincides with any quotation, invoice, and Terms and Conditions of Hire provided by State 2 State Hire to the Customer.

Customer Details

Customer: _____

Address: _____

Phone: _____

Email: _____

ABN: _____

Identification Type: _____

Copy of identification: **Yes** **No**

Hire Equipment Period & Rate

Description of Hired Equipment:

1.8T Excavator
2T Excavator
Kanga

Buckets	Auger	
300mm Bucket	200mm	Trencher
450mm	300mm	Trailer
900mm Mud bucket	450mm	

Clocked Hour Meter:

Customer collection from S2S premises: **Yes** **No**

Delivery to Customer: **Yes** **No**

Delivery location of Hire Equipment:

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
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Hire Period: Date Out to End Date

Hire Rate:

Hire Charge:

By way of the Customer signing the Equipment Hire Schedule below, the Customer is deemed to understand and agree to:

- 1. The Hire Charge and Hire Period**
- 2. State 2 State Hire's Terms and Conditions of Hire**
- 3. The external condition of the Hire Equipment is in good clean condition and provided to the Customer with a full tank of fuel and accessories as specified.**

Customer Signature:

Date: