

1. INTRODUCTION

- 1.1 These Terms and Conditions, together with:
- (a) any Credit Application You have completed and submitted to Us;
 - (b) any Guarantee, Indemnity and Charge You have completed and submitted to Us;
 - (c) each Quotation provided to You by Us, whether signed or not;
 - (d) any Special Terms specific to the type of Equipment You have hired attached to Your Quotation;
 - (e) any order number submitted by You in respect of the Equipment and/or Goods;
 - (f) any specifications, drawings, samples or other description furnished by You in connection with the Goods, which the parties wish to rely on in entering into this Agreement (“**Additional Documents**”);
 - (g) any consignment note completed and provided to Us by You whereby We are engaged as a carrier of goods, together with the terms and conditions of carriage attached to the consignment note (“**Consignment Note**”); and
 - (h) any invoices issued by Us to You in respect of the hire of Equipment and the manufacturing, fabrication and provision of Goods and the carriage of goods pursuant to any Consignment Note,
- make up the agreement (the “**Agreement**”) between You and Us, together with any other document the parties may agree from time to time form part of the Agreement.
- 1.2 The provision or acceptance of a Quotation shall not form a separate agreement between You and Us, but shall constitute part of this Agreement.
- 1.3 It is important that You read and understand all of the terms and conditions of the Agreement before hiring Equipment or purchasing Goods from Us or engaging Our services.

2. DEFINITIONS

- 2.1 For the purposes of this Agreement, “**We/Us/Our**” is GHS Regional WA Pty Ltd (ACN 150 750 039) trading as GHS Solutions and Geraldton Hire.
- 2.2 For the purposes of this Agreement “**You/Your**” is the applicant named on the Credit Account with Us or where no account exists then on the Quotation provided by Us to You and this includes any of Your employees, agents and contractors.
- 2.3 In this Agreement:
- “**Credit Account**” means You have properly completed and submitted a Credit Application to Us and We have approved You for an account with Us.
- “**Equipment**” shall mean all Equipment including but not limited to any plant, scaffolding and equipment together and associated or attached tools, accessories and parts, which is hired out or supplied by Us at Your request.
- “**Goods**” means any products, goods, items or services supplied by Us to You at Your request and may include work or labour for the repair of any Goods or items supplied to You.
- “**Hire Period**” means for Equipment Hired by You for the period commencing either when you take possession of the Equipment or from the time We deliver the Equipment to the address You provide to Us, whichever occurs first, for an indefinite term ending when the Equipment is back in Our custody and possession in good and substantial working order and repair as suitable for rehire.
- “**Hire Schedule**” or “**Quotation**” means the document provided by Us to You which outlines important information, including but not limited to, the Equipment You may hire or have hired, the hire rates which apply to the Equipment, any Goods we may or have supplied to You, the prices which apply to the Goods, the prices which apply to the carriage of goods pursuant to a Consignment Note, any other applicable charges, the expected off Hire date and the address for delivery of the Equipment and/or Goods.
- “**LTD Waiver**” has the meaning set out in clause 11.
- “**PPSA**” means the PPS Act and any other legislation and regulations in respect of it and for the purposes of these Terms and Conditions, the following words have the respective meanings given to them in the PPS Act: *collateral, financing charge statement, financing statement, interested person, purchase money security interest, register, registration, security agreement, security interest, serial number and verification statement.*
- “**PPS Act**” means the Personal Property Securities Act 2009 (Cth) (as amended).
- “**Terms and Conditions**” and “**Terms and Conditions of Trade**” means this document.

3. GENERAL MATTERS

- 3.1 **Governing Law and Jurisdiction:** The acceptance of these Terms and Conditions is governed by the laws of Western Australia and by accepting these Terms and Conditions, You agree to submit to the non-exclusive jurisdiction of the courts of Western Australia.
- 3.2 We agree to hire You the Equipment and will:
- (a) provide the Equipment to You in good working order; and
 - (b) allow You to exclusively use the Equipment during the Hire Period subject to clause 10.4.
- 3.3 The Hire Period includes weekends and public holidays.
- 3.4 You have requested Us to manufacture, fabricate and provide the Goods to You.
- 3.5 **Retention of Title to Equipment:** You acknowledge that We own the Equipment and in all circumstances We retain title to the Equipment (even if You go into liquidation or become bankrupt during the Hire Period). Except in the circumstances set out in clause 13, You are not entitled to offer, sell, assign, sub-let, charge, mortgage, pledge or create any form of security interest over, or otherwise deal with the Equipment in any way. In no circumstances will the Equipment be deemed to be a fixture.

