

SALES & HIRE CONTRACT TERMS AND CONDITIONS

1. Interpretation of Words in this Agreement;

Commencement - The latter of the date on the Hire Contract or the time of delivery of the Equipment to the Customer.

Equipment - The equipment, tools, and Motor Vehicles (including accessories) hired to the Customer.

Hire Charge - The amounts shown on the Hire Contract payable by the Customer to hire the Equipment.

Hire Period - The period from Commencement until the Equipment is returned to ACT Scaffold.

NOTE TO CUSTOMER: You are responsible for the Equipment until it is back in the possession of ACT Scaffold, even after obtaining a Customer Pick Up Number.

ACT Scaffold - The Companies listed on the Hire Contract.

2. ACT Scaffold Obligations

ACT Scaffold will;

- (a) allow the Customer to take and use the Equipment until it is due back;
- (b) provide the Equipment to the Customer clean and in good working order;
- (c) re-supply or repair the Equipment if it fails to operate properly;
- (d) collect the Equipment within 5 days of being requested to do so by the Customer and issuing to the Customer a Customer Pick Up Number.

NOTE TO CUSTOMER: You must return the Equipment when due back unless you obtain a Customer Pick Up Number from ACT Scaffold.

3. Payments by the Customer to ACT Scaffold

- (a) On or before Commencement (or as provided in the Customer's Credit Application with ACT Scaffold), the Customer will pay the Hire Charge.
- (b) Immediately on request by ACT Scaffold, the Customer will pay; the new list price of any Equipment which is for whatever reason not returned to ACT Scaffold (**NOTE TO CUSTOMER: You are responsible for loss or theft of the Equipment**),
 - i. all costs incurred in cleaning the Equipment,
 - ii. the full cost of repairing any damage to the Equipment
 - iii. stamp duties, Goods and Services Tax, any other taxes or duties, and all tolls, fines, penalties, levies or charges payable in respect of this Contract or arising from the Customer's use of the Equipment,
 - iv. all costs incurred by ACT Scaffold in delivering and recovering possession of the Equipment,
 - v. a late payment fee calculated daily at 10% per month on all amounts owing by the Customer not paid on time,
 - vi. any expenses and legal costs (including commission payable to a commercial agent) incurred by ACT Scaffold in enforcing this Contract,

(c) Without limiting the ability of ACT Scaffold to recover all amounts owing to it, the Customer authorises ACT Scaffold to charge any amounts owing by the Customer to any credit card, details of which are provided to ACT Scaffold.

4. Obligations of the Customer

The Customer must;

- (a) deliver the Equipment to ACT Scaffold when it is due back,
- (b) return the Equipment to ACT Scaffold clean and in good repair,
- (c) satisfy itself at Commencement that the Equipment is suitable for its purposes,
- (d) operate the Equipment safely, strictly in accordance with the law, only for its intended use, and in accordance with any manufacturer's instructions whether supplied by ACT Scaffold or posted on the Equipment,
- (e) **indemnify** ACT Scaffold for all injury and/or damage caused to persons and property in relation to the Equipment and its operation and have adequate insurance to cover all liabilities incurred as a result of the use of the Equipment,
- (f) ensure that any person collecting or taking delivery of 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 so authorised,
- (g) ensure that all persons operating or erecting the Equipment are suitably instructed in its safe and proper use and where necessary hold a current Certificate of Competency and/or are fully licensed,
- (h) conduct a thorough hazard and risk assessment before using the Equipment, and comply with all Occupational Health and Safety laws relating to the Equipment and its operation,
- (i) safely secure all items loaded in or on the Equipment or in or on the Customer's vehicle, and indemnify ACT Scaffold in respect of any injury and/or damage caused by items falling from the Equipment or from any vehicle or trailer operated by or on behalf of the Customer,
- (j) report and provide full details to ACT Scaffold of any accident or damage to the Equipment within 2 business days of the accident or damage occurring.

The Customer must NOT;

- (k) tamper with, damage or repair the Equipment,
- (l) lose or part with possession of the Equipment,
- (m) rely upon any representation relating to the Equipment or its operation other than those contained in this Contract,
- (n) exceed the recommended or legal load and capacity limits of the Equipment,
- (o) use or carry any illegal, prohibited or dangerous substance in or on the Equipment.

5. Customer not to Claim Damages

6. The Customer cannot recover from ACT Scaffold compensation for any damages (including for consequential loss) arising in respect of this Contract or the hiring or the use of the Equipment.

7. Breach of Hire Agreement by Customer

If the Customer breaches any clause whatsoever of this Contract, or becomes bankrupt, insolvent or ceases business, then;

ACT Scaffold shall be entitled to

- (a) terminate this Contract, and/or
- (b) sue for recovery of all monies owing by the Customer, and/or
- (c) repossess the Equipment (and is authorised to enter any premises where the Equipment is located to do so); and No Warranties
- (d) All warranties and conditions are excluded to the full extent permitted by law and ACT Scaffold' only obligation resulting from a breach by it of any condition or warranty is limited to the supplying of the Equipment again or to the repair of the Equipment.

8. Disputes

- (a) The Customer must immediately check all Hire Charges, and any disputes in relation to those Hire Charges must be communicated to ACT Scaffold in writing within 14 days of the Hire Contract date. In the event that no communication is received from the Customer within that 14 day period, the Hire Charges are deemed to be accepted by the Customer.
- (b) If a dispute arises relating to this Contract, the hiring or the use of the Equipment (except in regard to payments due to ACT Scaffold), the parties agree to negotiate to settle the dispute with the assistance of the Hire and Rental Association of Australia before litigation.

9. Privacy

ACT Scaffold will comply with the National Privacy Principles in all dealings with Customers. A copy of the ACT Scaffold Privacy Statement is available upon request or by visiting www.actscaffold.com.

10. Governing Law

This Hire Contract is a payment claim under the Building and Construction Industry Security of Payment Act 1999 NSW, the Building and Construction Industry Security of Payment Act 2002 VIC, the Building and Construction Industry Payments Act 2004 QLD, the Building and Construction Industry Security of Payment Act 2009 SA, the Construction Contracts Act 2004 WA, the Building and Construction Industry (Security of Payment) Act 2009 ACT, the Building and Construction Industry Security of Payment Act 2009 TAS, and/or the Construction Contracts (Security of Payments) Act 2009 NT.

Except where ACT Scaffold in its discretion takes action against the Customer under any of the Building and Construction Industry legislation referred to in this clause, ACT Scaffold and the Customer agree that this Contract is governed by the law of the state of New South Wales, and the parties submit to the jurisdiction of the courts of that State.