

## Thank you for your interest in LGH!

Please find the following documents associated with opening an account with LGH:

- Credit Application
- Sample of the Invoicing Procedure
- LGH Australia Master Agreement

To expedite your request, please complete the Credit Application, and return it to LGH Accounts Receivable via email at [ar@lgh.au](mailto:ar@lgh.au). We will then be able to begin the new account procedure and process your request promptly.

For over half a century, LGH has been at the forefront of lifting and hoisting equipment hire. Our operations span across the United States, Canada, the United Kingdom, and the European Union, with our latest expansion in **Somersby, NSW Australia**. As a family-owned enterprise, we have established a sterling reputation by merging top-tier equipment, unmatched expertise, and rigorous safety standards. We are the leading provider of lifting equipment hire, including hoisting, pulling, winching, rigging, jacking, material handling, and safety apparatus. Our team is equipped to address virtually any lifting or moving requirement.

Thank you again for your interest in LGH. We look forward to providing you with the best products and service in the industry.



LGH Australia Pty Ltd – ABN: 61 676 403 900

152 Somersby Falls Road  
Somersby, NSW 2250

(1800) 407 712 enquiries@lgh.au www.lgh.au

# Credit Application Form

## BUSINESS INFORMATION

Registered Business Name: \_\_\_\_\_

Trading Name (if applicable): \_\_\_\_\_

ABN: \_\_\_\_\_

ACN: \_\_\_\_\_

Bill To Address: \_\_\_\_\_

Ship To Address: (if different) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Website: \_\_\_\_\_

Business Structure (check one):  Company  Sole Trade  Trust  Partnership  Other

Date Business Established: \_\_\_\_\_

Type of Business: \_\_\_\_\_

## DIRECTORS, PARTNERS OR PROPRIETOR

Full Name: \_\_\_\_\_

Title: \_\_\_\_\_

Full Name: \_\_\_\_\_

Title: \_\_\_\_\_

Full Name: \_\_\_\_\_

Title: \_\_\_\_\_

Full Name: \_\_\_\_\_

Title: \_\_\_\_\_

Full Name: \_\_\_\_\_

Title: \_\_\_\_\_

## HOW DID YOU HEAR ABOUT US?

### Check One:

- Search Engine (Google, Bing, etc.)  LinkedIn  Facebook  Instagram  YouTube  LGH Sales Rep  Customer Referral  Tradeshow/Expo  
 Magazine  E-mail  Jobsite

## TERMS OF ACCOUNT

Requested Credit Limit: \_\_\_\_\_ (Anticipated monthly purchases)

Is PO Mandatory?:  Yes  No

Invoice Distribution Preference:  Mail or  Email

AP Contact: \_\_\_\_\_

AP Email: \_\_\_\_\_

## TRADE REFERENCES

Reference 1: \_\_\_\_\_

Contact: \_\_\_\_\_

Phone: \_\_\_\_\_

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

Reference 2: \_\_\_\_\_

Contact: \_\_\_\_\_

Phone: \_\_\_\_\_

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

Reference 3: \_\_\_\_\_

Contact: \_\_\_\_\_

Phone: \_\_\_\_\_

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

## TOTAL AGREEMENT

This is the final expression of the agreement between you and LGH Australia Pty. Ltd. (LGH) and may not be contradicted by evidence of any alleged oral agreement. By signing below you acknowledge that you are authorized on behalf of the company and have read and agree to abide by the terms of the attached Master Agreement.

Prepared by (Name) \_\_\_\_\_

Prepared by (Signature) \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

## Sample of Invoicing Procedure

1. Hire minimum is 1 week or 7 days
2. Monthly rates are for 28 days.  
The weekly rate is equal to the monthly rate divided by 4.  
The daily rate is then divided by 7 days to establish a daily rate for invoicing purposes.
3. Your invoices will show a date range that is multiplied by the daily rate to establish the charges for that particular piece of equipment.

### Example Accounts Payable Process:

Established Monthly Rate = \$2,800

Divide the Monthly Rate by 4 to get the Weekly Rate =  $\$2800 / 4 = \$700$

Divide the Weekly Rate by 7 to get the Daily Rate =  $\$700 / 7 = \$100$  a day

**Scenario 1:** Hire Period = 1 week and 5 days

Total = \$700 (the week) + \$500 (5 days) = \$1,200

**Scenario 2:** Hire Period = 4 days

Total = \$700 since the hire minimum is 1 week

**Questions? Call (1800) 407 712 for assistance.**

## TERMS AND CONDITIONS FOR THE HIRE OF EQUIPMENT

### 1. Overview

- 1.1. LGH agrees to hire the Equipment to the Customer subject to the Hire Agreement. The Hire Agreement comprises the Customer Contract and these terms and conditions (Terms).
- 1.2. If the Customer wishes to place an order to hire Equipment, the Customer must complete and return the acknowledgement included in the Quotation. LGH will then issue the Customer with an Order Confirmation which confirms the Equipment that will be taken for hire, applicable Hire Charges, the Hire Period and such other information and provisions as may be relevant. The Customer must review the Order Confirmation and notify LGH if changes are required. Once the Customer confirms the accuracy of the Order Confirmation, the Customer will be issued with a Customer Contract.
- 1.3. Any Quotation for the supply of Equipment given by LGH is indicative only and acceptance of a Quotation by the Customer does not form a binding agreement. A binding agreement is formed between LGH and the Customer in respect of the hire of Equipment once the Customer Contract is issued, on and subject to these Terms. Each Customer Contract constitutes a separate contract for supply of the Equipment between the parties and must be read together with and incorporate these Terms. For the avoidance of doubt, these Terms apply to each individual hire transaction.
- 1.4. The Hire Agreement constitutes the entire agreement between the parties regarding the hire of the Equipment by the Customer and supersedes all prior agreements, understandings, and communications, whether written or oral. No additional terms and conditions proposed by the Customer apply to the hire of the Equipment unless agreed in writing by LGH. Any amendments to these Terms must be in writing and signed by both parties.

### 2. Hire of Equipment

- 2.1. The hire will commence from the date agreed between LGH and the Customer (Commencement Date) until the later of: (a) the end of the 7th day following the Commencement Date, or (b) the date the hire is terminated by either the Customer or LGH, provided that LGH has provided the Customer with an 'Off-Hire' Release Number and the Equipment is back in LGH's control or possession (Hire Period).
- 2.2. The Hire Period includes weekends, holidays and other period(s) of non-use. No allowance on hire will be made for inclement weather, industrial action, transport delays or government interference.
- 2.3. The Customer is entitled to use the Equipment for the Hire Period subject to the terms and conditions of the Hire Agreement.
- 2.4. Any extension of the Hire Period must be specifically agreed to by LGH before the expiration of the Hire Period.
- 2.5. LGH may decline to hire Equipment in its sole discretion.
- 2.6. All orders are subject to availability. If any Equipment is out of stock or discontinued, LGH reserves the right to substitute the Equipment with other products of similar quality, appearance, value and size. Where the substituted item is substantially different to the original item ordered, LGH will obtain the Customer's permission prior to making the substitution.
- 2.7. Operation manuals for the Equipment will be made available to the Customer. The Customer acknowledges that there is no guarantee an operation manual will always be available for every item of Equipment however, LGH will use reasonable efforts to ensure that operation manuals are available for all major items of Equipment and will provide alternative documentation or support where an operation manual is not available.
- 2.8. Test certificates will be made available to the Customer at the Customer's written request.

### 3. PPSA

- 3.1. Despite anything else in the Hire Agreement, without the express written consent of LGH, the Hire Period (including any option or extension of it) cannot be longer than two years (or any other period that is the time threshold for a PPS Lease under the PPS Law).
- 3.2. This clause applies only to the extent that LGH's interest in respect of a hire of Equipment provided for in the Hire Agreement is a 'security interest' for the purpose of PPS Law.
- 3.3. The Customer must do anything (such as obtaining consents and signing documents) which LGH reasonably requires for the purposes of ensuring its security interest is an enforceable, perfected, first priority and otherwise effective under PPS Law.
- 3.4. LGH's rights under the Hire Agreement are in addition to, and not in substitution for, its rights under other law (including PPS Law) and LGH may choose whether to exercise rights under the Hire Agreement, and/or under any other law, as it sees fit.
- 3.5. To the extent that Chapter 4 of PPS Law applies to any security interest under the Hire Agreement, the Customer agrees to waive any period of or right to notice that would otherwise apply under Chapter 4.
- 3.6. In addition to any rights under Chapter 4 in respect of seizure, possession or sale or retention of the Equipment the Customer agrees that in addition to those rights, LGH shall, if the customer defaults, have the right to seize, purchase, take possession or apparent possession, retain, deal with or dispose of any goods, not only under Chapter 4 but also, as additional and independent rights, under the Hire Agreement and the Customer agrees that LGH may do so in any manner it sees fit including (in respect of dealing and disposal) by private or public sale, lease or licence.
- 3.7. The Customer waives its rights to receive a verification statement in relation to registration events in respect of 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 the Hire Agreement.
- 3.8. LGH 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 to ensure that section 275(6)(a) of the PPS Law continues to apply. This subclause is made solely for the purpose of allowing LGH the benefit of section 275(6)(a) and LGH shall not be liable to pay damages or any other compensation for breach of this subclause.

- 3.9. The Customer must not dispose or purport to dispose of or create or purport to create or permit to be created any 'security interest' (as defined in PPS Law) in the Equipment other than with LGH's express written consent. The Customer must not lease, hire, bail or give possession ('sub-hire') of the Equipment to anyone else unless LGH (in its absolute discretion) first consents in writing. If LGH does consent any such sub-hire must be in writing in a form acceptable to LGH and must be expressed to be subject to LGH's rights under the Hire Agreement. The Customer may not vary a sub-hire without LGH's prior written consent (which may be withheld in LGH's absolute discretion).
- 3.10. The Customer must ensure that LGH is provided at all times with up-to-date information about the 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.
- 3.11. The Customer must take all steps including registration under PPS Law as may be required: (i) to ensure that any security interest arising under or in respect of the sub-hire is enforceable, perfected and otherwise effective under the PPS Law; (ii) enabling the Customer to gain (subject always to LGH's rights) first priority (or any other priority agreed to by LGH in writing) for the security interest; and (iii) enabling LGH and the Customer to exercise their respective rights in connection with the security interest.
- 3.12. To assure performance of the Customer's obligations under this clause, the customer hereby gives LGH an irrevocable power of attorney to do anything LGH considers necessary to protect its interest in the Equipment. LGH may recover from the customer the cost of doing anything under this clause, including registration fees.

#### **4. Hire Charges**

- 4.1. The Customer agrees to pay LGH the Hire Charges for the use of the Equipment until the Equipment is returned to and accepted by LGH in the condition required under the Hire Agreement.
- 4.2. Equipment is hired on a 7-day minimum basis. Thereafter a daily charge at one seventh of the quoted weekly rate will apply. Both the first and the last day are inclusive. All time shall be chargeable including holidays.
- 4.3. LGH reserves the right to adjust the Hire Charges to reflect any changes in third-party rates, including but not limited to, freight, insurance, customs duties, and other charges affecting the cost of providing the Equipment. Any such adjustments will be communicated to the Customer in writing and will be binding upon the Customer.
- 4.4. LGH may offer discounts on the Hire Charges based on the duration of the Hire Period. The applicable discount rates will be determined and communicated to the Customer at the time the Order Confirmation is provided by LGH. LGH reserves the right to review and adjust the discount rates periodically, provided that any changes will not affect orders already placed.
- 4.5. The Customer agrees to pay to LGH any deposit and/or pre-payment specified on the Order Confirmation, Invoice or document produced by LGH to the Customer in advance of the Hire Period (Prepayment). LGH reserves the right to deduct any amount owed to it by the Customer from any Prepayment. Prepayments are non-refundable and will not limit the Customer's liability to LGH unless otherwise specifically agreed by LGH in writing.
- 4.6. All Hire Charges must be paid in full within 30 days of the date of the Invoice. The Customer must pay the Hire Charges without proration, reduction or set off; and in available cleared funds to the bank account of LGH's nominated bank account. All Invoice queries must be submitted to LGH within 14 days of the Invoice date. Queries submitted after this time may be rejected.
- 4.7. All Hire Charges are for normal use of the hired Equipment in accordance with the Hire Agreement.
- 4.8. If the Customer owes any amount to LGH then LGH may, in its sole discretion and without prejudice to any of its other rights, do one or more of the following: (a) collect the Equipment immediately; or (b) set-off that amount against any amount owing by LGH to the Customer.
- 4.9. If an amount due under the Hire Agreement is paid after the due date, the Customer must pay LGH, in addition to the Amount Owing: (a) interest at the Default Rate calculated based on a 365-day year from the date of the default until the date the amount (together with all accrued interest) is paid in full; and (b) all costs and expenses, including debt collection costs and legal costs, incurred by LGH in collecting the Amount Owing.
- 4.10. The Customer's obligation to pay the Amount Owing applies notwithstanding any alleged delay in delivery.
- 4.11. LGH reserves its rights under security of payment legislation.

#### **5. Collection and Delivery of Equipment**

- 5.1. Collection of Equipment by Customer from LGH's premises
  - (a) LGH and the Customer must agree on a specific date and time for the Customer to collect the Equipment from LGH's premises. Any changes to the agreed date and time must be mutually agreed upon by both parties.
  - (b) The Customer must use its best endeavours to collect the Equipment on the agreed date and time. Failure to collect the Equipment on the agreed date and time may result in additional charges, which the Customer will be liable to pay. LGH will not be liable for any loss, damage, or delay caused directly or indirectly by any delay in the collection of the Equipment by the Customer. The Customer indemnifies LGH against any such loss or damage.
  - (c) When the Customer collects the Equipment from LGH's premises, LGH will load the Equipment onto the Customer's vehicle. The Customer must ensure that their vehicle is suitable for the transportation of the Equipment and complies with all relevant safety and legal requirements. The Customer shall indemnify and hold LGH harmless from any claims, damages, or losses arising from the loading of the Equipment onto the Customer's vehicle, except where such Claims, Damages, or Losses are caused by the negligence of LGH or its employees. The Customer must provide all necessary assistance and cooperation to LGH during the loading process to ensure the safe and efficient loading of the Equipment.
  - (d) The Customer must ensure that any personnel of the Customer who may be assisting or involved in the collection of the Equipment are adequately trained, competent, and equipped to handle the Equipment safely and in compliance with all applicable laws and regulations. The Customer must also ensure that all necessary personal protective equipment (PPE) is provided and used by personnel, and that all activities are conducted in a manner that minimises risk to health and safety. Failure to comply with these requirements will result in the Customer being liable for any resulting damages, penalties, or legal actions.

- (e) When attending at LGH's premises, the Customer must comply with LGH's health and safety policies and any other applicable policies in place from time to time. The Customer must ensure that all personnel involved in the collection of the Equipment are also aware of and adhere to these policies. Any breach of these policies by the Customer or its personnel will result in the Customer being liable for any resulting damages, penalties, or legal actions.
- (f) Unless otherwise agreed with LGH in writing, if the Customer arranges transit of the Equipment from LGH's premises, the Equipment will be deemed to be on hire to the Customer from the time that it is collected and loaded from LGH's premises. The Customer must ensure that the Equipment is transported in a manner that prevents damage and complies with all applicable laws and regulations. The Customer will be liable for any Damage to the Equipment during transit and must indemnify LGH against any such Damage.
- (g) If the Customer cancels an order within 3 Business Days of the scheduled pick up date, Cancellation Fees may apply. The Customer must notify LGH of any cancellations as soon as possible to minimise any potential fees.

