



## **ACCOUNT OPENING FORM**

**Including:**

**TERMS OF TRADING AGREEMENT  
&  
FURTHER CONDITIONS OF HIRE FOR PORTABLE SITE UNITS  
&  
ADDITIONAL TERMS & CONDITIONS**

**Between**

**Global Construction Services Limited  
ABN: 81 104 662 259**

**and each related body corporate of Global Construction Services Limited**

**and**

**Dated**

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**Please complete, and return all pages of the Original to:  
2 Redcliffe Road  
REDCLIFFE WA 6104**

# GLOBAL CONSTRUCTION SERVICES LIMITED

2 Redcliffe Road, Redcliffe WA 6104 Telephone: +61 8 9479 7990 Facsimile: +61 8 9479 7789

To: Global Construction Services Limited (ACN 104 662 259) and each related body corporate of Global Construction Services Limited.

The Applicant hereby applies to open a credit account subject to the following Terms and Conditions.

**A** APPLICANTS NAME: ..... ("the Applicant")

ACN: ..... PHONE: .....

ABN: ..... FACSIMILE: .....

TRUST NAME: ..... (If the Applicant is trading in the capacity of Trustee)

TRADING NAME: ..... ESTABLISHED FOR: ..... YEARS

NATURE OF BUSINESS: .....

ACCOUNTS PAYABLE CONTACT ..... EMAIL: .....

TRADING ADDRESS ..... POSTCODE: .....

POSTAL ADDRESS ..... POSTCODE: .....

PERIOD AT CURRENT TRADING ADDRESS: ..... TRADING PREMISES ARE: MORTGAGED OR LEASED: .....

**B** DIRECTORS / INDIVIDUALS / PARTNERS / FULL NAME AND ADDRESS: (attach list if insufficient space)

SURNAME	CHRISTIAN NAMES	RESIDENTIAL ADDRESS	DRIVERS LICENCE NO	D.O.B.
1	.....	.....	.....	.....
2	.....	.....	.....	.....
3	.....	.....	.....	.....

**C** TRADE REFERENCES: (Companies or businesses with whom the Applicant is currently trading and level of trade. No banks or finance companies)

1	3
.....	.....
2	4
.....	.....

**D** APPROX MONTHLY CREDIT SOUGHT: .....

**E** Which GCS Business are you most likely to deal with: .....

**F** Nominate your preferred GCS Account Manager .....

1. In this document the expression "Company" defines and means Global Construction Services Ltd ACN 104 662 259 and each related entity (as defined in the Corporations Act 2001) of Global Construction Services Ltd ACN 104 662 259 from time to time and any of the Company's assigns. This agreement extends to credit given to the Applicant in the future by a company which is not now, but is then a related entity of Global Construction Services Ltd ACN 104 662 259.
2. The Applicant hereby applies to have an account opened with the Company on the terms and conditions contained within this document and any other accompanying additional terms and conditions. The Applicant acknowledges having had the opportunity prior to the execution of this document to obtain independent legal advice as to its meaning and the implications of executing this document.
3. In consideration of the Company at the request of the undersigned signatories agreeing to grant this trading facility to the Applicant, I/we the undersigned signatories (the "Guarantors") hereby jointly and severally guarantee payment to the Company, without any deduction or set off whatsoever in law or in equity, of the price and taxes charged by the Company to the Applicant for the supply and/or hire out of goods and services (the "Price") and the payment of any other monies now or in the future owed by the Applicant to the Company on any account whatsoever ("Other Monies"). The Guarantors further guarantee the performance of the covenants and obligations of the Applicant under this agreement.
4. The Guarantors agree to be bound by the terms and conditions within this document and any other accompanying terms and conditions as if they were the principal debtor. This is a continuing guarantee and irrevocable until the Company has been paid the entire Price and Other Monies. This guarantee may be enforced by the Company, its successors and assigns. The Guarantors agree they are liable for and will pay any stamp duty assessed on this guarantee and indemnity.
5. As a separate and independent agreement the Guarantors agree to indemnify and keep harmless the Company against any losses, costs (including but not limited to costs on a full indemnity basis) or damages of whatsoever nature incurred by the Company as a result of the Applicant failing to pay the Company the Price or Other Monies or in relation to registering, maintaining or releasing any security interest, charge or caveat (including the cost of registering any financing statement or financing change statement) or as a result of the failure or default of the Applicant in the performance of their covenants and obligations contained under this agreement or under any other agreement between the Company and the Applicant.
6. The Guarantors agree this guarantee and indemnity is a continuing and irrevocable security and will not be affected or in any way prejudiced by:-
  - (ii) the Company granting any extension of time or other indulgence to the Applicant;
  - (iii) the Company refusing further credit to the Applicant;
  - (iv) the Company with or without the Guarantors' prior knowledge, varying the terms and conditions of the Applicant's trading account with the Company (even if this increases the Guarantors' liability under this guarantee and indemnity);
  - (v) by the release of any of the Guarantors or other guarantors of the Applicant or if a guarantee is unenforceable against any one or more of the Guarantors or other guarantors;
  - (vi) any collateral or other security and guarantee now or hereafter held by the Company and the Guarantors agree that the Company's rights under this guarantee and indemnity shall not be merged, discharged or substituted in any such other security and guarantee; or
  - (vii) any other fact, thing or event which could or might have the effect of prejudicing or discharging the Guarantors' liability.
7. The Guarantors certify that prior to the execution of this guarantee and indemnity the Guarantors had the opportunity to take independent legal advice in respect of its meaning and effect.
8. This document is executed as a Deed. The undersigned signatories warrant they have the authority to execute this document for and on behalf of the Applicant. The undersigned signatories are also executing this document contemporaneously in the joint and several capacity as Guarantors.

DATED THIS ..... DAY OF ..... 20 .....

APPLICANT / GUARANTORS:		WITNESS	
NAME	SIGNATURE	NAME	SIGNATURE
ADDRESS		ADDRESS	
NAME	SIGNATURE	NAME	SIGNATURE
ADDRESS		ADDRESS	
NAME	SIGNATURE	NAME	SIGNATURE
ADDRESS		ADDRESS	

WARNING: THIS IS AN IMPORTANT DOCUMENT IF ANY OF THE APPLICANT OR GUARANTORS DO NOT UNDERSTAND THIS DOCUMENT THEY SHOULD SEEK INDEPENDENT LEGAL ADVICE.

