

Parties: Porter Hire Pty Limited ACN 150 943 794		The Customer:	
		ACN/ABN:	Date:
		P/O No:	Job No:
CUSTOMER			
Account Name:		Account Number:	Account Number:
Postal Address:		Phone:	Phone:
SITE			
Site:		Ordered By:	
Address:		Mobile Number:	
City:		Email:	
INSURANCE & HEALTH AND SAFETY			
Option 1: Limited Damage Waiver - Porter Hire to provide insurance in accordance with clause 6. of the Terms and Conditions (Excess \$5,000.00; Cost 10% of the Fee) (Porter reserves the right to decline to insure)			
Option 2: The Customer to insure in accordance with clause 6 of the Terms and Conditions (Maximum excess \$5,000.00 unless agreed otherwise in writing by Porter Hire, Certificate of Currency form attached)			
Insurance Option _____ has been accepted			
Uplifting the Equipment is confirmation by the Customer that the Customer is aware of its Health and Safety obligations (clause 7) and the Customer confirms that the operator is either competent or certified depending on the requirements for the Equipment hired.			
GENERAL CONDITIONS OF HIRE (Full details are provided in the terms and conditions section of this Agreement and should be read in conjunction with the terms below)			
<ol style="list-style-type: none"> Rates are based on time out, not time used. Minimum rates apply: Day (6hrs per day), Week (30hrs per week), Month (120hrs = 4 weeks x 30hrs). If your Equipment is not working, notification must be given on the same day by, phone or email, otherwise daily hire will continue. NO EXCEPTIONS. A delivery and collection service is available for an extra charge. Insurance of 10% will be charged over and above the hire rates unless your own insurance is arranged prior to start of hire (subject to the terms and conditions). This waiver does not include panel and glass damage, nor does it cover our current excess of \$5,000. Any Equipment returned to a Porter Hire branch in an unreasonable condition may incur a clean fee (Up to \$125 per hour). Daily checks including maintaining fuel, oil and water levels and also greasing are the Customer's responsibility. Loss Damage Waiver and GST are not included in the hire rate. Rates are subject to change. Drivers must hold current appropriate licences for Road Trucks/Trailers. All traffic infringement notices (ie traffic tickets) that are incurred by company or representative of that company while on hire, WILL BE ON-CHARGED to the Customer with an admin fee. There are NO EXCEPTIONS. Payment of accounts is due on or before the 20th of the month following the invoice date. Interest will be charged on all overdue accounts. 			
GUARANTORS			
Full Name:		Full Name:	
Address:		Address:	
Date of Birth:		Date of Birth:	

Job No:

ESTIMATE TERM/FEE						
Equipment	Date Start	Est. Date End	Est Qty	Unit Measure	Rate	Amount
Fleet No:				Hours	\$	\$
Loss Damage Waiver						\$
Freight out:					\$	\$
Estimate Total: (excluding GST)						\$
Plus GST (subject to adjustment in accordance with clause 8)						
Additional Chargers may apply at invoice stage for: Fuel, Cleaning, RUC, Freight In, Damages, and Traffic Infringements etc...						
Payment Dates: Payment is due on the 20 th day of the month following the date of invoice, or as otherwise specified by Porter Hire. Where the Term is greater than 1 month, the Fee will be charged evenly over the Term, and the relevant portion invoiced monthly, or in such other manner as specified by Porter Hire to the Customer from time to time.						