## 5.2. Delivery of Equipment by LGH

- (a) If LGH (or its nominated freight carrier) is responsible for delivering the Equipment to the Customer, the Equipment will be delivered to the Delivery Address nominated by the Customer. The Equipment will be considered on hire to the Customer from the later of the date the Equipment is delivered to the Customer (Delivery Date) or the hire Commencement Date (as defined in clause 2.1).
- (b) The Customer is responsible for all costs and expenses associated with the delivery of the Equipment to the Delivery Address. These costs and expenses are determined based on the distance of the Delivery Address from LGH's Premises and include but are not limited to the provision of any lifting facilities required for loading and/or unloading the Equipment, and the costs of any personnel associated therewith. The Customer must ensure that all necessary equipment and personnel are available to facilitate the delivery of the Equipment.
- (c) The Customer must ensure that the Delivery Address is accessible, suitable for the delivery of the Equipment, and free from any obstructions that may hinder the delivery process.
- (d) Delivery is complete once the Equipment has been unloaded at the Delivery Address. The Customer must ensure that there is adequate space and facilities for the safe and efficient unloading of the Equipment.
- (e) If there are any restrictions to the delivery of the Equipment at the Delivery Address for example, specific site opening times, PPE requirements or logistics/site access forms required prior to arrival, it is the Customer's responsibility to provide this information to LGH within a reasonable time prior to the delivery date. Failure to provide such information may result in additional charges or delays for which LGH will not be liable.
- (f) When placing the order, the Customer must ensure the Delivery Address is accurate. If the Delivery Address is incorrect or cannot be located and/or the Delivery Address contact cannot be contacted using the details provided, Failed Delivery Charges will apply. Similarly, if LGH arrives at the Delivery Address and is required to wait before delivery can take place, Waiting Charges may apply. The Customer must ensure that the Delivery Address is accessible and that there is someone available to receive the Equipment at the agreed delivery time.
- (g) No account has been taken in relation to ground loadings. It is the Customer's responsibility to ensure the Delivery Address is fit for purpose. The Customer must ensure that the ground at the Delivery Address can support the weight of the Equipment and any vehicles used for delivery.
- (h) The Customer acknowledges that LGH relies on them inspecting the Equipment immediately after delivery to ensure that it is of satisfactory quality and fit for purpose. It is the Customer's responsibility to satisfy itself that the Equipment is in good working order and is not damaged in any way prior to signing the delivery note. If, upon inspection, the customer finds that the Equipment is not of satisfactory quality, the Customer must contact LGH prior to accepting delivery in order to resolve the issue. Failure to inspect the Equipment immediately may result in the Customer being deemed to have accepted the Equipment as delivered.
- (i) If the Customer cancels an order within 3 Business Days of the scheduled delivery date, Cancellation Fees may apply. The Customer must notify LGH of any cancellations as soon as possible to minimise any potential fees.

## 6. Returning the Equipment

- 6.1. Off-hire of Equipment must be requested in writing (via email) and will be confirmed with written receipt of an 'an "Off-Hire" Release Number. The off-hire request will not be considered effective until the Customer has received the "Off-Hire" Release Number from LGH.
- 6.2. Once the Off-Hire Release Number has been issued to the Customer, no further daily charges will be imposed on the Customer from that point forward until the Equipment is back in LGH's control or possession. The Customer must contact LGH to arrange the return of any Equipment at a date and time agreed with LGH. The Customer acknowledges that failure to return the Equipment on the agreed date and time may result in additional charges.
- 6.3. The return of the Equipment is complete once it has been: (a) if delivered to LGH, unloaded at LGH's premises; or (b) if collected by LGH, collected by LGH or a carrier organised by LGH. Equipment will be at the Customers risk until such time. The Customer must ensure that the Equipment is returned in the same condition as it was received, subject to Fair Wear and Tear. The Customer is liable for any damage to the Equipment and must indemnify LGH for any costs incurred in repairing or replacing the Equipment.
- 6.4. If the Customer will return the Equipment at LGH's premises, the Customer must ensure the Equipment is transported in a manner that prevents damage and complies with all applicable laws and regulations. The Customer will be liable for any damage to the Equipment during transit and must indemnify LGH against any such damage. The Customer must also ensure that all necessary PPE is provided and used by personnel involved in the return process.
- 6.5. If LGH agrees to collect the Equipment from the Delivery Address, the Customer is responsible for all costs and expenses associated with the collection of the Equipment. Costs and expenses are determined based on the distance of the Delivery Address from LGH's Premises and include but are not limited to the provision of any lifting facilities required for loading and/or unloading the Equipment, and the costs of any personnel associated therewith. The Customer must

ensure that all necessary equipment and personnel are available to facilitate the collection of the Equipment, and there are no obstructions that may hinder the collection process. Any delays caused by the Customer may result in additional charges.

- 6.6. Upon return of the Equipment, LGH will carry out an inspection within 7 Business Days to assess any damage to the Equipment. Where it is found that damage has been caused to the Equipment whilst under the Customer's risk, the provisions of clause 10 will apply. The Customer will be liable for any repair or replacement costs incurred by LGH as a result of such damage.

## 7. Customer's Hire Obligations

- 7.1. The Customer must not allow or authorise any other person or entity to use, re-hire or have possession of the Equipment at any time during the Hire Period without the prior written approval of LGH. Any breach of this clause will result in the Customer being liable for any resulting damages, penalties, or legal actions.
- 7.2. The Customer agrees that before accepting the Equipment it has satisfied itself as to the suitability, condition and fitness for purpose of the Equipment without relying upon the skills or judgment of LGH or any person purporting to act on its behalf. The Customer acknowledges that LGH makes no representations or warranties regarding the Equipment's suitability, condition, or fitness for any particular purpose.

- 7.3. The Customer warrants that at all times it will:

- (a) inspect the Equipment immediately upon receipt and notify LGH of any defects or issues within 24 hours.
- (b) operate the Equipment safely, strictly in accordance with all laws, only for its intended use, and in accordance with the manufacturer's instructions whether supplied by LGH or posted on the Equipment. The Customer must ensure that all necessary PPE is provided and used by personnel, and that all activities are conducted in a manner that minimises risk to health and safety.
- (c) indemnify LGH for all injury and/or damage caused or contributed to by the Customer to persons and property in relation to the Equipment and its operation.
- (d) the Customer agrees to maintain such policies of insurance, with such insurers, as LGH deems necessary to cover all liabilities incurred as a result of the hire and use of the Equipment. The Customer must ensure that all insurance policies are maintained in full force and effect for the duration of the hire and use of the Equipment and must provide proof of such insurance to LGH upon request. The Customer agrees, in any event, to maintain insurance policies which cover at least the following: (i) Liability insurance coverage with minimum limits of at least \$2,000,000 per occurrence; (ii) Property damage/inland marine insurance covering all Equipment for the full new replacement value thereof. This includes, without limitation, cranes, boom damage, and loss occasioned by flood. Each item must be specifically scheduled or within the limits of the Customer's leased/hired Equipment floater; and (iii) Workers Compensation Insurance as required by law.

