

STAR SCAFFOLDS
ACN 009 926 292, ABN 15 433 159 661
TERMS and CONDITIONS of TRADE
Governed by the Laws of the State of Queensland

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- 1. DEFINITIONS** – In these terms and conditions of hire: **'Agreement'** means this hire or purchase agreement; **'Charges'** means Equipment hire and charges for the Work; **'Equipment'** means all equipment delivered to the Customer; **'Customer'** means the other party to this Agreement; **'Initial Hire Period'** means the period of hire initially estimated by the Customer and notified to the Owner; **'Owner'** means Papard Pty Ltd trading as Star Scaffolds, ACN 009 926 292, ABN 15 433 159 661; **'Site'** means the location where the Equipment is to be used; **'Work'** means all work and services to be provided by the Owner, including without limitation erection, dismantling, transportation and cleaning; **'Quotation'** means the Owner's quotation accepted by the Customer; **'PPS Act'** means Personal Property Securities Act 2009 (Cth); **'PPSR'** means Personal Property Security Register.
- 2. HIRE**
 - 2.1. The Owner will let the Equipment to the Customer and, if required by the Customer, will perform the Work, and the Customer will hire the Equipment and, if Work is required by it, accept the Work subject to this Agreement.
 - 2.2. The Customer acknowledges that:
 - 2.2.1. the Owner is not a general contractor but rather a Hirer of Equipment for reward and that this Agreement reflects that distinction;
 - 2.2.2. this Agreement comes into existence immediately upon and with effect from the Customer's acceptance of the Owner's quotation for the charges but with retrospective effect from the quotation's date; and
 - 2.2.3. despite any other term of any other agreement between the Customer and the Owner regarding the Equipment and the Work, this Agreement takes precedence to the extent of any inconsistency, and this agreement is in addition to any terms and conditions of credit granted by Star Scaffolds to the Customer.
- 3. QUOTATIONS** –The prices stated in any quotation will be current and can be subject to change without notice.
- 4. PURCHASE**
 - 4.1. The following are conditions which relate specifically to the purchase of Equipment by the Customer.
 - 4.1.1. Ownership and property in the Equipment shall, notwithstanding delivery to the Customer, only pass from the Owner to the Customer when payment in full for the Equipment has been received by the Owner (whether or not the Equipment is delivered in instalments, some of which have been paid for by the Customer). Until such time the Customer shall, by separate storage or some other means, ensure that the Equipment is readily identifiable as the property of the Owner and the Customer shall keep the Equipment as bailee for and on behalf of the Owner until the Owner receives full payment.
 - 4.1.2. If the Customer defaults in any payment due to the Owner on any account whatsoever, then the Owner may in its sole discretion and without prejudice to any other rights or remedies available to it terminate this agreement or suspend delivery of the Equipment and where it still retains title to the Equipment, reclaim possession of it.
 - 4.1.3. Payment of the purchase price or any outstanding balance from the Customer shall be due immediately upon the commencement of any act or proceedings relating to the Customer's solvency.
- 5. PERIOD**
 - 5.1. Hire commences at the time, noted by the Owner, the Equipment departs the Owner's warehouse and ceases at the time, noted by the Owner when:
 - 5.1.1. the Owner collects the Equipment; or the Customer delivers the Equipment to the Owner, and includes all time during that period (including public holidays, Site non-working days and inclement weather or other events not due to the Owner's default) where Equipment is unused.
 - 5.2. The Customer may terminate the hiring by so notifying the Owner's hire controller at the Owner's office and obtaining from the owner a Return Instruction Number. The Owner's records are deemed conclusive, in the absence of manifest error, as to the time of that notification, the details of the Return Instruction Number and the time hire commences and concludes. The Owner will issue an off-hire receipt when the Equipment is collected by the Owner or returned to the Owner. The Customer should retain this receipt as evidence that the Equipment has been returned from hire. If the Customer, its employees or agents are not present when the Equipment is to be delivered or collected by the Owner, the Customer authorises the Owner to so deliver or collect the Equipment and the Customer accepts the Owner's report as to the quantity, quality and condition of the Equipment delivered or returned.
 - 5.3. The Owner shall make every reasonable effort to deliver the goods to the site at the specified time (if required) but shall not be liable to the Customer in any way for any delay in the delivery of the goods:
 - 5.3.1. The Owner reserves the right to deliver the Equipment by instalments.
 - 5.3.2. The Customer cannot reject the Equipment due to short or late delivery.
