

Contact Details of Partners and Directors Cont.

Email Address _____

Title _____ Full Name _____

Business Address _____

_____ State _____ Post Code _____

Phone #1 _____ Date of Birth ____/____/____

Email Address _____

Title _____ Full Name _____

Business Address _____

_____ State _____ Post Code _____

Phone _____ Date of Birth ____/____/____

Email Address _____

Credit Details

Estimate or Credit Required \$ _____ Estimate Monthly Purchase \$ _____

Credit References (3 Required)

(1)

Company Name _____

Contact Name _____ Position _____

Email Address _____

Phone #1 _____ Phone #2 _____

(2)

Company Name _____

Contact Name _____ Position _____

Email Address _____

Phone #1 _____ Phone #2 _____

(3)

Company Name _____

Contact Name _____ Position _____

Email Address _____

Phone #1 _____ Phone #2 _____

By signing this agreement;

- You agree that all information is true and correct.
- You understand and accept Crane Safety products Terms and Conditions.
- you agree to be bound by Crane Safety products Terms and Conditions for the term of your credit period.
- you are authorised to sign this agreement.

Signature _____

Signature _____

Full Name _____

Full Name _____

Position _____

Position _____

Date ____/____/____

Date ____/____/____

Witness

Signature _____

Full Name _____

Date ____/____/____

Office Use Only

Date Received ____/____/____

Approved Denied Credit Limit \$ _____

Authorised by _____ Date ____/____/____

TERMS AND CONDITIONS

1. ACCEPTANCE

1.1 **Parties:** These Terms are between LAMANS INVESTMENTS PTY LTD (trading as Crane Safety Products (ABN 55 630 001 348)), its successors and assignees (referred to as “we” and “us”) and you, the person, organisation or entity described in the Quote (referred to as “you”). These Terms apply to all Goods provided by us to you.

1.2 **Acceptance:** You have requested the Goods set out in the Quote. You accept these Terms by:

- (a) signing and returning the Quote;
- (b) confirming by email or verbally that you accept the Quote;
- (c) accepting the Quote online;
- (d) supplying us with a Purchase Order number;
- (e) instructing us to proceed with the Goods; or
- (f) making part or full payment for the Goods.

1.3 **You agree that these Terms form the agreement under which we will supply Goods to you. Please read these Terms carefully.** Please contact us if you have any questions. Purchasing Goods from us indicates that you have had sufficient opportunity to read these Terms and contact us if needed, that you have read, accepted and will comply with these Terms.

2. GOODS

- 2.1 We agree to supply the Goods with due care and skill.
- 2.2 We reserve the right to refuse any request that we deem inappropriate, unreasonable or illegal.
- 2.3 We may provide the Goods to you using our employees, contractors and third party providers, and they are included in these Terms.
- 2.4 Third parties who are not our employees or our direct contractors will be your responsibility. We are not responsible for the products or Goods provided by those third parties.

3. PRICE, INVOICING AND PAYMENT

- 3.1 You agree to pay us the amounts set out in our Quote. All amounts are stated in Australian dollars. All amounts include Australian GST (where applicable). Payment may be made by way of payment methods as set out in our Quote when purchasing our Goods.
- 3.2 We will not allow the Goods to leave our premises until you have paid the Fees plus any Delivery Fees as set out in our Quote.
- 3.3 Specially precured items must be paid in full prior to order placement.
- 3.4 You agree to pay our Invoices by the payment date set out on the Invoice. If you do not pay by the payment date, we may cease to provide the Goods to you until we receive payment.
- 3.5 We may charge interest at a rate equal to the Reserve Bank of Australia’s cash rate from time to time plus 8% per annum, calculated daily and compounding monthly, on any amounts unpaid after the payment date.
- 3.6 Payment terms for account customers is either 15 or 30 days from end of invoice month only, whichever is approved on application.
- 3.7 If invoices are unpaid after the payment date, we have the right to engage debt collection Goods for the collection of unpaid and undisputed debts, and the right to commence legal proceedings for any outstanding amounts owed to us.

3.8 We reserve the right to report bad debts to independent credit data agencies.

4. DELIVERY AND RETURNS

- 4.1 You can collect the Goods from our premises or organise your own transport. In this event, we are not responsible for any damage in transit from the time the Goods leave our premises.
- 4.2 Alternatively, if we organise delivery this will incur additional Delivery Fees as set out in the Quote.
- 4.3 We may use a third-party courier to deliver the Goods outside of our local area. Sadly, Goods may occasionally be damaged in transit. If the Goods arrive clearly and significantly damaged, please take photos or video showing the damage, refuse to accept the delivery and contact us immediately.
- 4.4 You are required to inspect the Goods within 24 hours of delivery. After 24 hours you are deemed to have accepted the Goods as satisfactory. Any claims after the 24 hours will be treated as a warranty claim;
- 4.5 For any faults or defects, you must:
 - (a) Contact us to obtain and RMA;
 - (b) Return the Goods with the RMA;
 - (c) Retain receipt of shipping costs.We will assess the Goods. If defective/ faulty we may:
 - (a) Repair the Goods;
 - (b) Replace the Goods; or
 - (c) Offer a partial or full store credit voucher or refund.

Postage expenses will be reimbursed by us if the Goods are found warrantable.

- 4.6 We reserve the right to repair all faulty and defective Goods where possible instead of replacement, credit or refund.
- 4.7 For all other returns, including change of mind, the Goods must be returned at your expense within 1 week of delivery. In order to receive a refund, the Goods must be returned in the same condition as received:
 - (a) Un-used;
 - (b) Fit for resale; and
 - (c) Original sealed packaging intact.

A Restocking Fee will apply.

- 4.8 To the extent permitted by law we do not offer refunds, or store credit vouchers for Goods specially precured or back ordered items.

