



Yellow Hire Pty Ltd
 ABN: 55 154 445 137
 PO Box 755, Swan Hill VIC 3585
 2 Shepherd Road, Swan Hill VIC 3585
 Phone: (03) 5033 2344
 Email: accounts@yellowhire.com.au
 Web: www.yellowhire.com.au

CREDIT ACCOUNT APPLICATION

To Be Completed By Applicants - Please complete all sections and read the Terms and Conditions overleaf or attached.

Client's Details: <input type="radio"/> Individual <input type="radio"/> Sole Trader <input type="radio"/> Trust <input type="radio"/> Partnership <input type="radio"/> Company <input type="radio"/> Other:				
Full or Legal Name:				
Trading Name (if different from above):				
Physical Address:			State:	Postcode:
Billing Address:			State:	Postcode:
Email Address:				
Phone No:		Fax No:		Mobile No:
Personal Details: <i>(please complete if you are an Individual)</i>				
D.O.B.:			Driver's Licence No:	
Business Details: <i>(please complete if you are a Sole Trader, Trust, Partnership, Company or Other – as specified)</i>				
ABN:		ACN:		Date Established <i>(current owners)</i> :
Nature of Business:				
Paid Up Capital: \$		Estimated Monthly Purchases: \$		Credit Limit Required: \$
Principal Place of Business is: <input type="radio"/> Rented <input type="radio"/> Owned <input type="radio"/> Mortgaged <i>(to whom)</i> :				
Directors / Owners / Trustee <i>(if more than two, please attach a separate sheet)</i>				
(1) Full Name:				
Director Identification No:			D.O.B.:	
Private Address:			State:	Postcode:
Driver's Licence No:		Phone No:		Mobile No:
(2) Full Name:				
Director Identification No:			D.O.B.:	
Private Address:			State:	Postcode:
Driver's Licence No:		Phone No:		Mobile No:
Account Terms: <input type="radio"/> 7 Days <input type="radio"/> Other:				
Purchase Order Required? <input type="radio"/> YES <input type="radio"/> NO		Accounts to be emailed? <input type="radio"/> YES <input type="radio"/> NO		
Accounts Email Address:				
Accounts Contact:			Phone No:	
Bank and Branch:			Account No:	
Trade References: <i>(please provide companies that are willing to do trade references)</i>				
Name:		Address:		Phone / Fax / Email:
1.				
2.				
3.				

I certify that the above information is true and correct and that I am authorised to make this application for credit. I have read and understand the TERMS AND CONDITIONS (overleaf or attached) of Yellow Hire Pty Ltd which form part of and are intended to be read in conjunction with this Credit Account Application and agree to be bound by these conditions. I authorise the use of my personal information as detailed in the Privacy Act clause therein.

SIGNED (CLIENT): _____ SIGNED (YELLOW HIRE): _____

Name: _____ Name: _____

Position: _____ Position: _____

Date: _____ Date: _____

OFFICE USE ONLY				
Account / Ref. No.	CREDIT LIMIT	APPROVED BY	DATA INPUTTED	DATE
	\$			/ /

Personal/Directors Guarantee and Indemnity

IN CONSIDERATION of Yellow Hire Pty Ltd T/A Yellow Hire Pty Ltd and its successors and assigns ("Yellow Hire") at the request of the Guarantor (as is now acknowledged) supplying and continuing to supply incidental items, equipment, goods and/or services to

[Empty box for Guarantor name]

("the Client") [Insert Company Name In Box Provided]

I/WE (also referred to as the "Guarantor/s") UNCONDITIONALLY AND IRREVOCABLY:

- GUARANTEE** the due and punctual payment to Yellow Hire of all monies which are now owing to Yellow Hire by the Client and all further sums of money from time to time owing to Yellow Hire by the Client in respect of incidental items, equipment, goods and services supplied or to be supplied by Yellow Hire to the Client or any other liability of the Client to Yellow Hire, and the due observance and performance by the Client of all its obligations contained or implied in any contract or agreement with Yellow Hire, including but not limited to the Terms & Conditions of Trade signed by the Client and annexed to this Guarantee and Indemnity. If for any reason the Client does not pay any amount owing to Yellow Hire, the Guarantor will immediately on demand pay the relevant amount to Yellow Hire. In consideration of Yellow Hire agreeing to supply the incidental items, equipment, goods and/or services to the Client, the Guarantor charges all of its right, title and interest (joint or several) in any land, realty or other assets capable of being charged, owned by the Guarantor now or in the future, to secure the performance by the Guarantor of its obligations under this Guarantee and Indemnity (including, but not limited to, the payment of any money) and the Guarantor acknowledges that this personal guarantee and indemnity constitutes a security agreement for the purposes of the Personal Property Securities Act 2009 ("PPSA") and unequivocally consents to Yellow Hire registering any interest so charged. Furthermore, it is agreed by both parties that where the Guarantor is acting in the capacity as a trustee for a trust, then the Guarantor agrees to charge all its right title and interest in any land realty, or other assets capable of being charged in its own capacity and in its capacity as trustee and shall be subject to the PPSA Registration as stated above. The Guarantor irrevocably appoints Yellow Hire and each director of Yellow Hire as the Guarantor's true and lawful attorney/s to perform all necessary acts to give effect to this clause including, but not limited to, signing any document on the Guarantor's behalf which Yellow Hire may reasonably require to:
 - register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
 - register any other document required to be registered by the PPSA or any other law; or
 - correct a defect in a statement referred to in clause 1(a) or 1(b).
- HOLD HARMLESS AND INDEMNIFY** Yellow Hire on demand as a separate obligation against any liability (including but not limited to damages, costs, losses, and legal fees calculated on a solicitor and own client basis) incurred by, or assessed against, Yellow Hire in connection with:
 - the supply of incidental items, equipment, goods and/or services to the Client; or
 - the recovery of monies owing to Yellow Hire by the Client including the enforcement of this Guarantee and Indemnity, and including but not limited to Yellow Hire's nominees contract default fee and legal costs; or
 - monies paid by Yellow Hire with the Client's consent in settlement of a dispute that arises or results from a dispute between, Yellow Hire, the Client, and a third party or any combination thereof, over the supply of incidental items, equipment, goods and/or services by Yellow Hire to the Client.