Such policies shall (i) name LGH as an additional insured and loss payee (except with respect to workers' compensation insurance); (ii) waive subrogation against LGH; and (iii) be primary and non-contributory. **If the Customer fails to fully and timely comply with this requirement, LGH may, at its option to the extent permitted under applicable law (but without being required to do so), obtain insurance meeting the foregoing requirements and charge the Customer for it. The Customer agrees to pay all such charges to LGH immediately upon demand.**

The Customer must notify LGH immediately of any changes to the insurance policies that may affect the coverage required under this clause.

- (e) ensure persons operating or erecting the Equipment are suitably instructed, trained, and qualified in its safe and proper use, and that all persons operating the Equipment wear suitable clothing and protective equipment as required or recommended by relevant laws, applicable industry standards, and the manufacturer of the Equipment or LGH.
- (f) hold all licences, permits, and approvals necessary to hire and use the Equipment, and ensure that no restriction of any kind prevents the Customer from entering into an agreement or arrangement for the hire of the Equipment.
- (g) display and maintain all safety signs and instructions (as required by law) and ensure that all instructions and signs are observed by operators of the Equipment.
- (h) ensure that no persons operating the Equipment are under the influence of drugs or alcohol.
- (i) conduct a job safety analysis prior to using the Equipment at the Delivery Address and comply with all occupational health and safety laws relating to the Equipment and its operation.
- (j) comply with all Environmental Laws applying from time to time and immediately rectify any breach of an Environmental Law caused by the use, possession, or storage of the Equipment.
- (k) ensure that any person collecting or taking delivery of the Equipment on behalf of the Customer is authorised by the Customer to do so, and the Customer will not allege that any such person is not authorised to do so.
- (l) maintain the Equipment in good working condition and in accordance with the instructions of the manufacturers and LGH at the Customer's cost and must not make any alterations or repairs without LGH's prior written consent.
- (m) not in any way alter, modify, tamper with, damage, or repair the Equipment without the prior written consent of LGH.
- (n) return the Equipment to LGH in the same good condition it was in when the Customer received it, Fair Wear and Tear excepted. In the event that the equipment is not returned in working order, LGH may charge, and the Customer must pay for all cleaning and repair costs incurred by LGH. The Customer must not repair or attempt to repair the Equipment without LGH's prior written approval.
- (o) ensure the Equipment is stored safely and securely and is protected from theft, vandalism, seizure, and damage or subject to adverse climatic or environmental conditions which may damage the Equipment (i.e., corrosion, sea-salt, and flooding).
- (p) ensure the Equipment is not exposed to any hazardous substance without prior written consent and advise LGH of any risks of hazardous substance contamination to the Equipment as soon as it becomes apparent (or should have become apparent).
- (q) ensure the Equipment is not altered, defaced, removed, or any notices, safety information, identifying mark, plate, or number on the Equipment is removed.
- (r) ensure the safe loading, securing, and transporting of all Equipment in accordance with all laws, industry guidelines, and Manufacturers guidelines.

- (s) ensure that any transporting contractor or other personnel will observe any safety directions advised by LGH and/or a manufacturer of the Equipment for its loading, unloading, and safe handling.
- (t) supervise the loading and unloading of the Equipment at the Delivery Address.
- (u) not remove the Equipment from the Delivery Address without the prior written consent of LGH and notify LGH of the location of the Equipment at all times. If consent is provided, the Equipment must be returned to the original LGH Premises from where the Equipment was hired.
- (v) not sell, charge, encumber, grant any right, interest, or lien (of any nature) in or over the Equipment.
- (w) not store any illegal, prohibited, and/or Dangerous Goods in or on the Equipment.

## **8. Title and Risk**

- 8.1. Ownership and title to the Equipment remains with LGH at all times. Nothing in the Hire Agreement shall be taken as transferring ownership in the Equipment to the Customer. The Customer has rights to use the Equipment as mere bailee only.
- 8.2. The Customer agrees not to sell, assign, sub-let, charge, lend, let hire or otherwise part with personal possession of, or create any security interest over, the Equipment. The Customer must ensure that the Equipment is kept free from any liens, charges, or encumbrances and must immediately notify LGH if any such claims are made.
- 8.3. Risk in the Equipment passes to the Customer upon dispatch of the Equipment from LGH's premises by LGH, its agent or representatives or by the Customer's agents or representatives. This clause does not apply if this is a consumer contract or a small business contract for the purposes of section 23 of the Australian Consumer Law, in which case risk and responsibility passes on delivery to the Customer.
- 8.4. The Customer must ensure that the Equipment is insured against all risks from the time risk passes to the Customer.

## **9. Equipment Breakdown**

- 9.1. In the event the Equipment breaks down, is damaged (whether in an accident or otherwise) or becomes unsafe to use during the Hire Period the Customer must:
  - (a) Immediately stop using the Equipment and notify LGH in writing within 24 hours;
  - (b) Take all steps necessary to prevent injury occurring to persons or property as a result of the condition of the Equipment;
  - (c) Take all steps necessary to prevent any further damage to the Equipment; and
  - (d) Not repair or attempt to repair the Equipment without the prior written consent of LGH.