 - 5.3.3. If the Equipment is delivered in multiple deliveries, such deliveries will not relieve the Customer from its obligations to accept further deliveries of the balance of the Equipment.
 - 5.3.4. The Customer shall not be relieved from any obligation to accept or pay for Equipment and/or services by reason of any delay in delivery, dispatch or completion of work.
 - 5.4. Every reasonable effort will be made by the Owner to meet its obligations under these terms but if the Owner, by reason, cause, matter or thing beyond its control, is unable to obtain materials or other requisites or is affected directly or indirectly by any circumstances beyond its control (including without limitation war, strike, industrial dispute, governmental interference, transport delays, accidents, acts of God, breakdown of plant or shortage of supplies) such that it is unable to deliver the Equipment by the date of delivery or complete the work by the completion date, then it shall have the right, without being liable to the Customer, to extend the completion date or the date for delivery of the Equipment or the completion date for the work to enable the Equipment ordered to be supplied or the work to be completed or at its option it may terminate the contract and the Customer shall have no claim against the Owner in that case but the Owner shall be entitled to recover all sums owing to it in respect of Equipment delivered and work performed up to the date of termination.
 - 5.5. The Owner may terminate the hiring:
 - 5.5.1. upon expiration of the Initial Hire Period by giving three days notice; or
 - 5.5.2. upon the Customer's default upon immediate notice, to the Customer at the Customer's contact number and address in this Agreement.
 - 5.6. If the Owner is to collect the Equipment the Customer must:
 - 5.6.1. give the Owner 24 hours notice (before 4.00pm Monday to Friday if an additional day's hire is to be avoided);
 - 5.6.2. locate all the Equipment in one secure location accessible to vehicles for collection.
 - 5.6.3. In order to calculate the Charges:
 - 5.6.4. part of a day is charged as a full day; and
 - 5.6.5. a day is deemed to end at 4.00pm.
- 6. FEES AND CHARGES**
 - 6.1. The Customer must pay and agrees to pay:
 - 6.1.1. the Charges; the cost of each callout to collect Equipment from each location; hire for any damaged, lost, stolen or unreturned Equipment (whether or not resulting from the Customer's or third parties' misuse or negligence) until it is repaired and fit for re-hire, or replaced, and for, at the Owner's option, repairs or replacement costs. If the Owner requires, the Customer must pay the Owner's estimate of reasonable repair costs prior to the repairs commencing;
 - 6.1.2. stamp duty, goods and services tax and any other tax, duty or impost imposed by any government authority on the hiring of the Equipment and the provision of the Work.
 - 6.1.3. Hire charges for lost goods continues until such time as the Customer notifies the Owner that the goods or any part of it is lost.
 - 6.2. The Customer must pay all Charges:
 - 6.2.1. within 30 days of the Owner's invoice's date, if the Owner grants the Customer a credit account; or
 - 6.2.2. for the Initial Hire Period: upon delivery of the Equipment; or upon completion of Work, if Work is provided by the Owner; and for subsequent Work and hire periods weekly in advance.
 - 6.3. If the Customer fails to pay the Charges in full on the payment date, the Customer must pay to the Owner interest on the outstanding amount from the due date until payment in full has been made, at the rate of 15% per annum calculated on a daily basis, and all costs incurred by the Owner in attempting to recover the outstanding Charges.
 - 6.4. The Customer will not claim, or attempt, any set off against the charges invoiced for whatsoever reason and whether or not the Owner is indebted to the Customer.
 - 6.5. The Customer will pay to Star Scaffolds all costs, charges and expenses incurred by Star Scaffolds, on an indemnity basis, in relation to any action taken by Star Scaffolds in respect of this Agreement. The Customer agrees that Star Scaffolds, after having demanded payment of a sum overdue, may apply any payment made by the Customer, first against Star Scaffolds' costs and disbursements in recovering the sum due; second against any interest accrued and finally against the amount overdue
 - 6.6. If the Customer, its employees or agents are not present when the Goods are to be collected by Star Scaffolds, the Customer authorises Star Scaffolds to collect the Goods and the Customer accepts Star Scaffolds report as to the quantity, quality and condition of the Goods collected.
 - 6.7. The Customer agrees to pay the amount shown on any invoice or statement for Goods or Work supplied by Star Scaffold plus any additional expenses applicable thereto:
 - 6.7.1. For the Initial Hire Period for the Goods and the Work, immediately upon receipt of an Invoice from Star Scaffolds; or
 - 6.7.2. For any additional hire periods for the Goods and further Work, weekly in advance.
 - 6.8. Star Scaffolds may at any time set off any amount the Customer owes to Star Scaffolds against any amount Star Scaffolds may then owe to the Customer. The Customer may not set off or deduct any amount from moneys owed to Star Scaffolds.

