

1. USED EQUIPMENT SALE AGREEMENT

These terms and conditions, together with the Tax Invoice We provide to You, form the Used Equipment Sale Agreement (the "Sale Agreement") between You and Us.

2. BACKGROUND

- 2.1 We own the Used Equipment which no longer forms part of Our hire fleet.
- 2.2 You have represented to Us that You want to purchase the Used Equipment.
- 2.3 We agree to sell to You, and You agree to purchase, the Used Equipment for the Purchase Price and on the terms and conditions contained in this Sale Agreement.

3. DEFINITIONS

When We refer to the following terms in this Sale Agreement:

"Business Day" means a day that is not a Saturday, a Sunday or a public holiday in the State in which the Used Equipment is sold.

"GST Act" means *A New Tax System (Goods and Services Tax) Act 1999*.

"GST Amount" means the amount arrived at by multiplying the Purchase Price by the appropriate rate of GST (being 10% when the GST Act commenced).

"Premises" means the premises as advised by Us from time to time, and at which You agree to inspect and collect the Used Equipment.

"Purchase Price" means the purchase price for the Used Equipment as set out in the Tax Invoice.

"Tax Invoice" means a valid tax invoice that complies with the GST Act and which stipulates the Purchase Price.

"Used Equipment" means the equipment You are to purchase and as described in the Tax Invoice.

"We/Us/Our" means Coates Hire Operations Pty Limited (ABN 99 074 126 971).

"You/Your" refers to the person, firm, organisation, partnership, corporation or other entity purchasing the Used Equipment (and as stipulated in the Tax Invoice) and described as the "Purchaser" in this Sale Agreement.

4. SALE OF USED EQUIPMENT

We agree to sell, and You agree to purchase, the Used Equipment in the quantities set out in the Tax Invoice.

5. DESCRIPTION AND INSPECTION OF THE USED EQUIPMENT

The description of the Used Equipment You have been provided is based on the best information available to

Us. However, to the extent permitted by law, We make no warranty, express or implied, as to the description of any of the Used Equipment. The Used Equipment will be available for inspection at the Premises at times agreed by Us.

6. COLLECTION OF THE USED EQUIPMENT

- 6.1 Unless otherwise agreed in writing, You are responsible for collecting the Used Equipment from the Premises.
- 6.2 You must give Us two (2) Business Days prior written notice before entering the Premises to collect and load the Used Equipment or to perform dismantling work. We may deny You access to the Premises if such notice has not been given.
- 6.3 You cannot remove the Used Equipment from the Premises until the total Purchase Price (and GST Amount) has been received by Us in full.
- 6.4 If You do not collect the Used Equipment from the Premises at the time We advise it is available for collection, You will be responsible for directly paying Us any and all storage fees if levied by Us.

7. FREIGHT AND TRANSPORTATION

- 7.1 You are responsible for all freight, shipping and other costs related to transporting the Used Equipment from the Premises including, but not limited to, any costs associated with certificates and/or permits required to move the Used Equipment across State, province and/or country borders.
- 7.2 Preparing, dismantling, loading, removal and transportation of the Used Equipment shall be at Your sole expense, liability and risk.
- 7.3 We make no representation as to how the Used Equipment must be loaded or transported and You acknowledge that You will be liable for failure to comply with any road transport legislation or regulations or any other laws relating to the decommissioning, loading or carriage of the Used Equipment.
- 7.4 You must conduct Your own investigations to ascertain the safe and proper method for loading and transporting the Used Equipment in compliance with all applicable state and federal laws and regulations.

8. TITLE AND RISK IN THE USED EQUIPMENT

- 8.1 Title in the Used Equipment will not pass to You until we receive the Purchase Price (and GST Amount) in full.
- 8.2 Risk in all Used Equipment will pass to You on the earlier of:
 - (a) the time You take possession of the Used Equipment; or
 - (b) the time we indicate that the Used Equipment is available for collection by You at the Premises.

9. DISCLAIMER AND EXCLUSION OF WARRANTIES

9.1 The Used Equipment is provided and sold on an “AS IS” basis without representations or warranties of any kind whatsoever, express or implied, including, without limitation, non-infringement, merchantability or fitness for a particular purpose. We do not warrant that the Used Equipment will be functional, error free or that defects will be corrected. We make no warranty that the Used Equipment will meet the Purchaser’s requirements or expectations and We expressly disclaim any warranties or guarantees that by selling the Used Equipment the Used Equipment will be suitable for any use or fit for any particular purpose.