5. YOUR OBLIGATIONS AND WARRANTIES

- 5.1 You warrant that:
 - (a) there are no legal restrictions preventing you from agreeing to these Terms;
 - (b) you will cooperate with us, and provide us with information that is reasonably necessary to enable us to supply the Goods as requested from time to time, in a timely manner;
 - (c) the information you provide to us is true, correct and complete;
 - (d) you will not infringe any third party rights in working with us and receiving the Goods;
 - (e) you will inform us if you have reasonable concerns relating to our supply of the Goods under these Terms, with the aim that the Parties will use all reasonable efforts to resolve your concerns;

- (f) you are responsible for obtaining any consents, licences and permissions from other parties necessary for the Goods to be provided, at your cost, and for providing us with the necessary consents, licences and permissions;
- (g) you will not employ, canvass, solicit, entice, induce or attempt to employ our employees or contractors.
- 6. OUR INTELLECTUAL PROPERTY**
- 6.1** We own the Intellectual Property rights in: (a) our pre-existing Intellectual Property, including but not limited to copyright which subsists in all creative and literary works incorporated into our pre-existing Intellectual Property; and (b) Intellectual Property that we create during the course of the Services, including but not limited to copyright which subsists in all creative and literary works in all Intellectual Property that we create during the course of the Services; unless we assign or transfer this to you. This Intellectual Property is protected by Australian and international laws.
- 6.2** Nothing in these Terms constitutes an assignment or transfer of our Intellectual Property rights, or a right to use our Intellectual Property, whether registered or unregistered, except as stated in these Terms or with our written permission.
- 6.3** You must not breach our Intellectual Property rights by, including but not limited to:
- altering or modifying our Intellectual Property;
 - creating derivative works from the Intellectual Property; or
 - using our Intellectual Property for commercial purposes such as on-sale to third parties.
- 6.4** This clause will survive the termination of these Terms.
- 7. YOUR INTELLECTUAL PROPERTY AND MORAL RIGHTS**
- 7.1** You agree to provide information including any Intellectual Property to us to enable us to provide the Services. You:
- warrant that you have all necessary rights to provide the Intellectual Property to us;
 - grant us a perpetual, non-exclusive, royalty-free, irrevocable, worldwide and transferable licence to use the Intellectual Property in any way we require to provide the Services to you; and
 - consent to any act or omission which would otherwise constitute an infringement of your Moral Rights.
- 7.2** If you (or any employee or agent) have Moral Rights in any Intellectual Property that you provide to us, you:
- irrevocably consent to any amendment of the Intellectual Property for the purposes of us providing Services to you and to our using or applying the Intellectual Property for the purposes of providing Services to you without any attribution of authorship;
 - agree that your consent extends to acts and omissions of any of our licensees and successors in title; and
 - agree that your consent is a genuine consent under the *Copyright Act 1968* (Cth) and has not been induced by duress or any false or misleading statements.
- 7.3** This clause will survive the termination of these Terms.
- 8. CONFIDENTIAL INFORMATION**
- 8.1** We, including our employees and contractors, agree not to disclose your Confidential Information to any third party (other than where necessary, to third party suppliers, or as required by law); to use all reasonable endeavours to protect your Confidential Information from any unauthorised disclosure; and only to use your Confidential Information for the purpose for which it was disclosed by you, and not for any other purpose.
- 8.2** You, including your employees and contractors, agree not to disclose our Confidential Information to any third party; to use all reasonable endeavours to protect our Confidential Information from any unauthorised disclosure; and only to use our Confidential Information for the purpose for which it was disclosed or provided by us to you, to provide better quality Goods to you and not for any other purpose.
- 8.3** These obligations do not apply to Confidential Information that:
- is authorised to be disclosed;
 - is in the public domain and/or is no longer confidential, except as a result of a breach of these Terms;
 - is received from a third party, except where there has been a breach of confidence; or
 - must be disclosed by law or by a regulatory authority including under subpoena.
- 8.4** This clause will survive the termination of these Terms.
- 9. FEEDBACK AND DISPUTE RESOLUTION**
- 9.1** Your feedback is important to us. We seek to resolve your concerns quickly and effectively. If you have any feedback or questions about the Goods, please contact us.
- 9.2** If there is a dispute between the Parties in relation to these Terms, the Parties agree to the following dispute resolution procedure:
- The complainant must tell the respondent in writing, the nature of the dispute, what outcome the complainant wants and what action the complainant thinks will settle the dispute. The Parties agree to meet in good faith to seek to resolve the dispute by agreement between them at an initial meeting.
 - If the Parties cannot agree how to resolve the dispute at that initial meeting, any Party may refer the matter to a mediator. If the Parties cannot agree on who the mediator should be, the complainant will ask the Law Society of New South Wales to appoint a mediator. The mediator will decide the time and place for mediation. The Parties must attend the mediation in good faith, to seek to resolve the dispute.
- 9.3** Any attempts made by the Parties to resolve a dispute pursuant to this clause are without prejudice to other rights or entitlements of the Parties under these Terms, by law or in equity.
- 10. RETENTION OF TITLE**
- 10.1** Title in any Goods we supply to you does not pass to you until they have been paid for in full.
- 10.2** To the extent allowed by law, if you fail to make a due payment, we may enter the site or your premises and take reasonable action to remove the goods without us being liable to you for damage to the site, premises of the goods caused by such removal.
- 11. TERM AND TERMINATION**
- 11.1** Either Party may terminate these Terms if there has been a material breach of these Terms, subject to following the dispute resolution procedure.
- 11.2** We may terminate these Terms immediately, at our sole discretion, if:

- (a) you commit a non-remediable breach of these Terms;
 - (b) you commit a remediable breach of these Terms and do not remedy the breach within a reasonable time after receiving written notice of the breach;
 - (c) we consider that a request for the Goods is inappropriate, improper or unlawful;
 - (d) you fail to provide us with clear or timely instructions to enable us to provide the Goods;
 - (e) we consider that our working relationship has broken down including a loss of confidence and trust;
 - (f) for any other reason outside our control which has the effect of compromising our ability to supply the Goods within the required timeframe; or
 - (g) you fail to pay an invoice by the due date.
- 11.3 On termination of these Terms you agree that any Deposit or payments made are not refundable to you, and you are to pay for all Goods provided prior to termination, including Goods which have been assembled and have not yet been invoiced to you.
- 11.4 On termination of these Terms, you agree to promptly return (where possible), or delete or destroy (where not possible to return), our Confidential Information and Intellectual Property, and/or documents containing or relating to our Confidential Information and/or Intellectual Property.
- 11.5 On termination of these Terms, we agree to promptly return (where possible), or delete or destroy (where not possible to return), your Confidential Information and Intellectual Property, and/or documents containing or relating to your Confidential Information and/or Intellectual Property.
- 11.6 On completion, we will retain your documents (including copies) as required by law or regulatory requirements. Your express or implied agreement to these Terms constitutes your authority for us to retain or destroy documents in accordance with the statutory periods, or on termination of these Terms.
- 11.7 The accrued rights, obligations and remedies of the Parties are not affected by the termination of these Terms.
- 12. CONSUMER LAW, LIMITATION OF LIABILITY AND DISCLAIMERS**
- 12.1 **Service Standard:** We will provide the Goods with due care and skill, the Goods will be fit for the purpose that we advertise, and we will supply the Goods within a reasonable time.
- 12.2 **ACL:** Certain legislation including the Australian Consumer Law (ACL) in the *Competition and Consumer Act 2010* (Cth) and similar consumer protection laws and regulations may confer you with rights, warranties, guarantees and remedies relating to the provision of Goods by us to you which cannot be excluded, restricted or modified (**Statutory Rights**).
- 12.3 **Statutory Rights:** Nothing in these Terms excludes your Statutory Rights as a consumer under the ACL. You agree that our liability for the Goods is governed solely by the ACL and these Terms.
- 12.4 **Warranties:** Except for your Statutory Rights, we exclude all express and implied warranties representations and guarantees and all material and work is provided to you without warranties, representations and guarantees of any kind. For products not manufactured by us, the warranty shall be the current warranty provided by the manufacturer (if any). To the extent permitted by law, we shall be under no liability whatsoever..
- 12.5 **Delay:** Where the provision of Goods depends on your information or response, we have no liability for a failure to supply the Goods, where it is affected by your delay in response or supply of incomplete or incorrect information.
- 12.6 **Referrals:** We may provide you with contact details of third party specialists. This is not a recommendation by us for you to seek their advice or to use their Goods. We make no representation or warranty about the third party advice or provision of Goods, and we disclaim all responsibility and liability for the third party advice or provision of Goods, or their failure to advise or provide Goods.
- 12.7 **Availability:** To the extent permitted by law, we exclude liability for:
- (a) the Goods being unavailable; and
 - (b) any Claims for loss of profits, revenue, production, opportunity, access to markets, goodwill, reputation or any loss or damage relating to business interruption or otherwise, suffered by you or made against you, arising out of or in connection with your inability to access or use the Goods or the late supply of Goods, even if we were expressly advised of the likelihood of such loss or damage.
- 12.8 **Disclaimers:** To the extent permitted by law we disclaim all responsibility and liability for:
- (a) products or services you purchase from a third party;
 - (b) any damage to the Goods in transit organised by you;
 - (c) any delays in delivery of the Goods (all delivery dates are estimates only);
 - (d) any injury caused other than due to our negligent act or omission;
 - (e) any damage caused to the Goods as a result of tampering with the Goods or modification;
 - (f) any damage to the Goods where you have failed to follow the care instructions, in our sole discretion; and
 - (g) any items in the order that are unavailable. If an item is unavailable, we will use our reasonable endeavours to notify you and suggest a replacement item where possible.
- 12.9 **Limitation:** To the extent permitted by law, our total liability arising out of or in connection with the Goods, however arising, including under contract, tort including negligence, in equity, under statute or otherwise, is limited to us re-supplying the Goods to you, or, at our option, us refunding to you the amount you have paid us for the Goods to which your claim relates. Our total liability to you for all damages in connection with the Goods will not exceed the price paid by you under these Terms and pursuant to the Quote for the 12 month period prior to the act which gave rise to the liability, or one hundred dollars (AUD\$100) if no such payments have been made.
- 12.10 This clause will survive the termination of these Terms.
- 13. INDEMNITY**
- 13.1 You are liable for and agree to indemnify, defend and hold us harmless for and against any and all Claims, liabilities, suits, actions and expenses, including costs of litigation and reasonable legal costs, resulting directly or indirectly from:

- (a) any information provided by you that is not accurate, up to date or complete or is misleading or a misrepresentation;
 - (b) your breach of these Terms;
 - (c) any misuse of the Goods by you, your employees, contractors or agents; and
 - (d) your breach of any law or third party rights.
- 13.2 You agree to co-operate with us (at your own expense) in the handling of disputes, complaints, investigations or litigation that arise as a result of your use of the Goods including but not limited to disputes, complaints, investigations or litigation that arises out of or relates to incorrect information you have given us.
- 13.3 This clause will survive the termination of these Terms.
- 14. GENERAL**
- 14.1 **Privacy:** We agree to comply with the legal requirements of the Australian Privacy Principles as set out in the *Privacy Act 1988* (Cth) and any other applicable legislation or privacy guidelines.
- 14.2 **Publicity:** You consent to us stating that we provided Goods to you, including but not limited to mentioning you on our website and in our promotional material.
- 14.3 **Email:** You acknowledge that we are able to send electronic mail to you and receive electronic mail from you. You release us from any claim you may have as a result of any unauthorised copying, recording, reading or interference with that document or information after transmission, for any delay or non-delivery of any document or information and for any damage caused to your system or any files by a transfer.
- 14.4 **GST:** If and when applicable, GST payable on the Fee for the Goods will be set out on our invoices. You agree to pay the GST amount at the same time as you pay the Fee.
- 14.5 **Relationship of Parties:** These Terms are not intended to create a relationship between the Parties of partnership, joint venture, or employer-employee.
- 14.6 **Assignment:** These Terms are personal to the Parties. A Party must not assign or deal with the whole or any part of its rights or obligations under these Terms without the prior written consent of the other Party (such consent not to be unreasonably withheld).
- 14.7 **Severance:** If any provision (or part of it) under these Terms is held to be unenforceable or invalid in any jurisdiction, then it will be interpreted as narrowly as necessary to allow it to be enforceable or valid. If a provision (or part of it) under these Terms cannot be interpreted as narrowly as necessary to allow it to be enforceable or valid, then the provision (or part of it) must be severed from these Terms and the remaining provisions (and remaining part of the provision) of these Terms are valid and enforceable.
- 14.8 **Force Majeure:** We will not be liable for any delay or failure to perform our obligations under these Terms if such delay is due to any circumstance beyond our reasonable control, including any restrictions caused by a global pandemic.
- 14.9 **Notices:** Any notice required or permitted to be given by either Party to the other under these Terms will be in writing addressed to the relevant address in the Quote. Any notice may be sent by standard post or email, and notices will be deemed to have been served on the expiry of 48 hours in the case of post, or at the time of transmission in the case of transmission by email.
- 14.10 **Jurisdiction & Applicable Law:** These terms are governed by the laws of New South Wales and the

Commonwealth of Australia. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts operating in New South Wales.

- 14.11 **Entire Agreement:** These Terms and any document expressly referred to in them represent the entire agreement between the Parties and supersede any prior agreement, understanding or arrangement between the Parties, whether oral or in writing.
- 15. DEFINITIONS**
- 15.1 **Business Day** means a day which is not a Saturday, Sunday or bank or public holiday in New South Wales, Australia.
- 15.2 **Claim/Claims** includes a claim, notice, demand, right, entitlement, action, proceeding, litigation, prosecution, arbitration, investigation, judgment, award, damage, loss, cost, expense or liability however arising, whether present, unascertained, immediate, future or contingent, whether based in contract, tort or statute, whether indirect, incidental, special, consequential and/or incidental, and whether involving a third party or a Party to the Terms or otherwise.
- 15.3 **Confidential Information** includes confidential information about you, your credit card or payment details, and the business, structure, programs, processes, methods, operating procedures, activities, products and Goods, trade secrets, know how, financial, accounting, marketing and technical information, customer and supplier lists (including prospective customer and supplier information), ideas, concepts, technology, and other information of either Party whether or not such information is reduced to a tangible form or marked in writing as "confidential".
- 15.4 **Delivery Fees** set out in the Quote.
- 15.5 **Fees** are set out in the Quote.
- 15.6 **Goods** means any goods or services supplied by us to you.
- 15.7 **GST** means GST as defined in the *A New Tax System (Goods and Goods Tax) Act 1999* (Cth) as amended from time to time or any replacement or other relevant legislation and regulations.
- 15.8 **Intellectual Property** includes any and all present and future rights to intellectual and industrial property throughout the world, and includes all copyright and analogous rights, all rights in relation to inventions (including patent rights), patents, improvements, registered and unregistered trademarks, designs, any corresponding property rights under the laws of any jurisdiction, discoveries, circuit layouts, trade names, trade secrets, secret processes, know-how, concepts, ideas, information, processes, data or formulae, business names, company names or internet domain names, and any Confidential Information.
- 15.9 **Moral Rights** means the right of attribution of authorship, the right not to have authorship falsely attributed and the right of integrity of authorship, as defined in the *Copyright Act 1968* (Cth).
- 15.10 **Party and Parties** means a party or parties to these Terms.
- 15.11 **Purchase Order** means any purchase order provided by you to us for the purchase of goods and services.
- 15.12 **Quote** means the online Quote which these Terms are attached, or any other quote sent by us to you or as agreed in writing between us or as notified by us to you.
- 15.13 **Restocking Fee** as set out in the Quote.
- 15.14 **RMA** means Return merchandise Authorization form, obtainable by contacting us.
- 15.15 **Terms** means these terms and conditions.

Terms & Conditions of Hire

1. Acceptance

- 1.1. These Terms and Conditions states the terms and conditions on which **LAMANS Investments PTY LTD** ABN 5563 000 (trading as Crane Safety Products) will, subject to being available for hire at the commencement of the Hire Period, offer the hire of the Equipment and Labour Personnel to the Customer.
- 1.2. The Customer hereby accepts the hire of the Equipment and Labour Personnel by the company for the Hire Period on the terms and conditions of these Terms and Conditions.
- 1.3. Unless a formal written agreement has been executed by Company and the Hirer to govern the hire of the Equipment and Labour Personnel, these Terms and Conditions will be the sole authority for governing the Customer's hire of the Equipment and Labour Personnel to the exclusion of all others.

2. Hire of equipment and Labour

- 2.1. Subject to being available the hiring of the Equipment will commence from the commencement date specified in the Schedule and continue for the term specified in the Schedule.
- 2.2. The Hirer is entitled to use the Equipment for the hire period as outlined in the Schedule ("Hire Period") and for any agreed extension of the period.
- 2.3. The Hirer agrees to return the Equipment to the address of the Company on or before the end of the Hire Period as outlined in the Schedule
- 2.4. The Company will not refund any hire fee monies if the Hirer elects to return the Equipment prior to the end of the Hire Period, regardless of reason.
- 2.5. In the event that the Hire Period terminates at any time:
 - a) during the Minimum Hire Period, the Customer must pay all remaining Hire Charges for full Minimum Hire Period; or
 - b) after the Minimum Hire Period, the minimum charge will be calculated on a pro rata basis or quoted rate.
 - c) Where the hire charges are expressed on a periodic basis (for instance, hourly, daily, weekly and monthly), the hire charges shall be payable for each period of hire. Where the hire is broken, the hire charges will be calculated on a pro rata basis.
- 2.6. In the event that the Company replaces the Equipment during the Hire Period, the Hire Period will be deemed unbroken as though the replacement equipment was the original Equipment.
- 2.7. Unless otherwise agreed in writing between the parties, the Hire Period will commence when the Labour Personnel or third party leaves the Originating Location with the Equipment and will cease when the Labour Personnel or third party, returns to the Receiving Location with the Equipment.