I/WE FURTHER ACKNOWLEDGE AND AGREE THAT

- I/We have received, read, and understood Yellow Hire's Terms and Conditions prior to entering into this Guarantee and Indemnity and agree to be bound by those Terms and Conditions.**
- This Guarantee and Indemnity shall constitute an unconditional and continuing Guarantee and Indemnity and accordingly shall be irrevocable and remain in full force and effect until all monies owing to Yellow Hire by the Client and all obligations herein have been fully paid satisfied and performed.
- No granting of credit, extension of further credit, or granting of time and no waiver, indulgence, or neglect to sue on Yellow Hire's part (whether in respect of the Client or any one or more of any other Guarantor(s) or otherwise) and no failure by any named Guarantor to properly execute this Guarantee and Indemnity shall impair or limit the liability under this Guarantee and Indemnity of any Guarantor. Without affecting the Client's obligations to Yellow Hire, each Guarantor shall be a principal debtor and liable to Yellow Hire accordingly.
- The liability under this Guarantee and Indemnity shall not be discharged, abrogated, prejudiced, or affected by:
 - any alteration, modification, variation or addition to any contract or agreement in respect of the supply of incidental items, equipment, goods and/or services;
 - the liquidation, receivership, administration, bankruptcy, dissolution, compromise or scheme of arrangement in respect of the Client;
 - any other act, omission, or event which, but for this provision, might operate to discharge, impair, or otherwise affect any obligations under this Guarantee and Indemnity of any of the rights, powers or remedies conferred by this Guarantee and Indemnity or by law.
- The term "Guarantor" whenever used in this Guarantee and Indemnity shall, if there is more than one person named as Guarantor, mean, and refer to each of them individually and all of them together unless the context otherwise requires, the obligations and agreements on the part of the Guarantor, shall include the Guarantor's executors, administrators, successors and permitted assignments (where applicable) contained in this Guarantee and Indemnity shall bind them jointly and severally.
- I/We have been advised to obtain independent legal advice before executing this Guarantee and Indemnity. I/we understand that I/we am/are liable for all amounts owing (both now and in the future) by the Client to Yellow Hire.**
- I/we irrevocably authorise Yellow Hire to obtain from any person or company any information which Yellow Hire may require for credit reference purposes. I/We further irrevocably authorise Yellow Hire to provide to any third party, in response to credit references and enquiries about me/us or by way of information exchange with credit reference agencies, details of this Guarantee and Indemnity and any subsequent dealings that I/we may have with Yellow Hire as a result of this Guarantee and Indemnity being actioned by Yellow Hire.
- The above information is to be used by Yellow Hire for all purposes in connection with Yellow Hire considering this Guarantee and Indemnity and the subsequent enforcement of the same.

For and on behalf of the Client I/We confirm I/We have read, understood, and accept the terms of this Guarantee and Indemnity, and I/We agree to be bound by this Guarantee and Indemnity.

GUARANTOR-1
 SIGNED: _____
 FULL NAME: _____
 HOME ADDRESS: _____
 DATE OF BIRTH: _____
 SIGNATURE OF WITNESS: _____
 NAME OF WITNESS: _____
 OCCUPATION: _____
 PRESENT ADDRESS: _____
 EXECUTED as a Deed this day of 20____

GUARANTOR-2
 SIGNED: _____
 FULL NAME: _____
 HOME ADDRESS: _____
 DATE OF BIRTH: _____
 SIGNATURE OF WITNESS: _____
 NAME OF WITNESS: _____
 OCCUPATION: _____
 PRESENT ADDRESS: _____
 EXECUTED as a Deed this day of 20____

- Note: 1. If the Client is a proprietary limited company, the Guarantor(s) must be the director(s) of the company.
 2. If the Client is a limited partnership, the Guarantor(s) must be the general partners
 3. If the Client is a sole trader or partnership the Guarantor(s) should be some other suitable person(s).
 4. If the Client is a club or incorporated society the Guarantor(s) should be the president and secretary or another committee member