## TERMS AND CONDITIONS

1. The Applicant agrees to pay, without any deduction or set off in law or in equity whatsoever, the Price within 30 days of the date of the invoice rendered by the Company or within such other period of time as may be notified to the Applicant from time to time by the Company.
2. The Applicant agrees to abide by the Company's further additional terms and conditions of supply and or hire as may be notified by the Company to the Applicant from time to time by notice forwarded to the Applicant's address or its facsimile number notified on the front page hereof.
3. The Applicant and the Guarantors agree that this trading application and each application for credit made by the Applicant shall be deemed to have been accepted from the date of the Company's first invoice to the Applicant after the date of this trading application and without further notice to the Applicant and the Guarantors this document shall immediately have effect as an agreement by deed between the Company, the Applicant and the Guarantors.
4. The Company shall be entitled to charge interest on all outstanding monies due by the Applicant at the rate of 12.0% per annum.
5. Any credit allowed by the Company under this agreement is not unlimited. If no written notice of the credit allowed from time to time by the Company is provided to the Applicant then the credit limit is reflected by the highest amount of credit extended under this agreement at the immediate point in time. The credit limit stated herein, if any, does not limit or bind the Company in anyway whatsoever. Further, the Applicant agrees they are liable to pay the Price and Other Monies irrespective of whether the value of those goods and services supplied, either alone or in conjunction with any accumulated debt of the Applicant, exceeds the credit limit stated herein.
6. The Company may at any time withdraw or suspend this facility or increase or decrease the limit of this facility without notice to the Applicant or the Guarantor. The Company may require security satisfactory to the Company (including further guarantees) to be given as a condition precedent to the continuation of this facility. The Company may at any time require payment in advance of the whole or any part of the Price as a condition precedent to the continued supply or hire out of goods and or services by the Company to, or at the request of, the Applicant. The Company can, without any claim for loss or damage whatsoever by the Applicant in doing so, cease supply or the hire out of goods and or services to, or at the request of, the Applicant if there are any outstanding payments due by the Applicant to the Company on any account whatsoever or if the Company has reason to doubt the Applicant's ability to pay for the supply or hire in the future.
7. All legal costs (on a full indemnity basis), charges, duties and other expenses incurred by the Company in respect of this agreement or the securities or other documentation required hereunder, or in relation to registering, maintaining or releasing any security interest, charge or caveat (including the cost of registering any financing statement or financing change statement), or incurred as a result of the Applicant failing to perform their covenants and obligations contained herein, shall be paid by the Applicant to the Company. The expenses include, but are not limited to, the commission payable to a mercantile agent or a debt collector to pursue or recover outstanding monies pursuant to this agreement and the liability to pay this commission arises at the time the recovery is placed in the hands of the debt collector. The Applicant agrees that it is liable for and will pay any stamp duty assessed on this document.
8. Property in any goods that are supplied by the Company to the Applicant will not pass to the Applicant until such time as the goods are paid for in full. The Applicant agrees that goods hired out or supplied by the Company to, or at the request of, the Applicant shall be at the Applicant's risk (including insurance responsibility) immediately on delivery to the Applicant or into the Applicant's custody (whichever is the sooner). Ownership or property in the goods hired out to the Applicant does not pass to the Applicant. The Applicant further agrees:-
  - (i) to store and maintain the goods in such a manner as to show clearly that they are the property of the Company and, in relation to goods purchased by the Applicant, the Applicant shall be at liberty to sell the goods, in the ordinary course of business, but only as a fiduciary agent for the Company and shall account to the Company for all proceeds from any sale. For the avoidance of doubt the Applicant shall not under any circumstances sell goods which the Applicant hires from the Company;
  - (ii) under this agreement the Company may enter upon the Applicant's premises or elsewhere without notice and with force if reasonably necessary to repossess the goods without being liable for trespass. The Applicant shall indemnify the Company for any loss or damage suffered by the Company and against all claims brought against the Company arising from the Company repossessing the goods;
  - (iii) that in the event the Applicant uses the goods in some manufacturing or construction process of its own or some third party and so as to meet payment due to the Company under this agreement, the Applicant shall hold such part of the proceeds of such manufacturing or construction process as relates to the goods in trust for the Company. Such part shall be deemed to equal in dollar terms the amount owed by the Applicant to the Company at the time of the receipt of such proceeds;
  - (iv) to better secure any outstanding payment due to the Company under this agreement, the Applicant appoints the Company as their attorney to collect the goods and/or to collect payment from any third party for the goods and/or services and to apply that payment against the Applicant's account with the Company. If payment is collected by the Company from a third party, then the Applicant irrevocably agrees with the Company and with the third party that in providing this attorney the third party's liability for payment to the Applicant in relation to the goods and/or services is reduced by the sum of the payments collected by the Company from the third party;
  - (v) if the Applicant or Guarantors default in the due and punctual observance of all or any of their obligations or covenants under this agreement, all outstanding monies due by the Applicant to the Company shall become immediately due and payable.
9. For the purpose of this clause and other relevant clauses in this agreement "PPSA" means the Personal Property Securities Act 2009 and the expressions "PPSR", "accession", "collateral", "financing statement", "financing change statement", "security agreement", "security interest", "perfected security interest" and "verification statement" have the meanings given to them under, or in the context of the PPSA.
  - (i) The retention of title arrangement in clause 8 constitutes the grant of a purchase money security interest by the Applicant in favor of the Company in respect of all present and after acquired goods supplied to the Applicant by the Company.
  - (ii) If requested by the Company the Applicant and the Guarantors must immediately sign any documents, provide all necessary information and do anything else required by the Company to ensure that the Company's purchase money security interest or any other security interest created in favor of the Company is a perfected security interest.
  - (iii) The Applicant and the Guarantors must not enter into any security agreement that permits any other person to have or to register any security interest in respect of the goods supplied or any proceeds from the sale of the goods or grant any other security interest in favor of any party until the Company has perfected its purchase money security interest and other security interests created under this agreement.
  - (iv) The Applicant and the Guarantors must not do or permit anything to be done that may result in the purchase money security interest or any other security interest granted to the Company ranking in priority behind any other security interest.
  - (v) To the fullest extent permitted by the PPSA the Applicant and the Guarantors (to the extent applicable to such party) agree to contract out of the application of the provisions listed in sections 115(1) and 115(7) and the sections listed therein shall not apply.
  - (vi) The Applicant and the Guarantors hereby waive any rights the Applicant and the Guarantors may otherwise have to:
    - a) receive any notices or statements the Applicant and the Guarantors would otherwise be entitled to receive under sections of the PPSA including for the avoidance of any doubt the sections referred to in sections 115(1) and 115(7) of the PPSA;