9.2 No advice or information, whether oral or written, obtained by You from Us shall create any warranty.

9.3 Except as expressly provided to the contrary in this Sale Agreement, all guarantees, terms, conditions, warranties, undertakings, inducements or representations whether express or implied, statutory or otherwise, relating to this Sale Agreement or its subject matter are excluded to the maximum extent permitted by law.

10 LIMITATION OF LIABILITY

10.1 Our maximum aggregate liability for all claims under or relating to this Sale Agreement or its subject matter, whether in contract, tort (including without limitation negligence), in equity, under statute, under an indemnity, based on fundamental breach or breach of a fundamental term or on any other basis, is limited to \$100.00. We will not be liable for any special, indirect, incidental or consequential damages, economic loss or damage, loss of profit or revenue, loss of production or production stoppage or loss of data under any circumstances.

11. RELEASE AND INDEMNITY

11.1 You release Us from, and are liable for 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 environmental loss, cost, damage or expense) in respect of:

- (a) personal injury;
- (b) damage to tangible property;
- (c) a claim by a third party;
- (d) defects in the Used Equipment,

and any other losses We incur in respect of Your preparation, dismantling, loading, removal, transportation or use of the Used Equipment or Your breach of this Sale Agreement.

11.2 You will indemnify Us for any loss we may suffer (including actual and consequential loss of every kind and nature, known and unknown) as a result of Your use of the Used Equipment, your breach of this Sale Agreement or in any way which may be in breach of

any law or regulation.

12. INSPECTION

You are invited, urged and cautioned to inspect the Used Equipment prior to taking possession. The Used Equipment will be available for inspection at the Premises and times specified by Us.

13. GST

The parties agree that:

- (a) expressions used in this clause have the meanings given to them in the GST Act;
- (b) the Purchase Price is exclusive of GST and You must, in addition to the Purchase Price and at the same time, pay to Us the GST Amount in respect of the sale of the Used Equipment;
- (c) You are not obliged to pay the GST Amount on the Purchase Price until we have given You a Tax Invoice.

14. HAZARDOUS CHEMICALS AND OTHER HAZARDOUS MATERIALS

You are warned and acknowledge that the Used Equipment You purchase may bear or contain hazardous substances, hazardous materials or hazardous waste which may be, or may become by chemical reaction or otherwise, directly or indirectly, hazardous to life, to health, or to property. To the extent permitted by law, You hereby discharge and release Us from any and all liability directly or indirectly resulting from the presence of any hazardous substances, materials or waste including, but not limited to, any and all liability directly or indirectly resulting from Our failure to give more specific warning with respect to individual items of Used Equipment or from the inadequacy of any warning.

15. ENTIRE AGREEMENT

These terms set out the entire understanding between us with respect to the sale of the Used Equipment. No other terms, whether express or implied, shall apply and the provision or acceptance of a purchase order from You shall not form a separate agreement between us.

16. SURVIVAL

16.1 All provisions of this Sale Agreement regarding representations and warranties, indemnification, release, disclaimers and limitation on liability shall survive any termination of this Sale Agreement.

16.2 It is not necessary for Us to incur an expense, or make any payment, before enforcing a right of indemnity conferred by this Sale Agreement.

17. SEVERABILITY

If any part of this Sale 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 be unaffected by the severance of any other parts.

18. MISCELLANEOUS

18.1 This Sale Agreement will be governed by and interpreted in accordance with the laws of the jurisdiction in which the Used Equipment is sold and the parties agree to submit to the exclusive jurisdiction of the courts of that State.

18.2 No change or modification of the terms of this Sale Agreement will be made except by writing signed by both parties.

19. YOUR USE OF THE USED EQUIPMENT

You acknowledge that You are not permitted to hire, rent or sell the Used Equipment and that when You no longer wish to use the Used Equipment, You must arrange for the Used Equipment to be recycled or destroyed. All costs incurred in the recycling or disposal of the Used Equipment will be at Your sole expense.