WARNING: THIS IS AN IMPORTANT DOCUMENT. YOU SHOULD SEE YOUR OWN LAWYER OR ADVISOR BEFORE SIGNING IT

Yellow Hire Pty Ltd – Terms and Conditions

	and own client basis incurred in exercising Yellow Hire's rights under this clause; and		
	(ii) Yellow Hire appoints Yellow Hire and each director of Yellow Hire as the Client's sole and lawful attorneys to perform all necessary acts to give effect to the provisions of this clause 24.7, including, but not limited to, signing any document on the Client's behalf.	24.7	
	(b) The Client acknowledges and agrees:		
	(i) Yellow Hire may charge, mortgage, or grant a security interest in its interest in and/or the Equipment and/or the Client in favour of a third party (Security Holder) without the Client's consent. The exercise of any rights by the Security Holder from any time to time shall be without breach or default under this Contract or otherwise entitled to the Client to terminate, rescind or revoke this Contract; and	24.8	
	(ii) The Client's rights by the Client are expressly subject and subordinated to the rights of the Security Holder (whether arising under the Security, law or otherwise). Nothing in this Contract will in any way limit, vary, or otherwise qualify the rights of a Subject Holder under or in connection with any Security, any other document connected with any Security, or any counterpart. 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 Contract had not been entered into.	24.9	
	(iii) If a Security becomes enforceable:		
	(A) Yellow Hire may, by notice to the Client, terminate this Contract and upon such notice the Client's right to possess and use the Equipment automatically ceases, and the Client must surrender the possession and control of the Equipment to the Security Holder or Yellow Hire, notwithstanding that the Client may not be in default of the obligations under this Contract; and	25.1	
	(B) clause 1 may be exercised by Yellow Hire or the Security Holder.	25.2	
18.	Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)	25.3	
18.1	The Client must inspect the Equipment on delivery or Services on completion and must within twenty (24) hours of such time notify Yellow Hire in writing of any defect, damage, error, omission, shortage in quantity, or failure to comply with the description or quote. The Client must notify any alleged defect in the Equipment or Services as soon as it is reasonably practicable after any such defect becomes evident. Upon such notification the Client must allow Yellow Hire to inspect the Equipment, incidental terms or Services.	25.4	
18.2	Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied warranties and warranties (including the statutory guarantee under the CCA) may be implied into these terms and conditions ("Non-Excluded Guarantees").	25.5	
18.3	Yellow Hire excludes all other warranties and conditions purports to modify or exclude the Non-Excluded Guarantees. Except as expressly set out in these terms and conditions or in separate practice notes, Yellow Hire does not provide warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Equipment or Services. Yellow Hire disclaims all of these warranties is limited to the fullest extent permitted by law.	25.6	
18.5	If the Client is a consumer within the meaning of the CCA, Yellow Hire's liability is limited to the extent permitted by section 64A of Schedule 2.	25.7	
18.6	If Yellow Hire is required to re-supply, or pay the cost of re-supplying any of the Equipment or Services, it may be unable to do so, then Yellow Hire may refund any money the Client has paid for the hire of the Equipment or Services but only to the extent that such money has not been used for the hire of Equipment or Services which have been provided to the Client which were not defective.	25.8	
18.7	If the Client is not a consumer within the meaning of the CCA, Yellow Hire's liability for any defect or damage in the Equipment or Services is:	25.9	
(a)	limited to the value of any express warranty or warranty card provided to the Client by Yellow Hire at Yellow Hire's sole discretion;	25.10	
(b)	otherwise regulated absolutely;	25.11	
18.8	Notwithstanding clauses 18.1 to 18.7 but subject to the CCA, Yellow Hire shall not be liable for any defect or damage which may be caused or partly caused by, or arise as a result of:	25.12	
(a)	the Client failing to properly maintain or store any incidental items;	25.13	
(b)	the Client's failure to comply with any of its obligations under this Contract;	25.14	
(c)	the Client continuing the use of the Equipment after any defect became apparent or should have become apparent to a reasonably prudent operator; and	25.15	
(d)	the Client failing to follow any instructions or guidelines provided by Yellow Hire;	25.16	
(e)	interference with the Services by the Client or any third party without Yellow Hire's prior approval;	25.17	
(f)	fair wear and tear, any accident, or act of God.	25.18	
19.	Loss, Damage or Breakdown of the Equipment	26.	
19.1	Subject only to the obligations of Yellow Hire following payment of the Renter Protection Fee in accordance with clause 13, the Client accepts full responsibility for the safekeeping of the Equipment and indemnifies Yellow Hire for all loss, theft, or damage to the Equipment, howeversoever caused, including but not limited to, during the Hire Term, and without limiting the generality of the foregoing, whether or not such loss, theft, or damage is attributable to any collision, failure, or accident involving the Equipment.	26.1	
19.2	The Client shall notify Yellow Hire immediately (by telephone) of the full circumstances of any mechanical breakdown, failure or accident. Yellow Hire is not obliged to attend or investigate any breakdown of the Equipment by giving such notification.	26.2	
19.3	Immediately on request by Yellow Hire, the Client will pay the new list price of any equipment or accessories removed, destroyed, written off or not returned to Yellow Hire.	26.3	
20.	Access and Inspection	26.4	
