

Updated T&Cs version 2

Jool Hire Pty Ltd

Terms and Conditions, Contract of Rental Hire

ALL ONLINE BOOKINGS MUST BE PAID VIA CREDIT CARD FOR THE BOOKING TO BE CONFIRMED.

Cancellation Policy

All bookings are 100% refundable up to 2hr prior to pick up time. If it is bad weather, we do not have a "stand down policy" so if it starts to rain on the day and you have already taken the machine there will be no refund supplied.

Towing Policy

The towing capacity of your vehicle must be adequate to tow the combined weight of the trailer, machine and all attachments loaded onto the trailer. The weight of the machine and attachments may vary depending on how many attachments are hired.

It is the hirer's responsibility to ensure the towing capacity of the tow vehicle is adequate for the total weight being towed; our trailers have mechanical brakes.

It is always the hirer's responsibility to ensure the brakes are operational at all times while towing any equipment and the Hirer and their associates are not responsible for any liability incurred whatever that maybe if the Hiree fails to follow this policy.

Please check with Jool Hire if you are unsure of the weight of the machine. If the equipment does exceed the maximum towing weight capacity of the

vehicle, you may need to arrange delivery of the machine by Jool Hire to your site.

Lost of key AND/ OR not returning the key, customer will be charged \$300 for replacement key.

Note to customer - You should read these Hire Contract Conditions very carefully.

They contain terms and conditions which may impact you, including that;

- a. the liability of Jool Hire to its Customers is excluded in some circumstances; and
- b. Customers may be liable for damage to goods that are hired by them, and for damage to goods or property owned by a third party; and
- c. Jool Hire Privacy Policy permits Jool Hire in some circumstances and subject to compliance with the Australian Privacy Principles to provide data about a Customer, or data provided by a Customer, to a third party in a form that may enable the third party to identify the Customer.

These Hire Contract Conditions apply to the exclusion of any other conditions proposed by the Customer, unless otherwise agreed by Jool Hire and the Customer in writing. Jool Hire agrees to hire Equipment to the Customer on terms set out in this document. If the Customer wishes to hire Equipment, Jool Hire will issue to the Customer a Hire Schedule, setting out the terms of the hire of that Equipment. Each Hire Schedule is not a separate contract but forms a part of this Hire Contract between Jool Hire and the Customer, together with any credit application, guarantee and indemnity or other contractual documents. The Customer agrees to receive hire schedules and all associated documentation by electronic means, or by printed or other form where electronic means are not available. The Customer must check the Hire Schedule on receipt and unless the

Customer notifies Jool Hire before collection of the Equipment that it disagrees with anything in the Hire Schedule, the terms of the Hire Schedule are accepted by the Customer. Jool Hire may in its absolute discretion decline to hire Equipment to the Customer at any time if it has reasonable cause to do so.

Amendment: These Hire Contract Conditions may be changed by Jool Hire from time to time by Jool Hire giving notice of the amendment to the Customer. Notice is deemed given when Jool Hire does any of the following:

- a. sends notice of the amendment to the Customer at any address (including an email address) supplied by the Customer;
- b. publishes the amended terms on its website or
- c. displays the amended terms at premises from which Jool Hire conducts hire operations.

Changes to these Hire Contract Conditions will only apply to Hire Schedules entered into after the change has been notified to the Customer by one of the methods mentioned above.

1. Interpretation of words in this contract

Commencement – The date and time when the Customer takes possession of the

Equipment.

Equipment – Means any kind of Equipment, vehicles or tools including but not limited to the following kinds of goods or goods suitable for the following kinds of uses: cleaning; cooling and/or heating; entertainment; waste management; landscaping and gardening; plumbing; fencing and covering; lifting; access; air and air compression; pumping and fluid management; welding; compaction; concrete and masonry; flooring; earthmoving; floor care and cleaning, generation and power distribution; ground equipment and shoring; ladders and scaffolding; propping;

lighting; materials handling; offshore pumps; safety equipment; storage; site accommodation including portable buildings and portable toilets; traffic management including road barriers; signage; vehicles including trucks, vans and trailers, and includes tools and parts and accessories for any of the foregoing.

Customer – refers to the person, firm, organisation, partnership, corporation or other entity (including a trust) hiring the Equipment from Jool Hire Pty Ltd as identified in the Credit Application or Hire Schedule.