3. Mobilisation and demobilisation

- 3.1. Where the Company quotes Mobilisation and Demobilisation charges to the Customer, the Customer must pay to the Company all charges, costs and expenses associated with the Mobilisation and Demobilisation of the Equipment and Labour Personnel.
- 3.2. Where the Company quotes Mobilisation and Demobilisation charges to the Customer, unless expressly stated to be otherwise, the Customer acknowledges and agrees that the charges are

based on trucks and trailers being unloaded and loaded (as the case may be) within a very strict timeframe as specified in the relevant quotation. Where there are delays outside the control of the Company in unloading or loading, the Customer must pay to the Company any additional costs incurred the Company for every subsequent hour or part thereof.

- 3.3. The Company will not be liable to the Customer for any late delivery, non-delivery, failure or delay in commencement of the Hire, pick up or any Loss or damage occasioned to the Customer for such late delivery, non-delivery, failure or delay in commencement of the Hire.

4. Minimum hire periods

- 4.1. The Customer acknowledges and agrees that the Hire Charges for the Hire is the minimum charge and is based on work being performed during ordinary working hours (07:00-15:30 Monday to Sunday) unless otherwise expressly stated.
- 4.2. Unless a higher Minimum Hire Period is specified to be otherwise in any purchase order or quotation, the Customer further acknowledges and agrees that:
 - a) any Hire that commences during ordinary working hours (07:00-15:30 Monday to Sunday), will attract a Minimum Hire Period of two (2) days for the Equipment and eight (8) hours for the Labour Personnel; and
 - b) any work performed during the night shift (15:30-07:00 Monday to Sunday) will attract a Minimum Hire Period of two (2) days for the Equipment and eight (8) hours for the Labour Personnel.

5. Stand down

- 5.1. The Customer hereby expressly agrees that, in the event of equipment being cancelled or stood down due to inclement weather, operational constraints or an industrial dispute involving the Customer or the Site or any other Customer delay, then the Customer must provide instruction to the Company with a minimum of 24 hours to confirm whether or not work will be performed at the Site on scheduled date or as planned.
- 5.2. If the Customer fails to advise The Company of the stand down and the Equipment is mobilised and the Labour Personnel arrive and/or report for work on the Site and subsequently no work is performed, then the Customer shall compensate the Company for the Hire Charges and labour for the full Minimum Hire Period minimum of two (2) days for the Equipment and eight (8) hours for the Labour Personnel.
- 5.3. The Customer hereby expressly agrees that, in the event of any delays, standby time or breakdowns not involving the company during the hours (07:00-15:30 Monday to Sunday), will attract a Minimum charge of four (4) hours and (15:30-07:00 Monday to Sunday) will attract a Minimum charge of eight (8) hours.

6. Payment for hire

- 6.1. The Hirer agrees to pay the Company the hire fee specified in the Schedule ("Hire Fee") for the Equipment for the Hire Period, which includes any applicable GST.
- 6.2. Where the Hirer does not hold an account with LAMANS Investments Pty Ltd the Hire Fee must be paid to the Company prior to or on the commencement date of the Hire Period.
- 6.3. Account holders with LAMANS Investments Pty Ltd must also abide by the terms and conditions set out in the most recent terms and conditions. Where the Hire

Charges are expressed on a periodic basis (for instance, hourly, daily, weekly and monthly), the Hire Charges shall be payable for each completed period of Hire. Where a period of Hire is broken, the Hire Charges will be calculated on a pro rata basis.

- 6.4. The Customer must pay to the Company the Hire Charges together with all other amounts referred to in these Terms and Conditions including (but not limited to):
- a) the charges for Mobilisation and Demobilisation and for any delay in accordance with clause 3;
 - b) the cost of any additional services specifically excluded from the quoted rates and charges under clause 6.6, plus a ten (10) per cent margin for administration costs;
 - c) the cost of repairing or replacing any of the Equipment which is beyond repair due to any negligent or wilful act or omission by the Customer;
 - d) the costs incurred by the Company to ensure the Equipment and Labour Personnel meet all Site requirements, including but not limited to safety modifications, medicals, training and inductions, plus a ten (10) per cent margin for administration costs;
 - e) all government charges and taxes relating to these Terms and Conditions or the payments to be made under it, including stamp duty, financial institutions duty and GST; and
 - f) costs and expenses incurred in the exercise or attempted exercise by the Company of the Companies rights under these Terms and Conditions, including collection agency fees (if permissible) and legal fees (calculated on a solicitor and own client basis).
- 6.5. Unless expressly stated to be otherwise in these Terms and Conditions, the Customer acknowledges and agrees that quoted rates and charges do not include costs associated with any of the following:
- a) lifting gear below the hook (including but not limited to slings, specialist spreader bars, man boxes);
 - b) change in conditions at the Site (including but not limited to where conditions are deemed operationally unsafe by the Companies employees or contractors;
- 7. Use, operation and maintenance**
- 7.1. The Hirer agrees that the use of the Equipment carries with it dangers and risks of injury and the Hirer agrees to accept all dangers and risks
- 7.2. The Equipment must not be used by anyone other than the Hirer. The Hirer will use the Equipment in a good and careful manner and will comply with all of the manufacturer's requirements and recommendations, respecting the Equipment and with any applicable law, whether local, state or federal respecting the use of the Equipment, including, but not limited to, environmental and copyright law.
- 7.3. The Hirer will use the Equipment for the purpose for which it was designed and not for any other purpose.
- 7.4. The Hirer agrees to comply with all occupational health and safety laws relating to the use of the Equipment and related operations.
- 7.5. The Hirer must ensure the Equipment is returned to the Company thoroughly cleaned. In the event that the Equipment is not thoroughly clean when returned to the Company, the Hirer will pay the Company the reasonable costs for cleaning the Equipment.
- 7.6. Unless the Hirer obtains the prior written consent of the Company, the Hirer must not alter, modify or attach anything to the Equipment unless the

alteration, modification or attachment is easily removable without damaging the functional capabilities or economic value of the Equipment.

