



**KMH GROUP**

# **TERMS OF BUSINESS**

**THE POWER BEHIND YOUR PROJECT.**

## Definitions

Emphasised words (**Example**) in these TERMS carry the meaning defined in Table 1 - Defined Terms below.

*Table 1 - Defined Terms*

<b>Associated Items</b>	Any associated or attached tools, tyres, tracks, accessories, equipment, parts, keys, medical kits, fire extinguishers, communication equipment, or any other related items associated with, complementing, or accompanying Equipment, whether provided by the manufacturer or provided by KMH Group.
<b>Associate</b>	Any individual, entity, related bodies corporate, corporate entity or related party with which the Client has an ongoing undertaking or business, or over which the Client has control or significant influence.
<b>Authorised Officer</b>	An individual who has been duly authorised by KMH Group to enter, amend, or terminate contracts on behalf of KMH Group. Such authorisation may be evidenced by a formal resolution passed by the KMH Group Board of Directors, a written delegation of authority, or the individual holding a position such as a CEO, COO, CFO, or General Manager that inherently confers such authority.
<b>Client</b>	The individual or entity named in the quotation, contract, schedule of rates, or credit application associated with the business transaction being conducted or contemplated. This term includes: <ul style="list-style-type: none"> <li>o An agent, servant, contractor, or employee of that individual or entity who engages on behalf of that individual or entity;</li> <li>o Any executors, administrators, successors, or permitted assigns of that individual or entity;</li> <li>o Any other person or entity acting with authority or on behalf of that individual or entity; and</li> <li>o Any person operating Equipment during the Hire Period, whether that person meets the requirements for Operator or not.</li> </ul>
<b>Consequential Loss</b>	Any loss of product, contract, profit, business reputation, opportunities, production, or revenue howsoever arising and whether in an action in contract, tort (including negligence), in equity, under statute or on any other basis.
<b>Daily Hire Rate</b>	The hire charge rate based on a twelve hours (12) per shift basis, within a twenty-four (24) hour period, inclusive of an Usage Inclusion Rate, from the Start Date, up to and including the End Date.
<b>Damage Liability Amount</b>	The total amount of liability for loss or damage to the Equipment for a Client, as defined in Schedule 1 - Inclusions and Allowances ( <i>Part D</i> ) if the Client engages <b>KMH Group</b> to provide Damage Waiver
<b>Digital Signature</b>	A digital signature or a visual representation of a person's handwritten signature or mark which is placed on a physical or electronic copy of this Agreement by electronic or mechanical means.
<b>Disqualified</b>	A person cannot be authorised as an Operator if, in the Disqualifying Period they have been refused motor vehicle insurance or had a drivers' licence cancelled or suspended.
<b>Electronic Transactions Act</b>	The Electronic Transactions Act 2011 (WA) and the Electronic Transactions Act 1999 (Cth), as amended or replaced from time to time.
<b>Drivers' License</b>	All references to drivers' license shall be taken to mean a valid, current, unrestricted motor vehicle licence of a suitable class for the vehicle being operated issued by an Australian State or Territory. This definition intentionally excludes any learners' permit, provisional license, disqualified license, extraordinary license, or other similar restricted license.
<b>Early Return Fee</b>	A fee applied if a Client provides less than one Minimum Notice Period prior to returning the Vehicle before the Hire End Date.
<b>Electronic Communications</b>	Any communication or document sent or received electronically, including but not limited to email, facsimile or other electronic means, shall be deemed to have been duly given, served or delivered when sent to the designated electronic address of the recipient, unless otherwise expressly agreed.
<b>Equipment</b>	Any vehicle, machinery, plant, or equipment offered by KMH Group for hire, including any Associated Items supplied by the manufacturer and including any Associated Items supplied by KMH Group.
<b>Excess Usage Charge</b>	A charge for each kilometre / hour the hired equipment extends beyond the Usage Inclusion Rate
<b>Fair Wear &amp; Tear</b>	The degree of deterioration judged by <b>KMH Group</b> to be reasonable when assessing the overall condition of the equipment, considering the intended normal use, mileage, and age of the equipment.
<b>End Date</b>	The date the Client has agreed to return the equipment to the <b>KMH Group</b> agreed depot.
<b>Hire Period</b>	The period the equipment is on hire to the Client, commencing on the Start Date, and ending on the End Date.
<b>Hourly Hire Rate</b>	The hire charge rate based on a minimum number of usage hours per month, calculated over a (24) hour period, from the Start Date, up to and including the End Date.
<b>Usage Inclusion Rate</b>	The amount of usage included in the Daily / Hourly Hire Rate
<b>Start Date</b>	The date the Client has agreed to collect the equipment from <b>KMH Group</b> and / or leaves the agreed <b>KMH Group</b> depot.
<b>Client Self – Insurance</b>	Where the Client, with the written permission of <b>KMH Group</b> , provides acceptable documentation to evidence financial capacity and commitment to indemnify <b>KMH Group</b> for any damage, liability, or loss in relation to the Contract.
<b>Client - Managed Maintenance</b>	Where the Client is responsible for the scheduled servicing and maintenance of the equipment during the Hire Period
<b>Included Detailing</b>	The cleaning and detailing time allowed for in the Daily Hire Rate of each equipment to allow <b>KMH Group</b> to return each Vehicle to a prehire condition after the conclusion of the Hire Period.
<b>Introduction of Personnel</b>	Introduction of Personnel means any instance where <b>KMH Group</b> provides information about Personnel to the Client, whether electronic, written, or verbal, and includes Personnel names, contact information, academic records, or employment histories.
<b>Keys</b>	Keys, fobs, or other devices that permit access to, or operation of any equipment, including items that allow access to a storage, or cargo area of the equipment, or items that allow the removal of any fitted or attached item from the equipment.
<b>KMH Group</b>	The KMH Group refers to a group of businesses that trade under the "KMH" brand. All businesses operating under the KMH brand and are wholly owned, controlled, or administered subsidiaries and trusts of SSH Group Ltd (ABN 79 140 110 130, ASX: SSH).
<b>Minimum Notice Period</b>	The minimum time before which a Client must secure agreement in writing from <b>KMH Group</b> for changes to the Start Date, End Date, Vehicle collection or return arrangements, or changes to any other agreed details within the Contract.