Hire charge – The amounts shown on the Hire Schedule payable by the Customer to hire the Equipment.

Hire period – Means from Commencement until the end of the period shown on the Hire

Schedule. The Hire Period may only be extended for one or more definite periods and in each case this can only be done if the Customer requests it and if Jool Hire agrees. Jool

Hire may issue an amended Hire Schedule for any extension of the Hire Period.

Hire schedule – Means a document in such form as Jool Hire shall require, setting out the terms of the hire of Equipment, including the particulars of the Equipment and the Hire

Period and such other information as Jool Hire may decide to include. Jool Hire Pty Ltd – The company or companies listed on the Hire Schedule.

Interested Parties – the following parties are listed as interested parties on the equipment

Jool Hire Pty Ltd, Advertec Pty Ltd and Caterpillar Financial Australia Limited.

Kilometre – The amount shown in the Hire Schedule payable for the kilometres that a Motor Vehicle has, in the reasonable opinion of Jool Hire, travelled during the Hire Period.

Motor vehicle – A truck or utility but not any other equipment such as a scissor lift, trailer or skid steer loader.

Remote area – Any location which is more than 50 kilometres from the Jool Hire branch

from where the Equipment is hired.

2. Jool Hire obligations

Jool Hire will:

2.1 Allow the Customer to take and use the Equipment for the Hire Period;

2.2 Provide the Equipment to the Customer clean and in good working order;

Note to customer: You must return the Equipment at your expense when due back.

3. Obligations of the customer

The Customer must:

3.1 Deliver the Equipment to Jool Hire when it is due back;

3.2 Return the Equipment to Jool Hire clean and in good repair;

3.3 Satisfy itself at Commencement that the Equipment is suitable for its purposes;

3.4 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 Jool Hire or posted on the Equipment;

Note to customer: You **MUST** advise Jool Hire if you require any further instruction on the operation and safe use of the Equipment.

3.5 Indemnify Jool Hire for all injury and/or damage to the extent caused or contributed to by the Customer 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;

3.6 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;

3.7 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;

3.8 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;

3.9 Safely secure all items loaded in or on the Equipment or in or on the Customer's vehicle, and indemnify Jool Hire 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;

3.10 Operate the Equipment with an adequate motor vehicle and/or power source;

3.11 Report and provide full details to Jool Hire of any accident or damage to the Equipment within two business days of the accident or damage occurring;

3.12 Sign any documentation requested by Jool Hire at such intervals as reasonably

stipulated by Jool Hire, to confirm the Customer's acceptance of these Hire Contract Conditions;

3.13 Assist and co-operate fully and promptly with Jool Hire and/or its insurer in the investigation, settlement or defence of any claim or matter relating to a Hire Schedule on

which the Customer is named;

3.14 Remain responsible for the care and safekeeping of the Equipment until collected by or delivered back to Jool Hire.

5.15 Return the machine with a full tank of diesel. If the machine is not returned with a full tank of diesel, the customer will be charged a higher rate of fuel to refill the machine.

The Customer must NOT:

3.16 Tamper with, damage or repair the Equipment;

3.17 Lose or part with possession of the Equipment;

3.18 Rely upon any representation relating to the Equipment or its operation other than those contained in this Contract;

3.19 Allow any person to drive a Motor Vehicle if the person: (a) does not hold a suitable licence to drive that class of Motor Vehicle; or (b) is affected by drugs and/or alcohol.

3.20 Exceed the recommended or legal load and capacity limits of the Equipment;

3.21 Use or carry any illegal, prohibited or dangerous substance in or on the Equipment;

3.22 Exceed the recommended or legal speed limit for the Equipment

3.23 Take the equipment more than 10 km from the route to and from the work site or storage location. Police may be notified if the equipment is not within the expected area.

4. Payments by the customer to Jool Hire

4.1 On or before Commencement (or as otherwise specifically agreed with Jool Hire), the Customer will pay the Hire Charge.

4.2 Immediately on request by Jool Hire, the Customer will pay:

(a) the new list price of any Equipment which is for whatever reason not returned to Jool Hire

Note to customer: Subject only to any express provision of this Contract to the contrary, the Customer is responsible for loss or theft of the Equipment.