## **10. Lost, Stolen or Damaged Equipment**

- 10.1. The Customer is responsible for the Equipment and any accessory and tools during the Hire Period. The Customer must ensure that the Equipment is used in accordance with all applicable laws and regulations, and must take all necessary precautions to prevent loss, theft, or damage to the Equipment.
- 10.2. If the Equipment is lost, stolen, destroyed or damaged beyond Fair Wear and Tear, or becomes unsafe to use *due to any act or omission of the Customer*, the Customer must immediately notify LGH in writing within 24 hours of the incident (Notification Date). The Customer will be liable to LGH and must indemnify LGH for: (a) the full cost of either: (i) repairing the Equipment; or (ii) replacing the Equipment with new equipment, as determined by LGH in its sole and absolute discretion; and (b) any other costs whatsoever arising from or in connection with the loss, theft, or damage to the Equipment, including but not limited to Hire Charges, Claims, Damages, and/or Losses until the replacement value is paid to LGH; and (c) Any lost revenue, including Loss of Use, arising from or in connection with the loss, theft, or damage to the Equipment until the replacement value is paid to LGH.
- 10.3. Any damage to Equipment will be evaluated by LGH. If the damage was caused either directly or indirectly by the Customer, the Customer will be provided with a detailed report of all damage and any associated costs. The Customer acknowledges and agrees that failure to respond to the damage report within 7 days of receipt will result in the immediate issuance of an Invoice, and the Customer will be liable for the full amount detailed in the damage report. The Customer must pay the Invoice promptly upon receipt, and any delay in payment will incur additional charges, including but not limited to interest and administrative fees.
- 10.4. Any lost Equipment will be charged at replacement costs and all Hire Charges accrued up to and including the Notification Date must be paid by the Customer in full. The Customer acknowledges that failure to pay these amounts promptly will result in additional penalties, including but not limited to interest on overdue amounts and potential legal action to recover the outstanding amounts.

## **11. Liability**

- 11.1. LGH is not the manufacturer or designer of any of the Equipment and makes no warranty, express or implied, regarding any Equipment.
- 11.2. LGH relies on the information provided by the Customer in relation to the hire of Equipment. The Customer warrants that all information provided to LGH is accurate, complete, and not misleading in any respect. LGH does not provide any warranty, express or implied, that the Equipment is fit for the Customer's intended purpose if the information provided by the Customer is incorrect or inaccurate. The Customer acknowledges that it is their responsibility to ensure the accuracy and completeness of the information provided to LGH. LGH shall not be liable for any loss or damage arising from reliance on incorrect or inaccurate information provided by the Customer.
- 11.3. Where the Australian Consumer Law applies the Customer has the benefit of guarantees in relation to the hire of the Equipment which cannot be excluded. These guarantees include, but are not limited to, guarantees as to acceptable quality, fitness for purpose, and compliance with description.
- 11.4. Where the Australian Consumer Law applies and the goods are not of a kind ordinarily acquired for personal domestic or household use or consumption, LGH's liability in respect of any guarantee is limited to the replacement or repair of the goods, or the cost of having the goods repaired or replaced.
- 11.5. To the extent that the Australian Consumer Law (or any other law which cannot be excluded) does not apply, LGH makes no representations and gives no warranties other than those set out in the Hire Agreement. LGH will not be liable to the Customer for any Loss, Claims, damages, costs or other liabilities whatsoever (including for consequential loss) in relation to the hiring of the Equipment by the Customer.

- 11.6. Subject to this clause, the Customer indemnifies and holds LGH harmless to the full extent permitted by law for any Claim, Loss or Damage whatsoever arising in connection with the hire of the Equipment to the Customer or the Hire Agreement, including any third-party Claims. This indemnity includes, but is not limited to, any legal costs incurred by LGH in defending or settling such Claims.
- 11.7. LGH's liability under the Hire Agreement is limited to the Hire Charge. LGH is not liable for any indirect or consequential loss (including loss of profit or opportunity) arising out of or in connection with the hire of the Equipment, whether in contract, tort (including negligence), statute, or otherwise.
- 11.8. The Customer acknowledges that it has not relied on any representation, warranty, or statement made by LGH or on LGH's behalf that is not expressly set out in the Hire Agreement.
- 11.9. Any liability of LGH for any Loss or Damage, however caused (including by the negligence of LGH), suffered by the Customer in connection with the hire of the Equipment is limited to the amount paid by the Customer to LGH for the hire of the Equipment.
- 11.10. The Customer must notify LGH in writing of any Claim or potential Claim against LGH within 30 days of the event giving rise to the Claim. Failure to provide such notice will result in the Customer waiving its right to make the Claim.

## **12. Release and Indemnity**

- 12.1. The Customer agrees to use and possess the Equipment at its own risk. The Customer agrees that LGH bears no responsibility or liability for any Loss to any of the Customer's property (including the Equipment).
- 12.2. To the fullest extent permitted by law, the Customer releases and discharges LGH, its agents and employees from: (a) all Claims and demands on LGH; and (b) any Loss or Damage whatsoever and whenever caused to the Customer, its agents, employees or any third party whether by way of death, injury, accident, damage to property, delay, financial Loss, or otherwise, arising directly or indirectly from or incidental to a defect in any Equipment or any accident involving any Equipment or its use, repair, maintenance, loading, transportation, servicing or storage (whether occasioned by LGH's negligence or otherwise) or which may otherwise be suffered or sustained in, upon, or near any Equipment.
- 12.3. The Customer indemnifies and holds LGH harmless to the full extent permitted by law for any Loss whatsoever arising in connection with the supply and use of the Equipment by the Customer, including any breach of the Hire Agreement. This indemnity includes, but is not limited to, any legal costs incurred by LGH in defending or settling such Claims.
- 12.4. The indemnity provided by the Customer under this clause extends to all liabilities, losses, damages, costs, and expenses (including legal costs on a full indemnity basis) incurred by LGH as a result of or in connection with: (a) any breach of the Hire Agreement by the Customer; (b) any negligent or wrongful act or omission by the Customer or its employees, agents, or contractors; (c) any injury to or death of any person, or damage to any property, arising out of or in connection with the use or operation of the Equipment by the Customer.
- 12.5. The Customer must take all reasonable steps to mitigate any Loss, Claim, or Damage that may give rise to a claim for indemnity under this clause.
- 12.6. The Customer must maintain adequate insurance to cover its indemnity obligations under this clause and must provide evidence of such insurance to LGH upon request.
- 12.7. The Customer waives any and all incidental, consequential, special and punitive damages against LGH.
- 12.8. This indemnity clause survives the termination or expiration of the Hire Agreement.

