

- 1.0 In these Terms and Conditions ("Terms"):
- 1.1 "The Supplier" means CNH Industrial Australia Pty Ltd, trading as CASE Rentals ABN 76 000 031 130 and where appropriate includes its employees, agents and contractors;
- 1.2 "Renter" means the person or body corporate hiring the equipment from The Supplier;
- 1.3 "Equipment" means the equipment rented by The Supplier to The Renter and all parts, tyres, tools, accessories and equipment in or fitted to the equipment;
- 1.4 "The Agreement" constitutes the entire agreement between the parties. The Supplier may amend or replace the Agreement (including Rental Charges) by written notice to the Renter. Any and all subsequent rental of Equipment will be on the amended or replaced terms.
- 2 The Supplier will:
 - 2.1 Allow The Renter to take and use the equipment for the rental period;
 - 2.2 Provide the equipment to The Renter in good working order and condition;
 - 2.3 Terminate this Agreement, sue for recovery of the charges and repossess the equipment if:
 - 2.3.1 The Renter fails to pay any charges
 - 2.3.2 The Renter becomes bankrupt, insolvent or ceases business.
 - 2.4 In the event the Equipment breaks down or becomes unsafe to use through no fault, negligence, recklessness or misuse by the Renter, the Supplier will:
 - 2.4.1 Take all necessary steps to repair the Equipment as soon as reasonably possible after being notified by the Renter.
 - 2.4.2 Not impose a rental charge for that portion of the Rental period for which the Equipment was broken down or unsafe, nor the costs associated with any repair of the Equipment.
 - 2.4.3 Not be liable for expenditure, damages, loss or inconvenience incurred by the Renter arising from breakdown of the Equipment, however caused.
- 3 The Renter will:
 - 3.1 Pay the rental fees including GST, registration, stamp duties, Financial Institutions Duty, repairs and other expenses set out in these Terms and Conditions as required by The Supplier;
 - 3.2 The Renter must take out and maintain at its own cost for the period of the agreement insurance cover for:
 - 3.2.1 Indemnity cover of not less than the new replacement cost of the Equipment; and
 - 3.2.2 Third party and public liability insurance of not less than \$10 million indemnifying the Supplier;
 - 3.3 Understand and accept charge for LOSS AND DAMAGE WAIVER is automatically included on the Suppliers charges for any Equipment rented.
 - 3.4 Pay the excess amount on any insurance claim for damage or loss during the hiring period;
 - 3.5 Where LOSS AND DAMAGE WAIVER charges have been charged to the Supplier, the Renter agrees upon prompt submission of a Police Report, to waive it's right to claim for loss and damage to the Equipment caused by fire, storm, collision, accident, theft or burglary, providing adequate precautions have been taken in safeguarding the Equipment and the loss and damage was not incurred due to negligence by the Renter (refer conditions in Clause 8, Miscellaneous). Such waiving of rights is subject to payment by the Renter of an **excess** of:
 - 3.5.1 In event of the loss of Equipment: \$5000.00 per item or 1% of the insured value of the Equipment item (whichever is the greater). The Supplier reserves the right to claim additional costs associated with the loss of Equipment if the excess applied to any and all claims is increased due to issues of age, experience and type of use.
 - 3.5.2 In the event of damage to the Equipment: \$5000.00 per item or 1% of the insured value of the Equipment item (whichever is the greater). The Supplier reserves the right to claim additional costs associated with damage to the Equipment if the excess applied to any and all claims is increased due to issues of age, experience and type of use.
 - 3.6 Pay on demand interest at the rate of 2% per month on any overdue amounts;
 - 3.7 Pay all The Supplier debt collection or legal expenses (on a full indemnity basis) incurred in recovering or attempting to recover any debt from The Renter;
 - 3.8 Ensure:
 - 3.8.1 the engine oil, hydraulic oil, coolant levels and other normal service items are regularly checked and maintained to the equipment manufacturer's specifications in order to ensure the efficient performance of the equipment;
 - 3.8.2 servicing is done by the Supplier and in accordance with terms and conditions of warranty.
 - 3.9 Cleaning & Maintenance
 - 3.9.1 The Renter will at its own expense maintain the equipment in good and substantially clean condition and return the equipment in a clean condition.
 - 3.9.2 Undertake all preventative maintenance, servicing and minor running repairs (including electrical, hydraulic hoses and oil leaks) in accordance with manufacturers specifications, and
 - 3.9.3 The Renter is responsible for completing manufacturers' oil sampling analysis (as set out in the Operators manual) on all components. If this is not completed the Renter will be responsible for paying the Supplier reasonable costs to do so.
 - 3.10 Pay for any damage to equipment, excluding fair wear and tear;
 - 3.11 Be responsible for any registration or other fees relating to The Renter's use of the equipment;
 - 3.12 At any time return the equipment at the request of The Supplier;
 - 3.13 The Renter must ensure that the Equipment is:
 - 3.13.1 Operated by a suitably trained, licensed, experienced and (if necessary) certified operator and is operated in accordance with the Operator's Manual and the Supplier's instructions;
 - 3.13.2 Returned to the Supplier in the same condition as when received (except for normal wear and tear) and returned with a full tank of fuel or the Renter will pay the Supplier the cost of filling that tank;
 - 3.13.2 The Supplier for the purpose for which it was designed, in suitable terrain and in a manner which has regard to the capacity, capabilities and limitations of the Equipment;
 - 3.13.3 At all times stored safely and protected from theft, loss or damage.
 - 3.14 Report to The Supplier, any faults noticed;
 - 3.14.1 If the Equipment breaks down, becomes unsafe to operate or the visual/audible warning system activates signalling a fault the Renter shall immediately stop using the Equipment, ensure it does not sustain any further damage and prevent the Equipment from causing injury, loss or damage to any person or property.
 - 3.14.2 The Renter must not repair or attempt to repair the Equipment without the Suppliers prior written consent.
 - 3.15 The Renter must comply with all statutory laws and regulations and all common laws.
 - 3.16 Comply with all Occupational Health & Safety laws relating to the equipment and its operation; and
 - 3.17 Indemnify The Supplier for:

All loss, damage or expenses caused to persons and property in relation to the equipment and its operation; The cost of repairs caused carelessly or deliberately by The Renter or any other operator; The cost of damage, loss or expenses arising from any breach by The Renter in these Terms and Conditions; The cost of necessary repairs to the equipment, unless the damage is attributed to a specific event for which The Supplier receives insurance cover; Risk in the Equipment passes to the Renter on delivery of the Equipment and remains with the Renter until the Equipment is collected by or returned to the Supplier;
- 4 The Renter will not:
 - 4.1 Damage or abuse the equipment;
 - 4.2 Haul incorrectly loaded goods or use the equipment other than the purposes and within the limits for which the equipment was constructed;
 - 4.3 Lose possession of the equipment or lend or hire the equipment to another party; or
 - 4.4 Disconnect or alter hour meter readings
- 5 The Renter agrees with The Supplier and acknowledges that:
 - 5.1 The Supplier remains the sole owner of the equipment during the period of rental;
 - 5.2 The equipment is in good general working condition at the commencement of rental;
 - 5.3 This rental by The Renter is for business (and not domestic) purposes;
 - 5.4 It is not entitled to recover from The Supplier, compensation for any damages or consequential loss arising from the hiring or use of the equipment;
 - 5.5 The Supplier will be provided uninterrupted access to the equipment for a minimum of 1 working day per. Month for routine maintenance;
 - 5.6 The Supplier is not responsible for any damage to or loss of any property whatsoever and however caused, unless that loss or damage results solely from The Supplier negligence or intentional act;
 - 5.7 Except in respect of cover provided by third party property insurance, The Renter will be responsible for any loss or damage caused by to third parties through use of the equipment by The Renter or with its permission; the amount of loss or damage to the equipment means the cost of repairs or the market value of the equipment at the time of the loss which ever is less, plus our administrative, appraisal, legal and recovery costs, loss of use and other related expenses incurred as a result of the damage;
 - 5.8 Delivery and/or collection charges may apply if The Renter organises or causes the rental to commence or terminate anywhere other than at the Dandenong premises of The Supplier.
 - 5.9 If any provision in these Terms and Conditions is unenforceable at law, then that provision may be severed without affecting any other part.
- 6 If The Renter breaches this agreement, The Supplier is authorised to enter any premises or property where the equipment might be, to recover the equipment. The Renter agrees to indemnify The Supplier

against any claim which might be made by a third party arising from The Supplier repossession of the equipment.

7 GST

7.1 In this clause:-

- 7.1.1 GST means any tax or levy imposed by the Commonwealth of Australia on the supply of goods and services in Australia together with any related interest, penalty, or other charge imposed by or under a GST Law.
- 7.1.2 GST Law means any law imposing GST.
- 7.1.3 GST Exclusive Consideration means the rentals, charges and other amounts (other than GST) specified in these Terms and Conditions as payable by The Renter.
- 7.1.4 Supply means any supply or importation as defined in GST Law.

7.2 The GST Exclusive Consideration is calculated not to include GST.

7.3 In addition to the GST Exclusive Consideration, The Renter must pay or reimburse to The Supplier an amount equal to the GST charged to The Supplier from time to time in respect of Supply under this Agreement.

7.4 GST will be payable by The Renter without deduction or set-off at the same time(s) as the GST Exclusive Consideration.

