



# All Star Access Hire Pty Ltd

ABN: 88 103 109 440  
PO BOX 2007  
SPOTSWOOD Vic 3015  
Phone (03) 9399 3563

## ACCOUNT APPLICATION FORM

Registered Name of Company: \_\_\_\_\_

Trading Name: \_\_\_\_\_

Applicant's Status  Company  Partnership  Sole Trader  Other

ABN: \_\_\_\_\_ Accounts Contact : \_\_\_\_\_

Business Address: \_\_\_\_\_ Post Code: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Mobile: \_\_\_\_\_

Email Address: \_\_\_\_\_

### Name & Address of Directors \ Owners

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

### Trade References:

Company Name: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

Company Name: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

Company Name: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

In the making of this credit agreement, firstly, you acknowledge and accept that this account is strictly thirty (30) days payable and accept the conditions of Hire and sale of All Star Access Hire Pty Ltd. If payment is regularly received outside of the terms then it will All Star Access Hire Pty Ltd prerogative to cease all business relationships. Secondly, the authorised signatories shall be answerable to and responsible to All Star Access Hire Pty Ltd for all debts, whatever and whenever, contracted by the Debtor and All Star Access Hire Pty Ltd, in respect of goods\services supplied to or to be supplied by All Star Access Hire Pty Ltd.

### Signature of Authorized person/proprietors:

Title: \_\_\_\_\_ Print Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Address: \_\_\_\_\_ Post Code: \_\_\_\_\_

Title: \_\_\_\_\_ Print Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Address: \_\_\_\_\_ Post Code: \_\_\_\_\_



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## All Star Access Hire PTY. LTD. - HIRE AGREEMENT & CONDITIONS

**NOTE TO CUSTOMERS: This agreement is a claim for payment under the Building and Construction Industry Security of Payment Act 1999.**

**NOTE TO CUSTOMER:** You are responsible for the Equipment until it is back in possession of the Company, even after obtaining a Customer Off Hire Number.

### 2. The Company Obligations

#### The Company will:

- 2.1 Allow the customer to take and use Equipment until it is due back.
- 2.2 Provide the Equipment to the Customer clean and in good working order.
- 2.3 Subject to clause 3.2, be responsible for repairing any damage to the Equipment caused by the ordinary use of the Equipment by the Customer.
- 2.4 Re-supply or repair the Equipment if it fails to operate properly.
- 2.5 Collect the Equipment within 5 days of being requested to do so by the Customer and issuing to the Customer Off Hire Number.

**NOTE TO CUSTOMER:** You must return the Equipment when due back unless you obtain a Customer Off Hire Number from the company.

### 3. Payments by the Customer to the Company

- 3.1 On or before the Commencement (or as provided in the Customer's Credit Application with the Company) the Customer will pay the hire fees.

#### (a) Late Payments

If the Hirer does not pay the amount of the Hire Agreement invoice by the due date the Hirer will be liable to indemnify All Star Access Hire for all expenses incurred by All Star Access Hire recovering any amounts the Hirer fails to pay (including commission payable, to any commercial or mercantile agent and legal costs). Where an invoice remains unpaid for longer than 60 days EOM, the Hirer's trading account will be placed on Stop credit all equipment will be off hired and removed and transported back to All Star Access Hire at the Hirers cost. Where an invoice remains unpaid longer than 90days the debt will be forwarded to a commercial or mercantile agent.

#### (b) Set-off and application of funds

Any claims for credit by the Hirer shall be made within fourteen days of receiving All Star Access Hires invoice. The Hirer must not withhold or make any deduction from any payment by the way of set off. The Hirer acknowledged and agrees that any payment made by the Hire pursuant to this Agreement may be applied by All Star Access Hire to such outstanding monies due to All Star Access Hire, as All Star Access Hire determines in its sole discretion and notwithstanding any direction given by the Hirer at the time of payment.

- 3.2 Immediately on request by the Company, the Customer will pay

(a) the new price list of any Equipment which is for whatever reason not returned to the Company.

**NOTE TO CUSTOMER:** You are responsible for loss or theft of Equipment.

(b) all costs incurred in cleaning of the Equipment.

(c) all costs of repairing any damage caused by the ordinary use of the Equipment up to an amount equal to 10% of the new price list of the Equipment.

(d) the cost of repairing any damage to the Equipment caused by the negligence of the Customer or the Customer's agent.

(e) the cost of replacing any damage to the Equipment caused by vandalism, or (in the Company's reasonable (opinion) in any way whatsoever other than by the ordinary use of the Equipment by the Customer.