(b) all costs incurred in cleaning the Equipment;

(c) the full cost of repairing any damage to the Equipment caused or contributed to by the Customer, unless expressly agreed otherwise in this Contract;

(d) stamp duties, GST, 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;

(e) all costs incurred by Jool Hire in delivering and recovering possession of the Equipment;

(f) Interest for late payment of amounts owing by the customer, at the pre-judgement interest rate set by the Local Court of NSW from time to time;

(g) the Kilometre Charge in excess of 100km per day and any additional Hire Charges;

(h) the cost of fuels and consumables provided by Jool Hire and not returned by the Customer;

(i) any reasonable expenses and legal costs (including commission payable to a commercial agent) incurred by Jool Hire in enforcing this Contract due to the Customers default;

(j) all costs of repairing or replacing tyres, including road service;

(k) if any damage and/or theft waiver applies, the amount for which the Customer is liable as set out in this Contract; and

(l) Loading costs when equipment hired with an hour meter is used in excess of 8 hours per day.

(m) Hire fees for the period from the commencement of the hire until the Equipment is returned or a customer pick up number is obtained from Jool Hire.

4.3 Without limiting the ability of Jool Hire to recover all amounts owing to it, the Customer authorises Jool Hire to charge any amounts owing by the Customer to any credit card or account details of which are provided to Jool Hire.

4.4 Jool Hire may tokenise the Customers Credit Card or Account details to facilitate credit card or online payments.

5. PPS Law

5.1 This clause applies to the extent that this Contract provides for a 'security interest' for the purposes of the Personal Property Securities Act 2009 (Cth) ("PPS Law"). References to PPS Law in this agreement include references to amended, replacement and successor provisions or legislation.

5.2 The Interested Parties may register its security interest. The Customer must do anything (such as obtaining consents and signing documents) which The Interested Parties requires for the purposes of:

(a) ensuring that the Interested Parties security interest is enforceable, perfected and otherwise effective under the PPS Law;

(b) enabling the interested parties to gain first priority (or any other priority agreed to by The Interested Parties in writing) for its security interest; and

(c) enabling the Interested Parties to exercise rights in connection with the security interest.

5.3 The rights of the Interested Parties under this document are in addition to and not in substitution for The Interested Parties' rights under other law (including the PPS Law) and the Interested Parties may choose whether to exercise rights under this document, and/or under such other law, as it sees fit. To avoid any doubt about it the Interested Parties security interest will attach to proceeds.

5.4 To the extent that Chapter 4 of PPSA applies to any security interest under this agreement, the following provisions of the PPS Law do not apply and, for the purposes of section 115 of the PPS Law are "contracted

out” of this agreement in respect of all goods to which that section can be applied: section 95 (notice of removal of accession to the extent it requires The Interested Parties to give a notice to the Customer); section 96 (retention of accession); section 121(4) (notice to grantor); section 125 (obligations to dispose of or retain collateral); section 130 (notice of disposal to the extent it requires The Interested Parties to give a notice to the Customer); section 129(2) and 129(3); section 132(3)(d) (contents of statement of account after disposal); section 132(4) (statement of account if no disposal); section 135 (notice of retention); section 142 (redemption of collateral); and section 143 (re-instatement of security agreement).

5.5 The following provisions of the PPS Law: section 123 (seizing collateral); section 126 (apparent possession); section 128 (secured party may dispose of collateral); section 129 (disposal by purchase); and section 134(1) (retention of collateral) confer rights on The Interested Parties . Customer agrees that in addition to those rights, The Interested Parties shall, if there is default by Customer, have the right to seize, purchase, take possession or apparent possession, retain, deal with or dispose of any goods, not only under those sections but also, as additional and independent rights, under this document and the

Customer agrees that The Interested Parties may do so in any manner it sees fit including (in respect of dealing and disposal) by private or public sale, lease or licence.

5.6 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.

5.7 The Interested Parties 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 on its part to ensure that section 275(6)(a) of the PPS Law continues to apply.

The agreement in this sub-clause is made solely for the purpose of allowing to The Interested Parties the benefit of section 275 (6)(a) and The Interested Parties shall not be liable to pay damages or any other compensation or be subject to injunction in respect of any actual or threatened breach of this sub-clause.

5.8 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 the express written consent of The Interested Parties .

