

TERMS & CONDITIONS: RENTAL OF EQUIPMENT

These Terms and Conditions apply to the rental of equipment ("Equipment") by the individual, corporation or organisation ("Customer") placing an order with HydroTerra Pty Ltd ACN 154 889 559 ("HydroTerra").

The Customer's Purchase Order constitutes automatic acceptance of these Terms and Conditions.

1. Instrument Calibration

All Equipment is subject to calibration/check testing prior to dispatch to the Customer, however the Customer is responsible for ensuring appropriate calibration prior, during and following the use of the Equipment. HydroTerra will carry out regular maintenance and repairs due to ordinary wear. HydroTerra under no circumstances will be responsible for the validity of Equipment readings.

2. Equipment Repairs & Cleaning

Prior to the dispatch of instruments, HydroTerra inspects and cleans Equipment to ensure satisfactory performance. The Customer is to follow any instrument maintenance guides or instructions which are provided by HydroTerra. Without limiting any other provision herein, any failure to clean and decontaminate instruments or any use of the Equipment by the Customer necessitating repairs will incur additional costs based on \$30 for every 15 minutes (or part thereof) required for HydroTerra to carry out repairs and/or cleaning/decontamination.

3. Damage or Loss

The Customer is responsible for all costs associated with Equipment loss or damage during incorrect usage, possession, or freight, and HydroTerra must be notified immediately if any Equipment is lost or damaged. The Customer assumes all financial liability for loss and damage of Equipment due to misuse, abuse, or accident.

The Customer accepts full responsibility to guard the Equipment against theft, damage or destruction or loss until it has been returned to HydroTerra. In respect to theft, damage, destruction or loss the Equipment shall be considered under rental (with attendant rental charges) until it has been adequately repaired (as deemed by HydroTerra) or the replacement cost has been paid by the Customer to HydroTerra.

4. Replacement of Malfunctioning Equipment

In the event of Equipment failure or malfunction, the Customer must notify HydroTerra immediately, and a replacement for the Equipment will be shipped if available if the problem with the Equipment is not otherwise able to be rectified quickly and easily. Malfunctioning Equipment is to be immediately returned to HydroTerra. Costs for road freight in such circumstances will be covered by HydroTerra; if airfreight is required additional charges are the responsibilities of the Customer.

5. Rental Period

The rental period commences on the date indicated on the rental booking documentation and continues until the date specified on that form as the end of the rental period. Notwithstanding the foregoing, the rental period may be deemed to be extended to end on the date the Equipment (including any accessories supplied with the Equipment) is received by HydroTerra from the Customer. Equipment returned after 12 noon on any given day will incur a rental cost for that day. There is no charge for

equipment held over a weekend, and the minimum rental period is 1 day. Any extension of the rental period must be approved in writing by HydroTerra.

6. Long Term Rent

The Customer agrees that if a rental rate discount has been provided for long term Rents and the Customer returns the equipment prior to the nominated end date, HydroTerra reserves the right to charge the Customer full value for the period of rental without discount and shall be entitled to recover any shortfall from the Customer.

7. Rental Rate

HydroTerra charges rental charges based on daily, weekly or monthly charges. A daily charge applies to any 24-hour period. Weekly rental rates are based on a 7-day period. Monthly rental rate is based on a 4-week period.

8. Charges and Freight

The Customer agrees to pay the rental charges set out in HydroTerra's rental booking documentation, together with any applicable GST.

HydroTerra will dispatch Equipment to the Customer using a pre-paid express service, the costs of which will be invoiced as freight charges. The return of Equipment and payment for associated freight charges is the responsibility of the Customer unless HydroTerra has earlier agreed otherwise in writing. Any loss or damage to Equipment during shipment from the Customer to HydroTerra is the responsibility of the Customer. HydroTerra must be notified immediately should any shipment problem occur. The Customer must ensure that it is contactable by phone on the day of dispatch and HydroTerra must be contacted by 12.00 pm the day before if there are any changes to the agreed day of dispatch, otherwise cancellation fees will apply including freight charges.