## **13. Termination**

- 13.1. Each of the following events is an Event of Default, namely:
  - (a) the Customer fails to perform or observe any of the covenants or provisions of the Hire Agreement and (if capable of remedy) such default continues for more than 5 calendar days after notice from LGH requiring remedy of the breach;
  - (b) the Customer fails to return any Equipment to LGH within five (5) calendar days of request by LGH;
  - (c) the Customer relocates the Equipment without written approval from LGH; and
  - (d) the Customer suffers an Insolvency Event or if it is a partnership, is dissolved or if it is a natural person, dies.
- 13.2. If an Event of Default occurs LGH may at its option:
  - (a) by proceeding by appropriate court action, either at law or in equity, enforce performance of the applicable terms and provisions of this Agreement or recover damages for the breach concerned; and / or
  - (b) terminate the Hire Agreement; and/ or
  - (c) repossess the Equipment (and is authorised to enter any premises where the Equipment is located to do so).
- 13.3. Without prejudice to LGH's right to pursue the Customer for Loss or Damage arising from a breach of the Hire Agreement, upon the expiry of the Hire Agreement or early termination under this clause, the Customer must immediately pay LGH all Amounts Owing under the Hire Agreement.
- 13.4. On termination of the Hire Agreement, the Customer must immediately return any Equipment to LGH and pay all Hire Charges, Claim, Damage and/or Loss. If the Customer does not return the Equipment within fourteen (14) days of termination of the Hire Agreement, the Customer must pay to LGH an amount equal to the new replacement value of the Equipment as fairly specified by LGH and any Claim, Damage and/or Loss and LGH may take all steps necessary (including legal action) to recover the Equipment, including entering the Delivery Address without prior notice to the Customer.
- 13.5. The Customer grants in favour of LGH an irrevocable licence to enter upon its premises, without prior notice, to repossess the Equipment.

## **14. Force Majeure**

LGH will not be liable for any Loss incurred as a result of delay or failure to observe any of the terms of the Hire Agreement due to an event of Force Majeure. LGH's obligations under the Hire Agreement will be suspended and will resume as soon as the cause of the Force Majeure has ceased to have effect.

## 15. Privacy

- 15.1. LGH will endeavour to take reasonable commercial steps to protect all personal information provided by the Customer in accordance with the Australian Privacy Principles of the Privacy Act 1998 (Cth).
- 15.2. LGH may need to collect personal information about the Customer, including but not limited to, the Customer's full name and address, drivers license details, credit card details, date of birth, and credit or business history.
- 15.3. The Customer consents to LGH using the Customer's personal information in order to: (a) fulfill functions associated with the hire of Equipment to the Customer, including but not limited to assessing the Customer's credit worthiness, or exercising LGH's rights under the Hire Agreement.

## 16. General

- 16.1. If any part of the terms and conditions of the Hire Agreement become void or unenforceable for any reason, then that part will be severed in respect only with the intent that all remaining parts will continue to be in full force and effect and be unaffected by the severance of any other parts.
- 16.2. The Hire Agreement is governed by the laws of NSW and each party submits to the non-exclusive jurisdiction of that jurisdiction.
- 16.3. All waivers must be in writing. A single or partial exercise or waiver by a party of a right relating to the terms and conditions of the Hire Agreement does not prevent any other exercise of that right or the exercise of any other right.
- 16.4. This edition of the Terms replaces and supersedes all previously issued terms and conditions of hire by LGH.

## 17. Interpretation

**Amount Owng** means the Hire Charges and all other amounts owing by the Customer to LGH under or in connection with the Hire Agreement.

**Australian Consumer Law** means the Australian Consumer Law set out in Schedule 2 of the Competition Consumer Act 2010 (Cth).

**Business Day** means a day that is not a Saturday, Sunday or public holiday in the State or Territory in which the Equipment was hired from LGH.

**Cancellation Fees** means a fee for cancelling an order and will be a fee of 30% of the hire value of the order that had been prepared for delivery or pick-up. Any material purchased for completion of an order will be invoiced in full.

**Claims** means any claim (whether actual or contingent), including a claim for loss, damages and expenses (including legal fees) arising out of tort, breach of statute, breach of warranty or guarantee or breach of the Agreement and including a notice, demand, debt, account, action, expense, damage, the loss, cost, lien, liability, proceeding, litigation (including reasonable legal costs), investigation or judgment of any nature, whether known or unknown.

**Customer** refers to the person, firm, organisation, partnership, corporation or other entity (including trust) hiring the Equipment from LGH as identified in the Quotation, Order Confirmation, Customer Contract, Invoice or any document supplied by LGH to the Customer.

**Customer Contract** means the formal document provided by LGH to the Customer following the issue of the Order Confirmation and which includes details of the Customer and Delivery Address, Equipment hired, the Fees, the Hire Period, the testing certification and other administrative details.