8 PERSONAL PROPERTY SECURITIES ACT 2009 (the PPS Act)

8.1 The Renter agrees that for the purposes of the PPS Act, this Agreement is a Security Agreement and creates a Security Interest in:

- a. The Goods;
- b. The proceeds of any unauthorised sale or disposal of the Goods by the Renter; and
- c. If applicable, any other specified property.

8.2 To the extent that the PPS Act allows, The Renter agrees:

- a. To waive The Renter's rights to receive any notice or statement under sections 95, 121, 123, 129, 130, 132, 134 and 135 of the PPS Act;
- b. To waive The Renter's rights to receive any verification statement or notice under section 157 or 175 of the PPS Act; and
- c. That sections 95, 96, 118, 121(4), 125, 130, 132(3)(d), 132(4), 142 and 143 of the PPS Act do not apply to the enforcement of The Supplier's Security Interest under this Security Agreement.

8.3 The Renter consents to The Supplier registering The Supplier's Security Interest on the PPSR in any manner The Supplier considers appropriate.

8.4 The Renter must do everything The Supplier reasonably requests of The Renter to register, perfect and continue perfection of The Supplier's Security Interest in the Goods, or any other property.

8.5 The Renter agrees to reimburse The Supplier for any costs or expenses The Supplier incur relating to the registration, perfection or enforcement of The Supplier's Security Interest in the Goods.

8.6 The Renter agrees not to register, or permit to be registered, a financing statement or financing change statement in relation to the Goods (or if applicable, any other property) in favour of a third party without The Supplier's written consent.

8.7 The parties agree not to disclose any information of the kind described in section 275(1) of the PPS Act without the other party's consent, unless:

- a. Any of the things specified in section 275(7)(b) to (e) of the PPS Act occur; or
- b. Disclosure is required by law; or
- c. Disclosure is required to The Supplier's assignees or funders.

9 MISCELLANEOUS

9.1 The Renter authorises The Supplier to obtain a report from a Credit Reporting Agency or other Credit provider which contains details of The Renter's personal and commercial credit information, for the purpose of this hiring in accordance with Section 18E(8)(C) of the Privacy Act 1988.

9.2 The Supplier gives no warranty to The Renter in relation to the condition or capabilities of the equipment except as implied by the Consumer and Competition Act 2010 or by any other law. Where those laws allow The Supplier to limit liability for breach of implied conditional warranty,

9.3 To the extent permitted by law, The Supplier hereby limits liability to replacement, repair or resupply. In particular, (and to the extent permitted by law) The Supplier will not be liable to The Renter or any other person for any indirect or consequential loss or damage.

9.4 Expressly excluded from the LOSS AND DAMAGE COVER (Clause 3.5) is loss or damage as defined below;

9.4.1 Damage due to misuse, abuse or overloading of the Equipment

9.4.2 Mysterious disappearance or wrongful conversion of the Equipment

9.4.3 Loss or damage in contravention of the conditions of this hire agreement

9.4.4 Loss or damage from use in violation of any statutory laws and regulations

9.4.5 Loss or damage of tools, accessories, grease guns, hoses, and any other similar accessories

9.4.6 Damage caused to tyres and tubes by blowout, bruises, cuts or other causes inherent in the use of the Equipment

9.4.7 Loss or damage relating to lack of lubrication or other normal servicing of the Equipment

9.4.8 Loss or damage to the Equipment whilst located, used, loaded, unloaded, transported on or over water, wharves, bridges or vessels of any kind.

9.4.9 Loss or damage to motors or other electrical appliances or devices caused by overloading or artificial electric current.

9.4.10 Damage caused by exposure to any corrosive substance e.g. caustic cyanide, salt water, acid etc.

9.4.11 Theft of the Equipment, unless reasonably locked and secured

9.4.12 Loss or damage during transport, except where transported by the Supplier

9.4.13 Loss or damage to items on which the LOSS AND DAMAGE COVER premium is not charged

9.4.14 Any loss or damage caused by the negligence of the Renter. The Renter will be charged for the full replacement or repair cost (whichever is deemed appropriate) for all "excluded" LOSS AND DAMAGE COVER items, as per clause 8.3 above.

9.5 Any notice, invoice or document for The Renter will be deemed sufficiently served if posted by ordinary pre-paid post addressed to The Renter at The Renter's address last known to The Supplier, and will be deemed to have been received by The Renter in the ordinary course of post.

9.6 This Agreement incorporates the entire understanding between The Renter and The Supplier in relation to hiring of the equipment.

9.7 This Agreement is governed by and will be construed in accordance with the laws of Victoria and the parties submit to the non-exclusive jurisdiction of Victoria courts.

SIGNED BY THE PARTIES

DATED ___/___/20__.

Signed for: CASE Rentals

Signed by Renter

Name

Position

Company

Address

City

Postcode Email

Signature

Signature