

# CONDITIONS OF HIRE

1. In these conditions:

- (a) The "Owner" is Voyce Family Trust trading as Paradise Cold Room Hire ABN 27036 981 312.
- (b) The "Hirer" refers to the person, firm or corporation hiring plant from the Owner.
- (c) The "Plant" means all equipment including tools, accessories and parts supplied to the Hirer, except where conditions relating to LOSS AND DAMAGE COVER state otherwise.

2. Hire is charged for the time the Plant is out of the possession of the Owner at the Hirer's request (inclusive of weekends and public holidays) not only the time the Plant is used.

3. Hiring charges shall commence from the time the Plant is collected by the Hirer from the Owner's or Owners Agent's premises, until returned to the said premises. In the event of the Hirer failing to return the Plant to the Owner's or Owners Agent's premises after 10.00am the day following the day of hire, the Hirer will be charged an additional half day hire if the Plant is returned before 12.00 noon, or an additional full day's hire if the Plant is returned after 12.00 noon.

4. Providing the Hirer notifies the Owner immediately of any Plant breakdown, hiring charges will not be payable during the time the Plant is not working, unless such condition is due to negligence or misuse on the part of, or attributed to, by the Hirer. Such notification does not absolve the Hirer from its requirements to safeguard the Plant and in the event of a breakdown the Hirer shall not repair or attempt to repair the Plant without prior consent of the Owner.

5. The Hirer shall:

- (a) Determine the condition and suitability of the Plant hired for the purpose required.
- (b) Use the Plant in a skillful and proper manner and only for the purpose and within the capacity for which it was designed, acknowledging that the Owner can give no warranty as to the said capacity.
- (c) Ensure that the Plant is operated by a suitably certified operator (whether supplied by the Hirer at its cost, or employed and provided by the Owner) who will work entirely in accordance with the direction of the Hirer or his authorized representative.
- (d) At its own expense service, clean, fuel, lubricate and maintain the Plant in good and substantial repair and condition, except for prearranged major servicing which will be carried out by the Owner during normal working hours.
- (e) Accept full responsibility for all flat and/or damage to tyres.
- (f) Clean the Plant promptly and thoroughly upon completion of the hire or be charged at and within the absolute discretion of the Owner a cleaning fee at the rate of \$30.00 per man hour (minimum charge \$30.00) for any cleaning required to be performed by the Owner or his representative/s.
- (g) Accept full responsibility for the safe-keeping of the Plant, and except as specified hereafter, indemnify the Owner for all loss, theft or damage to the Plant however caused and without limiting the generality for the foregoing whether or not such loss, theft or damage is attributable to any negligence, failure or omission of the Hirer.
- (h) Accept full responsibility for, and indemnify the Owner against all claims in respect to any injury to persons, or damages, or damages to property arising out of the use of the Plant during the hire period however arising, whether from negligence of the Hirer or Owner or otherwise and without limiting the foregoing whether or not the Plant was being operated by a servant of the Owner or any other person who acts for the Owner might be held to be responsible in connection with the operation of the Plant.
- (i) Not be entitled to lien over the Plant, nor without the Owner's prior written consent part with possession of the Plant or assign the benefit of the hire agreement, nor remove the Plant or allow it to be removed from South East Queensland.
- (j) Not alter, make any additions to, deface or erase any identifying mark, plate or number on or in the Plant or in any other manner interfere with the Plant.
- (k) The Hirer accepts the full replacement or reinstatement costs (whichever is applicable) for any loss, theft or damage to the Owners Plant.
- (l) Pay to the Owner or Owners Agent all hire and related charges and other costs including any legal costs and expenses arising from a default under these conditions, such costs and legal expenses may be recovered as a liquidated debt.
- (m) Accept responsibility and fully reimburse the Owner for the cost of freight to retrieve equipment abandoned for any reason.
- (n) Not deal with the Plant as if it were the Owner.

6. Without prejudice to any other remedies available to the Owner and notwithstanding any period of hire specified, the Owner may terminate this hire agreement:

- (a) At any time by giving to the Hirer 24 hours notice of its intention so to terminate, such termination to be effective as of the expiry of the said 24 hours.
- (b) Without notice of the Hirer shall commit any breach of the hire agreement, or have a winding up petition presented against it or be wound up, or go into voluntary liquidation or commit an act of bankruptcy or if a receiver of its assets or any of them appointed of if it makes an assignment or compromise for the benefit of its creditors or if its business is placed under official management or if it ceases to carry on business.

Upon termination of this hire agreement as aforesaid the Owner shall be entitled to take possession of the Plant and for this purpose the Hirer irrevocably appoints the Owner its agent and authorizes the Owner to enter on any land or premises owned by or under the control of the Hirer upon which the Plant is then situated and agrees to indemnify the Owner in respect to any claims, damages or expenses arising out of any action taken under this condition.

7. The Hirer is responsible for the theft, loss or damage to Plant and/or its attached tools and accessories whilst on hire and the costs of replacement or repairs to such will be charged to the Hirer.

The Hirer shall be liable:

- (a) If the trailer or any part thereof is lost or stolen.
- (b) Damage due to misuse, abuse, speeding or overloading of the trailer.
- (c) For costs incurred by the owner in recovering the trailer.
- (d) For damage:
  - (i) to other property or claims by other persons;
  - (ii) due to negligence or criminal action by the Hirer;
  - (iii) arising from more than one accident or event; or
  - (iv) when the trailer is not on or within 10 metres of a bitumen road;
  - (v) to goods, animals and equipment carried on or in the trailer.
- (e) For loss, damage or infringement in violation of any statutory laws and regulations.
- (f) Loss or damage to the trailer by the Hirer whether through an accidental or negligent action.

Without prejudice to (d), (i) above, the Hirer shall only be liable to the Owner for accidental damage occasioned to the trailer in circumstances other than those specified above to the extent the cost exceed, the trailer damage insurance cover.

In the event that the trailer is involved in an accident, the Hirer shall complete an Accident Report and advise Paradise Cold Room Hire of the details of such report and all relevant Police Reports.

8. Possession of the Plant by the Hirer does not entitle the Hirer to any interest or title in the Plant and title to the Plant remains at all times with the Owner.

9. The law applicable to these conditions is the law of Queensland.

10. Certain conditions and warranties may be implied into the hire agreement by the Trade Practices Act and State legislation and these conditions are to be read subject to such legislation. However the Owner and Hirer agree that in the event of the Hirer suffering any loss, damage or claim howsoever arising as a result of hiring the Plant, the liability of the Owner is limited to the repair or replacement of the Plant and is not to include economic or consequential damages of any nature whatsoever.

11. The person signing the document for and on behalf of the Hirer hereby covenants with the Owner that he or she has the authority of the Hirer to make this agreement on the Hirer's behalf and is empowered by the Hirer to bind the Hirer to this agreement and hereby indemnifies the Owner against all losses and costs incurred by the Owner arising out of the person so signing this agreement failing to have such power and/or authority.

12. No claims for credit will be recognized after 14 days from date of invoice.