**Damage** means: (a) any loss or damage in relation to the costs of new Equipment; (b) any loss or damage to the Equipment including its parts, components and accessories, that is not Fair Wear and Tear; (c) towing and salvage costs; (d) assessing fees; and (e) Loss of Use, and for the removal of doubt, any damage to any other part of the Equipment that makes any of the Equipment unable to be hired out is not Fair Wear and Tear.

**Dangerous Goods** means substances or articles which pose a risk to people, property or the environment due to their chemical or physical properties and includes asbestos, explosives, fireworks, ammunition, toxic, flammable or combustible liquids, solids and gases, refrigerant gases, dangerous when wet chemicals, oxidising substances, infectious substances, clinical or medical waste, radioactive substances, corrosives and dry ice.

**Default Rate** means 10% per annum.

**Delivery Address** means the address nominated by the Customer in writing as the location for the delivery and collection of the Equipment in the Quotation or any other document the Customer presents to LGH or otherwise agreed in writing by LGH.

**Equipment** means any item or kind of plant, machinery, equipment, accessories, attachments, parts, manuals, instructions, packing and transportation materials hired to the Customer in accordance with the Hire Agreement.

**Environmental Laws** means any statute, policy directions or regulations made or issued by a regulatory body or government body regulating or otherwise relating to the environment including without limitation the use or protection of the environment.

**Event of Default** means an event of default described in clause 13.1.

**Failed Delivery Charges** means charges incurred by LGH resulting in the inability to deliver or pickup equipment from the Delivery Address.

**Fair Wear and Tear** means minor damage, in the reasonable opinion of LGH, caused by ordinary day-to-day use of the Equipment in compliance with the Agreement. Force Majeure Event means an act of God, fire, lightning, earthquake, explosions, flood, subsidence, insurrection or civil disorder or military operations or act of terrorism, expropriation, strikes, lock-outs or other industrial disputes of any kind not relating solely to the party affected, and any other event which is not within the reasonable control of the party affected but does not include any act or omission of the other party.

**GST** has the meaning given in GST Law.

**GST Law** has the meaning given in A New Tax System (Equipment and Services Tax) Act 1999 (Cth).

**Hire Agreement** means these Terms and together with the Customer Contract forms a binding contract for the hire of Equipment

**Hire Charges** means the amounts specified in any Quotation, Order Confirmation, Customer Contract, Invoice or document issued by LGH to the Customer, which the Customer agrees to pay for the use of the Equipment during the Hire Period. This includes but is not limited to, daily or weekly charges, any applicable GST, stamp duties, tolls, fines, penalties, levies, freight charges, or any other amounts that are due or may accrue under this Agreement.

**Hire Period** has the meaning assigned to it in clause 2.1.

**Insolvency Event** means the happening of any one or more of the following events: (a) in relation to a natural person: (i) that person being unable to pay his or her debts as and when they fall due; (ii) an application and filing for bankruptcy being made in respect of that person; or (iii) a receiver, or receiver and manager, trustee for creditors or trustee in bankruptcy or analogous person being appointed over that person's assets or undertakings or any of them; or (b) in relation to a body corporate: (i) that body corporate being unable to pay its debts as and when they fall due; (ii) a receiver, receiver and manager, administrator or liquidator being appointed over that body corporate's assets or undertakings or any of them; (iii) an application for winding up or other process seeking orders which, if granted, would render that body corporate an externally-administered body corporate being filed and not being withdrawn within 20 Business Days; (iv) that body corporate being or becoming the subject of an order, or a resolution being passed, for the winding up or dissolution of that body corporate; or (v) that body corporate entering into, or resolving to enter into, a deed of company arrangement or an arrangement, composition or compromise with, or proceedings being commenced to sanction such a deed of company arrangement or arrangement, composition or compromise, other than for the purposes of a bona fide scheme of solvent reconstruction or amalgamation.

**Invoice** means an invoice issued by LGH to the Customer, including particulars of the Equipment to be supplied to the Customer and the Hire Period and applicable Hire Charges as well as such other information as may be required.

**LGH** means LGH Pty Ltd ACN 676 403 900 or any of its Related Bodies Corporate.

**Loss** means any loss, liability, damage, cost or expense, including legal costs on a full indemnity basis, of whatever kind and however it arises.

**Off-Hire Date** means the date the Customer advises LGH the Equipment is no longer required and LGH issues the Customer with an Off-Hire Release Number in accordance with clause 6.

**Off-Hire Release Number** means the number given to the Customer by LGH when the Customer notifies LGH writing that the Equipment is available for return and the location at which it is available.

**Order Confirmation** means the initial acknowledgement issued by LGH to the Customer confirming the receipt and acceptance of the Customer's order, and confirming, amongst other things, the Equipment taken for hire, applicable Hire Charges, the Hire Period and such other information and provisions as may be required.

**PPS Law** means the Personal Property Securities Act 2009 (Cth) and where applicable includes all regulations made pursuant to it.

**Related Bodies Corporate** has the meaning it has in section 50 of the Corporations Act 2001 (Cth).

**Quotation** means the document provided by LGH to the Customer which includes details of the Equipment to be hired, the Hire Charges, any other applicable charges, the Hire Period, Delivery Address and applicable specification documentation of the Equipment requested. Quotations are valid for 30 days from the date of the quotation.

**Related Bodies Corporate** has the meaning it has in section 50 of the Corporations Act 2001 (Cth).

**Security Interest** has the meaning given in PPS Law.

**Waiting Charges** means fees assessed by a freight carrier for delays in the delivery or pickup of equipment at the Delivery Address.

**Website** means [www.lgh.au](http://www.lgh.au).