(f) the amount not covered by the insurance referred to in Clause 2.3:

(g) Goods and Services Tax any other taxes or duties and all tolls, fines, penalties, levies or charges payable in respect of this agreement and the hiring.

(h) all costs incurred by the Company in delivering and recovering possession of the Equipment. a late payment fee calculated daily at 10% per month on all unpaid charges.

(j) the cost of fuels and consumables provided by the Company and used by the Customer.

(k) any expenses or legal costs (including commission payable to a commercial agent) incurred as a result of the failure of the Customer to pay any charges due.

### 4. Return of Equipment by the Customer to the Company

- 4.1 deliver the Equipment to the Company when it is due back
- 4.2 return the Equipment to the Company clean and in good repair

### 5. Other obligation of the Customer

#### The Customer will:

- 5.1 satisfy itself at commencement that the Equipment is suitable for its purposes.
- 5.2 operate the Equipment safely, strictly in accordance with the law, only for its intended use, and in accordance with any manufacturer's instructions whether supplied by the Company or posted on the Equipment.
- 5.3 indemnify the Company for all damage caused to persons or property in relation to the Equipment and its operation and have insurance to cover any legal liabilities incurred as a result of the use of the Equipment.
- 5.4 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 to use it.



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5.5 comply with all occupational health and safety laws relating to the Equipment and its operation.

#### **The Customer will NOT:**

5.6 tamper with, damage or repair the Equipment.

5.7 lose possession of the Equipment.

5.8 rely upon any representation to the Equipment or its operation other than those contained in this Agreement.

5.9 exceed the recommended or legal load and capacity limits of the Equipment.

5.10 use or carry any illegal prohibited or dangerous substances in or on the Equipment.

5.11 travel outside the State where the Equipment is hired unless the Company Approves the destination.

#### **6. Customer not to Claim Damages**

The Customer cannot recover from the Company compensation for any damages (including for consequential loss) arising in respect of the Hire Agreement or the hiring or the use of the Equipment.

#### **7. Breach of Hire Agreement by Customer**

If the Customer breaches any clause whatsoever of this Agreement or becomes Bankrupt, insolvent or ceases business then:

7.1 the Company shall be entitled to:

(a) terminate this Agreement and/or

(b) sue for recovery of the Charges and/or

(c) repossess the Equipment (and is authorized to enter the Customer's premises to do so)

7.2 the insurance referred to in Clause 2 is immediately invalidated

7.3 the Customer must pay for any repairs to the Equipment despite Clause 2.4.

#### **8. No Warranties**

All warranties and conditions are excluded to the full extent permitted by law and The Company only obligation resulting from a breach by it of any condition or Warranty is limited to the supplying of the Equipment again or to the repair of the Equipment.

#### **9. Disputes**

If a dispute arises relating to this Agreement, the hiring or the use of the Equipment (except in regard to payment of charges) the parties agree to negotiate to settle the dispute with the assistance of the Hire and Rental Association of Australia before litigation.

#### **10. Damage Waiver**

(a) In the event of damage to the plant \$500.00 per item or 10% of the cost of repairs to the plant (whichever is greater).

This waiver shall not apply to damage to Equipment in the following circumstances and the hirer shall be responsible for and indemnify the Owner without limit against any loss or damage where:-

In the case of all Equipment

(i) Damage resulting from overloading, exceeding rated capacity, misuse, abuse or improper serving of Equipment.

(ii) Damage caused by misappropriation or wrongful conversion by the hirer or its employees, servants, independent contractors or agents or by any other person to whom the Equipment is entrusted by the hirer.

(iii) Damage caused by the use or operation of Equipment in contravention of any of these conditions of the hire.

(iv) Damage caused by the use or operation of Equipment in violation of any statute Commonwealth or State of any regulation or bylaw there under.

(v) Damage to tools or accessories.

(vi) Damage to tyres or tubes.

(vii) Damage to batteries.

(viii) Damage to Equipment occurring for any reason whilst located, used, unloaded, transported on, over or adjoining water including without limiting the generality hereof whilst located, used, loaded or transported over or on wharfs, bridges, barges and vessels of all kinds.

(ix) The Equipment is lost or stolen.

(x) The damage or loss is caused by the negligence of the hirer or any person under his control or the Nominated Driver including in the case of a motor vehicle any damage caused by the vehicle being driven without adequate water, engine oil, brake fluid or tyre pressure.

(xi) The Equipment is used for a purpose for which it was not designed.