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- 3.6 **Retention of Title to Goods:** You acknowledge that we will continue to own and retain title to the Goods supplied to You by Us until We receive payment in full for the same. We agree to allow You to deal, sell or trade with the Goods in the normal course of business and for You to retain the sale proceeds of such sale or dealing provided that You adhere to this Agreement. In the event that You default under the Agreement, including payment of monies due under the Agreement, then We shall have the right, without giving notice, to retake possession of the Goods supplied to You and You hereby authorize and allow Us or our representative, agent or employees to enter the premises upon which the Goods are stored for the purposes of retaking possession of the same and We shall not be liable for any costs, losses, damages, expenses or any other monies or losses suffered by You as a result of Us retaking possession of the Goods. You agree that We shall be entitled but not obliged to sell any Goods possession of which has been retaken by Us pursuant to these Terms and Conditions.
- 3.7 If any part of this Agreement becomes void or unenforceable for any reason then that part will be severed with the intent that all remaining parts will continue to be in full force and effect and can be unaffected by the severance of any other parts.

4. PRIVACY

- 4.1 At GHS Solutions and Geraldton Hire, We take Your privacy seriously. We will comply with the National Privacy Principles in all dealings with You.
- 4.2 You hereby authorise Us to collect, retain, record, use and disclose personal information about You, in accordance with the Privacy Act 1988 (Cth), to persons and legal entities who are a solicitor or any other professional consultant engaged by Us, a debt collector, credit reference organisation or any other individual or organisation which maintains credit references or default listings.
- 4.3 You agree to notify Us in writing of any change to Your details set out in the Credit Application, within 5 days from the date of such change.

5. QUOTATION

- 5.1 The Quotation will specify the price for the Goods and/or the type of hire rate which will apply to You and the method of calculation. Any performance figures or performance parameters in the Quotation or otherwise given by Us are estimates only. We are under no liability for goods or services not attaining such figures unless those figures are specifically guaranteed in writing by Us. Any written guarantees are subject to the recognized tolerances and parameters applicable to the figures.
- 5.2 **Acceptance by You:** Where We have given You a Quotation:
- (a) We need not supply You until the Quotation has been accepted by You by signature and returned to Us;
 - (b) You shall accept the Quotation by instructing (in writing) by way of an official purchase order making specific reference to Our quotation number and issuing a copy of the purchase order to Us;
 - (c) acceptance by You of the Quotation will constitute acceptance by You of these Terms and Conditions;
 - (d) Quotations in respect of Equipment are valid for sixty (60) days only, unless an extension has been authorised in writing by Us;
 - (e) Quotations in respect of Goods are valid for fourteen (14) days only, unless an extension has been authorized in writing by Us; and
 - (f) We reserve the right to withdraw the Quotation for whatever reason.
- 5.3 **We may revise Quotation:** We may amend the Quotation after a period of three (3) months from the date of the signed acceptance of the work for provision of Equipment to take into account any rise or fall in the cost of performing the order and We shall notify You of such amendment as soon as practicable thereafter. Upon Us giving You notification of such amendment the amended Quotation shall be deemed to be the Quotation for the purposes of the Terms and Conditions.
- 5.4 **Variations to initial Quotation:** You shall indemnify Us from any additional cost incurred by Us, should You increase the scope or amount of the Equipment or Goods to be provided by Us to You.