20.1	Yellow Hire and its representatives have the right to enter the Site where the Equipment is located at any time upon giving reasonable notice to inspect, test, or use the Equipment or to repair, inspect, repossess the Equipment. The Client must assist Yellow Hire and its representative in exercising its rights under this clause.	26.5	
21.	Insurance	26.6	
21.1	If the Client elects not to pay the Renter Protection Fee (as per clause 13), they must insure, or self-insure. Yellow Hire's interest in the Equipment against all risks (including but not limited to, theft and burglary and all other usual risks) during the Hire Term for not less than the full replacement cost of the Equipment.	26.7	
21.2	The Client, in all instances, will effect adequate Public Liability Insurance covering any loss, damage or injury properly arising out of the Equipment of the Client for not less than ten million dollars.	26.8	
21.3	Evidence, in the form of a certificate of currency, for such policies (any renewal thereof) of insurances, as specified in clauses 21.1 and 21.2, must be given to Yellow Hire at its request, and in any event, no later than seven (7) days after the expiry date of the previous certificate of currency (where applicable).	26.9	
22.	Cancellation	26.10	
22.1	Without prejudice to any other remedies Yellow Hire may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions Yellow Hire may suspend or terminate the supply of Equipment to the Client. Yellow Hire will not be liable to the Client for any loss or damage the Client suffers because Yellow Hire has exercised its rights under this clause.	26.11	
22.2	Yellow Hire may cancel these terms and conditions or cancel Delivery at any time before the Equipment is delivered by giving written notice to the Client. On giving such notice Yellow Hire shall repay to the Client any sums paid in respect of the Fees. Yellow Hire shall not be liable for any loss or damage whatsoever arising from such cancellation.	26.12	
22.3	In the event that the Client cancels Delivery the Client shall be liable for any and all loss incurred (whether direct or indirect) by Yellow Hire as a direct result of the cancellation (including, but not limited to, any loss of profits).	26.13	
22.4	At Yellow Hire's sole discretion, a cancellation fee may be charged by Yellow Hire where the Equipment has been reserved by booking the Client's name on the Client's website without reasonable notice or fails to take Delivery as per clause 6.1.	26.14	
23.	Termination	26.15	
23.1	Without prejudice to any other remedies Yellow Hire may have against the Client, and notwithstanding the Hire Term, this Contract shall be terminated:	26.16	
(a)	upon giving the Client seven (7) days written notice of termination at any time during the Hire Term;	26.17	
(b)	upon giving notice to the Client that Yellow Hire shall, whether or not due to payment, become immediately payable in the event that:	26.18	
(i)	any money payable to Yellow Hire becomes overdue; or in Yellow Hire's opinion the Client will be unable to meet its payments as they fall due; or	26.19	
(ii)	the Client has exceeded any applicable credit limit provided by Yellow Hire; or	26.20	
(iii)	the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or	26.21	
(iv)	a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client; or	26.22	
(v)	the Client commits a breach of any part of this Contract.	26.23	
24.	Default and Consequences of Default	26.24	
24.1	Interest shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of one and one half percent (2.5%) per calendar month (and at Yellow Hire's sole discretion such interest shall compound monthly at such a rate) after 56 days before any judgment.	26.25	
24.2	If the Client owes Yellow Hire any money, the Client shall indemnify Yellow Hire from and against all costs and disbursements:	26.26	
(a)	incurred; and/or	26.27	
(b)	which would be incurred and/or applied in or out of court in relation to or in regard to legal costs on a solicitor and own client basis, internal administration fees, Yellow Hire's contract Fees owing for breach of these terms and conditions, including, but not limited to, default fees and/or recovery costs (if applicable), as well as bank dishonour fees.	26.28	
24.3	Further to any other rights or remedies Yellow Hire may have under this Contract, if a Client has made payment to Yellow Hire, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction. In addition to any further costs incurred by Yellow Hire under this clause 24, where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under this Contract.	26.29	
25.	Compliance with Laws	26.30	
25.1	The Client and Yellow Hire shall comply with the provisions of all laws, regulations, orders and bylaws of government, local and other public authorities that may be applicable to the Services.	26.31	
25.2	The Client shall obtain (at the expense of the Client) all licenses and permits required to provide the Services. The Client agrees that the Site will comply with any health and safety standards relating to the Site and any other relevant safety standards or legislation.	26.32	
25.3	Modern Slavery	26.33	
25.4	For the purposes of clauses 25.4 to 25.9:	26.34	
(a)	Act means the Modern Slavery Act 2018 (MSA);	26.35	
(b)	Modern Slavery Statement means a statement published by the Client in accordance with the MSA; and	26.36	
(c)	Reporting Entity means the meanings given by the Act.	26.37	
25.5	If the Client is a Reporting Entity, it shall comply with all of its obligations under the Act.	26.38	
25.6	Whether the Client is a Reporting Entity or not, the Client shall:	26.39	
(a)	use reasonable endeavours to identify, assess and address risks of Modern Slavery practices in its operations and supply chains;	26.40	
(b)	use its reasonable endeavours to ensure that the personnel responsible for the Services are properly trained and supervised for the purposes of the Contract have undertaken suitable training to identify and report Modern Slavery;	26.41	