EQUIPMENT SCHEDULE / WORK			
Fleet No:	Description:	Type of Work: As per quote if specified	
Make:	Model:	Year:	
Registration No:	VIN / Chassis No:	Start Hours:	Km's
Additional Attachments: (Additional attachments agreed to be taken after the agreement date will be charged on invoice.)			
Hire Notes:			

EXECUTED AS AN AGREEMENT

COMPANY

Signed for and on behalf of PORTER HIRE PTY LIMITED ACN 150 943 794 by

Authorised Signatory

If the Customer is a company with sole director/secretary use the following execution clause:

SIGNED by #IDD SIGNATORY# in accordance with section 127 of the Corporations Act 2001 (Cth))))

Sole Director/Sole Secretary

Name (print)

If the Customer is company with more than 1 director/secretary use the following execution clause:

SIGNED by #IDD SIGNATORY# in accordance with section 127 of the Corporations Act 2001 (Cth))))

Director/Secretary

Director

Name (print)

Name (print)

If the Customer is an individual or sole trader use the following execution clause:

SIGNED by #IDD SIGNATORY# in the presence of:))

Witness

Signature

If the Guarantor is a company with sole director/secretary use the following execution clause:

SIGNED by #IDD SIGNATORY# in accordance with section 127 of the Corporations Act 2001 (Cth))))

Sole Director/Sole Secretary

Name (print)

If the Guarantor is company with more than 1 director/secretary use the following execution clause:

SIGNED by #IDD SIGNATORY# in accordance with section 127 of the Corporations Act 2001 (Cth))
)
)

Director/Secretary

Director

Name (print)

Name (print)

If the Guarantor is an individual or sole trader use the following execution clause:

SIGNED by #IDD SIGNATORY# in the presence of:)
)

Witness

Signature

Terms and Conditions

1. Agreement

1.1 The Customer wishes to hire the Equipment from Porter Hire on the terms and conditions contained in the Details on the front page and in these terms and conditions ("Agreement").
1.2 The Customer and the Guarantors have entered into an Account Application Form with Porter Group which contains the general terms and conditions that apply to this Agreement ("General Terms") see www.portergroup.com.au
1.3 The General Terms apply to this Agreement as if those terms and conditions were repeated in full, and a reference to this Agreement shall include a reference to those General Terms. If there is any inconsistency between the General Terms and this Agreement, then this Agreement will prevail but the General Terms shall be interpreted to the fullest extent possible in a manner which is consistent with this Agreement. For clarity, a reference to Porter Group in the General Terms includes without limitation a reference to Porter Hire and a reference to Account Holder is deemed to be a reference to Customer.

2. Definitions

2.1 In this Agreement:
a. All capitalised words are defined terms and, except where expressly provided below, have the meaning given to them by the Details Section of this Agreement.
b. "Equipment" means the item described in the Details Section and includes all accessories and other equipment of Porter Hire attached to or used in connection with the Equipment. The Equipment also includes any equipment or other item substituted for the Equipment by Porter Hire which substitution has been consented to in writing by the Customer. The Customer will not unreasonably withhold its consent to such substitution by Porter Hire.
c. "Fee" means the amount specified in the Details Section subject to adjustment in accordance with clause 8.
d. "persons under the control of the Customer" means the employees and the agents of the Customer and any other person who may be at any time under the control or direction of the Customer including but not limited to, sub-contractors, independent contractors and their employees or agents.
e. "Porter Hire" means Porter Hire Pty Limited.

3. Term of Hire

3.1 Porter Hire hires to the Customer, and the Customer takes on hire from Porter Hire, the Equipment for the Fee and otherwise on the terms and conditions of this Agreement. The term of hireage is from the Commencement Date for the Term, unless earlier terminated in accordance with this Agreement.
3.2 The Customer may give written notice to Porter Hire prior to the expiry of the Term that the Customer wishes to extend the Term. Porter Hire may, but is under no obligation to, extend the Term on terms, including the Fee, notified by Porter Hire to the Customer.
3.3 In the event that there is no Term specified in the Details Section of this Agreement, the parties expressly agree that the Term of this Agreement is a term of 12 months less one day from the Commencement Date.
3.4 The Customer must return the Equipment at the end of the Term, provided that Porter Hire will allow a grace period of 1 hour, without charge (until 9.00am on the day following the last day of the Term) for return of the Equipment unless otherwise agreed in writing by Porter Hire.