6. PRICES

- 6.1 All prices are exclusive of GST and other government impost unless otherwise stated in writing and are subject to alteration without notice.
- 6.2 The cost of any order which is not standard will be added to Your Credit Account.
- 6.3 Any increase in the cost of supplying the Equipment or Goods which is beyond Our control and which occurs between the date of ordering and delivery shall be added to Your Credit Account.
- 6.4 Unless otherwise stated in Our Quotation, We reserve the right to alter list prices without notice and may vary the price to reflect the addition in costs, taxes or duties incurred or to be incurred by Us after the date of the Quotation being sent and delivered to You.

7. PAYMENT

- 7.1 This Agreement is a claim for payment under the Construction Contracts Act 2004 (WA).
- 7.2 **Time for Payment:** You must upon receiving Our invoice, pay Us the total amount set out in the invoice by the due date on the invoice. If You fail to pay Us the full amount contained within the invoice by the due date specified on the invoice, then:
- (a) the full amount unpaid will be a debt due and payable immediately to Us; and
 - (b) we may charge interest at a rate of 12% on any unpaid amounts, with such interest to be calculated from the date of the invoice to the date of Our receipt of full and final payment by You. Any payment by You will be credited first against the interest accrued to the date of payment.

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- 7.3 **Deposit:** We may require a deposit from You in specific circumstances and if a deposit is so requested by Us You therefore acknowledge that We are under no obligation to undertake any work or supply any Equipment or Goods as requested by You, until the deposit is received by Us in full and when all details pertaining to the Agreement are finalized. In the event of default on payment owing to Us, We shall be entitled to forfeit the deposit and claim any profit or margin contemplated by or allowed for in the Agreement in addition to any other remedy available to Us in law or in equity.
- 7.4 **Progress Payments:** We may require progress payments from You in specific circumstances and if so, We reserve the right to halt any further work or provision of Equipment or Goods until such time as the outstanding payment is paid.
- 7.5 **Damages:** You must pay to Us any costs, expenses or losses incurred by Us as a result of Your failure to pay all sums outstanding including but not limited to any debt collection and legal costs incurred in enforcing payment.
- 7.6 **Cancellation:** You shall reimburse Us for any costs, expenses or losses incurred by Us should You cancel the accepted Agreement. The time for payment for such cancellation shall be seven (7) days from the date of Our invoice pursuant to the Agreement.
- 7.7 **Non return of Equipment:** You will pay the charges at the rate and in the manner specified from the commencement date of the Agreement until the Equipment is returned to Our premises and is in a clean condition and in good and substantial working order and repair as suitable for rehire. If the Equipment is not returned in this condition then hire will continue until the Equipment is restored to good and substantial working order and repair as suitable for rehire, with compensation being payable by You.

8. DELIVERY

- 8.1 In the event that You request Us to transport the Equipment or Goods to You from Our premises You shall pay all the charges and expenses of the delivery in addition to the hire charges.
- 8.2 Delivery of Equipment or Goods to a third party or site nominated by You is deemed to be delivery to You for the purpose of this Agreement.
- 8.3 We may suspend or cease delivery or repossess any Equipment or Goods delivered to You on any Credit Account which has not been paid in accordance with the terms and conditions herein and commence proceedings to recover the balance of any monies owing by You without prejudice to any other remedies available to Us.

9. INSPECTION ON DELIVERY & EQUIPMENT CONDITION

- 9.1 You acknowledge that You have inspected the Equipment and:
- (a) are satisfied that the Equipment is in clean condition and in good and substantial working order and repair; and
 - (b) are aware of the proper use for which the Equipment is designed.
- 9.2 If You collect or receive the Equipment and find that it is broken, damaged or defective, You must notify Us within 24 hours of collecting or receiving the Equipment. If You do not notify Us within this time period, We are entitled to assume that the Equipment You collected or received was in clean condition and good and substantial working order and repair.
- 9.3 The Equipment shall remain Our property at all times. You shall indemnify Us from any damage (normal wear and tear excluded) or loss to the Equipment while on loan to You.
- 9.4 At all times you will:
- (a) keep and maintain the Equipment in a clean condition and in good and substantial working order and repair; and
 - (b) give Us access to the Equipment for inspection at any reasonable time with or without prior notice from Us.
- 9.5 If upon return of the Equipment to Us, it is found not to be full of fuel, in a clean condition and good and substantial working and repair You shall pay Us the cost and expenses of restoring it to full fuel, clean condition and good and substantial order and repair.

