

INTERTECH ENGINEERING PTY LTD

HIRE AGREEMENT

1. Definitions

In these conditions:

"Conditions" means these terms and conditions of Hire;

"Commencement Date" means the date of this Agreement;

"Equipment" means all tools and equipment supplied by Intertech and set out in the Schedule attached to this Agreement;

"GST" means any goods or services or value added tax, including GST within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999* or any amending legislation ("GST Act");

"Hire Agreement" means this agreement, and attached Schedules, for the hire of Equipment by Intertech to the Hirer on the Conditions;

"Hire Period" means the time from when the Equipment leaves Intertech's premises until received back at Intertech's premises or other place named by Intertech;

"Hirer" means a person, firm or corporation, jointly and severally if there is more than one, hiring Equipment from Intertech and listed in the Schedule;

"Intertech" means Intertech Engineering Pty Ltd (ACN 055 138 497) of 15 Sir Laurence Drive, Seaford, Victoria; and

"Premises" means any premises at which the Equipment is stored, or the site where the Equipment is used, or is intended to be used by the Hirer, including but not limited to those listed in the Schedule.

"Replacement Cost Schedule" means Intertech's attached Schedule of charges that the Hirer will be invoiced for in the event that the Equipment is damaged.

2. Basis of Agreement

2.1 The Conditions apply exclusively to every agreement for the hire of Equipment by the Hirer from Intertech and cannot be varied or supplanted by any other terms without the prior written consent of Intertech.

2.2 Any written information or quotation regarding the hire of the Equipment provided by Intertech to the Hirer concerning the proposed supply of Equipment is valid for 30 days and is an invitation only to the Customer to enter into a Hire Agreement with Intertech, based upon that information. Any terms in Intertech's information or quotation form part of the Conditions and if inconsistent will prevail.

2.3 The Hire Agreement will commence on the Commencement Date and continue until terminated by a party, in accordance with the Conditions.

2.4 The Hirer must not sub-hire or loan the Equipment to any third party.

3. Variation and Cancellation

3.1 If through circumstances beyond the control of Intertech, Intertech is unable to provide Equipment, then Intertech may cancel any order (even if it has already been accepted) or the Hire Agreement by notice in writing.

3.2 Intertech reserves the right to alter any specifications of the Equipment and to make changes to the Equipment or its specifications provided that the end performance is not prejudiced.

3.3 On and from the Commencement Date, the Customer cannot cancel or vary the Agreement, nor the agreed delivery dates of the Equipment, without the express written agreement of Intertech, and then only on such terms as will compensate Intertech for its incurred costs and losses.

3.4 Alteration to the terms of the agreement, periods of hire, must be confirmed in writing by Intertech, and on receipt of an additional order from the Hirer, if such an additional order is

required by Intertech before any amendment to the agreement is effected.

4. Price and Price Variation

4.1 Prices for the hire of the Equipment will be advised by Intertech at the date of hire and are subject to change at any time, on written notice from Intertech.

4.2 If Intertech requires the Hirer to pay a deposit, then this must be paid prior to Intertech shipping the Equipment.

4.3 Prices for the hire of Equipment and supply of services by Intertech exclude GST.

4.4 In addition to the amount payable, the Hirer must pay to Intertech, any amount specified in clause 4.2 if so required by Intertech.

4.5 Where the Hire Agreement is not for a specified period, then, on 5 days written notice:

- (a) Intertech may terminate the Hire Agreement; or
- (b) the Hirer may terminate the Hire Agreement;
 - (i) provided that the Equipment has not been lost or damaged; and
 - (ii) that the Hirer is not otherwise in breach of the Conditions.

4.6 In the event of termination of the Hire Agreement all Intertech's rights under the Conditions remain until all of the Hirer's obligations have been fulfilled.

5. Invoicing and payment

5.1 Unless otherwise agreed in writing, payment for the cost of hire of the Equipment must be made within 7 days from date of invoice.

5.2 Payment by cheque is not deemed made until the proceeds of the cheque have cleared.

5.3 Payment terms may be revoked or amended at the sole discretion of Intertech immediately upon giving written notice to the Customer.

5.4 In the event that Intertech is required to use the services of a debt collector to recover unpaid monies from the Hirer, then the Hirer agrees that it will also pay Intertech for the costs associated with the debt collection.

6. Delivery and transport

6.1 The Hirer must pay the cost of transport of the Equipment from the place specified by Intertech to the Premises and return to a place specified by Intertech at the end of the Hire Period.

7. Care and Use of Equipment

7.1 **Acknowledgement:** The Hirer acknowledges that it has received the Equipment in a clean and undamaged condition, unless indicated otherwise on Intertech's accompanying Equipment condition check sheet.

7.2 **Care of Equipment:** The Hirer is responsible for the following:

- (a) safekeeping of the Equipment during the Hire Period;
- (b) maintenance of the Equipment in good working condition;
- (c) use of the Equipment in strict conformity with Intertech's specifications and any other relevant laws or regulations;
- (d) inspecting the Equipment from time to time and ensuring that it has not become defective, damaged or in a dangerous state;
- (e) ensuring that the Equipment is not moved from the Premises, unless in an emergency and Intertech is advised immediately afterwards; and
- (f) protecting the Equipment against fire, theft, distress or seizure.