- b) apply to a Court for an order concerning the removal of an accession under section 97 of the PPSA;
  - c) object to a proposal of the Applicant to purchase or retain any collateral under sections 130 and 135 of the PPSA; and
  - d) receive a copy of a verification statement confirming registration of a financing statement, or a financing change statement, relating to any security interest created under this document.
10. It is the Applicant's responsibility to provide uninhibited access to delivery sites. If in crossing or endeavoring to avoid any obstruction damage is caused to the obstruction or the goods being supplied and/or hired out by the Company, then the Applicant agrees to indemnify the Company against all claims whatsoever for such damage. The Applicant agrees that any price quoted by the Company for delivery of the goods by the Company was on the basis of uninhibited access being provided to the delivery site and in addition to any price quoted the Applicant shall pay the price charged by the Company for any waiting time or time incurred by the Company in obtaining uninhibited access to the delivery site.
11. If the Applicant (a) defaults in the due and punctual observance of all or any of their obligations or covenants under this agreement; or (b) being a person, dies or commits an act of bankruptcy or enters into a debt arrangement or composition under the Bankruptcy Act 1966 or is unable to pay its debts or anything analogous, or having similar effect, occurs; or (c) being a company, takes or shall have taken against it any action for its winding up, placement under official management, administration or receivership or is unable to pay its debts or anything analogous, or having similar effect, occurs, then the Company without prejudice to any right or remedies open to it may:
- (i) treat as discharged all or any obligation arising from any agreement with the Applicant;
  - (ii) retain any security given or monies paid by the Applicant or available through the enforcement of any guarantee, security or bond and apply this in reduction of any sum of money owed or owing by the Applicant to the Company;
  - (iii) reserve the right to enter upon the Applicant's premises or enter upon any premises to which the Applicant has a right of access without notice and with force if reasonably necessary to take possession of and remove any goods supplied and/or hired out by the Company to the Applicant under this agreement or any other agreement between the Company and the Applicant for which payment has not been received without being liable for trespass. The Applicant shall indemnify the Company for any loss or damage suffered by the Company and against all claims brought against the Company arising from the Company repossessing the goods;
  - (iv) take such steps as it may deem necessary to mitigate the damages suffered including the putting to use, hiring out, or sale of any goods supplied and/or hired under this agreement.
  - (v) appoint in writing any person or persons to be a receiver or receiver and manager of the property subject to security pursuant to clauses 17 and 18 below or any part of the charged property subject to security. The receiver so appointed shall be the agent of the Applicant or Guarantors (whichever is applicable) and the Applicant or Guarantors (whichever is applicable) shall be solely responsible for all acts and omissions by the receiver appointed under this clause and for the remuneration of the receiver. The receiver shall without the need for any consent on the part of the Applicant or Guarantors (whichever is applicable) have all the powers conferred on a receiver under the Corporations Act 2001;
  - (vi) exercise any other right or remedy available to it under the PPSA including to enforce the security interests created by this agreement.
12. Should there be any variation in the information supplied in this document concerning the Applicant, the proprietorship of the Applicant's trading name or a variation in the structure of the Applicant's business (such as conversion to, or from, a trustee), the Company shall forthwith be notified in writing by the Applicant by certified mail delivered to the Company's registered office. Unless such notification is given to the Company, the Applicant and the Guarantors shall remain liable to the Company as though any goods or services supplied and/or hired out by the Company prior to such notification were supplied and/or hired out to, or at the request of, the original Applicant. The Applicant and the Guarantors agree this agreement also binds the Applicant and the Guarantors in relation to all goods and services supplied and/or hired out to, or at the request of, the Applicant as the proprietor (in whole or in part) or as agent of any business, and irrespective of whether the Applicant supplied and/or hired the goods and services under the trading name of the Applicant's business disclosed on the front page of this document.
13. If any payment made by, or on behalf of, the Applicant to the Company shall subsequently be avoided at law or recovered by a liquidator or trustee in bankruptcy, such payment shall be deemed not to have discharged the Applicant's liability and in such event the Company and the Applicant shall be restored to the position in which each would have been had the payment not been avoided. The Guarantors agree to be liable to the Company for the payment so avoided.
14. The Applicant and the Guarantors agree that a variation or waiver of a term or condition under this agreement is effective only if it is in writing and signed by the Company. Such waiver is effective only in the specific instance and for the specific purpose it was given.
15. The Applicant agrees and irrevocably authorizes the Company to apply, or set-off, against the Applicant's account under this agreement any sums which may be owed to the Applicant by any company within the Company group of companies.
16. The Applicant and the Guarantors (as the case may be) warrant and agree that where they are, at the time of executing this document or at any time the Applicant has credit with the Company, a trustee of any trust (the "Trust"):- (a) to produce a stamped copy of the Trust deed (with all amendments) if and when requested by the Company; (b) that they have full power and authority to execute, or continue with their obligations under, this agreement on behalf of the Trust as they are doing so in their individual capacity and in their several capacity as trustee; (c) that they shall be bound by the terms and conditions of this agreement in their individual capacity, or further or alternatively, in their several capacity as trustee; and (d) that the assets of the Trust shall be available to meet payment of their obligations to the Company.
17. The Applicant and the Guarantors agree that for the purpose of securing their obligations and liabilities hereunder to, in favor of the Company, hereby charge and mortgage with the due and punctual payment and the due and punctual and complete performance of all their liabilities and obligations hereunder or on any account whatsoever to the Company all their legal and equitable interest of whatsoever nature held in any real property both present and future and each of the Applicant and Guarantors hereby consent to the Company lodging a caveat or caveats noting its proprietary interest hereunder.
18. The Applicant and the Guarantors grant a security interest in all of their present and after acquired property and in all of their present and future rights, title, estate and interest, whether legal and equitable, in relation to any personal property, in favor of the Company to secure the performance of their liabilities and obligations hereunder or on any account whatsoever.
19. The Applicant and the Guarantors agree that a certificate by the Company or any person authorized by the Company to give the same shall be conclusive evidence as to the amount owed to the Company by the Applicant and the Guarantors.
20. In this document words in the singular includes the plural and vice versa, and reference to any gender includes the other genders and where applicable reference to a person includes a body corporate.
21. If any party to this agreement comprises two or more parties each of those parties is jointly and severally liable on the covenants and obligations herein.
22. This agreement shall be binding upon each party that has executed it notwithstanding the failure of any other party named as a party to execute it or the avoidance or unenforceability of any part of this agreement.