(c)	use reasonable endeavours to ensure that if at any time the Client becomes aware of Modern Slavery practices in its operations and supply chains, the Client must as soon as is reasonably practicable take all reasonable steps to address or remove these practices;	26.42	
(d)	provide to Yellow Hire a copy of any Modern Slavery Statement that it submits under the Act within seven (7) days of so doing; and	26.43	
(e)	within seven (7) days of Yellow Hire's request (or such longer period as Yellow Hire may request in writing) to provide Yellow Hire information or assistance reasonable requested by Yellow Hire:	26.44	
(i)	concerning the Client's compliance with the Act;	26.45	
(ii)	concerning the Client's policies and procedures designed to enable Yellow Hire to prepare a Modern Slavery Statement or otherwise comply with the Act; or	26.46	
(iii)	concerning the Client's policies and procedures designed to address risks of Modern Slavery practices in its operations and supply chains.	26.47	
25.7	The parties agree that in the circumstances a breach arises pursuant to this clause or the terms of the Act, the parties will try and resolve the breach by way of remediation and Yellow Hire will be able to terminate the Contract for any breach by the Client. The Client warrants that any information such as Yellow Hire is true and accurate and may be relied upon for the purposes of the Act.	26.48	
25.8	The Client shall indemnify Yellow Hire against any loss or liability suffered by Yellow Hire as a result of the Client's breach of this clause 25.	26.49	
26.	Privacy Policy	26.50	
26.1	All emails, documents, images, or other recorded information held or used by Yellow Hire for Personal Information as defined and referred to in clause 26.3, and therefore considered Confidential Information. Yellow Hire acknowledges its obligation in relation to the handling, storage, use, disclosure and retention of Personal Information under the Privacy Act 1988 (the "Act") including the Part III of the Act being Privacy Amendment (Notifiable Data Breaches) Act 2017 (NDBs) and any subsequent amendments or regulations. The European Economic Area ("EEA"), under the EU Data Privacy Laws (including the General Data Protection Regulation ("GDPR") collectively, "EU Data Privacy Laws") Yellow Hire will not disclose or otherwise use or share any of its data breaches and/or disclosure of the Client's Personal Information held by Yellow Hire that may result in serious harm to the Client or Yellow Hire or any other person or organisation under the Act and/or the GDPR. Any release of such Personal Information must be in accordance with the Act and the GDPR (where relevant) and must be approved by the Client by written consent, unless subject to an operation of law.	26.51	
26.2	Notwithstanding clause 26.1, privacy limitations will extend to Yellow Hire as the website and/or the Client's services. Yellow Hire will not use website to make enquiries. Yellow Hire agrees to display reference to such Cookies and/or similar tracking technologies, such as pixels and other web beacons, on the Client's website. Such technology allows the collection of Personal Information such as the Client's:	26.52	
(a)	IP address, browser, email client type and other similar details;	26.53	
(b)	web usage statistics and other data;	26.54	
(c)	reports are available to Yellow Hire when Yellow Hire sends an email to the Client, so Yellow Hire may collect and review that information ("collected information").	26.55	
26.3	If the Client consents to Yellow Hire's use of Cookies on Yellow Hire's website and later wishes to withdraw that consent, the Client may manage its preferences in the contract and/or by deleting them from the browser history when exiting the Site.	26.56	
26.4	The Client agrees to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, driver's license details, electronic credit (email, Facebook or Twitter details), medical insurance details) and other information (where applicable), previous credit applications, credit history) about the Client in relation to credit provided by Yellow Hire.	26.57	
26.5	The Client agrees to allow Yellow Hire to exchange information about the Client with those credit providers and with related body corporates for the following purposes:	26.58	
(a)	to assess the Client's creditworthiness with the Client; and/or	26.59	
(b)	to notify other credit providers of a default by the Client; and/or	26.60	
(c)	to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or	26.61	
(d)	to assess the creditworthiness of the Client including the Client's payment history in the period of two years.	26.62	
26.6	The Client consents to Yellow Hire being given a consumer credit report to collect personal credit information relating to any overdue payment on commercial credit.	26.63	
26.7	The Client agrees that personal credit information provided may be used and retained by Yellow Hire for the following purposes (and for other agreed purposes or required by):	26.64	
(a)	the provision of Services/Equipment; and/or	26.65	
(b)	analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Services/Equipment; and/or	26.66	
(c)	processing of any payment instructions, direct debit facilities and/or other financial and/or other information; and/or	26.67	
(d)	enabling the collection of amounts outstanding in relation to the Services/Equipment.	26.68	
26.8	Yellow Hire may give information about the Client to a CRB for the following purposes:	26.69	
(a)	to obtain a consumer credit report;	26.70	
(b)	to assess the Client's creditworthiness and obtain credit information about the Client including credit history.	26.71	
26.9	The information given to the CRB may include:	26.72	
(a)	the Client's name; and	26.73	
(b)	the name of the credit provider and that Yellow Hire is a current credit provider to the Client;	26.74	
(c)	whether the credit provider is a licensee;	26.75	
(d)	type of consumer credit;	26.76	
