

MLA HOLDINGS PTY LTD ABN 47 002 095 856 (“MLA”)

TERMS AND CONDITIONS OF HIRE

The following terms and conditions shall apply to and be incorporated into any hire agreements accepted, entered or made by MLA.

1. This Hire Agreement shall begin on the Commencement Date and shall terminate on the earlier of

(a) the Expiry Date, or

(b) that date upon which the Hirer commits any breach of this Hire Agreement,

- commits or suffers any act or bankruptcy,

- (being a company) goes into liquidation or has a receiver appointed over any part of its assets,

- has execution or distress levied against its goods.

(c) if no expiry date is listed then the Agreement is deemed as “open term” and the expiry of the schedule will occur with one (1) month notice to either party.

(d) without prior arrangement, should the equipment remain on rent after the Expiry Date, MLA reserves the right to adjust its Hire Charges to an amount equal to market short term rental charges.

2. The Hirer agrees to pay MLA,

(a) the Hire Charges in the amounts and at the times and place specified in the Schedule.

(b) unless specified, the Hire charges paid to MLA within 30 days of provision of a valid tax invoice.

(c) all stamp duty and other duties and taxes that may now or hereafter be incurred in respect of this Hire Agreement, and

(d) all transportation charges reasonably incurred in making the equipment available to the Hirer at the Delivery Point.

3. The Hirer acknowledges,

(a) that the Hire Charges appearing in the Schedule are based on the current prices of labour and spare parts. The Hire Charge is subject to annual CPI adjustments (no more than 60% of the CPI to reflect direct increases in labour and parts costs). MLA may at any time by seven (7) days’ notice in writing to the Hirer increase the Hire Charge to take account of the 60% annual CPI adjustment. The Hirer shall pay the increased Hire Charges from the date specified in such notice.

(b) Hire Charges appearing in the Schedule are calculated using the hours usage per week reference. MLA reserves the right to review the accrued hours of use annually. Where those accrued hours exceed the allowable hours, a revision in the Hire Charge or a one-off excess hour charge may be applicable.

4. The Hirer agrees:

(a) to insure the Equipment against fire, accident, flood and theft for its full insurable value in the names of MLA and the Hirer as to their respective interests.

(b) to keep the Equipment in good repair and to carry out all daily maintenance checks and to make good any damage to the equipment or any part thereof (including if caused by accident or operator misuse due to the negligence of the Hirer, or incorrect operation of the Equipment by the Hirers employees or contractors under the direct control of the Hirer) except to the extent that such damage or maintenance is due to fair wear and tear. The AITA Fair Wear & Tear Guide is to be used as a reference point by both parties.

(c) all new forklifts are fitted with new tyres. All future tyre repairs or replacement are at the expense of the Hirer, unless stipulated in the Agreement at a maximum of one (1) set per annum, subject to the AITA Fair Wear & Tear Guide. It is expected that all units will be de-hired with a maximum 70% wear. Additional tyre wear to be charged to the Hirer on a pro rata basis.

(d) to charge and top up with distilled water all batteries being part of the Equipment and to keep daily log thereof.

(e) use in connection with the Equipment only the best procurable fuels and lubricants of a type and in accordance with the directions specified by MLA.

(f) not to re-locate the Equipment without permission of MLA.

(g) not to do or omit to do anything likely to endanger the safety or condition of the Equipment.

(h) to comply with all relevant Acts, regulations and by-laws relating to the Equipment and its use.

(i) that when the unit is a standby unit or on hourly charge basis, they will maintain a logbook recording the days and hours during which the equipment was used and to make such a logbook available for inspection and copying by MLA and its representatives.

(j) to allow the authorised representatives of MLA to enter upon any premises on which the Equipment is located for the purpose of inspecting and testing the Equipment.

(k) to make the Equipment available for service and repair during normal working hours or to pay an additional charge if MLA is required to service or repair the machine outside of normal working hours.

(l) to operate the Equipment in a safe and proper manner and to comply with the instructions and directions given by MLA regarding the operation of the Equipment from time to time.

5. If the Hirer does not comply with Clause 4. MLA may, at its option enter the premises on which the Equipment is located at any time without notice to the Hirer and rectify any damage. The Hirer shall promptly reimburse and pay all the costs associated with such rectification to MLA on demand.

6. The Hirer acknowledges that it has no property or interest in the Equipment or any part thereof and is a bailee only. Accordingly, the Hirer agrees that it:

(a) will make no additions or alterations to the Equipment without written consent of MLA. Any additions made to the Equipment whether by replacement substitution or otherwise shall form part of the Equipment and shall be subject to this Hire Agreement.