10. LIABILITY IN RESPECT OF EQUIPMENT

- 10.1 You accept full responsibility to compensate Us for the value of the Equipment and parts of the Equipment which may be lost or stolen from the time of commencement of the hire or delivery, whichever is earlier, until the Equipment is returned to Our premises or the premises from which we have arranged to collect it. If We have agreed to collect the Equipment from You, You must ensure it is kept safe and secure until the time of collection. This shall not be prejudiced by or prejudice any other right under the Agreement.
- 10.2 Compensation for Our Equipment not returned in the condition specified in clause 9 shall be calculated at:
- (a) the replacement cost of such Equipment; or
 - (b) the cost of labour and material necessary to restore the Equipment to an acceptable clean condition, in good and substantial working order and repair as suitable for rehire.
- 10.3 It is expressly understood that the onus rests with You to ensure that the Equipment is returned to Our premises at the expiration of hire. Hire does not cease until the Equipment is returned to Our premises. We are not responsible for delays or pickups. You are responsible for the Equipment for the entire Hire Period.
- 10.4 If You breach or default in the observance or performance of any of the Terms and Conditions contained in this Agreement We may without notice to You terminate the Hire Period and take back possession of the Equipment. For that purpose You hereby authorize Us, Our servants and agents to enter upon Your premises to search premises and to remove the Equipment.
- 10.5 **Force Majeure:** We have no liability to You in relation to any loss, damage or expense caused by Our failure to complete the hire order or to deliver the Equipment as a result of fire, flood, tempest, earthquake, riot, civil disturbance, theft, crime, strike, lockout, breakdown, war, the inability of Our normal procedure to supply necessary material or any other matter beyond Our control.

11. LOSS THEFT & DAMAGE WAIVER

- 11.1 In order to reduce Your level of risk and liability assumed under this Agreement, We offer a Loss Theft & Damage Waiver ('LTD Waiver') which is an agreement by Us to limit Your liability in certain circumstances for loss, theft or damage to Our Equipment to an amount called the LTD Waiver Excess. The LTD Waiver Excess is explained below.
- 11.2 An LTD Waiver Fee will be automatically charged to You in addition to Your hire charges and is set out in Your Quotation.
- 11.3 You are not required to pay the LTD Waiver Fee if You produce a certificate of currency for an appropriate insurance policy that covers loss, theft or damage to the Equipment during the Hire Period for an amount not less than the full new replacement value of the Equipment.
- 11.4 Where You have paid the LTD Waiver Fee, We will waive Our right to claim against You for loss, theft or damage to the Equipment if:
- (a) You have made all reasonable endeavours to report the incident to the police with time being of the essence and provided Us with a copy of the police report;
 - (b) You have co-operated with Us and provided Us with the details of the incident, including any written or photographic evidence We require;
 - (c) the loss, theft or damage does not fall into one or more of the circumstances set out in clause 11.6; and
 - (d) You have paid Us the LTD Waiver Excess.
- 11.5 The LTD Waiver Excess for each item of Equipment is the amount equal to whichever is greater out of:
- (a) \$500.00 or the replacement cost of the Equipment if it is less than \$500.00; or
 - (b) 15% of the cost of the repairs (if the Equipment is partially damaged and can be repaired) or 15% of the full new replacement cost of the Equipment (if the Equipment is lost, stolen or damaged beyond repair).
- 11.6 Even if You have paid the LTD Waiver Fee, We will not waive Our rights to claim against You for loss, theft or damage to the Equipment and the LTD Waiver will not apply if the loss, theft or damage:
- (a) has arisen as a result of Your breach of a clause of the Agreement;
 - (b) has been caused by Your negligent act or omission;
 - (c) has arisen as a result of Your use of the Equipment in violation of any law or statute;
 - (d) has been caused by Your failure to use the Equipment for its intended purpose or in accordance with Our instructions or the manufacturer's instructions;
 - (e) occurs to the Equipment whilst it is located, used, loaded, unloaded, transported on or over water, wharves, bridges or vessels of any kind;
 - (f) has been caused by a lack of lubrication or a failure to properly service or maintain the Equipment;
 - (g) has been caused by collision with a bridge, carpark, awning, gutter, tree or any other overhead structure or object due to insufficient clearance;
 - (h) has been caused by the overloading of the Equipment or any components thereof;
 - (i) is to motors or other electrical Equipment or components within the Equipment caused by electrical overload, a surge in electrical current or the use of under-rated or excessive lengths of extension leads with the electrical Equipment;
 - (j) is caused by exposure to any corrosive or caustic substance, such as cyanide, salt water, acid;
 - (k) is caused by vandalism;
 - (l) is to tyres or tubes; or
 - (m) is to glass.