4. Porter Hire' undertakings

4.1 If the Equipment is destroyed or damaged and any insurance money paid to Porter Hire by an insurance company pursuant to any claim is, in the opinion of Porter Hire, adequate to replace or repair the Equipment, Porter Hire shall apply the insurance money to this purpose. If in the opinion of the Porter Hire, any insurance money received is not adequate to repair or replace the Equipment then Porter Hire will notify the Customer of its opinion and such notification will terminate this Agreement. Termination will not affect any rights, remedies, obligations or liabilities of either party for any act, omission, or other matter whatsoever arising prior to the termination of the Agreement and the Customer will be liable to pay the total Fee to Porter Hire and to perform all other obligations to be performed by the Customer for the remainder of the Term, and/or on account of any other indebtedness of the Customer to Porter Hire or any other member of the Porter Group, in each case as if this Agreement had not been terminated. The Customer will pay to Porter Hire any shortfall between the insurance proceeds received and the cost to Porter Hire of replacing the Equipment with like equipment.

5. Customer's undertakings

5.1 The Customer undertakes with Porter Hire as follows:

- a. it is responsible for arranging and paying for the carriage of the Equipment to and from Porter Hire' premises or such other premises as notified by Porter Hire to the Customer and is responsible for all loss or damage to the Equipment whatsoever during the carriage. Delivery and collection by a member of the Porter Hire will be to and from the footpath unless and agreed otherwise by Porter Hire.
 - b. it is responsible for all loss or damage to the Equipment whatsoever including, without limitation, the cost of repairs suffered or incurred by Porter Hire in consequence of any breakdown or damage to the Equipment where such breakdown or damage is caused by any act or omission or misdirection or misuse of the Equipment on the part of the Customer or persons under the control of the Customer, and any costs, loss or damage due to overloading mistakes or neglect in handling.
 - c. it will supply a suitably qualified, licensed, and competent operator to operate the Equipment.
 - d. it will at its own expense supply all fuel, oil, lubricating oil, cleaning and other consumables necessary for the operation of the Equipment and is responsible for checking fuel, oil, lubricants and carrying out other operating checks prior to use of the Equipment on a daily basis. Only fuel and lubricating oils approved by Porter Hire shall be used.
 - e. it will ensure the Equipment is kept in proper working order at the Customer's own expense.
 - f. it will not make any alterations to or modify the Equipment without the prior written consent of Porter Hire and will not remove any identification features on the Equipment or any part of the Equipment.
 - g. it will immediately notify Porter Hire in writing of any loss or damage to the Equipment, including but not limited to mechanical breakdown.
 - h. The Equipment will be situated at the Site during the Term, or at such other location as may be agreed from time to time by Porter Hire and Customer. The Customer will keep the Equipment safe and secure at all times when not in use.
 - i. it will only use or permit the Equipment to be used for the Type of Work, unless otherwise agreed in writing by Porters.
 - j. it will be responsible for all offences committed which involve the Equipment, including but not limited to traffic infringements, parking fines, fines for overloading, operating without the correct licence, or carrying hazardous goods without the correct permits or licences.
 - k. it agrees and acknowledges that:
 - i. Porter Hire has not made any representation that the Equipment is of an acceptable quality, durability, or fitness nor that the Equipment is new equipment or equal to new;
 - ii. The Customer does not rely on Porter Hire' skill or judgment as to the quality, durability or fitness of the Equipment for any particular purpose; and
 - iii. The Customer enters into this Agreement solely in reliance upon its own judgment as to the quality, durability and fitness of the Equipment for the Customer's purposes, and the risk in these respects is borne by the Customer.
- I. The Customer agrees and acknowledges that the Equipment was supplied by Porter Hire on a fully operational basis and that the Customer:
- i. will before using the Equipment:
 - ensure that all safety checks appropriate for the use of the Equipment are carried out; and
 - conduct and be satisfied as to a risk assessment of all work sites at which the Equipment will operate, including identifying possible hazards for its employees and other persons operating, or in the vicinity of, the Equipment.
 - ii. will carry out prestart daily inspection reports in accordance with Porter Hire' specifications from time to time before using the Equipment. These inspection reports must be made available on request by Porter Hire.

