



GENERAL TERMS AND CONDITIONS OF HIRE

1. INTERPRETATION

In these General Terms and Conditions of Hire, unless the contrary intention appears:

- 1.1. Headings are for ease of reference only and shall not be deemed to be part of or be taken into considerations in the interpretation and construction of the Agreement.
- 1.2. Words in the singular includes the plural and vice versa.
- 1.3. A reference to one gender includes the other.
- 1.4. A reference to a person includes a natural person, partnership, body corporate, association, governmental and local authority or agency or other entity.
- 1.5. A reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time.
- 1.6. A reference to a party is to a party to the Agreement, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assignees and substitutes.
- 1.7. A reference to a statute, ordinance, code or other Law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.
- 1.8. A rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of the Agreement or any part of it.
- 1.9. If a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.
- 1.10. The meaning of general words is not limited by specific examples introduced by including, for example or similar expressions.
- 1.11. All instructions, notifications, agreements, authorisations and acknowledgements shall be in writing.
- 1.12. All references to currency, \$ or dollars are in Australian dollars, unless otherwise stated.

2. DEFINITIONS

In these General Terms and Conditions of Hire, the following words and expressions shall have the meanings hereby assigned to them:

- 2.1. "Agreement" means the document to which these General Terms and Conditions of Hire are attached, and duly executed by the authorised representatives of each of the parties to give effect to the Hire.
- 2.2. "Business Day" means a day that is not a Saturday, Sunday or public holiday or bank holiday in the place where the Hire takes place.
- 2.3. "Client" means the party entering into the Agreement with TBHLS for the Hire.
- 2.4. "Commencement Date" means the earlier of, the date of execution by the last party to execute the Agreement, and the Hire Commencement Date.
- 2.5. "Demobilisation" in the case of the Equipment, means the transportation of the Equipment from the Site to the Receiving Depot; and where applicable in the case of the Labour, means the disengagement and return of the Labour from the Site.
- 2.6. "Equipment" means the equipment expressly specified in the Agreement which TBHLS agrees to hire to the Client, and includes all parts of the Equipment (including any parts provided or paid for by the Client as part of its obligations to repair, service and maintain the Equipment).
- 2.7. "GST" means the goods and services tax or similar tax levied or imposed in Australia pursuant to the GST Act.



- 2.8. "GST Act" means A New Tax System (Goods and Services Tax) Act 1999 (Cth).
- 2.9. "Hire" means the hire of the Equipment and where applicable, the Labour by TBHLS to the Client as set out in the Agreement.
- 2.10. "Hire Charges" means the rates and charges expressly specified in the Agreement that are payable by the Client to TBHLS for the Hire.
- 2.11. "Hire Commencement Date" in relation to the Hire, means the earliest date as specified in the Agreement for the commencement of the hire of the Equipment and where applicable, the Labour; and in relation to each individual item of Equipment and Labour (where applicable), the date for the commencement of the hire of that item of Equipment or Labour (where applicable) as specified in the Agreement.
- 2.12. "Hire End Date" in relation to the Hire, means the latest date as specified in the Agreement (and as extended pursuant to the Agreement) for the conclusion of the hire of the Equipment and where applicable, the Labour; and in relation to each individual item of Equipment and Labour (where applicable), the date for the conclusion of the hire of that item of Equipment or Labour (where applicable) as specified in the Agreement (and as extended pursuant to the Agreement). Where no Hire End Date is specified, the Hire End Date shall be the date from the Hire Commencement Date to when the Period of Hire ends.
- 2.13. "Hire Extension Request" means the request by the Client to extend the Period of Hire which must be submitted in the form as provided by TBHLS.
- 2.14. "Labour" means any operator of the Equipment, rigger, dogman, supervisor, engineer or other personnel expressly specified in the Agreement which TBHLS agrees to supply to the Client.
- 2.15. "Law" means any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in Australia, whether made by a State, Territory, the Commonwealth, or a local government, and includes the common law and rules of equity as applicable from time to time, any applicable Australian industry codes of conduct and where none apply, international industry codes of conduct.
- 2.16. "Major Components" mean the Equipment's engines, transmissions, differentials, hydraulic pumps and/or motors, structural parts, ropes, computer systems and/or control systems.
- 2.17. "Mobilisation" in the case of the Equipment, means the loading of the Equipment onto its means of transport at the Originating Depot and the transportation from the Originating Depot to the Site; and where applicable in the case of the Labour, means the deployment of the Labour to the Site.
- 2.18. "On/Off Hire Survey" means the condition survey report on the Equipment prepared by TBHLS in conjunction with the Client prior to the commencement of the Hire, and updated at or around the conclusion of the Hire.
- 2.19. "Originating Depot" means, immediately prior to the Hire, the nominated place from which the Equipment will be mobilised to Site, and if no place is nominated means TBHLS's usual storage facility.
- 2.20. "Period of Hire" means the period as expressly specified in the Agreement where the Equipment and Labour (where applicable) are on hire to the Client, and as extended pursuant to the Agreement.
- 2.21. "PPSA" means the Personal Property Securities Act 2009.
- 2.22. "Project" or "Site" means the workplace at which the Equipment and where applicable, the Labour will operate and utilised by the Client.
- 2.23. "Receiving Depot" means, immediately after the Hire, the nominated place to which the Equipment will be demobilised from Site, and if no place is nominated means TBHLS's usual storage facility.
- 2.24. "TBHLS" means Tutt Bryant Group Limited trading as Tutt Bryant Heavy Lift & Shift (ABN 89 009 242 675).