7. CUSTOMER'S OBLIGATIONS – The Customer:

- 7.1. remains responsible for the equipment until collected by the owner whether off hired or not;
- 7.2. must where the Customer erects the scaffolding warrant that the erection shall be carried out in accordance with the requirements of the law, be erected by suitably qualified and licenced scaffolders and be used in accordance with the requirements of the law;
- 7.3. must use the Equipment solely for the purpose for which the Equipment is supplied and in accordance with any limitations on the use of the Equipment arising from any legislation or the requirements of any local regulatory authority.
- 7.4. must pay the Owner for any costs or damages which the Owner may suffer or incur by reason of the Customers failure to carry out his obligations hereunder;
- 7.5. prior to the conclusion of the Initial Hire Period or any subsequent hire period, must obtain a Return Instruction Number from the Owner's hire controller at the Owner's office;
- 7.6. must provide a clear, safe Site suitable and ready for the Equipment's delivery, lay down, set up, erection, dismantling and removal. The Customer must also provide the Owner with clear access to the Site, suitable for the delivery and collection of the Equipment by the Owner's usual means of transport. The Owner may enter the Site to inspect the Equipment at all reasonable times. The Customer must also obtain any third party's consent necessary for the Owner entering the Site;
- 7.7. must ensure the foundations, or other surface, upon which the owner is asked to start erection are sufficiently firm and otherwise suitable to carry safely the equipment and any load to be put on it without subsidence or collapse;
- 7.8. must, where the Customer hires the Equipment only and is provided with the manufacturer's specifications and user guide for installation and use (dry hire), ensure that the Equipment is erected and dismantled by a suitable qualified person/s in accordance with the said specifications and user guide (**Instructions**). Suitably qualified person/s shall be the holder of any certificate of competence or licence that may be required by any legislation or local regulatory authority for the purpose of the erection or dismantling of the Equipment. The Customer will be solely responsible for the erection and use of the Equipment in accordance with the Instructions. The Owner shall have no liability to the Customer for any failure by the Customer to ensure that the Equipment is installed and used in accordance with the Instructions;
- 7.9. will disclose all related safety information provided by the Owner to all person/s responsible for the installation, utilisation or dismantling of the Equipment;
- 7.10. will attach and maintain all safety signs supplied with the Equipment in noticeable positions on the Equipment or in such positions as are necessary to bring the signs to the attention of any users of the Equipment;
- 7.11. must use the Equipment in a safe, proper and skilful manner; and ensure that the equipment is used only by a person, or persons qualified by law, (in particular the Workplace Health and Safety Act 1995 and any relevant Compliance or Advisory Standard and the Workplace Health and Safety Regulations 1995);
- 7.12. must comply with any relevant legislation concerning occupational health and safety requirements in association with the installation or use of the Equipment;
- 7.13. must ensure that all third parties using the equipment, comply with all laws and relevant legislation (including without limitation, all Workplace Health and Safety requirements and mandatory and advisory standards) regarding the use of the Equipment, and obtain and maintain (and pay all fees for) all necessary permits and approvals and certificates for the use of the Equipment and the provision of the Work;
- 7.14. must immediately notify the Owner of any Equipment damage, any defective operation of the Equipment or any accident or event relating to the Equipment, which may give rise to any claim for loss, damage or injury;
- 7.15. must not in any way alter, add to, or tamper with, the Equipment without the Owner's prior written consent;
- 7.16. must not sell, encumber, re-hire or deal with the Equipment in any manner, incorporate it into or make it a fixture to any building or move it from the Site without the Owner's prior written consent or in any way deny the Owner's ownership of the goods;
- 7.17. during the Initial Hire Period and any subsequent hire period, securely store the Equipment on Site and maintain and return it in the condition, including cleanliness, supplied, fair wear and tear excepted;
- 7.18. must not remove the goods or any part of the goods from the hire location unless returning the goods directly to the owners warehouse; and
- 7.19. will indemnify the Owner against all liabilities (including without limitation legal costs) which the Owner may incur either due to any fault, error or omission by the Customer, its employees and contractors in erecting or dismantling the Equipment.
- 7.20. Shall obtain from any third party (including but not limited to the owner or landlord of the premises upon which the Installation Site is located), a right of entry onto, and or consent to enter, the Installation Site in favour of Star Scaffolds.
- 7.21. Must ensure the foundations, or other surfaces, upon which Star Scaffolds is asked to start erection are sufficiently firm and otherwise