6. Insurance

6.1 If it has been indicated in the Details Section that the Customer will insure the Equipment, then the Customer will:

- a. At its cost arrange for all insurances that a prudent owner would take out in respect of the Equipment and their use on terms and with an Australian insurance company approved by Porter Hire, including but not limited to insurance against fire, theft, accident and damage while in the Customer's possession. Such insurance policies must show Porter Hire as an insured party and must provide for duplicate renewal notices to be sent to Porter Hire which has the right at any time to inspect the policy and to pay any outstanding premiums not paid by the Customer. The Customer must ensure that at least 14 days prior written notice is given to Porter Hire of the expiry or proposed termination of such insurance policies.

b. In addition to the insurance requirements set out in clause 6.1a and any other requirement specified in writing by Porter Hire from time to time, the Customer must:

- i. keep the Equipment insured for their full replacement value under an insurance policy that provides for a maximum excess of \$5,000 (which is payable by the Customer) and coverage for hire charges, transit costs and public liability for a minimum of \$10,000,000;
 - ii. ensure that the insurance policy includes, at a minimum, coverage for Porter Hire's loss of revenue while the Equipment are being repaired or replaced for up to 3 months, calculated for the purposes of this clause by multiplying the hourly rate specified in the Hire Rate Booklet (available at www.portergroup.com.au) by 6 hours per day for 3 calendar months;
 - iii. immediately notify Porter Hire of any circumstances giving rise to a claim for loss, damage or destruction of the Equipment;
 - iv. make a claim at any time the Equipment are destroyed or damaged or at any other time directed as by Porter Hire; and
 - v. agree to Porter Hire, in the place of the Customer, making a claim or continuing any claim already made by the Customer, and agree to transfer to Porter Hire, at Porter Hire's request, all of its rights and entitlements in this regard.
- c. If any money is paid to the Customer by the insurance company pursuant to any claim or otherwise, the Customer shall be deemed to hold that money in trust for Porter Hire and shall immediately pay such money to Porter Hire.
- d. If, for any reason whatsoever, the Customer is in breach of this clause, and does not hold the required insurance (or any insurance at all), or the Customer's insurer does not pay out on the relevant policy, the Customer agrees that it will personally be responsible for and liable to Porter Hire for all monies owing to it as set out in this Agreement.
- e. The Customer must, on the date of signing of this Agreement and at any other time requested by Porter Hire, provide to Porter Hire evidence of insurances taken out. If the Customer does not provide such evidence, or does not provide evidence to the satisfaction of Porter Hire, Porter Hire may (at its discretion):
- i. insure the Equipment on terms determined by Porter Hire, in which case the Customer will be liable for all costs and fees incurred by Porter Hire; or
 - ii. where the Equipment are hired, provide Limited Damage Waiver for the Equipment with effect from the commencement date of this Agreement or such other date as is specified by Porter Hire on the terms set out in clause 6.2 in which case the Customer will be liable for the surcharge set out in that clause together with all other costs and fees incurred by Porter Hire.
- f. Porter Hire may in its sole discretion elect to utilise any insurance proceeds towards the repair of the Equipment or alternatively terminate this Agreement and apply the moneys received towards satisfying the obligations of the Customer. Termination will not affect any rights, remedies, obligations or liabilities of either party for any act, omission, or other matter whatsoever arising prior to the termination of this Agreement, including without limitation Porter Hire's right to claim from the Customer for all monies owing under this Agreement, any interest owing, and any other obligations of the Customer under any Other Agreement.
- g. The Customer will remain liable for any shortfall between the insurance proceeds and the amount payable to Porter Hire under this Agreement.
- 6.2 Subject to clause 6.2e, in respect of any hire of Equipment if it has been indicated in this Agreement that Limited Damage Waiver will apply for those Equipment (or if no selection has been made), then:
- a. A surcharge of 10% of the hire charges will be added to the hire charges, such surcharge to be divided into equal amounts and spread across the term of the hire, and the Customer will make such payments to Porter Hire at the same time and in the same manner as the hire charges.
 - b. Subject to clause 6.2d, where the Equipment suffer loss or damage (regardless of whether the Customer, persons under the control of the Customer or any other party has caused or contributed to that loss or damage), the Customer's liability to Porter Hire in relation to such loss or damage is limited to the total of the following:
 - i. Porter Hire's loss of revenue, calculated for the purposes of this clause by multiplying the hourly rate specified in the Hire Rate Booklet (available at [\[insert\]](#)), by 6 hours per day for a maximum of 3 calendar months;
 - ii. any fines, penalties, infringement fees or other similar costs imposed by any authority having jurisdiction to do so (irrespective of whether the Customer has used the Equipment for an authorised or unauthorised purpose); and
 - iii. either:
 - (1) where Porter Hire is insured with a third party, the excess payable pursuant to that insurance policy to a maximum of \$5,000; or