12. TERMINATION

- 12.1 We may terminate this Agreement and any Hire Period immediately by giving notice to You if:
- (a) You breach any term of the Agreement and fail to remedy the breach within 14 days of notification of the breach from Us; or
 - (b) You become bankrupt or insolvent, execute a personal insolvency agreement, enter into liquidation, administration, receivership or cease to carry on business.
- 12.2 We may terminate the Agreement and any Hire Period for any other reason on 24 hours' notice.
- 12.3 These rights of termination are in addition to any other rights We have under the Agreement and do not exclude any right or remedy under law or equity available to Us.

13. PPS ACT

- 13.1 Unless otherwise required by the context, the definitions contained within the PPS Act will apply to this Agreement.
- 13.2 Upon assenting to the Terms and Conditions in writing, You acknowledge and agree that the Agreement constitutes a security agreement for the purposes of the PPSA and creates a security interest in the following ("Collateral"):
- (a) all Equipment that has previously been supplied and that will be supplied in the future by Us to You; and/or
 - (b) all Goods that have been supplied or that will be supplied in the future by Us to You; and/or
 - (c) all goods that have previously been carried by Us as carrier or that will be carried by us as carrier in the future pursuant to a Consignment Note.
- 13.3 You consent to Us affecting and maintaining a registration on the register under the PPS Act (in any manner We consider appropriate) in relation to any security interest contemplated or constituted by this Agreement in the Collateral and the proceeds arising in respect of any dealing in the Collateral and You agree to sign any documents and provide all assistance and information to Us required to facilitate the registration and maintenance of any security interest.