5.9 Customer must not lease, hire, bail or give possession ('sub-hire') of the Equipment to anyone else unless The Interested Parties (in its absolute discretion) first consents in writing. Any such sub-hire must be in writing in a form acceptable to The Interested Parties

and must be expressed to be subject to the rights of The Interested Parties under this agreement. Customer may not vary a sub-hire without the prior written consent of The Interested Parties (which may be withheld in its absolute discretion).

5.10 Customer must ensure that The Interested Parties 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.

5.11 Customer must take all steps including registration under PPS Law as may be required to:

(a) ensure that any security interest arising under or in respect of the sub-hire is enforceable, perfected and otherwise effective under the PPS Law;

(b) enabling the Customer to gain (subject always to the rights of The Interested Parties) first priority (or any other priority agreed to by The Interested Parties in writing) for the security interest; and

(c) enabling The Interested Parties and the Customer to exercise their respective rights in connection with the security interest.

6. Privacy

Jool Hire will comply with the Australian Privacy Principles in all dealings with Customers.

7. Exclusion of warranties and liabilities

7.1 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.

7.2 Where the Australian Consumer Law applies and the Equipment is not of a kind ordinarily acquired for personal domestic or household use or consumption, Jool Hire liability in respect of any guarantee is limited to the replacement or repair of the Equipment, or the cost of having the Equipment repaired or replaced.

7.3 To the extent that the Australian Consumer Law (or any other law which cannot be excluded) does not apply. Jool Hire makes no representations and gives no warranties other than those set out in these Hire Contract Conditions, and will not be liable to the Customer for any damages, costs or other liabilities whatsoever (including for consequential loss) in relation to the hiring of the Equipment by the Customer.

8. Remote hire

Where the Equipment is at any time hired by the Customer to be located in a Remote Area, the following clauses will also apply, in addition to the obligation of the Customer under Clause 3 and elsewhere in these Hire Contract Conditions;

(a) The Customer will pay an additional charge for any delivery, servicing and repair of the Equipment, and for any other attendance at the Remote Area by Jool Hire ('Remote Area Charges'). The Remote Area Charges will be calculated on a per kilometre rate travelled by Jool Hire staff to and from the Remote Area, plus labour costs per staff member per hour (including travelling times) at scheduled rates, plus direct travelling cost including all airfares and accommodation charges incurred by Jool Hire and its staff in connection with travel to and from the Remote Area;

(b) Multiple items of Equipment hire by a Customer on the one site will only be charged for one call out fee;

(c) The Customer is responsible at its cost for daily maintenance and care of all Multiple items of Equipment hire by a Customer on the one site will only be fittings and lubrication of all grease points.

9. Breach of hire contract by customer

If the Customer breaches any significant provision of this Contract and does not remedy the breach within a reasonable period of time (having regard to the breach), or becomes bankrupt, insolvent or ceases business then:

9.1 Jool Hire 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 any Damage and/or Theft Waiver referred to in clause 6 is immediately invalidated.

9.2 The Customer indemnifies Jool Hire in respect of any damages, costs or loss, to the extent caused or contributed to by the customer resulting from a breach by the Customer of any provision of this Contract.

10. Disputes

10.1 The Customer must immediately check all Hire Charges, and any disputes in relation to those Hire Charges must be communicated to Jool Hire in writing within 30 days of the hire contract date. In the event that no communication is received from the Customer within that 30 day period, the Hire Charges are deemed to be accepted by the Customer.

10.2 If a dispute arises relating to this contract, the hiring or the use of the Equipment (except in regard to payments due to Jool Hire), the parties agree to negotiate to settle the dispute with the assistance of the Hire and Rental Association of Australia before litigation.

11. Equipment data

Jool Hire 'Equipment may contain on-board devices (each a GPS Device) which enable the Equipment to be connected to the internet and to send commands to and receive certain information from the Equipment,

including geolocation data from a global positioning system and other data including but not limited to speed, battery voltage and ignition status of such Equipment. By hiring any Equipment from Jool Hire, the Customer expressly consents to Jool Hire 'use of the GPS Device on such Equipment during the Hire Period and to Jool Hire collecting, using and retaining information from the GPS Device in accordance with our Privacy Policy, and that Jool Hire is the owner of that data subject to your rights as set out in our Privacy Policy.

12. Governing law

12.1 The hire contract containing these Hire Contract Conditions 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.

12.2 Except where Jool Hire in its discretion takes action against the Customer under any of the Building and Construction Industry legislation referred to in this clause, Jool Hire 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.