23. If any part of this agreement becomes void or unenforceable then that part shall be severed to the intent that all parts that are not void or unenforceable shall remain in full force and effect. This agreement shall be governed and construed in accordance with the laws of Western Australia and the parties submit to the jurisdiction of the Courts of Perth, Western Australia.
24. None of the provisions of this agreement will merge in or upon the execution of this or any other agreement, document, act, matter or thing and will continue to remain in full force and effect for so long as is necessary to give effect to the provisions of this agreement.
25. Where there is any inconsistency between the terms and conditions of this agreement and any prior or subsequent agreement between the Company and the Applicant, any such subsequent agreement shall be read down to the extent necessary to give full force and effect to the terms and conditions of this agreement.
26. To give effect to their obligations under this agreement the Applicant and the Guarantors hereby irrevocably appoints any solicitor for the Company, from time to time, as its attorney to do any act or thing which they are required to do under this agreement.
27. The Privacy Act 1988 requires the Company to have procedures in place that cover the collection, use and disclosure of personal information that the Company may receive from its customers. This information is needed to process the requirements of the Company's customers and is used for internal purposes. The Applicant and the Guarantors authorize the Company to carry out credit checks and obtain credit reports in respect of their credit worthiness in accordance with any law with respect thereto in force from time to time and to disclose to credit reporting agencies the information outlined in this agreement for this purpose. The Applicant and Guarantors agree that the Company may give to and seek from any trade references or credit providers named in this agreement and any providers of credit that may be named in a credit report issued by a credit reporting agency, information about the Applicant and Guarantors. The Applicant and Guarantors understand that this information can include any information about its credit worthiness, credit standing, credit history or credit capacity that credit providers are allowed to give or receive from each other under the Privacy Act. The Applicant and the Guarantors acknowledged further details of the Company's privacy policy is available on request.

#### **FURTHER CONDITIONS OF HIRE FOR PORTABLE SITE UNITS**

1. In these Conditions of Hire:
  - (i) "Owner" is Global Construction Services Ltd ACN 104 662 259 and each related entity (as defined in the Corporations Act 2001) of Global Construction Services Ltd ACN 104 662 259 from time to time and any of the Company's assigns.
  - (ii) "Customer" shall mean and include the applicant (as defined in any trading application between the owner and the recipient of these terms and conditions) or the purchaser or hirer of the plant from the owner (if not one and the same as the said applicant).
  - (iii) "Plant" means all equipment including tools, accessories and parts supplied to the Customer, except where the conditions relating to DAMAGE WAIVER FOR HIRED PLANT state otherwise.
  - (iv) "Environmental Laws" means any statute, policy directions or regulations made or issued by a regulatory body or government body regulating or otherwise relating to the environment including without limitation the use or protection of the environment.

2. TAXES AND DUTIES

Except as otherwise provided by the law all sales, excise and similar taxes or duties which the Owner may be required to pay or collect with respect to the Plant or its supply to the Customer shall be paid by the Customer. Where the Customer claims exemption from duty or tax the Customer must furnish appropriate exemption certificates to the Owner. The Owner will determine and advise the Customer of additional amounts payable as a result of the Goods and Services Tax applying to the supplies made by the Owner to the Customer under these Conditions of Sale and Hire after 1 July 2000 and having regard to the impact of related tax changes. The Customer shall pay the additional amounts notified by the Owner immediately, or at such time or times as otherwise determined by the Owner.

3. PAYMENT TERMS

- (i) Where the Owner is responsible for delivery of Plant, it will not be responsible for the delays in delivery or failure to deliver due to causes beyond its control including but not limited to acts of God, war, mobilization, civil commotion, riots, embargoes, orders or regulations of governments of any relevant jurisdiction, fires, floods, strikes, lockouts or other labor difficulties, shortages of or inability to obtain shipping space or transportation.
- (ii) Hire is charged for the time the Plant is out of the possession of the Owner at the Customer's request (inclusive of weekends and public holidays), not only the time during which the Plant is used.
- (iii) Payment in full for all hiring charges and any other amounts payable in accordance with these Conditions of Sale and Hire is required 30 days from the date of invoice. The Customer cannot make a claim for credit after 14 days from the date of the invoice.
- (iv) The Owner reserves the right to revise its hire rates and related charges without notice.
- (v) Hire charges cover only the fee for hiring the Plant to the Customer. If the Customer requires the Plant to be delivered, the Customer shall pay in addition to the Owner all freight and other charges incurred in transporting the Plant, including loading and unloading at site. The Owner shall, if requested by the Customer, but only if personnel are available, attend the site and instruct the Customer in the operation of the Plant, and the Customer shall be subject to standard charges (if applicable) for such services. Any other additional service, including the provision of an operator, shall be paid for by the Customer.

4. HIRE PERIODS

- (i) The daily rate is based upon the Plant being hired for a maximum hire period of 8 hours. If used in excess of 8 hours per day, an additional hiring charge will be applied.
- (ii) The weekly rate is based upon the Plant being hired for a minimum of 5 days unless otherwise specified.
- (iii) The hire of Plant under these Conditions of Hire and this agreement is for a definite period as follows:
  - a) if the Owner registers its security interest on the PPSR the hire period commences on the date the Customer takes possession of the Plant and ends on the date the Customer is required to return the Plant to the Owner or the date the hire is terminated by the Owner; and
  - b) if clause 4(iii)(a) does not apply the hire period is deemed to commence on the date the Customer takes possession of the Plant and ends after 89 days in the case of serial numbered Plant and 364 days in the case of any other Plant.
- (iv) If clause 4(iii)(a) or (b) applies, and the Customer requires possession of the Plant for a period longer than the relevant period then the Customer must, at least 20 business days prior to the expiry of the period specified in clause 4(iii)(a) or (b), give notice to the Owner to that effect, including reasons. Unless the Owner agrees in writing to extend the hire period beyond the relevant period, the Customer must return the Plant to the Owner before the end of the relevant period.
- (v) If a security interest is registered under clause 4(iii)(a) above then clauses 9(ii), (iii), (iv), (v) and (vi) of the Terms and Conditions apply to that security interest and any reference to "purchase money security interest" is deemed to be a reference to the security interest registered under clause 4(iii)(a).

## 5. CANCELLATION OF SALES ORDERS

- (i) Upon placing an order to purchase any Plant, the Customer must pay the Owner a deposit nominated by the Owner at the time of sale (the "Deposit").
- (ii) The Customer will forfeit the Deposit if the order is cancelled at any time after 24 hours have passed from the time of the making of the order. Waiver of this condition is in the absolute discretion of the Owner.