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- 13.4 We may at any time register a financing statement or financing change statement in respect of a security interest (including any purchase money security interest).
- 13.5 You waive the right to receive notice of a verification statement in relation to any registration on the register of a security interest in respect of the Collateral.
- 13.6 You undertake to:
- (a) do anything including executing any new document or providing any information that is required by Us:
 - (i) so that We acquire and maintain one or more perfected security interests under the PPS Act in respect of the Collateral and its proceeds;
 - (ii) to register a financing statement or financing change statement; and
 - (iii) to ensure that Our security position, rights and obligation are not adversely affected by the PPS Act;
 - (b) not register a financing change statement in respect of a security interest contemplated or constituted by this Agreement without Our prior written consent; and
 - (c) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Collateral in favour of a third party without Our prior written consent.
- 13.7 If Chapter 4 of the PPS Act would otherwise apply to the enforcement of a security interest arising under or in connection with this Agreement and:
- (a) section 115(1) of the PPS Act allows for the contracting out of provisions of the PPS Act, the following provisions of the PPS Act will not apply and You will have no rights under them: sections 95 (to the extent that it requires the secured party to give notices to the grantor), 96, 118 (to the extent that it allows a secured party to give notices to the grantor), 121(4), 125, 130, 132(3)(d) and (4), 135, 142 and 143; and
 - (b) section 115(7) of the PPS Act allows for the contracting out of provisions of the PPS Act, the following provisions of the PPS Act will not apply and You will have no rights under them: sections 127, 129(2) and (3), 130(1), 132, 134(2), 135, 36(3), (4) and (5) and 137.
- 13.8 Unless otherwise agreed and to the extent permitted by the PPS Act, all parties to this Agreement agree not to disclose information of the kind referred to in section 275(1) of the PPS Act to an interested person, or to any other person at the request of an interested person. You waive any right You may have, or but for this clause may have had, under section 275(7)(c) of the PPS Act to authorise the disclosure of the above information.
- 13.9 For the purposes of section 20(2) of the PPS Act, the collateral is the Goods and the Equipment, including any Equipment which is described in any Hire Schedule provided by Us to You from time to time and any Goods which are described in any Quotation provided by Us to You from time to time. This Agreement is a security agreement for the purposes of the PPS Act, but only to the extent that the hire of:
- (a) any Equipment that does not contain a serial number exceeds a twelve (12) month term (or a term of less than twelve (12) months with the right of renewal so as to extend the term past twelve (12) months); or
 - (b) any Equipment that contains a serial number has a term of ninety (90) days or more (or a term of less than ninety (90) days with the right of renewal so as to extend the term to ninety (90) days or more),
- shall this Agreement be constituted as a security agreement for the purposes of the PPS Act generally and in particular, section 20.
- 13.10 If the Goods subsequently become part of a product or mass after we have supplied the Goods to You, then You agree that We will continue to have a security interest in the product or mass if the Goods are so manufactured, processed, assembled or commingled that their identity is lost in the product or mass.
- 13.11 If the Goods become an accession to other goods after we have supplied the Goods to You, then You agree that we Will continue to have a security interest in the accession.
- 13.12 We may apply amounts received in connection with this Agreement to satisfy obligations secured by a security interest contemplated or constituted by this Agreement in any way We determine in Our absolute discretion.

14. MATTERS SPECIFIC TO THE PROVISION OF GOODS

- 14.1 **Responsibility and Risk:** Risk in Goods shall pass to You upon delivery of the Goods to You or as directed by You and not before. It is acknowledged that We fulfil all of our obligations under the Agreement once the Goods are delivered by Us or Our nominee, agent or assign and received by You. If You provide any components to Us for inclusion in the Goods the risk of those components remains with You at all times even when in Our possession, custody or control. We will use all reasonable care to provide suitable storage of Your components but We will not be liable for any loss or damage.
- 14.2 **Warranty:**
- (a) We warrant that the Goods will be of merchantable quality and be free from substantial defect in workmanship;
 - (b) We warrant that any services, work, labour or repairs provided by Us will be performed by Us in a workmanlike manner and as contained in the Additional Documents;
 - (c) We warrant that any Goods manufactured or fabricated or services performed by Us will be performed to the standard agreed by the parties and as set out in the Agreement;
 - (d) We warrant the Goods for the period of three (3) months following delivery and/or installation or commissioning and only insofar as the defect is a result of faulty workmanship of Us or the use of substandard materials by Us. If You find a defect with the Goods You must notify Us in writing of the defect within seven (7) days of discovery of the defect and must take all reasonable precautions to prevent the use of the Goods;