(e)	details concerning the Client's application for credit or related information, including the date of confirmation of the credit account and the amount requested;	26.77	
(f)	advice of consumer credit defaults (provided Yellow Hire is a member of an approved Credit and Debt Recovery Scheme (CDRS) or a member of an approved Credit and Debt Recovery Scheme, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action has been initiated) that the Client no longer has any overdue accounts and Yellow Hire has been paid of otherwise discharged and all details surrounding that discharge (a debt release);	26.78	
(g)	information that, in the opinion of Yellow Hire, the Client has committed a serious credit infringement;	26.79	
(h)	the amount of the Client's overdue payment is equal to or more than one hundred and fifty dollars (\$150).	26.80	
26.10	The Client shall have the right to request (by e-mail from Yellow Hire):	26.81	
(a)	a copy of the Personal Information about the Client retained by Yellow Hire and the right to request that Yellow Hire correct any error in that information; and	26.82	
(b)	that Yellow Hire does not disclose any Personal Information about the Client for the purpose of direct marketing.	26.83	
26.11	Yellow Hire will destroy Personal Information upon the Client's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this Contract or is required to be maintained for legal, regulatory or other purposes.	26.84	
26.12	The Client can make a privacy complaint by contacting Yellow Hire via e-mail. Yellow Hire will respond to that complaint within seven (7) days and if the Client is not satisfied with the resolution provided, the Client can make a complaint to the Information Commissioner at www.oaic.gov.au .	26.85	
27.	Force Majeure	26.86	
27.1	Subject to clause 27.2, neither party shall be responsible for any delays in Delivery, installation or collection due to causes beyond their control (including, but not limited to, acts of God, war, terrorism, mobilisation, civil commotion, riots, embargoes, orders or regulations of governments of any relevant jurisdiction, fires, strikes, floods, lockouts or other labour or service shortages, or inability to obtain shipping space, or land transportation).	26.87	
27.2	Nothing in clause 27.1 will limit or exclude the Client's responsibility and liability under this Contract for Equipment that is lost, stolen or damaged beyond fair wear and tear during the Hire Term, or had broken down, or become unsafe to use as a result of the Client's conduct or negligence.	26.88	
28.	Limitation of Liability	26.89	
28.1	Yellow Hire shall have no liability whatsoever to the Client for any loss or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by Yellow Hire of these terms and conditions (including any negligence or willful act) by Yellow Hire, whether or not the exclusion of the foregoing exclusion extends to any claim against Yellow Hire for loss of damage or payment of any cost, charge, fine, penalty, sales tax or other tax, whether or not the claim is at least ten million dollars. In the event of any breach of this Contract by Yellow Hire the remedies of the Client shall be limited to damages. Under no circumstances shall the liability of Yellow Hire exceed the Fees of the Services.	26.90	
28.2	Whether the Client is a Reporting Entity or not, the Client shall:	26.91	
(a)	use reasonable endeavours to identify, assess and address risks of Modern Slavery practices in its operations and supply chains;	26.92	
(b)	use its reasonable endeavours to ensure that the personnel responsible for the Services are properly trained and supervised for the purposes of the Contract have undertaken suitable training to identify and report Modern Slavery;	26.93	
(c)	use reasonable endeavours to ensure that if at any time the Client becomes aware of Modern Slavery practices in its operations and supply chains, the Client must as soon as is reasonably practicable take all reasonable steps to address or remove these practices;	26.94	
(d)	provide to Yellow Hire a copy of any Modern Slavery Statement that it submits under the Act within seven (7) days of so doing; and	26.95	
(e)	within seven (7) days of Yellow Hire's request (or such longer period as Yellow Hire may request in writing) to provide Yellow Hire information or assistance reasonable requested by Yellow Hire:	26.96	
(i)	concerning the Client's compliance with the Act;	26.97	
(ii)	concerning the Client's policies and procedures designed to enable Yellow Hire to prepare a Modern Slavery Statement or otherwise comply with the Act; or	26.98	
(iii)	concerning the Client's policies and procedures designed to address risks of Modern Slavery practices in its operations and supply chains.	26.99	
28.3	The parties agree that in the circumstances a breach arises pursuant to this clause or the terms of the Act, the parties will try and resolve the breach by way of remediation and Yellow Hire will be able to terminate the Contract for any breach by the Client. The Client warrants that any information such as Yellow Hire is true and accurate and may be relied upon for the purposes of the Act.	26.100	
28.4	The Client shall indemnify Yellow Hire against any loss or liability suffered by Yellow Hire as a result of the Client's breach of this clause 28.	26.101	
29.	Service of Notices	26.102	
29.1	Any written notice given under this Contract shall be deemed to have been given and received by the Client:	26.103	
(a)	by handing the notice to the other party, in person;	26.104	
(b)	by leaving it at the address of the other party as stated in this Contract;	26.105	
(c)	by sending it by registered post to the address of the other party as stated in this Contract;	26.106	
(d)	if sent by facsimile transmission to the fax number of the other party as stated in this Contract (and, in the event of confirmation of the transmission);	26.107	
(e)	if sent by email to the other party's last known email address.	26.108	