3. HIRE OF EQUIPMENT AND LABOUR

- 3.1. The Client offers to hire from TBHLS each item of Equipment and Labour (where applicable), and subject to being available for hire at the commencement of the Period of Hire, TBHLS shall provide each item of Equipment and Labour (where applicable) for the Period of Hire.

4. PERIOD OF HIRE

- 4.1. Unless otherwise stated in the Agreement, the Period of Hire shall commence on the earlier of:
- the Hire Commencement Date as specified in the Agreement, and
 - the time and date the Equipment leaves the Originating Depot.
- 4.2. Unless otherwise stated in the Agreement, the Period of Hire shall end on the later of:
- the Hire End Date as specified in the Agreement, and
 - the time and date the Equipment, cleaned and complete with all of its components and parts, is returned to the Receiving Depot and, where the Client is responsible for any loss or damage under clause 11.1 and as established by clause 11.4, restored to its on-hire condition (fair wear and tear excepted).
- 4.3. The Client may request to extend the Period of Hire by submitting to TBHLS a Hire Extension Request (in the form as provided by TBHLS) by no later than 30 days prior to the scheduled Hire End Date. The request to extend the Period of Hire will be subject to TBHLS's approval, the availability of the Equipment and upon such terms (including, but not limited to increased Hire Charges) as TBHLS determines in its sole discretion.
- 4.4. Where TBHLS allows the Hire to continue past the scheduled Hire End Date without the Client submitting a Hire Extension Request, it shall be treated as weekly periodic extensions of the Hire. In such an event, TBHLS will be able to terminate the Hire with one week's notice to the Client.

5. SUPPLY OF EQUIPMENT

- 5.1. Unless expressly specified in the Agreement, no warranty or representation is given by TBHLS as to the performance, state, fitness for purpose, capacity or ability of the Equipment to perform any work or task for which it is hired to perform. All statutory warranties hereto are expressly excluded to the maximum extent possible by Law.
- 5.2. The Client acknowledges that prior to the commencement of the Hire, it has conducted its own assessment and satisfied itself as to the suitability of the Equipment to perform any work or task for which the Equipment is hired to perform.
- 5.3. Unless expressly specified in the Agreement, TBHLS shall only be required to ensure that in relation to the Equipment:
- All necessary authorisations, consents, licences and permits as required by Law are obtained;
 - All safety inspections, servicing, maintenance and repairs in accordance with relevant manufacturer's specifications are completed; and
 - All relevant operating manuals, checklists and logbooks are provided to the Client.

