

CANDO BUILDING SERVICES PTY LTD - CONDITIONS OF HIRE



CanDo Building Services Pty Ltd
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ABN: 94 933 290 817

1. The hire charges will be as quoted either for an individual job or standard quoted rates supplied to preferred clients.
2. The hire period will commence on the day after the equipment is erected and ready for use and shall continue until and including the day that it is removed from the site or put off hire as agreed between the parties. Should any dispute arise over the hire term, the dates entered on the 'CanDo Job Sheet' shall be accepted by the parties as a correct record.
3. In these conditions '**Owner**' means the owner and its' assigns and '**Hirer**' means the hirer and his permitted assigns' and legal personal representatives.
4. If the Hirer shall make default in punctual payment of any moneys payable hereunder, or fail to observe and perform The terms and conditions hereof or become bankrupt or insolvent, or enter into Deed of Arrangement or composition with his creditors or suffer execution to be issued against him or being a Company go into liquidation either voluntarily or compulsorily, the hiring shall forthwith terminate at the option of the Owner, and all monies previously paid shall be forfeited to the Owner, and it shall be lawful for the Owner to take possession of the said equipment and for that purpose to enter into or upon any premises where the same may be, and termination of the hiring under the clause shall not affect the right of the Owner to recover from the Hirer any moneys payable hereunder, or damages for breach of these conditions.
5. The Hirer will not sell, assign, mortgage, pledge, underlet, lend or otherwise deal with any of the equipment, or part with The possession of the same or any part thereof or remove the equipment or any part thereof from the site where the same is initially erected without prior written consent of the Owner.
6. Except as provided in **Clause 7**, the Hirer shall assume all risk of loss, damage or injury to person or property by reason of the condition of the equipment or the use, management, control or operation thereof and the Hirer releases the Owner from the agrees to indemnify and save harmless the Owner against all claims for such loss, damage or injury sustained by the Hirer or any agent or employee of the Hirer, or by any person or persons whatsoever, whether caused by negligence of the Owner, its agents or employees, or otherwise.
7. To the extent which Commonwealth State and Territorial laws permit, all conditions terms and warranties which are not expressly contained in his Agreement is hereby excluded. The Owner's liability under any conditions and warranties implied by such laws shall be limited to the cost of re-supplying equivalent equipment for the same period as the period of hire of the equipment described in this Agreement including any erection by the Owner provided for in this Agreement and the Hirer **shall not** be entitled to make any claim for loss of profit, consequential damage or loss to any property or injury to any person arising from the breach of any of the said implied conditions and warranties.
8. Where erection is effected by the Owner, the Owner warrants that the same will be carried out in accordance with the requirements of law but it will be the Hirer's responsibility to ensure that its use of the equipment is carried out in accordance within the requirements of the law.
9. Where erection is to be affected by the Owner, the Hirer shall ensure that the site is cleared and ready for the erection of the equipment before the Owner is asked to start erection and that the foundation upon which the Owner is asked to start erection and that the foundations upon which the Owner is to erect is sufficiently firm and otherwise suitable safely to carry the load to put upon it without it subsidence and the Hirer is liable to the Owner for any loss, costs or damages which the Owner may suffer or incur by reason of the Hirer's failure to carry out his obligations hereunder.

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- 10.** The Hirer shall be responsible for giving local or other authorities any necessary notice of his intention to erect a scaffold and shall pay all fees in connection therewith and the Hirer shall also be responsible for obtaining and keeping in force any necessary permit for the use of the equipment and in particular, but without limiting the generality of the foregoing, if the erection is carried out by the Hirer, and Hirer is responsible for ensuring that erection is effected by a person or persons duly qualified by law for such purpose.
- 11.** The Hirer shall use the equipment in a skilful and proper manner and shall keep it in good and substantial repair And condition, reasonable wear and tear expected. Any equipment lost or damaged from any cause whatsoever (other than reasonable wear and tear) until the equipment is collected by the Owner after the expiration of the hiring will be paid for by the Hirer in accordance with the Owner's then current retail price list for such equipment. If lost equipment is subsequently found and returned to the Owner in good order and condition, the Owner will allow a refund of any payment made by the Hirer under this clause, less hiring charges, for the said equipment up to the date of its return.
- 12.** The Hirer shall not allow any plates or marks affixed to the equipment (whether in position at the time of the commencement of The hiring or subsequently affixed thereto by the Owner during the period of hiring) to be damaged, obliterated, defaced or covered up.
- 13.** No waiver by any party of the breach or non-performance of any term, condition or obligation under this agreement shall be a waiver of any subsequent breach of or failure to perform the same or any other term, condition or obligation. Where the Hirer is more than one person, every Agreement herein by the Hirer shall bind such persons whether two or a greater number of them and their respective legal personal representatives jointly and each of them severally.
- 14.** The Owner shall have the right to at all times, to inspect any of the equipment and for such purpose to enter upon the site where the equipment is erected, and the Hirer agrees to indemnify the Owner in respect of any claim made upon the Hirer by any third party, as a result of the Owner, exercising its rights to such entry. The Owner shall also have a right of entry in accordance with its clause for the purpose of removing the equipment after the termination of the period of that hiring or earlier as herein before authorised.
- 15.** The Hirer shall not erect any of the equipment or affix it to any land or buildings in such a manner as to make it a fixture forming part of any freehold.
- 16.** Any officer, employee or agent of the Hirer who orders the hire in connection with the delivery or the erection of the equipment purportedly on behalf of the Hirer may be taken by the Owner as having full authority to so order on behalf of the Hirer and the Hirer shall not repudiate such authority. Where such hire is contracted on behalf of any corporation or alleged corporation, the person so ordering warrants the Owner that he has full authority to do so and such person shall be personally liable under the provisions hereof should such corporation deny it is the Hirer of the equipment or if such corporation shall not in fact exist.
- 17.** Any Stamp Duty or other tax or duty (other than Income Tax or any tax which the Owner is not legally entitled to make the Hirer pay) which may become payable in connection with the agreement or the hiring hereby effected or the use thereof by the Hirer or any document which is deemed or assumed by law to constitute an Agreement requiring stamping or payment of such tax or duty shall be forthwith paid by the Hirer.
- 18.** The Hirer shall not alter, amend, remove or interfere with the equipment in any way whatsoever, during the term of hire. If the Hirer alters, amends or removes any part of the equipment, they shall be liable for any additional costs involved by the Owner in the making good or removal of the equipment.
- 19.** CanDo Building Services Pty Ltd is a supplier of services and not a subcontractor to any Building Contract between any other parties. As such CanDo Building Services Pty Ltd are not liable for any liquidated damages or any apportionment thereof due to delays on any project that hire services have been contracted as Cando Building Services Pty Ltd has no control over the critical path planning and organisation of any building project.