

**Dad and Jerry's Family trust ABN 95524256681 (TRADING AS "Dad and Jerry's Mower Mart")**

**HIRE TERMS AND CONDITIONS**

**1 DEFINITIONS**

"Dad and Jerry's" means Dad and Jerry's Family trust ABN 95524256681 trading as "Dad and Jerry's Mower Mart"

"Contract Invoice" means the contract invoice on the reverse of this page.

"Customer" means the customer named in the Contract Invoice.

"Fee" means the fee for the hire of the Hire Equipment as set out in the Contract Invoice plus any GST.

"GST" means GST within the meaning of the A New Tax System (Goods and Services Tax) Act 1999.

"Hire Equipment" means the hire equipment described in the Contract Invoice.

"Hire Period" means the period as set out in the Contract Invoice or as extended by agreement pursuant to clause 3.2.

"Location" means the address of Dad and Jerry's identified at the top of the Contract Invoice.

"Terms and Conditions" means these hire terms and conditions.

**2 GENERAL**

These Terms and Conditions and the Contract Invoice constitute the entire agreement between the parties with respect to the Hire Equipment.

**3 HIRE PERIOD**

3.1 Notwithstanding any other provision of the agreement between the parties with respect to the Hire Equipment, the Hire Period may be terminated in accordance with clause 12.

3.2 The Hire Period may be extended by agreement between Dad and Jerry's and the Customer subject to payment of such additional fees as may be agreed by Dad and Jerry's and the Customer.

**4 DAD AND JERRY'S OBLIGATIONS**

Dad and Jerry's agrees to:

4.1 provide the Hire Equipment to the Customer in a clean condition and in good repair and working order;

4.2 re-supply or repair the Hire Equipment if it fails to operate properly; and

4.3 collect the Hire Equipment from the Customer within 3 days of being requested to do so if Dad and Jerry's has agreed to collect it from the Customer.

**5 CUSTOMER'S OBLIGATIONS**

The Customer agrees to:

5.1 satisfy itself that the Hire Equipment is suitable for the purpose for which it is hired;

5.2 operate the Hire Equipment only for its intended use;

5.3 comply with all manufacturer's instructions and recommendations relating to the use of the Hire Equipment;

5.4 ensure that all persons operating the Hire Equipment are properly instructed in its safe and proper use;

5.5 comply with all laws relating to the use of the Hire Equipment, including, but not limited to, holding at all times any operating licence or permit required by law to operate the Hire Equipment;

5.6 supply, at its own expense, all fuel necessary for the operation of the Hire Equipment;

5.7 notify Dad and Jerry's immediately in the event that the Hire equipment is lost, stolen or involved in an accident;

5.8 return the Hire Equipment to the Location on or before the last date of the Hire Period unless otherwise agreed; and

5.9 return the Hire Equipment in a clean condition and in good repair and working order.

## **6 PAYMENT**

6.1 The Customer agrees to pay Dad and Jerry's the Fee for the Hire Equipment for the Period plus any GST.

6.2 The Fee must be paid to Dad and Jerry's prior to or on the commencement of the Hire Period.

6.3 Any late return of the Hire Equipment will incur the late return charges referred to on the Contract Invoice.

6.5 Subject to clause 8.1, if the Customer fails, for any reason including, but not

limited to, loss or theft, to return the Hire Equipment, then the Customer must pay the new list price for equipment to replace the Hire Equipment.

## **7 DAMAGE TO HIRE EQUIPMENT**

7.1 In the event of loss or damage to the Hire Equipment the Customer will pay to Dad and Jerry's the lesser of either the cost of repairs or replacement of the Hire Equipment at the new list price.

7.2 For the purpose of clause 7.1 all repairs damaged hire equipment will be carried out by Dad and Jerry's at standard workshop rates

## **8. USE, OPERATION AND MAINTENANCE**

8.1 The Customer agrees that the use of the Hire Equipment carries with it dangers and risks of injury and the Customer agrees to accept all such dangers and risks.

8.2 To the full extent permitted by law, all warranties and conditions relating to the hire of the Hire Equipment are excluded from the agreement between Dad and Jerry's and the Customer.

8.3 The Hire Equipment must not be used by anyone other than the Customer without the express permission of Dad and Jerry's and the Customer must not tamper with the Hire equipment.

8.4 If there is a breakdown or failure of the Hire Equipment the Customer shall notify Dad and Jerry's immediately.

## **9 CLEANING**

Cleaning of Mud & Dirt accumulated in the usual use of the machine is included in the hire price.

Equipment returned with concrete, paint, render and all other substances that cannot be removed easily with a water blaster; Dad and Jerry's may, in its discretion, charge the Customer for all costs of returning the Hire Equipment to its original condition.

## **10 LIABILITY AND INDEMNITY**

10.1 The Customer assumes all risks and liabilities in relation to the Hire Equipment.

10.2 To the full extent permitted by law, the Customer releases and indemnifies Dad and Jerry's from and in respect of all claims and demands for any direct, indirect, incidental or consequential loss, injury or damage to persons or property howsoever caused arising out of or consequent on the use or misuse of the Hire Equipment.

## **11 TITLE TO EQUIPMENT**

11.1 The Customer acknowledges that Dad and Jerry's retains title to the Hire Equipment and that the Customer has rights to use the Hire Equipment as a mere bailee only.

11.2 The Customer agrees not to sell, assign, let, sub-let, lend, pledge, mortgage, hire or otherwise encumber, part with possession of, alter, attempt to repair or deal with the Hire Equipment unless otherwise agreed with Dad and Jerry's.

## **12 TERMINATION**

12.1 Dad and Jerry's may terminate the Contract Invoice and repossess the Hire Equipment if:

(a) the Customer fails to pay the Fee or any additional fees;

(b) the Customer breaches the Terms and Conditions or the Contract Invoice; or

(c) the Customer commits any act of bankruptcy, becomes insolvent in the opinion of Dad and Jerry's, enters into any arrangement with its creditors or, where the Customer is a company, enters into liquidation or is wound up.

12.2 In the event of termination pursuant to clause 12.1, Dad and Jerry's will have an immediate right to possession of the Hire Equipment and payment of any amounts owed by the Customer including any costs or expenses incurred by Dad and Jerry's in respect of the termination.

## **13 GOVERNING LAW**

These Terms and Conditions and the Contract Invoice are governed by the laws of South Australia and each party submits to the exclusive jurisdiction of the Court of that state