29.2	Any notice sent by any method other than that specified above, unless the consent is shown, at the time when by the ordinary course of post, the notice would have been delivered.	26.109	
30.	Trusts	26.110	
30.1	If the Client at any time upon or subsequent to entering into an contract or the capacity of trustee of any trust ("Trust") then whether or not Yellow Hire may have notice of the Trust, the Client consents with Yellow Hire as follows:	26.111	
(a)	the Client agrees to provide indemnity which the Client now or subsequently may have against the Trust and the trust funds;	26.112	
(b)	the Client has full and complete power and authority under the Trust to enter into the Contract and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Client in respect of the Trust or to limit or restrict the amount or not release the right of indemnity or commit any breach of trust to be a party to any other action which might prejudice that right of indemnity;	26.113	
(c)	the Client will not consent in writing to Yellow Hire (Yellow Hire will not unreasonably withhold consent), cause, or sanction any action or proceedings (including but not limited to) the removal, replacement or retirement of the Client as trustee of the Trust;	26.114	
(d)	any alteration or variation of the terms of the Trust;	26.115	
(e)	any advancement or distribution of capital of the Trust; or	26.116	
(f)	any resettlement of the trust property.	26.117	
31.	General	26.118	
31.1	The Client agrees to indemnify Yellow Hire for all loss or damage incurred by Yellow Hire for any party to enforce any provision of these terms and conditions (including but not limited to, legal costs, and other costs) that it fails to pay to or subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable for any reason, the validity, enforceability, and effect of the remainder of these terms and conditions shall not be affected as per these terms and conditions and any Contract to which they apply shall be governed by the laws of either New South Wales, Victoria, Australia or the State of Queensland or South Australia. The Client states the Equipment were provided by Yellow Hire to the Client however, in the event of a dispute that deems necessary for the matter to be resolved by a court of law, the Client and/or Yellow Hire will be subject to the Courts in the state of Victoria in which Yellow Hire has its principal place of business.	26.119	
31.2	Yellow Hire may licence and/or assign all or any part of its rights and/or obligations under this Contract without the Client's consent. The Client (cannot) licence or assign without the written approval of Yellow Hire.	26.120	
31.3	Yellow Hire may elect to subcontract out any part of the services but shall not be relieved from any liability or obligation under this Contract by so doing. Furthermore, the Client agrees and understands that they have no authority to give any instruction to any of Yellow Hire's sub-contractors without the authority of Yellow Hire.	26.121	
31.4	The Client agrees that Yellow Hire may amend their general terms and conditions for subsequent future contracts with the Client by disclosing such to the Client in writing. These changes shall be deemed to have been made and accepted by the Client without any further changes, or otherwise at such time as the Client makes a further request for Yellow Hire to provide Equipment to the Client.	26.122	
31.5	If it is not invariant and that this Contract creates binding and valid legal obligations on it:	26.123	
(a)	the parties to this document which forms part of this Contract for and on behalf of the Client has the power to enter into this Contract on the Client's behalf and grant the security interest in connection with the Contract and has obtained all necessary authorisations to allow it to do so.	26.124	
31.6	The covenants, agreements and obligations contained in this Contract, and to the extent that they have not been fulfilled or satisfied, or are continuing obligations, they will remain in force and effect.	26.125	
32.	TERMS APPLICABLE TO CARTAGE	26.126	
32.1	Provision of the Services	26.127	
32.2	Unless otherwise agreed between the parties in writing, Yellow Hire shall provide (as the Client's agent) transport of the Equipment Hire to and from the Site, and transport Fees (including loading equipment).	26.128	
32.3	(a) shall, at the sole discretion of Yellow Hire, be in addition to the Fees, unless otherwise specified; and	26.129	
(b)	the Client's responsibility for the delivery and/or collection of the Equipment of a full load. Small loads, or part loads, will incur additional Fees;	26.130	
(c)	the Client's responsibility for the loading and unloading time per visit to the Site during Yellow Hire's normal business hours. Delivery and/or collection of the Equipment (including any additional Fees) will be subject to Yellow Hire's normal business hours unless additional Fees.	26.131	
32.4	All Goods are carried or transported, and any other services are performed, by Yellow Hire subject only to these conditions, and Yellow Hire reserves the right to refuse to handle, lift or transport any Goods for any person, person or entity, and the carriage or transport of any class of Goods at its discretion.	32.1	
32.5	The Client shall disclose to Yellow Hire the nature of the Goods to be handled, lifted and/or carried and Yellow Hire deems the Goods may become dangerous or offensive. Yellow Hire may do anything it believes to be appropriate to avoid or minimise any loss, damage, or offence.	32.2	
32.6	The Client authorises Yellow Hire (in its discretion at any time without notice to the Client):	32.3	
(a)	license or subcontract all or any part of its rights and/or obligations, entering into contracts and arranges with any third party to perform or carry out the Services (or any part thereof), in so engaging such third parties Yellow Hire has and will represent to such third parties that the terms of this Contract, including the benefit of any terms conferred upon Yellow Hire, shall extend to such third parties in providing their goods and/or services;	32.4	