<b>Monitoring System</b>	A GPS tracking system, telemetry reporting system, or any type of asset location tracking and usage data capture and reporting system
<b>Operator</b>	A person properly authorised by the Client, over the Minimum Age; with a current licence for the equipment, who: Does not exceed the maximum lawful limit for breath or blood alcohol concentration, is not intoxicated, or under the influence of any drug, toxic substance, or illegal substance; is not Disqualified, and has not provided false information in relation to being an Operator.
<b>Overdue for Service</b>	Equipment with a usage meter that indicates that a maintenance point has been exceeded by the Overdue Service Interval or more without the maintenance having been completed appropriately.
<b>Overdue Payment Rate</b>	A fee equivalent to a percentage rate of two percent (2%) per month applied as interest to all overdue fees and charges.
<b>Service Interval</b>	Every 10,000 kms or 250 hours
<b>Permanent Placement</b>	Permanent Placement means Personnel who are placed, or are intended to be placed, with a Client on a fixed term contract or as a full-time or part-time employee.
<b>Personnel</b>	Personnel means Candidates, Permanent, or Temporary Personnel as the context requires that are interviewed, screened, considered, offered, or supplied to the Client in the provision of Personnel Services.
<b>Workforce Solutions</b>	Workforce Solutions means any KMH Group services that include recruitment services, temporary personnel, rostered personnel, personnel placement, workforce planning, or other Workforce Solutions detailed in the Agreement.
<b>Premises</b>	KMH Group 's operating location for the collection or return of Equipment, or the nominated location of an Equipment manufacturer or repairer for the collection or return of Equipment.
<b>Prior Consent</b>	Consent specifically granted in writing by an authorised officer of KMH Group acknowledging and explicitly consenting to the Client taking an action contrary to or differing from a clause or condition of the Agreement, with that explicit consent having been issued to and received by the Client prior to the action being taken.
<b>Refuelling Fee</b>	A fee that is applied in addition to the cost of fuel required to restore the equipment fuel level to at least equal to the level recorded at the Start Date.
<b>Relevant Authority</b>	The term Relevant Authority includes a police force, a government or other statutory authority, and where a quasi-government or private organisation is responsible for managing an area, issuing permits, tickets, or fines (e.g., to use private roads) then that organisation.
<b>Rostered Personnel</b>	Rostered Personnel means Personnel engaged on a rostered engagement with the Client whereby KMH Group are engaged to fill a rostered shift covering all leave provisions, working under KMH Group employment entitlements and specifically excludes Temporary Personnel and Permanent Personnel
<b>Schedule of Rates</b>	An KMH Group quotation, contract, rates schedule, estimate, or other offer document containing proposed rates for the Agreement. A Schedule of Rates usually includes as a minimum: the individual or entity to whom Services are offered; the scope of offer; and the rates applicable for the Services offered.
<b>Service Request</b>	Service Request means a purchase order, requisition, booking, or any similar written or verbal authority or request from the Client for the goods or service
<b>Temporary Personnel</b>	Temporary Personnel means Personnel engaged on a temporary or ad hoc basis with a Client, and specifically excludes Rostered Personnel and Permanent Personnel.
<b>Usage Meter</b>	The measurement device attached to or forming part of the Equipment that is intended to measure the usage level of the Equipment during a Hire Period. Such devices include, without limitation, a vehicle odometer, fixed or mobile plant hour meter, or similar measuring device as applicable.