8. Hirers warranties

The Hirer warrants that:

- 8.1. The Equipment will be used in accordance with the conditions outlined in the Schedule;
- 8.2. The particulars in the Schedule are correct in every respect and are not misleading in any way including, without limitation, by omission.
- 8.3. The particulars in the Schedule are correct in every respect and are not misleading in any way including, without limitation, by omission.
- 8.4. The Hirer holds a valid current driver's licence, operating licence or permit valid for the type of Equipment hired;
- 8.5. The Equipment will not be used for any illegal purpose;
- 8.6. The Hirer will not, without prior written consent of the Company, modify, or permit any modification of, the Equipment in any way; remodification fees apply
- 8.7. The Hirer agrees that the Equipment complies with its description, is in merchantable condition and is fit for the Hirer's purpose; and
- 8.8. The Hirer will not encumber the Equipment or allow the Equipment to be encumbered or pledge the Equipment as security in any manner.

9. Completion of the Hire Period

- 9.1. The Hire Period is completed when the Equipment has been returned to the Company;
- 9.2. in the same condition as when it was hired; and
- 9.3. on or by the date and time outlined in the Schedule.

10. The hirers responsibility

- 10.1. It is the hirer responsibility to ensure that the equipment is used by a suitably trained and competent operator.
- 10.2. The Hirer must always operate the equipment within the limitations documented both by Crane Safety Products and the specifications and capabilities set out by the manufacturer.
- 10.3. If the Hired equipment fails or breaks down out of negligence or misuse the equipment by the hirer the hire charges will not cease until all repairs or replacement parts have been paid for in full.
- 10.4. The Hirer shall return all equipment in a clean and tidy manner in which it was supplied to the customer on commencement of the hire contract. Failure to do so may attract an additional cleaning fee \$300
- 10.5. The Hirer shall only use the equipment in such manner that it was manufactured for.
- 10.6. The hirer shall not operate use or permit equipment in a way that may be deemed by the Company in an unsafe manner that may cause injury or harm to any other persons.
- 10.7. Any specialised shipping, storage boxes or equipment protective cases that are supplied during must be returned by the hirer on cessation of hire period, replacement charges will apply.
- 10.8. The hirer shall use operate and possess the equipment at the hirers risk and the Company shall not be liable to the hirer (except to the extent that liability cannot, by law, be excluded) for or in respect of any loss or damage whatsoever caused to the hirer, it Directors, Employees, Contractors, Subcontractors or Agents whether by way of personal injury, delay , financial loss or otherwise arising from or incidental to a breakdown or defect in or any accident to the equipment and the Hirer shall indemnify the Company, Its Directors and members jointly and keep them indemnified to the

full extent permitted by law from and against all actions, proceedings, claims and demands by any person whatsoever whether in respect to damage to property, injury to persons or otherwise arising out of or alleged to arise out of a broken or defect or any accident to or in the respect of the equipment or the use thereof.

11. Repossession

11.1. The Company may retake possession of the Equipment if the Hirer breaches any provision of this Agreement, notwithstanding anything else contained in this Agreement.

11.2. If repossession occurs, the Company will only charge the Hire Fee up to and including the time of repossession.

12. Moderation, loss, damage or breakdown of Equipment

12.1. The Hirer will be responsible for any loss or damage to the Equipment irrespective of how the loss or damage occurred (normal wear and tear excepted) during the Hire Period.

12.2. If there is a breakdown or failure of the Equipment, then the Hirer must return the Equipment to the Company at the Hirer's expense and the Hirer must not attempt to repair the Equipment.

12.3. The Hirer must not under any circumstances modify any of the hired Equipment in any way, Rectification charges apply.

13. Indemnity

13.1. The Hirer will indemnify and hold harmless the Company against any and all claims,

13.2. actions, suits, proceedings, costs, expenses, damages and liabilities, including attorney's.

13.3. fees and costs, arising out of or related to the Hirer's use of the Equipment.

14. Insurance

The Company will maintain current insurance policies in respect of the Equipment to its full insurable value.

15. Limitation of liability

15.1. To the extent permitted by law:

a) all guarantees, terms, conditions, warranties, representations, undertakings, express or implied, statutory or otherwise, relating to these Terms and Conditions are excluded;

b) where any legislation implies or imposes a guarantee, term, condition, warranty, undertaking, inducement or representation in relation to these Terms and Conditions, the Company liability is limited (at the Companies election) to:

(i) in the case of goods, the repair or replacement of the goods or the supply of substitute goods (or the cost of doing so); or

(ii) in the case of services, the supplying of the services again, or the payment of the cost of having the services supplied again.

15.2. Each party's maximum aggregate liability for all claims under or relating to these Terms and Conditions is limited to an amount equal to the market value of the Equipment provided to the Customer under these Terms and Conditions.

15.3. Subject to the Customer's statutory rights, the Company is not liable to the Customer for any loss, damage, costs, expenses, damages or any other liabilities resulting from:

a) any breakdown or any other failure of the Equipment; any loss or damage which is

b) suffered or incurred by the Customer resulting from any piece of Equipment not being operational due to repairs, servicing and maintenance; or

c) any failure or delay in the provision of the Hire, if such failure or delay is due to inclement weather, natural disasters, strike, lock-out, or other industrial or transportation disturbances, law, regulation or ordinance, or any causes reasonably beyond the control of the company.