(b) will not remove obscure or deface any identifying mark label or device on the Equipment or any part thereof.

(c) will not purport or attempt to sell dispose of charge or encumber the Equipment or to assign its rights under this Hire Agreement.

7. (a) All warranties, representations, promises, conditions or statements regarding the Equipment whether express or implied including without limiting the generality of the foregoing warranties or conditions as to the suitability or fitness of the equipment for any particular purpose are expressly excluded to the full extent permitted by law.

(b) The liability of MLA for the breach of any condition or warranty implied in this Hire Agreement shall be limited to such one of the following as MLA in its discretion may decide the replacement of the defective Equipment or part thereof the payment of the cost of replacing the Equipment or part of acquiring equivalent Equipment or part.

(c) Same as mentioned above, MLA shall not be liable for any damages for delivery of the equipment or any consequential or economic loss or damage caused or contributed to be the Equipment.

(d) The Hirer agrees to indemnify and hold MLA harmless from all claims costs and damages that MLA may suffer in respect of injury to person or property arising out of the Hirer's use and custody of the Equipment.

8. (a) Upon the termination of this Hire Agreement in accordance with Clause 1 & 2, the Hirer shall:

- promptly return the Equipment to MLA's nearest Branch or agree to pay return transport charges to the nearest MLA Branch.
- pay to MLA all Hire Charges that would otherwise have been payable from the date of termination of this Agreement to the Expiry Date.
- continue to pay all Hire Charges until written agreement is received from the Hirer to compensate MLA for any damage to Equipment in accordance with the AITA Fair Wear & Tear Guidelines.

(b) If the Hirer does not promptly return the Equipment, MLA shall have the right to enter any premises at the time without notice to the Hirer on which it reasonably suspects the Equipment to be and to retake possession of the Equipment.

(c) If MLA does not retake possession of the Equipment the Hirer shall immediately upon demand by MLA pay to MLA the current market replacement value of the Equipment as nominated by MLA.

9. In addition to the amounts previously referred to MLA shall be entitled to charge, and the Hirer shall pay.

(a) all costs and expenses of or associated with retaking possession of the Equipment if MLA terminates this Hire Agreement under clause 1 & 2 due to the default of the Hirer.

(b) interest at the rate of fourteen per centum (14%) per Annum on any moneys owing under this Hire Agreement that be overdue.

10. (a) Notices may be served by prepaid ordinary post to the parties at the respective addresses appearing in this Hire Agreement

(b) The certificate of the Secretary of MLA shall be conclusive (absent manifest error) of any amount due owing or recoverable under this Hire Agreement.

(c) Expressions used in these terms and conditions shall have the respective meanings attributed to them in the Schedule.

(d) This Hire Agreement shall be governed by the laws of Australia and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Courts of each State.

11. Personal Property Securities Act 2009 (PSSA) / Personal Property Securities Registry

(a) The Hirer/Customer acknowledges that the unit/units on hire is covered by the PERSONAL PROPERTY SECURITIES ACT 2009) PPSA;

(b). The Hirer/Customer will, at the request of the owner, execute documents and do such further acts as may be required for The Owner/MLA to register the security interest granted by The Hirer/Customer under the PPSA.

(c) The Hirer/Customer agrees to accept service of any document required to be served, including any notice under this agreement or the PPSA or any originating process, by prepaid post at any address nominated in this agreement or any other address later notified to The Owner/MLA by The Hirer/Customer or The Hirer/Customers authorised representative.

(d) The Hirer/Customer further agrees where that The Owner/MLA has rights in addition to those under part 4 of the PPSA, those rights will continue to apply.

(e) The Hirer/Customer irrevocably grants to The Owner/MLA the right to enter upon The Hirer/Customer's property or premises, without notice, and without being in any way liable to The Hirer/Customer or to any third party, if The Owner/MLA has cause to exercise any of its right under sections 123 and/or 128 of the PPSA, The Hirer/Customer shall indemnify The Owner/MLA from any claims made by any third party as a result of such exercise.

(f) The Hirer/Customer hereby consents to The Owner/MLA recording the details of this agreement on the PPSR register and agrees to all things necessary and reasonably required by The Owner/MLA to affect such registration.

(g) The Hirer/Customer waives any right or entitlement to receive notice of the registration of any security interests created by this instrument on the PPSA register.