## Part A General Provisions

### A01 Parties to the Agreement

A01.01 These **KMH Group** Terms of Business (**Terms**) form part of the **Agreement** between:

- a) The individual or entity (**Client**) named in the **Schedule of Rates**, quotation, or credit application by **KMH Group**
- b) **KMH Group** being the collective reference to:

Company / Trust Name	Trading Names	ABN
SSH Group Machinery Hire Pty Ltd	KMH Rental	96 656 965 374
Bridge Resources Pty Ltd	KMH Workforce	19 660 375 431
SSH Group Safety Trust	Ocula (AUS)	52 138 161 008

Table 2 - KMH Group Companies\*

\*These entities together are referred to as **KMH Group** and are wholly owned, controlled, or administered subsidiaries and trusts of **SSH Group Ltd** (ABN 79 140 110 130, ASX: **SSH**).

A01.02 These **Terms** apply to all **Agreements** entered into with **KMH Group** entities as described above. Should any additional entities or trusts be launched, acquired, or introduced into the **KMH Group** structure, these **Terms** shall automatically extend to those entities unless expressly excluded in writing by an Authorised Officer of **SSH Group Ltd**.

### A02 General TERMS

A02.01 This is version 2 of these **TERMS**. This version supersedes all previous versions, remains in place until superseded, and applies to any business transaction, agreement, contract, or arrangement contemplated or conducted with **KMH Group**.

A02.02 Approval of an **KMH Group** Credit Application and acceptance of these **TERMS** are together a precondition of conducting any business transaction, agreement, contract, or arrangement with **KMH Group**.

A02.03 In the event of conflict between these **TERMS** and any other documents relating to transactions under the **Agreement**, these **TERMS** shall prevail.

A02.04 The **Agreement** supersedes any prior or contemporaneous communications, representations, or agreements, and shall not be modified by any other correspondence, contract, request, purchase order, or terms.

A02.05 The **Agreement** contains all representations, warranties, covenants and agreements between the parties and, unless set out therein, there are no expressed or implied oral statements, representations, undertakings, covenants or agreements.

A02.06 This **Agreement** may only be amended or varied in writing with the consent of both parties.

A02.07 **KMH Group's** rights under the **Agreement** may only be waived by an **Authorised Officer**.

A02.08 This **Agreement** is governed by and shall be construed in accordance with the laws of Western Australia and the parties submit to the non-exclusive jurisdiction.

A02.09 **KMH Group** shall make these **TERMS**, and any amendments or replacements, available by distributing an electronic or printed version, providing access through an **KMH Group** website, or by providing access through a document management system.

A02.10 Words used in these **TERMS** include all genders, singular words include the plural, plural words include the singular, and "person" shall include any individual or entity.

A02.11 Emphasised words (**Example**) in these **TERMS** carry the meaning defined in Table 1 - Defined Terms unless specified otherwise.

A02.12 References to any specific legislative instrument or article in these **TERMS** shall be taken to include any amendment or replacement to such as may occur from time to time.

A02.13 These **TERMS** incorporate the following sections:

- a) General Provisions (**Part A**) and several Schedules that apply to any **Agreement** with **KMH Group**;
- b) Rental Equipment (**Part B**) terms for **Agreements** involving **Rental Equipment**.
- c) Workforce Solutions terms (**Part C**) for **Agreements** involving **Workforce Solutions**; and

### A03 Client Obligations

A03.01 Where the **Client** is a partnership or comprises more than one person or entity, the **Client's** obligations under the **Agreement** are joint and several.

A03.02 Where the **Client** is a trust, the **Client's** obligations under the **Agreement** are in their capacity as a trustee.

A03.03 All information supplied to **KMH Group** in connection with the **Agreement**, whether before or after the date of execution, shall be true and correct in all respects and **KMH Group** shall be notified immediately of any changes or inaccuracies.

### A04 Agreement Documents

A04.01 The following documents collectively constitute the **Agreement**:

- a) The applicable sections of these **KMH Group TERMS** (as indicated by clause A02.13);
- b) A **Schedule of Rates** issued by **KMH Group** and accepted by the **Client**;
- c) An approved **KMH Group** Credit Application.

### A05 Execution and Termination

A05.01 The individual or entity executing this **Agreement** on behalf of the **Client** covenants and agrees that they have the authority to bind the **Client** accordingly and therefore indemnify **KMH Group** against any losses, costs, or claims incurred in the breach of such covenant.

A05.02 The **Client** commits to the timely completion and execution of all required **Agreement** documents in clause A04.01 to **KMH Group** satisfaction.