## 6. LATE RETURN OF HIRED PLANT

Hiring shall commence from the time the Plant is collected by the Customer from the Owner's premises, until returned to the said premises.

Should the Owner agree with the Customer to deliver and collect the Plant, hire charges shall commence from the time the Plant leaves the Owner's premises until the Owner is notified by the Customer that the Plant is available for collection. The notification shall be given by the Customer in time for the Plant to be picked up and returned to the Owner's premises within the Owner's normal business hours on the day of cessation of hire. In the event of insufficient notice being given the Customer will be held responsible for the safekeeping of the Plant until collected the following day, and may be charged an extra day hire at and within the Owner's absolute discretion.

## 7. BREAKDOWN OF HIRE PLANT

In the event of any Plant breakdown the customer is required to notify the Owner immediately. If the Customer notifies the Owner immediately of a breakdown, the Owner may determine not to charge hire during the time in which the Plant is not working, unless such condition is due to negligence or misuse on the part of or attributable to the Customer. Such notification does not absolve the Customer from its requirement to safeguard the Plant and in the event of a breakdown the Customer shall not repair, or attempt to repair, the Plant without the prior consent of the Owner. If the Plant breaks down or becomes unsafe, the Customer must immediately stop using the Plant and must take all necessary steps to prevent injuries to any persons or damage to any property as a result of the condition of the Plant. The Owner shall not be liable for any expenditure, damages, loss or inconvenience incurred by the Customer arising out of any breakdown in the Plant whether caused by fair wear and tear, lack of repair or negligence on the part of the Owner or any other reason whatsoever. If any Plant breaks down or is damaged due to the Customer's negligence or misuse the Owner will continue to charge hire charges until the Plant has been repaired or replaced.

## 8. CUSTOMER'S OBLIGATIONS

- (i) The Customer shall:
  - a) Prior to the use of the Plant 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, trained or licensed operator (whether supplied by the Customer at its cost, or employed and provided by the Owner) who will work entirely in accordance with the instructions of the Customer 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 damaged tyres (where applicable).
  - f) Clean the Plant thoroughly upon completion of the hire or be charged at the absolute discretion of the Owner a cleaning fee at a rate to be nominated by the Owner for any cleaning required to be performed by the Owner or its representative/s.
  - g) Accept full responsibility for the safe-keeping and insuring 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 of the foregoing whether or not such loss theft or damage is attributable to any negligence, failure or omission of the Customer.
  - h) Accept full responsibility for, and indemnify the Owner against all claims in respect of any injury to persons, or loss or damage to property, arising out of the delivery, servicing, storage, possession or use of the Plant during the hire period however arising, whether from negligence of the Customer or Owner or otherwise and without limiting the generality of the foregoing whether or not the Plant was being operated by a servant of the Owner or any other person for whose acts the Owner might be or is held to be responsible in connection with the operation of the Plant.
  - i) Not be entitled to claim any lien over the Plant nor sell, transfer, mortgage, charge or encumber in any way the Plant nor, without the Owner's prior written consent, part with possession of the Plant, lease, license, hire or rent the Plant to any person nor assign the benefit of the hire agreement.
  - j) Not be entitled to remove the Plant or allow it to be removed from the State or site if applicable from which it was hired without the Owner's written permission.
  - k) Not alter, make any addition to, deface or erase any identifying mark, plate or number on or in the Plant or in any other manner interfere with the Plant.
  - l) Understand and accept that an additional charge for DAMAGE WAIVER FOR HIRED PLANT (see also Condition 10 below) will be added for any Plant (excluding accessories) where replacement value of the Plant exceeds \$300.00 except upon the Owner receiving written advice from the Customer that the DAMAGE WAIVER FOR HIRED PLANT is not required, and that the Customer accepts the full new replacement or reinstatement costs (whichever is applicable) for any loss, theft or damage to the Owner's Plant based on the then current list price of the Plant. In the event that such written advice is received from the Customer, the Owner may, at its absolute discretion, require proof that the Customer has current insurance policies which insure the Plant during the Hire period for its full new replacement or reinstatement cost.
  - m) Pay to the Owner all hire and related charges and other costs as stipulated in accordance with this agreement.
  - n) Ensure that all safety information supplied with the Plant will be conveyed to any person using the Plant.
  - o) Attach to the Plant and maintain any safety signs supplied with the Plant and bring them to the attention of any person using the Plant, and ensure that they are clearly legible by the operator of the Plant. The Customer is solely responsible for ensuring the Plant is tested and inspected in accordance with any relevant occupational health and safety legislation and any relevant Australian Standards and is solely responsible for ensuring any repairs or maintenance required or recommended as a result of those tests.
  - p) Comply with all Environmental Laws from time to time and immediately rectify any breach of an Environmental Law caused by the use of the Plant. The Customer indemnifies and agrees to keep the Owner indemnified against any loss, cost, damage or expense incurred or which may be incurred by the Owner arising from the use of the Plant under this contract.
- (ii) The Owner may inspect the Plant from time to time during the hire period and the Customer shall permit or procure admission for representatives of the Owner to the premises upon which the Plant is situated for that purpose.

## 9. TERMINATION OF HIRE

- (i) 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 Customer 24 hours notice of its intention to so terminate, such termination to be effective as of the expiry of 24 hours or as agreed under the hire contract.
  - b) Without notice, if the Customer shall commit any breach of the hire agreement, or do or permit to be done any act or thing whereby the Owner's rights in or to the Plant may be prejudiced, 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 is appointed or 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.
  - c) In accordance with clause 18 of the Additional Terms and Conditions.
- (ii) Upon termination of this hire agreement the Owner shall be entitled to take possession of the Plant and for this purpose the Customer irrevocably appoints the Owner as its agent and authorizes the Owner to enter on any land or premises owned by or under the control of the Customer upon which the Plant is then situated and agrees to indemnify the Owner in respect of any claims, damages and expenses arising out of any action taken under this condition.
- (iii) If the Plant is damaged and the Owner elects to return the damaged Plant to the Customer or not to repossess the damaged Plant, the Customer acknowledges the damaged Plant is no longer fit for purpose and agrees it is solely responsible for any loss or damage arising from the use of the Plant and further agrees the Owner is not liable for any damage or loss whatsoever in relation to or arising from the use of the Plant.