suitable to carry safely the Goods and any load to be put on it without subsidence or collapse

8. CHARGES

- 8.1. The Customer charges in the Owner's favour all of its estate, title and interest in any real and/or personal property that it owns at present and in the future with due payment to the Owner of all monies that are or may become due and payable by the Customer pursuant to this Agreement or otherwise arising from the Owner providing credit to the Customer prior to or after the date of the Agreement.
- 8.2. The Customer appoints as its duly constituted attorney the Owner's company secretary from time to time to execute in its name, and as its act and deed, any real property mortgage, bill of sale or consent to any caveat the Owner may choose to lodge against real property that the Customer may own even though the Customer may not have defaulted under the Agreement.

9. EQUIPMENT

- 9.1. All Equipment remains the property of the Owner and the Customer acknowledges that its use and possession of the goods is pursuant to these conditions.
- 9.2. Risk in the goods passes to the Customer upon delivery or collection from the Owner.
- 9.3. The Customer acknowledges that the Owner does not insure the Equipment and that the Customer is solely responsible for theft or damage to the Equipment and for third party loss or damage or injury resulting from the Customer's, or any third party's, use of the Equipment and the Customer shall pay the full retail cost of the lost or damaged goods.
- 9.4. The Customer must fully and adequately insure the equipment in the joint names of the Owner and the Customer against loss or damage and must effect and maintain any insurance necessary to ensure full coverage against the other liabilities assumed by the Customer pursuant to this Agreement. The Customer must provide to the Owner proof of the currency of the insurances required to be effected by the Customer under this clause when requested to do so.
- 9.5. The Customer acknowledges that, to the extent permitted by law, no warranty is given by the Owner of the Equipment's fitness for any particular purpose or location.

10. SIGNS AND MARKETING MATERIAL

- 10.1. The Owner may affix to the Equipment a sign or signs displaying the Owner's name, address and any other relevant details that it may think fit during the period of hire. The Customer shall not attempt to remove, interfere, obscure or damage such signs unless approval to do so has been obtained from the Owner. No marketing material other than that of the Owner may be affixed to any of the Equipment without the Owner's prior approval.