A05.03 Should any of the required **Agreement** documents in clause A04.01 not be appropriately completed or executed, then the following conditions shall be taken as **Client** acceptance of the **Agreement**:

- a) **KMH Group** having made these **TERMS** available to the **Client**, and
- b) The **Client** either:
  - i) Collecting or accepting delivery of **Equipment**;
  - ii) Being introduced to **Candidates** or accepting **Personnel Services** on a premises or site;
  - iii) Permitting **Maintenance Services** access to work on plant, machinery, premises, or a site;
  - iv) Otherwise indicating acceptance of the **Schedule of Rates** or **Agreement**; or
  - v) Providing a **Service Request**, **Payment**, or method of **Payment**.

A05.04 Each party must bear its own costs for execution of the **Agreement**, and each must execute and do all such acts and things as is necessary or desirable to implement and give full effect to the provisions and purposes of the **Agreement**.

A05.05 Identical counterparts of this **Agreement** executed and shared between the parties via **Electronic Communications** with an acceptable **Digital Signature** shall together be taken to constitute one instrument providing the parties have complied with the **Electronic Transaction Acts**.

A05.06 Subject to all other clauses of these **TERMS**, either party may terminate the **Agreement** at any time if the other party commits a material default of a clause in these **TERMS**.

A05.07 Subject to these **TERMS** and any applicable fees or charges, the **Client** may terminate the **Agreement** early by returning all **Equipment**, demobilising all **Personnel**, or cancelling all **Services**.

## A06 Conflicts of Interest

A06.01 The **Client** shall immediately inform **KMH Group** in writing of any direct or indirect interest they have that conflicts with or may conflict with any duties and obligations under the **Agreement**.

A06.02 If a conflict of interest cannot be reasonably resolved as required by **KMH Group**, then **KMH Group** may terminate this **Agreement** or limit engagement under this **Agreement** to matters not affected by the conflict of interest.

A06.03 A conflict of interest arising from **Client** action or omission constitutes a breach of this **Agreement** and **KMH Group** shall be entitled to all rights and damages arising therefrom.

## A07 Rights and Indemnities

A07.01 To the full extent permitted under law, **KMH Group** gives no warranty in relation to the condition, suitability, or capability of **Equipment**, **Personnel**, **Services**, or any combination thereof supplied by **KMH Group**.

A07.02 Any warranties, representations, or terms implied pursuant to the Fair-Trading Act (WA), Sale of Goods Act (WA), or similar legislation shall be expressly excluded from this **Agreement**.

A07.03 Whenever **KMH Group** is permitted to limit its liability under statute for breach of an implied condition or warranty, then this liability shall be limited to replacement, repair, or re-supply.

A07.04 Except to the extent **KMH Group** is otherwise liable at law, the **Client** shall release, hold harmless, and indemnify **KMH Group** and any officer, employee, agent, or contractor from any:

- a) Liability, loss, claim, suit, action, expense, demand, or proceedings of whatsoever nature **KMH Group** may suffer due to or attributable to **Client** negligence;
- b) Claim for loss or damage to personal property, or property of any other person left at, received, handled, or stored by **KMH Group** at any time; and
- c) Indirect, special, incidental, or consequential damage suffered by any person due to any breach of the **Agreement**.

## A08 Payment of charges and fees

A08.01 After **KMH Group** has given the **Client** reasonable notice of its charges, fees, and damages under the Contract the **KMH Group** is authorised by the **Client** to charge the **Client** account, credit card, or debit card to pay such charges, fees, and damages.

A08.02 The **KMH Group** will require the **Client** to pay charges, fees, and damages under the Contract on a periodic basis, with payment made in line with the terms agreed to in the **KMH Group** Credit Application, or within fourteen (14) days of the end of each month if not otherwise specified

A08.03 If the **Client** fails to make full payment of any charge due to the **KMH Group**, the **Client** agrees to pay the **KMH Group**: Interest on all outstanding charges, with payments received being credited firstly against any accrued but unpaid interest; and

A08.04 **KMH Group** costs of recovering or attempting to recover outstanding charges, including any mercantile agent's costs, and legal costs on a full indemnity basis.

A08.05 The **Client** accepts that the **KMH Group** shall be entitled to list payment defaults with the Credit Reference Association of Australia or any other relevant credit reference organisation.

## A09 Personal Property Securities Act

A09.01 You agree that, if for any reason **KMH Group** elects to register an interest related to this **Agreement** on the Personal Property Securities Register, you shall indemnify **KMH Group** in relation to all costs associated with doing so and the costs of enforcing any rights under this **Agreement** or the Personal Property Securities Act 2009 (**PPSA**) as may be amended, updated, or replaced.

A09.02 The rights of **KMH Group** under this **Agreement** are in addition to and not in substitution for any rights under other law (including the **PPSA**) and **KMH Group** may choose whether to exercise rights under this **Agreement**, and/or under such other law, as it sees fit.

A09.03 You acknowledge that, in addition to any other rights, **KMH Group** may exercise any of the remedies set out in the **PPSA**.