#### **11 PPS LAW**

11.1 This clause applies to the extent that the Owners' interest in respect of a hire provided for in this document is a 'security interest' for the purpose of the Personal Property Securities Act 2009 (Cth) (PPS Law)

References to PPS Law in this document include references to amended, replacement and successor provisions or legislation.

7.2 Owner may register any actual impending or likely security interest. The customer may not make any claim against the owner in respect of any registration even if it is determined that the owner should not have registered a security interest. The customer must do anything (such as obtaining consents and signing documents) which Owner requires for the purposes of:

a) Ensuring that the owners security interest is enforceable, perfected and otherwise effective under the PPS Law

b) Enabling Owner to gain first priority (or any other priority agreed to by Owner in writing) for its security interest: and

c) Enabling owner to exercise rights in connection with the security interest.

7.3 The rights of the owner under this document are in addition to and not in substitution for Owners rights under the other law (including the PPS Law) and owner may choose whether to exercise rights under the document, and/or under such other law, as it seems fit. To avoid any doubt about it, owners security interest will attach to proceeds.

7.4 To the extent that Chapter 4, of the PPS law applies to the security interest under this document, the following provisions of the PPS law do not apply and, for the purposes of section 115 of the PPS law are 'contracted out' of this Agreement in respect of all goods to which that section can be applied: section 95 (notice of removal of accession to the extent it requires owner to give notice to the Customer) section 96 (retention of accession); section 121 (4) (notice to grantor); disposal to the extent it require the owner to give notice to the Customer); section 129 (2) and 129 (3); section 132(3d) (contents of statement of account after disposal); section 132(4) (statement of account if no disposal); section 135 (notice of retention); section 142 (redemption of collateral); section 142 (redemption of collateral); and section 143 (re-instatement of security document)



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7.5 To the extent they apply, the following provisions of the PPS Law; section 123 (seizing collateral); section 126 (apparent possession); section 128 (secured party may dispose of collateral); section 129 (disposal by purchase); and section 134(1) (retention of collateral) confer rights on the Owner. Customer agrees that in addition to those rights, owner shall, if there is a default by the Hirer have the right to seize, purchase, take possession or apparent possession, retain, deal with or dispose of any goods not only under those sections but also, as additional and independent rights, under this document and the Hirer agrees that the Owner may do so in any manner, it sees fit, including (in respect of dealing and disposal) by private or public sale, lease or licence.

7.6 The Customer waives its rights to receive a verification statement in relation to registration events in respect to commercial property under section 157 of the PPS law. This waiver also extends to any verification statement in respect of security interests arising or provided for under security documents prior to the date of this document.

7.7 Owner and the Customer agree not to disclose information of the kind that can be requested under section 275(1) of the PPS Law. The customer must do everything necessary on its part to ensure that section 275(6) (a) of the PPS Law continues to apply. The document in this sub-clause is made solely for the purposes of allowing the owner the benefit of section 275(6)(a) and the owner shall not be liable to pay damages or any other compensation or be subject to injunction in respect of any actual or threatened reach by this sub-clause.

7.8 The customer must not dispose or purport to dispose of, or create or purport to create or permit be created any 'security interest' (as defined in PPS Law) in the Equipment other than with the express written consent of the owner. The customer must not lease, hire, bail or give possession (sub-hire) of the Equipment to anyone else unless owner (in its absolute discretion) first consents in writing. Any such sub-hire must be in writing in a form acceptable to owner and customer may not vary sub-hire without prior written consent of owner (which may be withheld in its absolute discretion)

7.9 The customer must ensure that Owner is provided at all times with up to date information about sub-hire including the identity of the sub hirer, the terms of and state of accounts and payment under the sub hire and the location and condition of the equipment.

7.10 The customer must take all steps including registration under PPS law as may be required to:

- a) Ensure that any security interest arising under or in respect of the sub hire is enforceable, perfected and otherwise effective under PPS Law
- b) Enabling the Customer to gain (subject always to the rights of owner) first priority (or any other priority agreed to by the owner in writing) for the security interest; and
- c) Enabling owner and the customer to exercise their respective rights in connection with the security interest

7.11 To assure performance of its obligations under this document, the customer hereby gives owner an irrevocable power of attorney to do anything owner considers the customer should do under this clause 5, including registration fees.

## Definitions:

**Hirer:** The person, persons, body or corporate entity hiring the goods for the period stated in the Hire Agreement.

**Company:** The owner of the Hired Goods.

**Hired Goods:** The item/s noted in the Hire Agreement as being passed to the Hirer for a finite period in return for financial consideration.

**Hire Agreement:** The whole document detailing all aspects of the hire transaction as set out under the heading "Hire Agreement".