6. SUPPLY OF LABOUR

- 6.1. Where the Hire includes the supply of Labour by TBHLS to the Client, TBHLS shall ensure:
- that the Labour provided is competent, experienced and responsible;
 - that the Labour complies with all reasonable directions of the Client in relation to the use and operation of the Equipment; and
 - that the Labour is authorised and/or licensed to operate the Equipment as required by Law and covered by worker's compensation insurance.
- 6.2. TBHLS shall be responsible in ensuring that the Labour is paid in accordance with the appropriate award / agreement. Where specific allowances, benefits or conditions apply to the Project, TBHLS



shall ensure these are provided to the Labour, with the costs plus a margin for administration on-charged to the Client.

- 6.3. Subject to clause 7.2, TBHLS shall ensure that the Labour does not perform work on Site until they have been inducted to work on Site.

7. SITE REQUIREMENTS

- 7.1. The Client must obtain prior written consent from TBHLS for any modification to the Equipment that is required to comply with Site safety requirements. All costs associated with the modifications shall be to the Client's account.
- 7.2. Where TBHLS personnel (including the Labour, where applicable) is required to enter the Site to perform work, the costs associated with ensuring the personnel meets all Site requirements (including, but not limited to medicals, training and inductions) shall be to the Client's account.

8. RESPONSIBILITIES

- 8.1. Each party agrees to assume the responsibility for the actions or activities it is allocated as set out in this Agreement, and shall carry out those actions or activities during the Period of Hire in accordance with generally accepted industry practice or otherwise as might be reasonable in the circumstances of the Hire.

9. HIRE CHARGES

- 9.1. The Client must pay TBHLS for the Period of Hire all Hire Charges and other fees and charges as specified in the Agreement.
- 9.2. The Hire Charges are expressed on the periodic basis (for instance, hourly, daily, weekly and monthly) as specified in the Agreement and shall be payable for each completed period of Hire.
- 9.3. Where a minimum hire period is specified in the Agreement, it shall apply where the Period of Hire is reduced by the Client to less than the minimum hire period.
- 9.4. Where the Equipment is booked in advance for the Hire and a cancellation fee is specified in the Agreement, TBHLS will invoice and the Client shall pay the cancellation fee in the event the Client cancels the Hire prior to the commencement of Hire.
- 9.5. TBHLS at its sole discretion may require the Client to pay the Hire Charges during any period that the Equipment is inoperative (including any period when the Equipment cease to be used) notwithstanding the Equipment is inoperative due to breakdown or damage (from whatsoever cause) and such Hire Charges will continue until repairs are completed and the Equipment is operational.

10. MOBILISATION, DEMOBILISATION AND RELOCATION

- 10.1. Unless otherwise stated in the Agreement, all costs associated with Mobilisation and Demobilisation of the Equipment and Labour (where applicable) will be paid by the Client.
- 10.2. Where TBHLS quotes Mobilisation and Demobilisation charges to the Client, it is acknowledged that the charges are based on ordinary work hours only. Penalty rates apply for all work that is performed outside of ordinary work hours and shall be on-charged to the Client. Where there are delays outside the control of TBHLS in unloading or loading beyond two (2) hours per truck, any additional costs incurred by TBHLS shall be on-charged to the Client.
- 10.3. After arrival at the Site, the Client shall be responsible at its own cost to supply all necessary labour, craneage and other handling equipment as determined necessary by TBHLS to safely unload and assemble the Equipment.
- 10.4. If required by TBHLS, the Client must first notify TBHLS of any intention to relocate the Equipment within (and never outside of) the Site. Any such relocation will be conducted and supervised in a manner determined to be appropriate by TBHLS, and will be carried out at the Client's cost.
- 10.5. At the conclusion of the Hire, the Client shall be responsible at its own cost to:



- a) thoroughly clean the Equipment; and
 - b) supply all necessary labour, craneage and other handling equipment as determined necessary by TBHLS to safely disassemble and load the Equipment, ready for Demobilisation.
- 10.6. Where the Client fails to meet its obligation under clause 10.5(a) and additional cleaning by TBHLS is required after the Equipment is demobilised from Site, all associated costs and charges will be to the Client's account.

