

TERMS and CONDITIONS of HIRE Governed by the Laws of the State of Queensland

- 1. DEFINITIONS** – In these terms and conditions of hire: 'Agreement' means this hire agreement; 'Charges' means Equipment hire and charges for the Work; 'Equipment' means all equipment delivered to the Hirer; 'Hirer' means the other party to this Agreement; 'Initial Hire Period' means the period of hire initially estimated by the Hirer 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 Hirer.
- 2. HIRE** –
- 2.1. The Owner will let the Equipment to the Hirer and, if required by the Hirer, will perform the Work, and the Hirer will hire the Equipment and, if Work is required by it, accept the Work subject to this Agreement.
- 2.2. The Hirer 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 Hirer'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 Hirer 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 Hirer.
- 3. QUOTATIONS** – Quotations remain valid for thirty (30) days. The Owner reserves the right to issue a new quotation or adjust quoted prices for any manifest error, and to make adjustments for any increase in cost of labour, materials or overheads after the expiration of thirty (30) days.
- 4. PERIOD** –
- 4.1. 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:
- 4.1.1. the Owner collects the Equipment; or the Hirer 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.
- 4.2. The Hirer 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 Hirer should retain this receipt as evidence that the Equipment has been returned from hire. If the Hirer, its employees or agents are not present when the Equipment is to be delivered or collected by the Owner, the Hirer authorises the Owner to so deliver or collect the Equipment and the Hirer accepts the Owner's report as to the quantity, quality and condition of the Equipment delivered or returned.
- 4.2.1. Star Scaffolds 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 Hirer in any way for any delay in the delivery of the goods.
- 4.3. The Owner may terminate the hiring:
- 4.3.1. upon expiration of the Initial Hire Period by giving three days notice; or
- 4.4. upon the Hirer's default upon immediate notice,
- 4.4.1. to the Hirer at the Hirer's contact number and address in this Agreement.
- 4.5. If the Owner is to collect the Equipment the Hirer must:
- 4.6. give the Owner 24 hours notice (before 4.00pm Monday to Friday if an additional day's hire is to be avoided);
- 4.7. locate all the Equipment in one secure location accessible to vehicles for collection.
- 4.8. In order to calculate the Charges:
- 4.9. part of a day is charged as a full day; and
- 4.10. a day is deemed to end at 4.00pm.
- 5. CHARGES** –
- 5.1. The Hirer must pay and agrees to pay:
- 5.1.1. 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 Hirer'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 Hirer must pay the Owner's estimate of reasonable repair costs prior to the repairs commencing;
- 5.1.2. 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.
- 5.1.3. Hire charges for lost goods continues until such time as the Hirer notifies Star Scaffolds that the goods or any part of it is lost.
- 5.2. The Hirer must pay all Charges: within 30 days of the Owner's invoice's date, if the Owner grants the Hirer a credit account; or for the Initial Hire Period:
- 5.2.1. 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.
- 5.3. If the Hirer fails to pay the Charges in full on the payment date, the Hirer 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.
- 5.4. The Hirer will not claim, or attempt, any set off against the charges invoiced for whatsoever reason and whether or not Star Scaffolds is indebted to the Hirer.
- 6. HIRER'S OBLIGATIONS** – The Hirer:
- 6.1. remains responsible for the equipment until collected by the owner whether off hired or not;
- 6.2. must where the Hirer 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;
- 6.3. must pay Star Scaffolds for any costs or damages which Star Scaffolds may suffer or incur by reason of the Hirer's failure to carry out his obligations hereunder;
- 6.4. prior to the conclusion of the Initial Hire Period or any subsequent hire period, obtain a Return Instruction Number from the Owner's hire controller at the Owner's office;
- 6.5. must provide a clear, safe Site suitable and ready for the Equipment's delivery, lay down, set up, erection, dismantling and removal. The Hirer 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 Hirer must also obtain any third party's consent necessary for the Owner entering the Site;
- 6.6. 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;
- 6.7. 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);
- 6.8. 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;
- 6.9. must not in any way alter, add to, or tamper with, the Equipment without the Owner's prior written consent;
- 6.10. 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 Star Scaffolds ownership of the goods;
- 6.11. 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;
- 6.12. must ensure that all third parties using the equipment, comply with all laws (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.
- 6.13. must not remove the goods or any part of the goods from the hire location unless returning the goods directly to the owners warehouse.
- 7. EQUIPMENT** –
- 7.1. All Equipment remains the property of the Owner and the Hirer acknowledges that its use and possession of the goods is pursuant to these conditions.
- 7.2. Risk in the goods passes to the Hirer upon delivery or collection from Star Scaffolds.
- 7.3. The Hirer acknowledges that the Owner does not insure the Equipment and that the Hirer is solely responsible for theft or damage to the Equipment and for third party loss or damage or injury resulting from the Hirer's, or any third party's, use of the Equipment and the Hirer shall pay the full retail cost of the lost or damaged goods.
- 7.4. The hirer must fully and adequately insure the equipment in the joint names of the Owner and the Hirer against loss or damage and must effect and maintain any insurance necessary to ensure full coverage against the other liabilities assumed by the Hirer pursuant to this Agreement. The Hirer must provide to the Owner proof of the currency of the insurances required to be effected by the Hirer under this clause when requested to do so.
- 7.5. The Hirer 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.
- 8. DEFAULT** –
- 8.1. The Hirer acknowledges that the due and punctual payment of Charges is a fundamental obligation of the Hirer. If the Hirer:
- 8.1.1. fails to pay the Charges by the payment date;
- 8.1.2. breaches any provision of this Agreement;
- 8.1.3. 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;
- 8.1.4. enters into a compromise or arrangement with creditors;
- 8.1.5. ceases to be able to pay debts as they fall due, the Hirer is deemed to be in default and hiring will terminate with immediate effect and the Hirer hereby authorises Star Scaffolds, its employees and agents to enter the Hirer's workplace or premises to remove or recover the goods;
- 8.2. 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 Hirer the Charges or damages for breach of this Agreement.
- 9. INDEMNITIES** – The Hirer 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 Hirer to, and relied upon by, the Owner; the Owner entering the Site; the Hirer's or any third parties' use or misuse of the Equipment; and breach by the Hirer, its agents or employees of any provision of this Agreement.
- 10. HIRER'S AUTHORITIES** – Any officer, employee or agent of the Hirer 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 Hirer accordingly. If the Hirer is a corporation, any person signing this Agreement warrants to the Owner that he has the Hirer's full authority to so sign.
- 11. APPLICATION OF STATUTES** – The application to this Agreement of any legislation having the effect of modifying additional; conditions, covenants and stipulations 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 Hirer 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.