(2) where Porter Hire is not so insured with a third party, \$5,000.

c. The provisions of clause 6.2b will not apply if, before, on or after the date the Equipment suffer the loss or damage, any one or more of the following apply:

- i. the Customer is in breach of this Agreement including, without limitation, payment of the Limited Damage Waiver surcharge pursuant to clause 6.2a;
 - ii. the Customer is in breach of any applicable laws or regulations;
 - iii. the loss or damage is caused or contributed to by the Customer's or any other person's (whether permitted or otherwise by the Customer) intentional, malicious, reckless, dishonest, fraudulent or deliberate act or omission, or an act or omission of gross negligence;
 - iv. the loss or damage is caused or contributed to by the Customer, or any other person (whether permitted or otherwise by the Customer), operating the Equipment under the influence of drugs, alcohol or other prohibited substance; using the Equipment for other than their intended purpose, or subjecting the Equipment to pollution or contamination;
 - v. the loss or damaged is caused or contributed to by the Customer, or any other person (whether permitted or otherwise by the Customer), operating the Equipment without being licensed to do so, or failing to comply with any licence conditions;
 - vi. the loss or damage is caused or contributed to by the Customer, or any other person (whether permitted or otherwise by the Customer), operating the Equipment while having been directed by a medical or other professional person not to operate the Equipment or any similar goods or equipment due to any condition, illness, medical treatment, or medication;
 - vii. the Equipment are seized by any authority having jurisdiction to do so;
 - viii. the loss or damage to the Equipment is caused or contributed to by an event which the Customer could have prevented or mitigated by taking reasonable steps to prevent the loss or damage occurring;
 - ix. the loss or damage is caused or contributed to by the Customer, or any other person (whether permitted or otherwise by the Customer), operating the Equipment in connection with hazardous stock, merchandise, chemicals or in other hazardous situations;
 - x. the loss or damage is caused or contributed to by the Customer, or any other person (whether permitted or otherwise by the Customer), operating the Equipment for the purposes of a protest, civil disruption, unlawful purpose, or criminal activity;
 - xi. the loss or damage is caused or contributed to by the Customer, or any other person (whether permitted or otherwise by the Customer), operating the Equipment for the purpose of carrying passengers; or
 - xii. the Customer, or any other person operating the Equipment (whether permitted or otherwise by the Customer), does not provide Porter Hire or the police with all assistance and information required to fully investigate and determine the circumstances surrounding the loss or damage, or does not do anything reasonably required by Porter Hire to mitigate any loss by Porter Hire, or fails to report to Porter Hire or the police if required by Porter Hire (including failing to take any required breath or blood test for drug or alcohol use).
- d. The Customer acknowledges that the Limited Damage Waiver applies only to loss or damage to the Equipment and does not limit, prejudice, or affect any other obligation the Customer has or may have to Porter Hire. The Customer must effect and maintain any other insurance reasonably required by Porter Hire, including without limitation public liability insurance for a minimum of \$10,000,000.
- e. Notwithstanding any indication on this Agreement or otherwise, Porter Hire reserves the right at time before or during the hire to decline or cancel Limited Damage Waiver, in which case the Customer must insure the Equipment to Porter Hire's satisfaction in accordance with clause 6.1e.
- f. The Customer agrees that Limited Damage Waiver is not a contract of insurance.