9. Payment Terms

Payment terms are either in advance or on account (subject to HydroTerra's approval), net 30 days from date of invoice, unless otherwise agreed in writing. HydroTerra reserves the right to suspend deliveries to the Customer if any of the Customer's accounts with HydroTerra are overdue. Customers with an approved credit account agree to notify HydroTerra in writing of any change to their details set out in the Credit Application, within 5 days from the date of such change.

10. Cancellation Fee

If a confirmed booking is cancelled, HydroTerra reserves the right to impose a 30% cancellation fee, or any actual costs incurred in relation to the booking, whichever is the greater.

11. Early Cessation

Notwithstanding the rental period specified on rental booking documentation, HydroTerra expressly reserves the right to early cessation, which may be exercised on demand and at the absolute discretion of HydroTerra. In the event that HydroTerra so demands, the Customer shall forthwith return the equipment to HydroTerra. The applicable rental charges shall be adjusted and payable on a pro rata basis.

12. Customer Covenants

The Customer agrees with HydroTerra that:

- (a) In selecting the Equipment, the Customer has not relied on HydroTerra's skill and judgment or any representations made by or on its behalf.



- (b) The Customer will keep the Equipment in first class condition and will only use it as would be used by a careful and prudent owner of it.
- (c) The Equipment shall remain the property of HydroTerra unless otherwise agreed in writing from HydroTerra.
- (d) The Customer shall not sell, charge, pledge or part with possession of the Equipment.
- (e) The Customer shall use the equipment in a careful and proper manner and not alter, interfere or tamper with the Equipment or let any other person do so.
- (f) The Customer shall notify HydroTerra immediately if any judgement or order is levied against the Customer or the property of the Customer or if a petition is presented for the liquidation of the Customer or a receiver is appointed, or a scheme of arrangement is proposed.
- (g) The Customer shall permit HydroTerra or its agents or servants to enter the premises where the Equipment is located at all reasonable times in order to inspect the equipment and carry out repairs to the Equipment.
- (h) The Customer will report any damage to or loss of the Equipment to HydroTerra immediately such damage or loss occurs.
- (i) The Customer requires and will use the Equipment for business purposes only. The Customer will not use the Equipment for any illegal purpose.
- (j) The Customer will be liable for any breach of these Terms and Conditions committed by its servants or agents and will indemnify HydroTerra for any loss (including legal costs) incurred by HydroTerra in relation to any breach of these Terms and Conditions and for any liability arising out of such breach.
- (k) HydroTerra may retake possession of the Equipment if the Customer breaches any provision of these Terms and Conditions.

13. Warranty

HydroTerra warrants that each item of Equipment rented is of merchantable quality and fit for purpose for which it was designed. HydroTerra undertakes to repair or replace equipment which has failed due to defects in materials or workmanship. Without limiting the generality of the foregoing, the aforesaid warranty does not extend to repair, or replacement of equipment occasioned by:

- (a) The failure of the Customer to comply with any instructions or literature supplied with the equipment relating to the storage, installation, operation or servicing of the equipment,
- (b) Faulty installation or workmanship by a third party, which causes damage to the equipment,
- (c) The misuse, neglect or alteration in any manner by the Customer, its agents or employees or any third party.

The Customer acknowledges and agrees that all other warranties, including as to the suitability of the Equipment for any particular use or purpose whether implied or statutory are hereby excluded.

14. Liability

To the extent permitted at law, under no circumstance is HydroTerra liable for any damage, including financial or consequential losses, instrument losses, associated damage to other equipment/instruments, replacement Equipment charges or downtime. To the extent permitted at law, HydroTerra will not be responsible or liable for any loss or damage to the Customer's business, property, personal injury or death. The Customer shall indemnify and keep indemnified HydroTerra in respect of any claims arising from, and associated with, the hiring of Equipment or otherwise under these Terms and Conditions, including legal fees and charges.

15. Limitation of Liability

The Customer acknowledges that it has not relied upon any statement by HydroTerra in respect of the Customer's purpose for the utilisation of the equipment and that HydroTerra is not responsible or liable for the failure of that equipment to perform for the purposes required by the Customer nor, to the extent permissible at law, for any loss or damage alleged to have arisen from delay in delivery, malfunction or failure of any of that equipment.