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- (e) if We use a subcontractor or supplier or other person to perform any work under the Agreement (“**Other Person**”), any work, labour and services of the Other Persons shall only be warranted by Us to the degree that the Other Person firstly indemnifies Us.
- (f) You agree that We will not be liable for any consequential loss or damage of any kind suffered by You as a result of or associated from the Goods;
- (g) Notwithstanding clause 14.2(f), in the event that We are liable to You for any loss, then the parties expressly agree that such loss shall be limited to no more than ten percent (10%) of the price stipulated in the Quotation.
- 14.3 **Delivery of Goods:** We will deliver the Goods following the timetable or date set out in the Agreement. We have at Our sole discretion the right to vary the date of delivery of the Goods for any reason.
- 14.4 **Storage:** We reserve the right to make a reasonable charge for storage of the Goods or any component to be used in manufacture or supply of the Goods, if delivery instructions are not provided by You within 14 days of a request by Us.
- 14.5 **Returned Goods:** We are not under any duty to accept Goods returned by You. If We agree to accept Goods returned by You then You must return the Goods to Us at any place directed by Us and on such other terms as We direct.
- 14.6 **Site Works:** Where the Agreement includes Us installing, servicing, repairing or erecting Goods (“**Work**”) on site then the following will apply:
- (a) You will provide uninterrupted access to the site for the Work including the provision of a mobile crane if necessary;
 - (b) We shall not be liable in any way whatsoever for any loss or damage to You or Your agents, employees, servants or subsidiaries due to the Work at the site;
 - (c) You will provide all on-site services including electricity, fuel and water to Us at no cost to Us. This provision extends to any chemicals or treatments reasonably required for the Work;
 - (d) Work to be performed on-site outside usual business hours, shall only be done by agreement in writing between the parties and on such terms as We agree;
 - (e) Notwithstanding anything in this Agreement, We may refuse at Our sole discretion to perform the Work on-site if the site is not suitable for any reason.
- 14.7 **Intellectual Property:** If any specifications, drawings, plans and other information relating to the Goods or the Additional Documents are created or modified by Us, We retain all intellectual property whatsoever in that material. No change in title of the intellectual property occurs by virtue of Us manufacturing or supplying the Goods for the sole benefit of You or for any other reason. You acknowledge that We will not be responsible for any infringement of any intellectual property of Yours that You have in any components, material or Additional Documents and We will not be liable for any claim whatsoever due to Our use of Your intellectual property.
- 14.8 **Cancellations:** We reserve the right to cancel Your order in respect of the Goods at any time and for any reason at Our sole discretion and for any reason because of any event beyond Our reasonable control which alters Our ability to fulfil the terms of the order. This includes any reason by force majeure, including strikes or industrial disputes, delay in the supply of raw materials, parts, any unforeseen breakdown or damage to Our plant, any riot or civil disturbance or any act of war, terrorism or insurrection. If We cancel the order, You agree that You will not prosecute any claim in law or in equity against Us. No order can be cancelled by You except with Our consent in writing and on terms which will indemnify Us against all losses arising out of the cancellation.
- 15. INDEMNITIES AND EXCLUSION OF LIABILITIES**
- 15.1 Nothing in this Agreement excludes, restricts or modifies any right or remedy or any guarantee, term, condition, warranty, undertaking, inducement, representation, implied or imposed by any legislation which cannot lawfully be excluded or limited. This may include the Australian Consumer Law which contains guarantees that protect the purchasers of goods and services in certain circumstances.
- 15.2 You are liable and indemnify us against all liability, claims, damage, loss, costs and expenses (including, without limitation, legal fees, costs and disbursements on a full indemnity basis, whether incurred or awarded against Us and any loss, cost, damage or expense) in respect of:
- (a) personal injury;
 - (b) damage to tangible property; or
 - (c) a claim by a third party,
- in respect of Your hire or use of the Equipment or Goods or Your breach of the Agreement.
- 15.3 You acknowledge that neither We nor any person acting on Our behalf have made any representation or other inducement to You to enter into this Agreement and you have not entered into this Agreement in reliance on any representations or inducements except for those representations contained in this Agreement.
- 15.4 Each indemnity in this Agreement is a continuing obligation, separate and independent from the other obligations of the parties and survives termination, completion and expiration of this Agreement.

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**GHS Regional WA Pty Ltd (ACN 150 750 039) trading as
GHS Solutions and/or Geraldton Hire and Applicant**



16. SIGNING THE AGREEMENT (TERMS AND CONDITIONS)

- 16.1 The person signing any document which forms part of the Agreement for and on behalf of You hereby warrants that he or she has Your authority to enter into the Agreement on Your behalf and grant the security interests in connection with it and is empowered to bind You to the Agreement and each security interest granted in connection with it.
- 16.2 The person signing this Agreement indemnifies Us against all losses, costs and claims incurred by Us arising out of the person so signing this Agreement not in fact having such power or authority.

I have read this Agreement and have authority on behalf the Applicant to agree to the Terms and Conditions of Trade with GHS Solutions and Geraldton Hire.

COMPANY _____

NAME _____

SIGNATURE _____

POSITION _____

DATE _____