15.4. Without limiting the foregoing and to the maximum extent permitted by law, neither party shall be liable for any indirect, special, incidental or consequential damage, or loss of profits or loss of earnings, suffered by the other party or any other person and each party releases and indemnifies the other party from any such claim.

15.5. The Hirer will assume all risks and liabilities for and in respect of the Equipment and for all injuries to or deaths of persons and any damage to property howsoever arising from the Hirer's possession, use, maintenance, repair or storage of the Equipment.

16. Equipment lost, stolen, damaged

16.1. If the Equipment is damaged, faulty or unsafe the Company may, in its discretion:

a) repair or remove the Equipment; and
b) offer a replacement piece of Equipment which will be hired by the Customer on the same Terms and Conditions as if the replacement piece of Equipment were originally hired by the Customer under these Terms and Conditions

16.2. If the Equipment is lost, stolen or otherwise damaged as a result of poor Site security during the Hire Period or the Customer's negligent or wilful acts or omissions, the Customer will be liable for:

a) any costs incurred by the Company to recover and repair or replace the Equipment; and
b) Hire Charge for that portion of the Hire Period during which the Equipment is being recovered and repaired or replaced.

17. Termination

17.1. These terms Conditions may be terminated by either Party:

17.2. immediately where a Party breaches a term of these Terms and Conditions and fails to remedy that breach within seven (7) days of notification of breach by the other Party;

a) immediately if a Party engages in conduct which would enable a court to make an order against it for winding-up (if a company) or grant a creditor's petition (if an individual), or be wound-up, or go into voluntary administration, or if a liquidator or receiver or administrator of its assets or any of them is appointed, or if any court order or process is made against it in relation to any of its assets or it is ceased to carry on business; or

b) immediately if a Party commits any material breach of these Terms and Conditions.

17.3. On breach of these Terms and Conditions by the Customer or termination of these Terms and Conditions or on expiration of the Hire Period, the Company may take all steps necessary to recover the Equipment including entry to the premises where the Equipment is located. The Customer expressly consents to the company entering such premises for the purpose of recovering the Equipment pursuant to this clause.

17.4. Upon termination of these Terms and Conditions by the Company in accordance with clause

17.5. and where termination occurs during the Minimum Hire Period, the Customer must pay all remaining

Hire Charges for full Minimum Hire Period unless otherwise agreed in writing by the Company.

- 17.6. On termination of these Terms and Conditions for any reason whatsoever should the Company be unable to gain access to the Equipment for any reason, the Hire Period will continue at the agreed Hire Charges (excluding costs of labour) until access to the Equipment is available to the Company.

18. Notice

Any notice, demand, termination procedure or other communication relating to these Terms and Conditions must be either personally served on a Party, left at the Party's current address or sent to a Party's current address by pre-paid ordinary mail, or by email to the Party's current email for service.

19. Disclaimer

19.1. To the extent permitted by law the Company disclaims all liability for and does not give any warranties to the Hirer as to the condition of the Equipment.

19.2. Hirer acknowledges that the Company retains title to the Equipment and that the Hirer has rights to use the Equipment as a mere bailee only. The Hirer does not have any right to pledge the Companies credit in connection with the Equipment and agrees not to do so.

19.3. The Hirer agrees not to agree, offer or purport to sell, assign, sub-let, lend, pledge, mortgage let or hire or otherwise part with or attempt to part with personal possession or otherwise not to deal with the Equipment and not to conceal or alter the Equipment or make any addition or alteration to, or repair of, the Equipment.

20. Default

20.1. The occurrence of any one or more of the following events will constitute an event of default ("Event of Default") under this Agreement:

20.2. The Hirer fails to pay any amount provided for in this Agreement when such amount is due or otherwise breaches the Hirer's obligations under this Agreement.

20.3. The Hirer becomes insolvent or makes an assignment of rights or property for the benefit of creditors or files for or has bankruptcy proceedings instituted against it under the bankruptcy law of Australia or another competent jurisdiction.

20.4. A writ of attachment or execution is levied on the Equipment and is not released or satisfied within 10 days.

21. Remedies

21.1. On the occurrence of an Event of Default, the Company will be entitled to pursue anyone or more of the following remedies ("Remedies"):

21.2. Declare the entire amount of the Rent for the Term immediately due and payable without notice or demand to the Hirer.

21.3. Commence legal proceedings to recover the Rent and other obligations accrued before and after the Event of Default.

21.4. Take possession of the Equipment, without demand or notice, wherever same may be located, without any court order or other process of law. The Hirer waives any and all damage occasioned by such taking of possession.

21.5. Terminate this Agreement immediately upon written notice to the Hirer.

21.6. Pursue any other remedy available in law or equity.

22. Non-merger

The covenants, agreements and obligations contained in this Agreement will not merge or

terminate upon the termination of this Agreement and to the extent that they have not been fulfilled or satisfied or are continuing obligations they will remain in force and effect.

23. Severance

If any provision of this Agreement is wholly or partly invalid, unenforceable, illegal, void or voidable, this Agreement must be construed as if that provision or part of a provision had been severed from this Agreement and the parties remain bound by all of the provisions and part provisions remaining after severance.

24. General

24.1. The parties will promptly do and perform all further acts and execute and deliver all further documents required by law or reasonably requested by any other Party to carry out and effect the intent and purpose of these Terms and Conditions.

24.2. These Terms and Conditions shall be governed and construed in accordance with the laws of the State of New South Wales and any proceedings with respect of any matter of things against these Terms and Conditions shall be instituted or carried on in the State of New South Wales only.

24.3. Neither Party will be responsible for any act or thing due to an event the cause of which is beyond that Party's control.

24.4. Any variation of or to these Terms and Conditions which form part of an agreement will not have any effect whatsoever unless such variation is agreed in writing by LCR Group and the Customer.

24.5. Failure of a Party to exercise any or all of its rights or powers under these Terms and Condition sat any time and for any period of time shall not constitute a waiver of any of that Party's rights or powers arising pursuant to these Terms and Conditions.