16. Ownership of Equipment

The Customer acknowledges that HydroTerra owns the Equipment and in all circumstances HydroTerra retains title to the Equipment (even if the Customer goes into liquidation or becomes bankrupt during the Rental Period). The Customer's rights to use the Equipment are as a bailee only.

Except in the circumstances set out below, the Customer is not entitled to offer, sell, assign, sub-let, charge, mortgage, pledge or create any form of security interest over, or otherwise deal with the Equipment in any way. In no circumstances will the Equipment be deemed to be a fixture.

17. PPSA

In this section headed PPSA, "PPSA Act" means the Personal Property Securities Act 2009 (Cth) (as amended) and any other legislation and regulations in respect of it, and the following terms have the respective meanings given to them in the PPSA Act: "financing change statement", "financing statement", "PPS Lease", "purchase money security interest" (or "PMSI"), "register", "registration" and "security interest".

The Customer consents to HydroTerra affecting and maintaining a registration on the register (in any manner HydroTerra considers appropriate) in relation to any security interest contemplated or constituted by these Terms and Conditions in respect of all Equipment and the proceeds arising in respect of any dealing in the Equipment and the Customer agrees to sign any documents and provide all assistance and information to HydroTerra required by HydroTerra to facilitate the registration and maintenance of any security interest to HydroTerra's satisfaction.

HydroTerra may at any time register a financing statement or financing change statement in respect of a security interest (including any purchase money security interest).

The Customer undertakes to:

- (a) do anything (in each case, including executing any new document or providing any information) that is required by HydroTerra:
 - (i) so that HydroTerra acquires and maintains one or more perfected security interests under the PPSA in respect of the Equipment and its proceeds,
 - (ii) to register a financing statement or financing change statement, and
 - (iii) to ensure that HydroTerra's security position, and rights and obligations, are not adversely affected by the PPSA Act.
- (b) not register a financing change statement in respect of a security interest contemplated or constituted by these Terms and Conditions without HydroTerra prior written consent; and
- (c) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Equipment in favour of a third party without HydroTerra prior written consent.

The Customer waives its rights to receive a verification statement in relation to registration events in respect of commercial property under section 157 of the PPSA Act.



If Chapter 4 of the PPSA Act applies to a security interest arising under or in connection with these Terms and Conditions, the following provisions of the PPSA Act will not apply and for the purposes of section 115(1) and 115(7) of the PPSA Act, are (to the extent permitted by the PPSA Act), contracted out: section 95 (to the extent that it requires the secured party to give notices to the grantor); sections 96; 118 (to the extent that it allows a secured party to give notices to the grantor); 121(4); 125; 127; 129(2) and 129(3); 130; 132; 134(2); 135; 136(3), (4) and (5); 137; 142; and 143.

HydroTerra and the Customer agree not to disclose information of the kind that can be requested under section 275(1) of the PPSA Act. The Customer must do everything necessary on its part to ensure that section 275(6)(a) of the PPSA Act continues to apply. The agreement in this paragraph is made solely for the purpose of allowing HydroTerra the benefit of section 275 (6)(a) of the PPSA Act and HydroTerra shall not be liable to pay damages or any other compensation or be subject to injunction in respect of any actual or threatened breach of this paragraph.

For the purposes of section 20(2) of the PPSA Act, the collateral is Equipment including any equipment which is described in any rental booking documentation provided by HydroTerra to the Customer from time to time. These Terms and Conditions are a security for the purposes of the PPSA Act.

HydroTerra may apply amounts received in connection with these Terms and Conditions to satisfy obligations secured by a security interest contemplated or constituted by these Terms and Conditions in any way HydroTerra determine in their absolute discretion.

Without limiting the above, the Customer acknowledges that these Terms and Conditions may be a PPS Lease and create a security interest in favour of HydroTerra for the purposes of the PPSA Act.

18. General

These Terms and Conditions constitute the entire agreement between HydroTerra and the Customer with respect to the Equipment rental and shall not be amended except in writing signed by both parties. These Terms and Conditions are governed by the law of the State of Victoria, Australia and the parties submit to the exclusive jurisdiction of the courts of that State.