11. CONDITION OF EQUIPMENT

- 11.1. The Client shall assume all risks and liabilities associated with the loss of or damage to the Equipment from the time it is delivered to the Client or collected by the Client (as the case may be), and until such time as the Equipment is picked up by TBHLS or redelivered back to TBHLS (as the case may be), unless and to the extent that the loss or damage is caused or contributed to by the negligent or wrongful act or omission of TBHLS, its employees, subcontractors, agents and other representatives, including the Labour supplied by TBHLS.
- 11.2. The Client shall be responsible for the safekeeping of the Equipment on Site, including but not limited to ensuring that access is restricted to the area where the Equipment is located, ensuring the Equipment is securely locked when not in use, and ensuring the Equipment and any removable parts are secured and protected from damage, vandalism and theft.
- 11.3. For each item of Equipment, a separate On/Off Hire Survey shall be prepared prior to the commencement of Hire.
- 11.4. At or around the conclusion of the Hire, the On/Off Hire Survey shall be updated for each item of Equipment to assess its off-hire condition in comparison to its on-hire condition. This shall establish any damage or loss caused during the Period of Hire (fair wear and tear excepted).
- 11.5. The Client must co-operate with TBHLS in the preparation of the On/Off Hire Survey, and where requested, have its duly authorised representatives sign the surveys.
- 11.6. The Client acknowledges and agrees that TBHLS can arrange to have any repairs or replacements for which the Client is responsible carried out at the Client's cost.

12. OWNERSHIP OF EQUIPMENT

- 12.1. Subject to clause 12.4, the Equipment at all times remain the sole property of TBHLS and the Client must not:
- a) subject to clause 7.1, modify the Equipment, alter, erase or remove any writing, plates or identification marks;
 - b) sell, offer for sale, assign, mortgage, pledge, lend, sub-let, part with possession of, or otherwise deal with the Equipment;
 - c) move the Equipment from the Site without the prior written consent of TBHLS;
 - d) allow any lien or encumbrance to be created over or upon the Equipment; and
 - e) deal with the Equipment in any way which is inconsistent with TBHLS's ownership of the Equipment.
- 12.2. The Client acknowledges and agrees:
- a) that TBHLS has an interest in the Equipment capable of registration pursuant to the PPSA and that TBHLS will register such interest. The Client consents to such registration and will promptly provide any information, documentation or assistance that TBHLS may require to perfect registration of its interest; and
 - b) the Equipment constitute commercial property and the Client waives its right to receive notification from TBHLS of the registration of its interest pursuant to the PPSA.
- 12.3. Immediately requested by TBHLS and at any time, the Client at its cost will provide TBHLS, its employees, subcontractors, agents and other representatives unobstructed access to the Equipment and log books relating to the Equipment, and will allow TBHLS, its employees, subcontractors, agents and other representatives to carry out such inspections and testing of the Equipment as TBHLS may require.



- 12.4. TBHLS may supply the Client with Equipment owned by another party or Labour (where applicable) in the employ of another party.