## 10. DAMAGE WAIVER FOR HIRED PLANT

- (i) The Customer is responsible for theft, loss and damage to Plant and/or its attached tools and accessories whilst on hire and the costs of new replacement or repairs to such will be charged to the Customer. Where DAMAGE WAIVER FOR HIRED PLANT charges have been charged to the Customer, the Owner agrees upon prompt submission of a written Police Report, to waive its right to claim for loss and damage to the Plant caused by fire, storm, collision, accident, theft or burglary, providing adequate precautions have been taken to safeguard the Plant and the loss and damage was not incurred due to negligence by the Customer. Such waiving of rights is subject to payment by the Customer of an excess of:
  - a) in the event of loss of the Plant: \$300.00 per item or 15% of the new replacement cost of the Plant (whichever is the greater);
  - b) in the event of damage of the Plant: \$300.00 per item or 15% of the cost of repairs to the Plant (whichever is the greater).
- (ii) Expressly excluded from the above DAMAGE WAIVER FOR HIRED PLANT are loss or damage as defined below:
  - a) damage due to misuse, abuse or overloading of the Plant or any components thereof;
  - b) wrongful conversion of the Plant or any components thereof;
  - c) loss or damage in contravention of the conditions of this hire agreement;
  - d) loss or damage from use in violation of any statutory laws and regulations;
  - e) loss or damage of tools, accessories, grease guns, hoses and similar, electric cords, welding cable, oxy and acetylene bottles, pneumatic tools, steels and other similar accessories;
  - f) damage caused to tyres and tubes by blowout, bruises, cuts or other causes inherent in the use of the Plant;
  - g) glass breakage;
  - h) loss or damage relating to lack of lubrication or other normal servicing of the Plant;
  - i) loss or damage to the Plant whilst located, used, loaded, unloaded, transported on or over water, wharves, bridges or vessels of any kind;
  - j) loss or damage to motors or other electrical appliances or devices caused by overloading or artificial electrical current, including use of under-rated or excessive length of extension leads on electrical powered tools and machines;
  - k) damage caused by exposure to any corrosive substance eg. caustic, cyanide, salt water, acid, etc;
  - l) theft of the Plant unless reasonably locked and secured;
  - m) loss or damage during transport, except where transported by the Owner;
  - n) loss or damage to items on which the DAMAGE WAIVER FOR HIRED PLANT premium is not charged;
  - o) loss or damage caused by the negligence of the Customer.

## 11. EXCLUSION OF CONDITIONS AND WARRANTIES

To the full extent permitted by law the Owner excludes all implied terms and conditions and warranties including, without limitation, terms, conditions and warranties implied by Commonwealth or State legislation.

## 12. EXCLUSION OF LIABILITY

The Owner and the Customer agree that in the event of the Customer suffering any loss, damage or claim howsoever arising as a result of hiring or purchasing the Plant, including without limitation in respect of delay or inconvenience arising out of any breakdown, failure or defect in 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.

## 13. MISCELLANEOUS

- (i) The person signing the document for and on behalf of the Customer hereby covenants with the Owner that he or she has the authority of the Customer to make this agreement on the Customer's behalf and is empowered by the Customer to bind the Customer 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 not in fact having such power and/or authority.
- (ii) Termination of the hire period shall not affect any of the conditions that are expressed or implied to operate or have effect after termination.
- (iii) Time is to be of the essence of all obligations of the Customer in these conditions.
- (iv) If any of these conditions are found to be void, voidable or unenforceable the validity and enforceability of the remaining provisions shall not in any way be affected or impaired.

## ADDITIONAL TERMS AND CONDITIONS

In this document "goods" shall mean all goods which are hired out or supplied by the Company to, or at the request of, the Applicant.

In this document the expression "Company" defines and means Global Construction Services Ltd ACN 104 662 259 and each related entity (as defined in the Corporations Act 2001) of Global Construction Services Ltd ACN 104 662 259 from time to time and any of the Company's assigns.

In this document, the word "Applicant" shall mean and include the Applicant (as defined in any trading application between the Company and the recipient of these terms and conditions) or the purchaser or hirer of the goods from the Company (if not one and the same as the said Applicant) and any employees of the Applicant.

1. The Applicant acknowledges that he has inspected the goods, is satisfied the goods are fit for the purpose they are to be used for, are in clean condition and are in good and substantial working order, repair and condition. The Applicant is aware of the proper use for which the goods are designed.
2. Notwithstanding anything contained herein the Applicant acknowledges that no warranty or condition, express or implied, is given by the Company as to the condition of the goods or as to the suitability or fitness of the goods. Subject to the extent permitted by legislation any obligation of the Company under these terms and conditions shall be to use its endeavors to supply goods and/or services or to repair or replace (at the Company's discretion) any goods which are found to be defective during any applicable warranty period (if any) and in no event shall the Company be liable for any other claims, losses or damages including but not limited to claims for faulty design, negligent or misleading advice, damages arising from the loss or use of the goods or howsoever arising and any indirect, special or consequential damage including but not limited to damages on account of prospective profits expenditures or other commitments relating to the business or goodwill of the Applicant or on account of any consequential loss or damage incurred or suffered by the Applicant or customers of the Applicant, which arises from or is connected in any way whatsoever with the use of the goods or injury to any person, corporation or other entity.
3. In the event of the Applicant requesting the Company transport the goods, the Applicant shall pay in addition to the supply and/or hire charges all of the Company's charges and expenses in relation to the transportation. The Company reserves the right to dispatch the Applicant's order in one delivery or by instalments. Where the Company acknowledges an order which provides for delivery by instalments the Company shall be entitled to payment for each instalment delivered (as if it were a separate agreement) but failure to deliver any instalment shall not entitle the Applicant to repudiate the agreement as to any remaining instalments. Any variation, waiver or cancellation of the Applicant's order shall be of no effect unless accepted in writing by the Company and where the Company accepts the variation, waiver or cancellation, the Company may levy a handling charge of up to 10% of the Price (as defined in the trading application between the Company and the Applicant).
4. It is the Applicant's responsibility to check the quantities of goods delivered or in the case of hire, goods delivered or returned. No claim for shortages, missed deliveries or missed returns will be recognized unless notified in writing to the Company by the Applicant within 24 hours of delivery or return. Unless the Company receives for its consideration such a claim within this time period, then the Applicant acknowledges that the quantities of goods delivered or returned are those listed on the Company's delivery and return dockets. If no signature is obtained from the Applicant upon delivery of the goods, then no claim will be recognized by the Company unless the Company's employee who delivered the goods is of the belief that such shortage or mis-delivery occurred. The Applicant agrees that the Company shall be able to deliver or accept return of the goods whether or not a representative of the Applicant is present at the time of delivery or return and that should there be no representative of the Applicant present at the time of delivery or return, the quantities of goods delivered or returned are those listed on the Company's delivery and return dockets.
5. The Applicant agrees to use the goods in a skillful and proper manner and for the purpose for which the goods were designed and are reasonably and safely capable of fulfilling. The Applicant will observe and comply at his own expense with all notices, directions and legal requirements (including those of all authorities, statutes and regulations) in any way relating to the goods. The Applicant shall ensure the goods are not used to lift any load which is beyond its rating lifting capacity.
6. The Applicant acknowledges that goods leaving the Company's premises are adequately packed. Claims for damage in transit must be made against the carrier. The Company is not responsible for any loss or damage to the goods in transit.
7. It is acknowledged by the Applicant and the Company that the Australian Consumer Law and other laws may imply conditions or warranties in certain contracts and also give parties to those contracts certain other rights against suppliers of goods and services. To the extent such conditions, warranties or other rights are implied or given in respect of this agreement and it is not lawful or possible to exclude them, then such conditions, warranties or other rights shall (but only to the extent required by law) apply to this agreement and all other conditions, warranties or rights which might but for this provision be implied are hereby expressly excluded.