24.6. The terms and conditions listed in these Terms and Conditions shall apply equally and fully to any replacement or substituted Equipment or Labour Personnel supplied during the Hire Period.

24.7. These Terms and Conditions may be executed in any number of counterparts, all of which taken together constitute one and the same document.

24.8. The parties agree that these Terms and Conditions can be assigned by either party with the prior written consent of the other party which shall not be unreasonably withheld.

24.9. By agreeing to these terms and conditions the customer also agrees to the LAMANS Investments PTY LTD General Terms & Conditions.

25. Interpretation

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

25.1. no rule of construction applies to the disadvantage of a party on the basis that the party put forward these Terms and Conditions or any part of it;

25.2. In this document, unless the contrary intention appears:

25.3. **Company** means LAMANS INVESTMENTS PTY LTD Trading as Crane Safety Products (ABN 5563000 1348) and includes its officers, employees, agents, suppliers or any subcontractors and their employees and any permitted assigns;

25.4. **Customer or Hirer** means any person, organisation, business, company or body corporate who requests the Hire from LAMANS Investments PTY LTD together with any subsidiary or associated company as defined by the *Corporations Act 2001* (Cth) and

- with whom LAMANS Investments PTY LTD contract and includes its officers, employees, servants, agents, contractors or sub-contractors and their employees;
- 25.5. **Demobilisation** in the case of the Equipment, means the transportation of the Equipment from the Site to the Receiving Location; and in the case of the Labour Personnel, means the disengagement and return of the Labour Personnel from the Site;
- 25.6. **Equipment** includes but is not limited to any item of plant, equipment, machinery or vehicle; any tools, accessories, parts items of equipment and devices affixed to or supplied with such plant, equipment, machinery or vehicle; and the means to transport the Equipment or any replacement therefore provided by LAMANS Investments PTY LTD to the Customer during the Hire Period;
- 25.7. **Goods** means any goods or service provided by LAMANS Investments PTY LTD. **GST** means any tax imposed by or through the GST Law on a supply (without regard to any input tax credit) including, where relevant, any related interest, penalties, fines or other charges to the extent they relate to a supply under these Terms and Conditions;
- 25.8. **GST Law** means *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
- 25.9. **Hire** means the hire of the Equipment and Labour Personnel to the Customer under these Terms and Conditions;
- 25.10. **Hire Charges** means the rates and charges that are payable by the Customer to LAMANS Investments PTY LTD for the hire of the Equipment and Labour Personnel under the terms of these Terms and Conditions;
- 25.11. **Hire commencement** 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.
- 25.12. **Hire Period** means the Minimum Hire Period for the hire of the Equipment and Labour Personnel as set out in clause 4 herein and includes any further periods where the Equipment and Labour Personnel are on hire to the Customer up until the completion of the Hire or termination in accordance with these Terms and Conditions, whichever is the earlier;
- 25.13. **Hire Agreement** this completed conditions of Hire Agreement form constitute the entire agreement between LAMANS Investments PTY LTD and hirer/customer.
- 25.14. **Labour Personnel** means any operator of the Equipment, or any other personnel supplied by LAMANS Investments PTY LTD to the Customer under these Terms and Conditions;
- 25.15. **Liability** means any liability (whether actual, contingent or prospective), including for any Loss irrespective of when the acts, events or things giving rise to the liability occurred;
- 25.16. **Loss** means all damage, loss, cost, and expense (including legal costs and expenses of whatsoever nature or description) howsoever arising including in contract, tort (including negligence), indemnity or under statute;
- 25.17. **Minimum Hire Period** means the minimum period for which the Equipment and Labour Personnel may be hired by the Customer as set out in these Terms and Conditions;
- 25.18. **Mobilisation** in the case of the Equipment, means the loading of the Equipment onto its means of transport at the Originating Location and the transportation from the Originating Location to the Site; and in the case of the Labour Personnel, means the deployment of the Labour Personnel to the Site;
- 25.19. **Originating Location** means, immediately prior to the Hire, the nominated place from which the Equipment will be mobilised to the Site, and if no location is nominated means LAMANS Investments PTY LTD usual storage facility;
- 25.20. **Off Hire** means moment the charges cease according to the Company.
- 25.21. **Party** means a party to these Terms and Conditions;
- 25.22. **Receiving Location** means, immediately after the hire of the Equipment, the nominated place from which the Equipment will be demobilised from the Site, and if no location is nominated means LAMANS Investments PTY LTD usual storage facility;
- 25.23. **Site** means the land or workplace at which the Equipment and Labour Personnel will operate and be utilised and any other land and /or workplaces made available to LAMANS Investments PTY LTD by the Customer for the purposes of the Hire; and
- 25.24. **Terms and Conditions** means these Terms and Conditions of Wet Hire which give effect to the hire by LAMANS Investments PTY LTD and includes any other terms and conditions contained in any quotation or any other document incorporated by reference herein. In the event of any inconsistency, the terms of any quotation to which these Terms and Conditions of Wet Hire are attached shall take precedence.
26. **Interpretation**
In these Terms and Conditions, unless the context indicates a contrary intention:
- 26.1. no rule of construction applies to the disadvantage of a party on the basis that the party put forward these Terms and Conditions or any part of it;
- 26.2. words denoting the singular number include the plural and vice versa;
- 26.3. A reference to an individual will include corporations and vice versa; and
- 26.4. a reference to any Party to these Terms and Conditions includes their executors, administrators, successors and permitted assigns including any person taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- 26.5. Headings are for convenience only and do not affect interpretation
- 26.6. these Terms and Conditions will, if the Customer or hirer comprises more than one person, bind such persons jointly and severally;
- 26.7. references to clause and sub-clauses are references to clauses and sub-clauses in these Terms and Conditions;
- 26.8. where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- 26.9. the word includes in any form is not a word of limitation; and a reference to these Terms and Conditions includes any subsequent variation of these Terms and conditions.