13. OPERATION, REPAIR AND MAINTENANCE

13.1. The Client must:

- a) ensure that the Equipment is used only for the purpose for which it has been designed, in accordance with the relevant manufacturer's specifications, and within its rated capacity and operational parameters consistent with the Law, applicable regulations and industry standards;
- b) where Labour is supplied by TBHLS to operate the Equipment, ensure that all directions and instructions given to such Labour is clear, lawful and consistent with all Site and regulatory requirements;
- c) where no Labour is supplied TBHLS to operate the Equipment, ensure that the Equipment is operated at all times by an experienced, properly trained and skilled person who holds all necessary and appropriate qualifications and/or licences required by any relevant authority;
- d) if requested, provide TBHLS with the full name of each operator of the Equipment and a photocopy of the licences held by each such person to operate the Equipment;
- e) ensure each such operator of the Equipment read any applicable operator manuals, familiarise himself with the particular Equipment and sign an acknowledgement of such familiarisation;
- f) unless Labour is supplied by TBHLS to operate the Equipment, ensure the Equipment is checked daily prior to use in accordance with the requirements set by TBHLS and the Equipment's log book is correctly entered everyday during the Period of Hire when the Equipment is at the Site (with the completed information provided weekly to TBHLS); and
- g) unless Labour is supplied by TBHLS to operate the Equipment, maintain the Equipment at its own expense and keep it in proper working order, including the provision of necessary fuels, oils and consumables nominated by TBHLS.

In all cases above, the Client shall not be responsible to the extent the failure to meet any of the requirements is due to the act or omission of Labour supplied by TBHLS to operate the Equipment, other than where such Labour is acting in accordance with the directions or instructions from the Client, its employees, subcontractors, agents or other representatives.

13.2. Unless otherwise stated in the Agreement, the Client shall be responsible for ensuring that the Equipment receives all regular maintenance and standard services, and shall pay for all associated costs, including, but not limited to labour and repair costs. All regular maintenance and standard services shall be conducted in accordance with the relevant manufacturer's specifications.

13.3. During the Period of Hire, the Client must immediately notify TBHLS of any:

- a) defect identified on the Equipment;
- b) breakdown of the Equipment;
- c) loss of, or damage to the Equipment;
- d) incident / accident (including near-miss) involving the Equipment or Labour (where applicable); and
- e) required repairs to, or replacement of any Major Components.

13.4. TBHLS shall carry out the repairs and/or provide the replacement parts that are required to any Major Components, or instruct the Client on how to undertake the repairs and/or install the replacement parts. Where the requirement to repair and/or replace any Major Components arises from the Client's responsibility, all associated costs of repairs and/or replacement shall be to the Client's account.

14. INSURANCE

14.1. Unless otherwise stated in the Agreement, the Client shall at its own expense, effect and maintain during the Period of Hire:

- a) All risks physical loss or damage insurance covering the Equipment for its full market value as nominated by TBHLS; and
- b) public liability insurance with a limit of cover of not less than \$20 million per occurrence.



- 14.2. The insurances required under clause 14.1 shall cover and note the respective rights and interests of each party in respect of the Agreement.
- 14.3. The Client shall provide to TBHLS evidence of the insurances required under clause 14.1 by way of certificates of currency prior to Mobilisation and each time the insurances are renewed or varied. Where the Client fails to effect and maintain the required insurances, TBHLS may take out the insurances at the expense of the Client.
- 14.4. The Client's liabilities and indemnities are not restricted, limited or waived by any provision of the Agreement with regard to insurance or by any approval of insurance policies by TBHLS.