A09.04 You must not dispose of, declare a trust over, create or permit the creation or existence of any other interest in (except in favour of **KMH Group**), or part with possession of **Equipment**, **Personnel**, **Services**, or any combination thereof supplied by **KMH Group**, without **KMH Group's** consent.

A09.05 You must promptly do anything that **KMH Group** requires to ensure that its security interest is perfected in the manner required by **KMH Group** and has the priority **KMH Group** requires.

A09.06 You must give **KMH Group** promptly on request all information required by **KMH Group** to ensure that any registration of any security interest provided for by this **Agreement** is, and remains, fully effective or perfected (or both) in the manner required by **KMH Group**, and that each security interest has the priority required by **KMH Group**;

A09.07 You must give **KMH Group** at least 30 business days' prior notice of any proposed change to your registered name, trading name, primary address, contact details, or business activities, together with details of your proposed new registered name, trading name, primary address, contact details, or business activities; and

A09.08 You must give **KMH Group** at least 30 business days' notice before anything happens in respect of you, or matters related to this **Agreement** that would cause any information in a financing statement in relation to any security interest provided for by this **Agreement** to be different if it were re-registered.

A09.09 You waive your rights to receive any notice that is required by:

- a) Any provision of the **PPSA** including a notice of a verification statement in relation to registration events in respect of commercial property under section 157 of the **PPSA**;
  - i) This waiver also extends to any verification statement in respect of security interests arising or provided for under security agreements prior to the date of this agreement.
- b) Any other law before a secured party or Receiver exercises a right, power or remedy; and

- c) You waive any period of time that must otherwise lapse under any law before a secured party, or
- i) If such a law cannot be excluded, but the law provides that the period of notice or lapse of time may be agreed, then
  - ii) You agree that period or lapse is one day or the minimum period the law allows to be agreed (whichever is the longer).

A09.10 Nothing in clause A09.09 prohibits any Secured Party or any receiver from giving a notice under the PPSA or any other law.

A09.11 Notices or documents required or permitted to be given to **KMH Group** for the purposes of the PPSA must be given in accordance with the PPSA.

A09.12 To the extent that Chapter 4 of the PPSA would otherwise apply to an enforcement by **KMH Group** of any security interest in matters related to this Agreement, you agree that the following provisions of the PPSA do not apply to the extent the PPSA allows them to be excluded:

- a) (enforcement methods) sections:
  - i) 125 (*Obligation to dispose of or retain collateral*);
  - ii) 129(2) and (3) (*Disposal by purchase*); and
  - iii) 134(2) (*Proposal of secured party to retain collateral*); and
- b) (rights to remedy) sections
  - i) 142 (*Entitled persons may redeem collateral*); and
  - ii) 143 (*Entitled persons may reinstate security agreement*).

A09.13 You (the Client) charges in favour of the **KMH Group** all of its estate and interest in any real property, whether held in its own right or as capacity as trustee, you own at present and in the future with the amount of indebtedness hereunder until discharged.

## Part B Rental Equipment

### B01 Application

B01.01 If **KMH Group** is to provide any **Equipment** as specified in the Agreement, the terms of this Part B Rental Equipment shall apply.

### B02 Hire Period

B02.01 You agree to hire from **KMH Group**, and **KMH Group** agrees to hire to you, the **Equipment** for the **Hire Period** as defined in the Agreement under the conditions of these TERMS.

B02.02 The **Hire Period** shall commence on the **Start Date** defined in the Agreement and conclude on the **End Date** defined in the Agreement, unless the **Hire Period** is modified in accordance with these TERMS.

B02.03 With the prior agreement of **KMH Group** you may continue renting **Equipment** beyond the conclusion of the initial **Hire Period** however:

- a) The **Hire Period** shall be extended month-by-month from the original **End Date**;
- b) **KMH Group** may implement modified rates for a month-by-month hire at any time;
- c) **KMH Group** may terminate a month-by-month hire by giving you seven (7) days' prior written notice; and
- d) On expiry of that notice, you must immediately return the **Equipment**.

### B03 Picking Up Equipment

B03.01 At the agreed time on the **Start Date**, you shall:

- a) Pick up the **Equipment** from the **Premises** defined in the Agreement; or

- b) If defined in the Agreement, facilitate the delivery of **Equipment** to your nominated location.

B03.02 You shall provide suitable notice prior to the **Start Date** to request changes to the **Start Date**, **Equipment** pick-up (or delivery) arrangements, or other details of the Agreement.

B03.03 Regardless of any notice provided, additional fees and charges may apply for such changes.

B03.04 If you request to pick up **Equipment** outside normal **KMH Group** business hours, then you agree that your **Hire Period** and your liability for the **Equipment** shall commence at the conclusion of normal **KMH Group** business hours prior to the agreed pick-up time.