Where the law implies any term or warranty into these terms and conditions which cannot be excluded, then the liability of the Company for any breach of such term will be limited in the manner permitted under section 64A of the Australian Consumer Law to one of the following (as the Company may determine):

- (i) in the case of goods supplied, to any one or more of the following:
  - (a) Replacement of the goods or the supply of equivalent goods;
  - (b) repair of the goods;
  - (c) payment of the cost of replacing the goods or of acquiring equivalent goods;
  - (d) payment of the cost of having the goods repaired; and
- (ii) in the case of services supplied, to any one or more of the following:
  - (a) supply of the services again; or
  - (b) payment of the cost of having the services supplied again;
  - (c) in the event that the Company (as a deemed "manufacturer") has a liability to the Applicant (as a "Company") pursuant to section 276A of the Australian Consumer Law such liability is limited to a liability to pay to the Applicant an amount equal to whichever is the lesser of the cost of:
    - (i) replacing the goods;
    - (ii) obtaining equivalent services; or
    - (iii) having the goods repaired.
8. Any quotations of delivery times by the Company are made in good faith but as estimates and not commitments. The Company shall not be bound by any such estimate. Clerical errors or omissions by the Company, whether in computation or otherwise in any quotation, acknowledgment or invoice, shall be subject to correction.
9. In these terms and conditions words in the singular include the plural and vice versa, reference to any gender includes the other gender and, where applicable, reference to a person includes a body corporate.

10. If there is any inconsistency between these terms and conditions 1 to 29 and any other agreement between the Company and the Applicant then these terms and conditions shall, only to the extent of the inconsistency, prevail and the other agreement between the Company and the Applicant shall be interpreted accordingly unless it is expressly stated that these terms and conditions are excluded from that agreement. If any part of these terms and conditions become void or unenforceable then that part shall be severed to the intent that all parts that are not void or unenforceable shall remain in full force and effect.

In addition to terms and conditions 1 to 10 above, the following terms and conditions also apply if goods are hired:

11. The Applicant will pay the hire charges for the goods at the rate charged by the Company and in the manner specified by the Company from the commencement date of the hire up until the goods are returned to the premises of the Company in a clean condition and in good and substantial working order and repair so as to be suitable for rehire for the proper use for which the goods are designed. If the goods are not returned in this condition and order to the satisfaction of the Company, the Applicant agrees the hire charges shall continue until the goods are restored to this condition and order with costs being payable by the Applicant in accordance with clause 22 below.

12. The hire of goods under this agreement is for a definite period as follows:

- (i) if the Company registers its security interest on the PPSR the hire period commences on the date the Applicant takes possession of the goods and ends on the date the Applicant is required to return the goods to the Company or the date the hire is terminated by the Company; and
- (ii) if clause 12(i) does not apply the hire period is deemed to commence on the date the Applicant takes possession of the goods and ends after 89 days in the case of serial numbered goods and 364 days in the case of any other goods.

13. If clause 12(i) or (ii) applies, and the Applicant requires possession of the goods for a period longer than the relevant period then the Applicant must, at least 20 business days prior to the expiry of the period specified in clause 12(i) or (ii), give notice to the Company to that effect, including reasons. Unless the Company agrees in writing to extend the hire period beyond the relevant period, the Applicant must return the goods to the Company before the end of the relevant period.

14. If a security interest is registered under clause 12(i) above then clauses 9(ii), (iii), (iv), (v) and (vi) of the Terms and Conditions apply to that security interest and any reference to "purchase money security interest" is deemed to be a reference to the security interest registered under clause 12(i).

15. The hiring is personal to the Applicant and the rights of the Applicant are not assignable to any person or company. The Applicant shall not on-hire, lease, license or rent the goods to any other party, nor shall it assign its rights under this agreement or the goods or give or permit another person to hold an interest in or any form of security over this agreement or the goods without the prior written consent of the Company.

16. The Applicant shall:

- (i) keep and maintain the goods in a clean and undamaged condition and in good and substantial working order and repair,
- (ii) service the goods at his own expense, in a skillful and proper manner and supply all oil and grease necessary for service and maintenance,
- (iii) supply at his own expense, all fuel necessary for operation of the goods,
- (iv) give the Company access to the goods for inspection, and
- (v) insure the goods against any theft of, or loss or damage caused to, the goods whilst in the possession or custody of the Applicant.
- (vi) ensure the goods are tested and inspected in accordance with any relevant occupational health and safety legislation and any relevant Australian Standards at its own cost and is solely responsible for ensuring any repairs or maintenance required or recommended as a result of those tests.

17. The Applicant shall not move or relocate the goods from one site to another without the prior written consent of the Company and the Applicant shall at all times ensure the Company is aware of the location of the goods. The Applicant agrees that if the Applicant fails to comply with this clause the goods will be deemed to be lost or stolen and costs shall be payable by the Applicant pursuant to clause 21 below.