15. LIABILITY AND INDEMNITY

- 15.1. Unless clause 15.3 applies, the Client shall indemnify and hold TBHLS harmless from and against:
 - a) any damage to or loss of real or personal property of TBHLS (including the Equipment) or its employees, agents or subcontractors;
 - b) death, illness or personal injury to TBHLS's employees(including the Labour) or its agents or employees of its subcontractors;
 - c) any damage to or loss of real or personal property of any party;
 - d) death, illness or personal injury to any party;
 - e) losses, damages, costs (including legal costs), expenses, claims, demands or causes of action arising out of, or in any way connected with the sub-clauses above;to the extent arising out of or in relation to the Hire or otherwise due to any act, omission, default or negligence of the Client, its employees, agents or subcontractors.
- 15.2. The Client's liability in clause 15.1 to indemnify and hold TBHLS harmless shall be reduced proportionately to the extent that the loss, damage, cost, expense, claim, demand or cause of action is caused or contributed to by the negligent or wrongful act or omission of TBHLS, its employees, subcontractors, agents and other representatives, including the Labour supplied by TBHLS.
- 15.3. TBHLS shall indemnify and hold the Client harmless from and against all losses, damages, costs, expenses, claims, demands or causes of action to the extent that they arise out of or are due to any act or omission by the Labour supplied by TBHLS in relation to the Hire.
- 15.4. TBHLS's liability in clause 15.3 to indemnify and hold the Client harmless shall be reduced proportionately to the extent that the loss, damage, cost, expense, claim, demand or cause of action is caused or contributed to by the negligent or wrongful act or omission of the Client, its employees, subcontractors, agents and other representatives.
- 15.5. In no circumstances shall TBHLS or the Client be liable in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise howsoever, and whatever the cause thereof for any loss or damage which may be regarded as special, indirect, incidental or consequential, nor for any loss of use, production, profit, business, revenue, goodwill or anticipated savings, delays, increased costs or any other economic loss.
- 15.6. Notwithstanding anything contained herein to the contrary, but subject only to clause 15.7 the maximum aggregate liability of TBHLS to the Client or any person claiming through the Client for all claims and losses, howsoever caused or incurred, is limited to an amount equal to the total of the Hire Charges.
- 15.7. The limitation on TBHLS's maximum aggregate liability in clause 15.6 does not apply to, limit or restrict in any way TBHLS's liability for claims and losses:
 - a) arising out of fraudulent acts or omissions of TBHLS;
 - b) arising out of wilful misconduct of TBHLS;
 - c) for which TBHLS is entitled to recover (or would have recovered under an insurance policy but for TBHLS's failure to effect and maintain any such insurance policy) under an insurance policy required to be effected under this Agreement; or
 - d) that cannot be limited at Law.



16. INVOICING AND PAYMENT

- 16.1. TBHLS shall claim payment on a monthly basis (or such other frequency as stated in the Agreement) by providing the Client with a valid tax invoice.
- 16.2. Unless otherwise stated, all amounts specified in the Agreement are exclusive of GST. Where GST is payable under statutory provisions, the amount of GST shall be shown separately on the valid tax invoice and the Client shall pay all such GST properly invoiced in accordance with relevant law and regulations in force at the time of making the supply.
- 16.3. Unless otherwise stated in the Agreement, all invoices from TBHLS must be paid by the Client within thirty (30) days from the date of the invoice.
- 16.4. In the event of a disputed invoice, the Client must not withhold nor withdraw payment to TBHLS of any undisputed amounts due and payable without the written agreement of the TBHLS General Manager.
- 16.5. TBHLS's standard payment terms set out in clause 16.3 apply to all undisputed amounts. If undisputed amounts are not paid in accordance with these standard payment terms, the undisputed amount will be deemed an "Overdue Undisputed Invoice" and the Client will be deemed to be in breach of this Agreement. TBHLS will instigate the appropriate enforceable actions to pursue payment of the Overdue Undisputed Invoice upon expiry of the applicable payment term without delay.

17. TERMINATION BY THE CLIENT

- 17.1. The Client may terminate this Agreement by giving written notice to TBHLS not less than thirty (30) days before the date of termination.
- 17.2. In the event of termination by the Client, TBHLS shall be entitled to the Hire Charges until the completion of Demobilisation, any Demobilisation charges (where applicable) and all reasonable expenses incurred by TBHLS prior to termination and as a result of termination.
- 17.3. Where a minimum hire period is specified in the Agreement and clause 9.3 applies, TBHLS shall be entitled to the additional Hire Charges that relate to the difference between the Period of Hire and the minimum hire period.