11. DEFAULT

- 11.1. The Customer acknowledges that the due and punctual payment of Charges is a fundamental obligation of the Customer. If the Customer:
 - 11.1.1. fails to pay the Charges by the payment date;
 - 11.1.2. breaches any provision of this Agreement;
 - 11.1.3. being an individual, becomes bankrupt, or being a corporation, 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;
 - 11.1.4. enters into a compromise or arrangement with creditors;
 - 11.1.5. ceases to be able to pay debts as they fall due, the Customer is deemed to be in default and hiring will terminate with immediate effect.
- 11.2. If the Customer is in default pursuant to clause 8.1, then:
 - 11.2.1. without prejudice to any other rights of the Owner pursuant to these terms and conditions or at general law, the Owner may, without notice to the Customer, enter onto the premises where the Equipment is located within business hours and take possession of the Equipment including without limiting the generality of the foregoing, by removing or detaching the Equipment from any structure on those premises to which they have been affixed. The Owner may resell or rehire the Equipment on such terms and conditions as the Owner sees fit and for the Owner's exclusive benefit.
 - 11.2.2. The Customer agrees that the Owner may remove or detach any affixed Equipment in any manner which the Owner considers necessary. The Customer shall indemnify the Owner against any liability the Owner incurs (including without limitation to third parties) in removing or detaching any fixed Equipment. The costs and expenses incurred by the Owner in removing the Equipment shall be paid by the Customer and will be a debt due and payable by the Customer immediately upon receipt of a written notice from the Owner stating those costs.
- 11.3. The Owner's waiver of any default is not a waiver of any subsequent default. Termination of the hiring for default does not affect the Owner's right to recover from the Customer the Charges or damages for breach of this Agreement.
- 11.4. The Owner and the Customer agree that the provisions of this clause 8 apply notwithstanding any agreement between the parties under which the Owner grants the Customer credit.

12. LIABILITY OF STAR SCAFFOLDS

- 12.1. Star Scaffolds shall not be under any liability whether in contract, tort or otherwise from any cause, whether occasioned by negligence or otherwise, for any injury, damage or loss, including special, indirect or consequential damage or loss or whether to persons or property, arising out of this Agreement including any defects in the goods.
- 12.2. All express and implied terms, conditions and warranties on the part of Star Scaffolds which might otherwise apply to or arise out of provision of the Goods by Star Scaffolds to the Customer are excluded, except to the extent that any law (including Part V of the Trade Practices Act 1974) does not permit them to be excluded

13. INDEMNITIES

- 13.1. The Customer indemnifies the Owner against all actions, claims (including, without limitation, claims for death, personal injury and damage to property, and claims for loss of profit, indirect or consequential loss), demands, losses, damages, costs and expenses which the Owner may or, but for this provision, would incur during or after the Initial Hire Period or any subsequent hire period in respect of: the provision of the Equipment and the Work by the Owner; any inaccuracies in any plans or bills of quantities supplied by the Customer to, and relied upon by, the Owner; the Owner entering the Site; the Customer's or any third parties' use or misuse of the Equipment; and breach by the Customer, its agents or employees of any provision of this Agreement.
- 13.2. Star Scaffolds is not liable to the Customer (except to the extent that liability cannot, by law be excluded) for any loss or damage sustained by the Customer whether by way of personal injury, delay, financial loss or otherwise arising from or incidental to a breakdown or defect in or any accident to the Goods whether occasioned by the negligence of Star Scaffolds, its servants, agents or otherwise.
- 13.3. The Customer hereby irrevocably indemnifies and continues to indemnify Star Scaffolds to the full extent permitted by law against all actions, proceedings, claims (including claims for legal costs) and demands made by any person or body corporate, whether in respect of damage to property, personal injury or otherwise arising out of, or alleged to arise out of the breakdown of, defect to or any accident to or in respect of the Goods.

14. CUSTOMER'S AUTHORITIES

- 14.1. Any officer, employee or agent of the Customer who signs this Agreement or any document in connection with it may be taken by the Owner as having, and is deemed to have, full authority to so sign and binds the Customer accordingly. If the Customer is a corporation, any person signing this Agreement warrants to the Owner that he has the Customer's full authority to so sign.
- 14.2. The Customer:-
 - 14.2.1. acknowledges that the Customer does not have any title, right or interest in the Goods other than as a bailee;
 - 14.2.2. declares that the information provided is true and correct and has been provided to induce Star Scaffolds to grant the application;
 - 14.2.3. agrees that despite any other term of any other agreement between the Customer and Star Scaffolds regarding the Goods and the Work, this Agreement takes precedence to the extent of any inconsistency.
 - 14.2.4. agrees that this Agreement (as varied from time to time) forms part of every transaction between Star Scaffolds and the Customer, and shall prevail over all conditions of the customer's order to the extent of any conflict;