(b)	deviate from the usual, customary, intended or advertised route (whether or not the nearest or most direct and/or customary) or manner of carriage of Goods that may be deemed reasonable or necessary in the circumstances, including stay at any place whatsoever (free or not) for any period of time, or backwards or forwards and/or store the Goods at any such place for any period whatsoever;	32.5	
(c)	at Yellow Hire's sole discretion the costs of Delivery (including the supply of additional labour, equipment, materials and transportation expenses and other requirements) are either included in, or in addition to, the Fees;	32.6	
(d)	in the event the Client is unable to accept Delivery, as arranged, or there are any delays due to free and clear access to the Site not being available, Yellow Hire shall be entitled to charge all additional costs involved in providing the Services, and all Fees lost as a direct result of the Equipment being unavailable.	32.7	
32.7	Any time or date given by Yellow Hire to the Client is an estimate only. The Client must understand that the Client is not liable for any loss or damage incurred by the Client as a result of any delay in Delivery, commencement of services or interruption to the contract of services beyond the practical control of Yellow Hire (including, but not limited to, any event outlined in clause 27, breakdown of Equipment, plant, transport delays, accident or other labour difficulties, etc.).	32.8	
33.	Client's Responsibilities and Obligations	33.1	
33.1	(a) be responsible for:	33.2	
(i)	ensuring Yellow Hire has clear and free access and egress to the Site;	33.3	
(ii)	ensuring that the ground (and access) at the Site is firm and stable, with adequate compaction to support the Equipment under its wheels, tracks or outriggers, including ensuring any footpaths, curbs and channels are suitably planked; and	33.4	
(iii)	that access is suitable to accept the weight of land trucks, front and loader trucks, or other heavy machinery as may be deemed necessary by Yellow Hire. The Client agrees to indemnify Yellow Hire against all costs incurred by Yellow Hire in recovering the Site and/or equipment in the event they become bogged or otherwise immovable; and	33.5	
(iv)	in the event that an employee of the Client's causes any damage to Yellow Hire's property, including moving equipment, (without first seeking consent to do so from Yellow Hire), then all associated costs with rectifying such damage, shall be borne by the Client.	33.6	
(v)	ensuring that the Site (or access thereto) does not have excessive slope; and	33.7	
(vi)	ensuring that adequate lighting is provided during the provision of Services; and	33.8	
(vii)	making all necessary arrangements where any access is required such as the use of ladders, scaffolding, etc.; and	33.9	
(viii)	ensuring that a maximum clearance of three and a half metres (3.5m) is allowed in respect of overhead obstacles, tree or power lines; and	33.10	
(ix)	providing Yellow Hire with the location of any services/utilities on the Site.	33.11	
33.2	(b) provide amenities and first aid services to Yellow Hire's employees in compliance with all applicable health and safety legislation in the operation in the state where the services are undertaken;	33.12	
(c)	should it be necessary for the Equipment to be towed in, or out of the Site, then the Client shall be responsible for all damage and/or salvage costs involving the Equipment, and said costs shall be in addition to the Fees and either:	33.13	
(i)	charged to the Client's account, plus a margin of ten percent (10%); or	33.14	
(ii)	directly to the salvage company by the Client.	33.15	
33.3	(d) provide adequate security for any Equipment left at the Site overnight or during periods when the Site is left unattended. If there has been an incident involving the Equipment Yellow Hire arrange such security on the Client's behalf;	33.16	
(e)	immediately on request by Yellow Hire, the Client will pay any loss or damage to the Client caused by Yellow Hire being entitled to the Equipment under this, or any other contract.	33.17	
33.4	Yellow Hire reserves the right not to enter the Site if Yellow Hire believes that such Site shall remain liable for the Fees payable until the issue is resolved.	33.18	
34.	Loss or Damage	34.1	
34.1	All Goods are handled, lifted and/or carried entirely at the Client's sole risk. Yellow Hire shall not be responsible in tort or contract or otherwise for loss of or damage to the Goods, misdelivery, or failure to provide the Services, or delay in provision of the Services, howeversoever occasioned (including without limiting the foregoing, the negligence or willful act of Yellow Hire or others, and whether or not the same occurs in the course of performance by Yellow Hire of this Contract, or in events which are in the contemplation of Yellow Hire at the time of, or in events which are foreseeable by them (or either of them), or in events which would constitute fundamental breach of the Contract, or a breach of a fundamental term thereof).	34.2	
34.2	Insurance of the Goods will not be effected by Yellow Hire for the benefit of the Client, except upon the written instructions of the Client, and then only at the Client's expense and upon receipt of a declaration of value of the Goods, or a reasonable time prior to the handling, lifting and/or carriage of the Goods, whichever shall occur first.	34.3	
34.3	Notwithstanding clause 28.1 and 28.2 where it is a contract of carriage and where liability has not been effectively excluded, whether by this Contract or by statute, convention or otherwise, the total liability of Yellow Hire in respect of loss of or damage to the Goods is as per:	34.4	
(a)	the value stated under the Contract and Commercial Law Act 2017 (or subsequent amendments); or	34.5	
(b)	Yellow Hire's declared value risk amount specified on Yellow Hire's documentation;		