18. TERMINATION BY TBHLS

- 18.1. TBHLS may terminate this Agreement with immediate notice in the event that the Client:
 - a) defaults in the punctual payment of any sum due to TBHLS;
 - b) fails to perform or observe any obligation, term, condition or stipulation contained in this Agreement and on its part to be performed that materially affects the Hire or TBHLS;
 - c) becomes insolvent or bankrupt or has a receiving order made against it or enters into a composition or deed of company arrangement with its creditors or any class of them;
 - d) passes a resolution that it be wound up or suffers a winding up order to be made against it (except for the purpose of reconstruction or amalgamation); or
 - e) suffers a manager, controller, receiver, liquidator or administrator to be appointed or carries on a business under a manager, controller, receiver or administrator.
- 18.2. In the event of termination pursuant to clause 18.1, the Client hereby authorises TBHLS and its agents to enter into or upon the Site or any premises where the Equipment may be located to take possession of the Equipment. The Client further agrees that TBHLS will not be responsible to the Client for any damage or loss caused by or resulting from TBHLS or its agents so entering the Site or such premises and taking possession of the Equipment.
- 18.3. The termination of this Agreement pursuant to this clause 18 shall not prejudice the right of TBHLS to recover from the Client any amount due to TBHLS or for general damages. In addition, the Client will pay to TBHLS:
 - a) interest at the rate of 1.0% per month compounding on any overdue amount; and



- b) all costs and expenses howsoever incurred by TBHLS in exercising its rights under this clause 18, taking possession of the Equipment or resulting from any breach by the Client of this Agreement.

19. DISPUTE RESOLUTION

- 19.1. Where the parties are unable to resolve a dispute arising out of this Agreement then, after thirty (30) days, either party may refer the dispute to a higher level of management within each respective party for resolution.
- 19.2. If, after a further thirty (30) days, the parties remain unable to resolve such dispute by negotiation then either party may commence formal legal proceedings.
- 19.3. This clause 19 does not preclude either party from commencing formal legal proceedings at any time to seek urgent interlocutory relief.

20. ASSIGNMENT AND NOVATION

- 20.1. Neither party may transfer, assign or novate this Agreement or any part thereof or otherwise deal with its rights and interests under this Agreement (including lending or sub-letting the Equipment to any third party) without the prior written consent of the other party, such consent not to be unreasonably withheld.

21. INDEPENDENT CONTRACTOR

- 21.1. For the purpose of the Agreement, TBHLS is an independent contractor and is not an agent or employee of the Client.

22. NO APPROVAL OR CONSENT TO RELIEVE LIABILITY

- 22.1. No approval or consent by a party shall relieve the other party of any of its obligations and liabilities under this Agreement.

23. WAIVER

- 23.1. A failure by a party to enforce or exercise any rights conferred upon it under this Agreement or at Law shall not be deemed to be a waiver of any such rights (unless the waiver is expressly made in writing by that party) or operate so as to bar the exercise or enforcement thereof at any subsequent time or times. Further, no waiver in respect of any breach shall operate as a waiver in respect of any subsequent breach.

24. CUMULATIVE RIGHTS

- 24.1. The rights and remedies provided under this Agreement are cumulative and are in addition to any and all other rights or remedies now or hereafter existing at Law or in equity.

25. SERVICE OF NOTICES

- 25.1. Any notice required to be given pursuant to this Agreement shall be in writing and shall be given by delivering the same by hand, or by sending the same by registered mail to the address of the relevant party set out in this Agreement or such other address as either party may notify to the other from time to time. Where a party provides to the other a facsimile number or email address, then any such notice may also be sent by facsimile or email. Any notice given as aforesaid shall be deemed to have been given at the time of delivery (if delivered by hand) or at the time of sending if sent by facsimile or email, or two (2) days after posting if sent by registered mail.



26. SURVIVAL OF RIGHTS

- a) Expiry of this Agreement or its termination, howsoever brought about, shall not affect or prejudice any terms of, or rights conferred by, the Agreement which are either expressly or by implication intended to come into effect or continue in effect after such expiry or termination.