7. Health and Safety

7.1 The Account Holder acknowledges that it is aware of its statutory obligations and duties with respect to the Equipment under any applicable

workplace health and safety legislation (and any regulations made under such legislation) ("**WHS Legislation**") and warrants to Porter Group that:

- a. It will comply with all WHS Legislation;
- b. It has written rules and procedures relating to health and safety which Account Holder will follow to ensure the safety of its employees and all persons operating, or in the vicinity of, the Equipment; and
- c. It will ensure that all persons who use the Equipment are competent (and, where required, licenced) to do so and will use the Equipment in the manner they were designed to be used and in accordance with:
 - i. any directions from Porter Group or local or other authorities;
 - ii. industry codes of practice; and
 - iii. the manufacturer's guidelines relating to the use and safety of the Equipment.

7.2 The Account Holder acknowledges and agrees that:

- a. it is responsible for all health and safety obligations in respect of the Equipment and it will take all practicable steps to eliminate, isolate, and minimise any hazards or risks for its employees or other persons operating, or in the vicinity of, the Equipment and ensure the safety of any person operating the Equipment or other persons in the vicinity of the Equipment; and
- b. it will maintain a register of accidents and conform with any code of practice and laws or regulations which relate to the particular work being undertaken by the Equipment.

8. Fee

8.1 The Fee is to be paid in full without deduction, set off, or counterclaim with payments to be made to Porter Hire in the manner set out in the Details Section or in such other manner as Porter Hire may specify from time to time.

8.2 The Fee will be charged for the whole Term and no adjustment will be made for any time during which the Equipment is not in use unless otherwise agreed in writing by Porter Hire.

8.3 Subject to clause 8.4, the Fee payable by the Customer to Porter Hire is the greater of:

- a. The Fee specified in the Details Section; or
- b. The amount calculated by multiplying the hourly rate specified in the Details by the number of hours the Equipment is operated by the Customer or persons under the control of the Customer, as determined a reading of the hours meter; or
- c. The number of days the Equipment is in the possession of or in the control of the Customer or persons under the control of the Customer (including beyond the end of the Term) multiplied by 6 hours per day multiplied by the hourly rate specified in the Details.

8.4 The Customer acknowledges that it is liable for the Fee specified in the Details Section as a minimum fee irrespective of actual usage of the Equipment by the Customer.

9. Expiration of the Term

9.1 This Agreement will terminate at the end of the Term and subject to clause 3.4 the Customer shall deliver the Equipment to Porter Hire or such other party as Porter Hire directs in good working order, repair, condition, and appearance as it was when delivered to the Customer, fair wear and tear only excepted. The Customer will be liable for and will indemnify Porter Hire against the cost of reconditioning any Equipment rendered unfit for further service by the Customer.

10. Non-assignment

10.1 The Customer may not assign, sub-let or otherwise deal with its rights under this Agreement without the prior consent, in writing, of Porter Hire. A change in the effective management or control of the Customer will be deemed an assignment for the purposes of this clause.

10.2 Porter Hire and its successors or assigns may in its absolute discretion without the consent of or notice to the Customer, assign all or any of its rights or obligations under this Agreement to any other entity or person.

10.3 During the Term of the Agreement the Customer must, in its dealings with financiers, insurers and other third parties who may have an interest in the Equipment, clearly indicate that the Equipment is the property of Porter Hire.