18. The Applicant acknowledges and agrees that:

- (i) the Company may charge, mortgage or grant a security interest (a 'Security') in its interest this agreement and/or the goods in favor of a third party ('Security Holder') without the Applicant's consent. The exercise of any rights by the Security Holder under a Security will not constitute a breach or default under this agreement or otherwise entitle the Applicant to terminate, rescind or revoke this agreement; and
- (ii) the Applicant's rights in respect of goods are expressly subject and subordinated to the rights of the Security Holder (whether arising under the Security, at law or otherwise). Nothing in this agreement will in any way limit, reduce, vary or otherwise qualify the rights of a Security Holder under or in connection with any Security, any other document connected with any Security or any goods and the Security Holder will be entitled to exercise all of its rights under or in respect of the Security to the same extent as if this agreement had not been entered into; and

(iii) If a Security becomes enforceable:

- a) the Company may by notice to the Applicant terminate this agreement and upon such notice the Lessee's right to possess and use the goods automatically ceases and the Applicant must surrender possession and control of the goods to the Security Holder or the Company, notwithstanding that the Applicant may not be in breach or default of its obligations under this agreement; and
- b) the Security Holder may enter any premises where any goods are located to exercise any rights of the Company or the Security Holder under any Security this agreement or at law including, if the need arises, the right to remove the goods from the relevant premises. The Applicant agrees to obtain all necessary consents from the owner, occupier and other interested persons (such as any mortgagee) of the relevant premises where the goods are located to enable the Security Holder and Company to do this.

The Applicant acknowledges, including for the benefit of the Security Holder, that by entering into this agreement the Company will be in breach of the Security unless the Applicant agrees to the terms set out in paragraphs 18(i) to (iii) inclusive.

19. In the event of breakdown or failure of the goods, the Applicant will not have any repairs effected to the goods by any person other than an employee of the Company or such person as the Company may nominate.

20. The Applicant acknowledges the goods can from time to time breakdown or fail during ordinary use. In the event of a breakdown or failure which in the opinion of the Company is caused by fair wear and tear, the Company will at its own expense restore the goods to working order as quickly as reasonably possible. The Applicant agrees not to make any claim against the Company for any delay, loss or damage occasioned by the late or non delivery, breakdown, failure or an accident in relation to the goods as the Company is not responsible for any such delay, loss or damage.

21. If upon return of the goods to the Company, they are found not to be in clean condition and in good and substantial working order and repair to the satisfaction of the Company, the Applicant shall pay to the Company the cost and expense of restoring the goods to a clean condition and to substantial working order and repair and any other cost pursuant to clause 22 below.

22. If any of the goods are lost or stolen during the period of hire or in transit, whichever is the sooner, the Applicant agrees to pay to the Company the Company's cost if it were to replace such goods and agrees the hire charges shall continue to accrue until the Company has received payment by the Applicant of such replacement cost. This right shall not prejudice, or be prejudiced by, any other right under this agreement. If the goods are damaged and the Company elects to return the damaged goods to the Applicant or not to repossess the damaged goods, the Applicant acknowledges the damaged goods are no longer fit for purpose and agrees it is solely responsible for any loss or damage arising from the use of the goods and further agrees the Company is not liable for any damage or loss whatsoever in relation to or arising from the use of the goods.
23. The Applicant agrees the costs payable by the Applicant to the Company for goods not returned in the condition and order specified at clauses 11 and 20 above shall be:
- (i) the Company's cost of labor and material necessary to restore the goods to a clean condition and to good and substantial working order and repair so as to be suitable for rehire for the proper use for which the goods are designed, or,
  - (ii) at the election of the Company, the Company's cost if it were to replace the goods.
24. Notwithstanding anything contained herein the Applicant agrees the onus rests with him to ensure that the goods are returned to the Company's premises on the expiration of the hire period.
25. The Applicant agrees the goods hired out by the Company to, or at the request of, the Applicant shall be at the Applicant's risk immediately upon delivery to the Applicant or into the Applicant's custody (whichever is sooner). Ownership or property in the said goods does not pass to the Applicant. The Applicant shall not pledge or in any way charge by way of security or indebtedness any of the goods which are the property of the Company or interfere with any fittings nor remove cover-up or deface any trademark device or other identifying mark on the goods. Without prejudice to any other rights of the Company if the Applicant does so all sums whatever owing by the Applicant to the Company shall forthwith become due and payable.
26. The Applicant hereby indemnifies and holds indemnified the Company and the Company's employees, servants, agents and sub-contractors from and against all claims, actions, demands, costs (including legal costs on a solicitor/client basis) and expenses in any way arising out of the use of the goods between the commencement of the hire and the return of the goods to the Company and whether caused by the negligence of the Applicant, his servants or agents or by the negligence of any other person or whether arising out of the condition of the goods or the use to which they are put or otherwise whatsoever.
27. Unless otherwise provided herein the hire out of the goods can be terminated by the Company giving the Applicant 24 hours notice.
28. The Company may at its election have the exclusive right to determine the type of operation in which the goods may reasonably be employed.
29. If the hire out of the goods is terminated by the Company or if the Applicant makes default in the observance or performance of any of these further terms and conditions of hire or any of the terms and conditions of any accompanying trading application, then the Applicant acknowledges the hire of the goods is terminated and agrees to immediately return all the goods to the Company and pay all monies due and owing by the Applicant to the Company, failing which:-
- (i) the Applicant shall pay to the Company the Company's cost if it were to replace the goods together with the hire charges which shall continue to accrue until the Company has received payment from the Applicant of such replacement cost, and
  - (ii) the Company may without notice to the Applicant repossess the goods.
- For the purpose of repossessing the goods or upon determination of the hire for any other reason, the Applicant hereby authorizes the Company, its directors, servants and agents to enter upon any premises in the occupation of, or being used by, the Applicant to search such premises and to remove the goods therefrom. The Applicant shall be liable for and hereby indemnifies the Company against any loss, expense, cost or damage whatsoever that may be incurred as a result of the Company taking possession of the goods including but not limited to any damage caused to the goods, any obstruction or any building on or around the goods. The Applicant agrees to pay the Company's costs of the repossession and transportation of the repossessed goods to the Company's premises.
30. The Applicant hereby indemnifies and holds indemnified the Company against all claims whatsoever taken against the Company its employees, servants, agents and sub-contractors by any third party by reason of the termination of the hire out of the goods. The Applicant agrees the Company shall not be liable to the Applicant for any loss, expense, reimbursement or any damage whatsoever including but not limited to damages on account of prospective profits, on account of expenditures, investments, leases or other commitments relating to the business or goodwill of the Applicant or on account of any consequential loss or damage incurred or suffered by the Applicant or customers of the Applicant, which arises from or is connected in any way whatsoever with the determination or expiration of the hire of the goods.