### B04 Delivering Equipment

B04.01 Unless otherwise specified in the Agreement, in all circumstances (pre, post and during hire), you are responsible for all costs associated to:

- a) Pick up of **Equipment** from the **Premises** defined in the Agreement; or
- b) Transportation and delivery of **Equipment** to your nominated location.

B04.02 **Equipment** delivery requires appropriate access via a properly constructed roadway to your nominated location.

- a) If access for **Equipment** delivery is compromised or unsuitable, reasonable endeavours will be used to deliver **Equipment** as close as conditions prudently allow to your nominated location.

B04.03 **KMH Group** shall not be liable for any costs or expenses incurred or suffered arising directly or indirectly from any inability to deliver **Equipment**, for any damage to **Equipment** or property, or for any injury to any person arising directly or indirectly from the circumstances or manner of delivery.

B04.04 If **KMH Group** incurs any additional expenses to prepare the **Equipment** to the Clients Site specifications, whether before or after delivery. **KMH Group** will notify you of the additional expenses and you will pay for such additional expenses.

### B05 Failure to Pick Up Equipment

B05.01 If you do not pick up the **Equipment**, or if you do not facilitate arranged delivery by the agreed time on the **Start Date** without suitable notice being provided, **KMH Group** shall either:

- a) Place **Equipment** on hire to you from that agreed time for later pick up or delivery; or
- b) Terminate the Agreement and hold you liable for any fees or charges that apply.

B05.02 In addition to clause B05.01, you may be liable for the cost of additional transport, travel, or other applicable fees and charges if:

- a) Your nominated location for delivery is not appropriate or safe;
- b) Your nominated location for delivery is not suitably accessible via a properly constructed roadway; or
- c) If the delivery cannot be completed by the agreed time for other reasons outside the control of **KMH Group**.

### B06 Equipment Condition on Receipt

B06.01 You acknowledge receipt of clean, complete, undamaged, and serviceable **Equipment**, including:

- a) The presence and condition of the **Associated Items**;
- b) The fuel/battery/oil/fluids/lubricants and **Usage Meter** readings as noted;
- c) Intact seals on the **Usage Meter**;
- d) The interior, storage, and load carrying areas being free of refuse, debris, or waste;

- e) No internal soiling, staining, or unpleasant odours;
- f) No external mud, dirt, soiling, or staining; and
- g) Undercarriage and engine free of mud, dirt, or debris.

B06.02 You acknowledge that prior to use of the **Equipment** you have reviewed the on-hire inspection report or **Equipment** and agree to the condition of the **Equipment** prior to use.

B06.03 Unless written notice of any shortages or defects is received within twenty-four (24) hours of receipt of the **Equipment** or inspection report, **KMH Group** shall consider that you have received the **Equipment** in the condition described in clause B06.01.

B06.04 Save for any representations in this Agreement and subject to applicable Laws, whether express or implied, the owner has made and makes no representations as to the suitability of the **Equipment** intended by the Client and the Client has entered into this agreement in reliance of its own judgement and investigations.

## B07 Returning Equipment

B07.01 At the agreed time on the **End Date**, you shall:

- a) Deliver **Equipment** to the **Premises** defined in the **Agreement**, or
- b) If agreed, facilitate the collection of **Equipment** from your nominated location.

B07.02 You shall provide suitable notice prior to the **End Date** to request any changes to the **End Date**, **Equipment** return or collection arrangements, or other details of the **Agreement**.

B07.03 Regardless of any notice provided, additional fees and charges may apply for such changes.

B07.04 If you request to return **Equipment** outside normal **KMH Group** business hours, then you agree that your **Hire Period** and your liability for the **Equipment** shall continue until the commencement of normal **KMH Group** business hours following the agreed return time.

## B08 Collection of Equipment

B08.01 Unless otherwise specified in the **Agreement**, in all circumstances (pre, post and during hire), you are responsible for all costs associated to:

- a) Returning **Equipment** to the **Premises** defined in the **Agreement**; and/or
- b) Collection and transportation of **Equipment** from your nominated location.

B08.02 **Equipment** collection requires appropriate access via a properly constructed roadway to your nominated location.

- a) If access for **Equipment** collection is compromised or unsuitable, reasonable endeavours will be used to collect **Equipment** as close as conditions prudently allow to your nominated location.

B08.03 **KMH Group** shall not be liable for any costs or expenses incurred or suffered arising directly or indirectly from any inability to collect **Equipment**, for any damage to **Equipment** or property, or for any injury to any person arising directly or indirectly from the circumstances or manner of collection.

## B09 Failure to Return Equipment

B09.01 If you do not return the **Equipment**, or if you do not facilitate collection by the agreed time on the **End Date** without suitable notice being provided, **KMH Group** shall:

- a) Extend the **Hire Period** to leave **Equipment** on hire to you for later return (or collection), implement modified month-by-month hire rates, and hold you liable for any additional fees or charges that apply; or
- b) Terminate the **Agreement**, make demand for the return of the **Equipment**, commence recovery action, and hold you liable for any costs, fees, or charges that apply.