7.3 **Use:** The Hirer must only use the Equipment for the intended installation of Intertech's products or goods and must not use the Equipment for any other purpose whatsoever.

7.4 **Damage:** In the event that the Equipment is damaged, the Hirer must not attempt to repair the Equipment itself, but must

immediately cease using the Equipment and contact Intertech and report the damage.

7.5 **Access:** The Hirer must allow Intertech's servants, agents and insurers access to the Equipment at all reasonable times to deliver, remove, inspect, test, adjust, maintain, repair or replace the Equipment.

8. Limitation and exclusion

8.1 Except as specifically set out in the Conditions, any term, condition or warranty in respect of the quality, fitness for purpose, condition, description, assembly, manufacture, design or performance of the Equipment, whether implied by statute, common law, trade usage, custom or otherwise, is hereby expressly excluded.

8.2 Intertech is not liable for any indirect or consequential losses or expenses suffered by the Hirer or any third party, howsoever caused, including but not limited to loss of turnover, profits, business or goodwill or any liability to any other party.

8.3 Intertech will not be liable for any loss or damage suffered by the Hirer where Intertech has failed to meet any delivery date or cancels or suspends the supply of the Equipment.

8.4 Nothing in the Conditions is to be interpreted as excluding, restricting or modifying or having the effect of excluding, restricting or modifying the application of any State or Federal legislation applicable to the sale of goods or supply of services which cannot be excluded, restricted or modified.

9. Property, Risk and Insurance

9.1 The ownership of the Equipment at all times remains with Intertech and nothing in this agreement imparts any ownership rights to the Hirer.

9.2 The risk in the Equipment is with the Hirer for the Hire Period.

9.3 The Hirer must have its own insurance for loss, damage or theft of the Equipment to its full replacement value.

9.4 In the event that the Equipment is damaged, destroyed, lost or stolen, then the Hirer must immediately compensate Intertech in accordance with the rates listed in the appropriate Cost Replacement Schedule.

9.5 If the Equipment is involved in any accident resulting in injury to persons or damage to the Equipment or other property, immediate notice must be given to Intertech by telephone and confirmed in writing to Intertech's office. The Hirer must not make any admission, offer, promise, payment or indemnity without Intertech's prior written consent.

10. Responsibility and Indemnity

10.1 The Hirer warrants that it has, or its employees have, the required skills, qualifications and expertise to operate and use the Equipment.

10.2 The Hirer is solely responsible for all risks relating to or arising from the selection, use and location of the Equipment.

10.3 The Hirer must indemnify Intertech and keep it harmless from all costs, actions, claims, demands, loss or damage (including all legal costs) arising from or in connection with the Equipment or as a result of its use by the Hirer or location.

11. Default

11.1 If the Hirer:

- (a) breaches any term of the Conditions;
- (b) allows the Equipment to be damaged or lost or the Equipment is damaged or lost while under the responsibility of the Hirer;
- (c) defaults in payment by the due date of any amount payable;
- (d) is an individual and dies or becomes bankrupt or enters into any scheme of arrangement or any assignment or composition with or for the benefit of his or her creditors or any class of his or her creditors generally;
- (e) is a corporation and it enters into any scheme of arrangement, any assignment or composition with or for the benefit of its creditors or any class of its creditors generally, has as a liquidator, provisional liquidator, administrator, receiver or receiver and manager

appointed, or any action is taken for, or with the view to, the liquidation (including provisional liquidation), winding up or dissolution without winding up of the Hirer; or

(f) in the reasonable opinion of Intertech, the Hirer is likely to breach its obligations under the Hire Agreement;

then Intertech may, without prejudice to any other remedy available to it::

(g) require immediate payment of all money which would become payable by the Hirer to Intertech at a later date on any account, without further notice;

(h) charge the Hirer interest at 1.5% per month for the period from the due date until the date of payment in full; and

(i) immediately terminate the Hire Agreement.

11.2 On termination of the Hire Agreement for any reason, the Hirer must, on demand, immediately return the Equipment. If the Hirer does not comply, Intertech is entitled to enter any premises of the Hirer where the Equipment is suspected to be to repossess the Equipment. Intertech will not be liable for any damage caused and the Hirer must indemnify Intertech from any liability to it or any third party in respect of any damage, proceedings, claims, demands, costs and expenses howsoever arising.

12. Miscellaneous

12.1 The law of Victoria from time to time governs the Conditions and the parties agree to the non-exclusive jurisdiction of the courts of Victoria, the Federal Court of Australia, and of courts entitled to hear appeals from those courts.

Schedule

HIRER DETAILS

Hirer Name: _____

ABN: _____

Premises Address: _____

Site Address: _____

Contact Name: _____

Tel: _____

Fax: _____

ACCEPTANCE OF CONDITIONS AND SIGNING

The provision of Equipment to Hirer is subject to the terms of this Hire Agreement.

Date of Agreement: _____

Signed by: _____

Print name: _____

Title : _____

A duly authorised officer of the Hirer