- 15. **APPLICATION OF STATUTES** – The application to this Agreement of any legislation having the effect of modifying additional; conditions, covenants and stimulations in this agreement is hereby expressly excluded. The Owners liability under any conditions and warranties implied by such laws shall be limited to, but will not necessarily extend to, the cost of supplying Equipment equivalent in value to the Equipment for the same period of hire described in this Agreement and the Customer shall not be entitled to make any claim for loss of profit, consequential damage or loss to any property or injury to any person arising from any breach of any implied conditions or warranties.

- 16. **WAIVER and VARIATION** - No waiver or indulgence by Star Scaffolds will be a waiver of Star Scaffolds' rights with respect to any breach or recurring breach. No variation of this agreement shall be effective without Star Scaffolds' consent in writing.

- 17. **SECURITIES** - In order to better secure to Star Scaffolds all monies payable or to become payable pursuant to this Agreement (including any expenses as that term is defined in clause 54.7) the Customer:-

- 17.1. hereby as beneficial owner charges in favour of Star Scaffolds by way of a fixed charge any right, title, estate or interest which the Customer (and if more than one jointly and severally) has or may hereafter acquire in any freehold or lease hold property and personal property (chattels), with the payment of all such monies payable or to become payable by the Customer.
- 17.2. grants to Star Scaffolds a legal mortgage of any land now or hereafter held by the Customer the terms and conditions of which are contained in (and are hereby incorporated into this Agreement by reference to) Registered Document Number 704242948 (QLD), Registered Document Number 7044794 (NSW), Registered Document Number AA700 (VIC), Registered Document Number 1172376 (ACT),

- Registered Document Number M203 (TAS), Registered Document Number 8941498 (SA), Registered Document Number H526208 (WA), Registered Document Number 371888 (NT).
- 17.3. grants a non-lapsing caveat over any freehold or leasehold property.
- 17.4. will execute all documents as may be required to give effect to the intention of this agreement;
- 17.5. consents to registration of any security interest on any register (e.g. registering a PMSI on the PPSR);
- 17.6. agrees that for the purposes of this clause "expenses" includes expenses of preparation, execution, stamping, registration, lodgement and enforcement, discharge or withdrawal of any caveat or mortgage and all legal costs on an indemnity basis to which Star Scaffolds is put as a result of taking steps to protect, recover and/or enforce in any way, the charge(s) created

18. PRIVACY

- 18.1. Star Scaffolds will comply with the National Privacy Principles in all dealings with Customers/Hirers. A copy of the Star Scaffolds Privacy Statement is available upon request or by visiting www.starscaffolds.com.au

Item 7 of these Terms and Conditions of Trade requires that scaffolding be returned in good condition or cleaning or rectification charges may apply.

The notice below is attached to all Star Scaffolds erections.

Render, concrete, paint or other substances can be easily removed as you work. By keeping your scaffold in good safe condition you will ensure you incur no extra charges at the termination of your scaffolding usage.

WARNING
Please Take Care

DAMAGED OR LOST EQUIPMENT MUST BE PAID FOR

Any of the actions listed below will damage this scaffold. The cost of replacement components or repairs to rectify any damage will be charged to you, the hirer. Damage to this scaffold may also endanger the life of persons who are using or will use this scaffold. Please take care.

- Don't stand on braces
- Use scaffold for its intended use only
- Do not clean tools on scaffold
- Do not cut material on this scaffold
- Do not hammer on scaffold
- Do not drop or throw any scaffold components to the ground
- Remove plaster, paint or other substances promptly
- rinse off regularly
- Do not dismantle – serious damage could result if you employ incorrect procedure

Avoid a scaffold repair or cleaning account at the end of your job!

PLEASE LOOK AFTER THIS SCAFFOLD