B09.02 In addition to clause B09.01, you may be liable for the cost of additional transport, travel, or other applicable fees and charges if:

- a) Your nominated location for collection is not appropriate or safe;
- b) Your nominated location for collection is not suitably accessible via a properly constructed roadway; or
- c) If the collection cannot be completed by the agreed time for other reasons outside the control of **KMH Group**.

## B10 Equipment Condition on Return

B10.01 You must return clean, complete, undamaged, and serviceable **Equipment**, including:

- a) The presence and condition of the **Associated Items**;
- b) The fuel/battery/oil/fluids/lubricants readings at least equal to the level recorded on **Equipment** receipt;
- c) Intact seals on the **Usage Meter**;
- d) The interior, storage, and load carrying areas being free of refuse, debris, or waste;
- e) No internal soiling, staining, or unpleasant odours;
- f) No external mud, dirt, soiling, or staining; and
- g) Undercarriage and engine free of mud, dirt, or debris.

B10.02 Any work **KMH Group** is required to undertake to repair or restore the **Equipment** to the condition supplied and consistent with the agreement and these terms and conditions will be at the cost of you the Client.

## B11 Recovery of Equipment

B11.01 **KMH Group** may make demand for the return of **Equipment** on reasonable grounds, including where **Overdue for Maintenance**, or where there is an actual or likely breach of the **Agreement**.

B11.02 You shall cooperate with any demand **KMH Group** may make for the return of **Equipment**.

B11.03 **KMH Group** may terminate this **Agreement** and take possession of **Equipment** without prior demand in circumstances where **Equipment** is believed to be illegally parked, illegally used, illegally stored, appears to have been abandoned, or is (or has) been used in contravention of any law.

B11.04 **KMH Group** may take all reasonable steps to collect **Equipment** that is not returned or made available for collection by the agreed time on the **End Date**. Where this is applicable, you the Client, will be responsible for the costs associated to collecting the **Equipment**.

## B12 Authorised Operators

B12.01 No **Client**, **Operator**, or passenger of **Equipment** shall be deemed to be an agent, servant, or employee of **KMH Group** in any manner or for any purpose whatsoever.

B12.02 You shall ensure that **Equipment** is only used by properly authorised **Operators**.

B12.03 When authorising an **Operator**, you shall ensure:

- a) Any **Operator** has (as applicable to the **Equipment**) either:
  - i) A valid drivers' licence suitable for the class and intended use of the **Equipment**, or
  - ii) A valid industry-accepted ticket, license, or certification to operate the **Equipment**.
- b) No **Operator** exceeds the maximum lawful limit for breath or blood alcohol concentration;
- c) No **Operator** is intoxicated or under the influence of any drug (prescribed or otherwise), toxic substance, or illegal substance;
- d) No **Operator** is **Disqualified**; and

- e) No **Operator** provides false information in relation to being authorised.

### B13 Usage Restrictions

B13.01 Without **Prior Consent**, **Equipment** cannot be:

- a) Sub-hired, on-hired, or otherwise be passed out of your possession;
- b) Exposed to or used to carry any friable asbestos, inflammable, explosive, radioactive, rust-inducing, caustic, or corrosive materials;
- c) Used to race, pace, enter, evaluate, or prepare for any reliability trials, rally events or hill-climb events;
- d) Used to carry any animal, livestock, or pet; or
- e) Used for any ride-sharing or peer-to-peer lending services.
- f) Without **Prior Consent**, **Equipment** cannot be operated in or transported to areas likely to cause **KMH Group** significant economic loss for recovery, which includes without limitation:
- g) Off-shore, on any beach, or on any salt bed, riverbed, tidal area, or lake;
- h) In any airside, maritime, pit, or underground environment; or
- i) Across any State or Territory border.

B13.02 **Equipment** shall not be used in a manner or purpose contrary to its design, construction, or capacity which includes, without limitation:

- a) Carrying any greater number of persons than safe capacity and restraints on or in **Equipment**;
- b) Carrying any load that exceeds the rated capacity or design of the **Equipment**;
- c) Propelling or towing anything that is not designed to be propelled or towed by the **Equipment** ;
- d) Propelling or towing anything that exceeds the rated capacity of the towing mechanism or the **Equipment**; or
- e) Propelling or towing a trailer with a load that exceeds the rated capacity of the trailer, the towing mechanism, or the **Equipment**.

B13.03 **Equipment** is not to be used:

- a) To commit any illegal or unlawful act, including any traffic offence which could result in the suspension or loss of a driver's licence.
- b) While **Overdue for Maintenance**, unserviceable, damaged, unsafe, not roadworthy, or lacking appropriate tyre pressure, coolant level, oil level, or any other fluid level; or
- c) If the manufacturer, an authorised service agent or repairer, or **KMH Group** has directed or recommended for the **Equipment** not be operated;

B13.04 **Equipment** must not have any fluid, fuel, or additive of a type not specified by the manufacturer or **KMH Group** added to any fluids, tanks, or storage compartments.

B13.05 **Equipment** must not have any enclosed, semi-enclosed, or similar operator's enclosure, personnel cabin, or passenger area exposed to:

- a) Excessive dust, smoke, and other airborne materials; or
- b) Smoke from tobacco or other substances, or the use of any e-cigarette, atomiser, aerosol, or similar device.

### B14 Telemetry and Monitoring

B14.01 **Equipment** may be fitted with a **Monitoring System**, which includes a tracking device as defined under the Surveillance Devices Act 1998 as may be amended, updated, or replaced.

B14.02 The tracking device is intended to be used to determine the location of **Equipment**.

B14.03 As the person in possession or having control of the **Equipment**, you expressly consent to the use of the **Monitoring System** and provide this same consent on behalf of any **Operators** or passengers of the **Equipment** during your **Hire Period**.

B14.04 **Monitoring System** information may be collected, retained, and used by **KMH Group**.

B14.05 It is an offence under the Surveillance Devices Act 1998 to remove or interfere with the **Monitoring System** that has been lawfully attached to the **Equipment**.

### B15 Security and Keys

B15.01 You shall keep any **Equipment** and related keys, fobs, or other access control and security devices (**Keys**) for **Equipment** secure throughout your **Hire Period**.

B15.02 You shall not permit **Equipment** to be left unattended while not secure, nor shall you allow **Equipment** to be left with the motor running or with **Keys** accessible.

B15.03 You shall indemnify and keep indemnified **KMH Group** if a failure to keep **Equipment** secure, or a failure to keep **Keys** secure contributes to theft, unauthorised operation, or damage.

B15.04 You shall retain full responsibility for the security of **Equipment** and **Keys** in circumstances where safety regulations or operating procedures require:

- a) **Keys** to be kept with **Equipment**; or
- b) Unattended **Equipment** to be kept insecure or accessible to persons other than an **Operator**.

B15.05 If these safety regulations or operating procedures contribute to theft, unauthorised operation, or damage you shall indemnify and keep indemnified **KMH Group** for such any loss or damage.

### B16 Maintenance Requirements

B16.01 You acknowledge the need for **Equipment** to be maintained in line with manufacturer / OEM requirements or **KMH Group** service intervals during the **Hire Period**.

B16.02 You must always keep the **Equipment** in good working order and condition during the hire period.

B16.03 **Equipment** shall remain on-hire with you during the **Hire Period** while any maintenance activity is conducted, and you shall make **Equipment** available for such activity.

B16.04 You must notify **KMH Group** when **Equipment** is due for maintenance in accordance with the maintenance schedule or the manufacturer's service manual.

B16.05 Unless otherwise specified in the **Agreement**, you will manage the periodic maintenance of the **Equipment** during your **Hire Period**, and you are responsible for the cost (labour and materials) and management of **Equipment** servicing and maintenance. You must:

- a) Report the **Usage Meter** reading monthly, or as otherwise requested by **KMH Group**;
- b) Take all reasonable steps to ensure **Equipment** does not become **Overdue for Maintenance**;
- c) Ensure a qualified technician performs the required and recommended maintenance activity to the appropriate standard and at the recommended intervals;
- d) Ensure **Equipment** service and inspection records are accurately maintained in the **Equipment** log books;
- e) Advise **KMH Group** in writing of the completion of any maintenance and provide records of the completed service and / or inspection to **KMH Group** at the end of each month
- e) Ensure tyre pressures, consumables, wear items, fluids, fuels, and lubricants are maintained at the proper operating levels and in

appropriate condition in accordance with the manufacturer's specifications; and,

- f) Ensure any defect is immediately reported to **KMH Group**.
- g) **KMH Group** may at its discretion carry out any necessary maintenance (at the Clients cost) if the Client fails to carry out the required servicing, it deems the maintenance carried out by the Client is incomplete, inappropriate or outstanding.
- h) Additional costs arising from excessive wear or damage caused by the lack of servicing may also be charged to the Client.

B16.06 If the **Agreement** includes **Managed Maintenance** you will be charged a **Managed Maintenance** fee in addition to the hire rates for providing this service. To facilitate effective **Managed Maintenance** activity during the **Hire Period**, you must:

- a) Report the **Usage Meter** reading monthly, or as otherwise requested by **KMH Group**;
- b) Take all reasonable steps to ensure **Equipment** does not become **Overdue for Maintenance**;
- c) Make the **Equipment** available to **KMH Group** at the required intervals for maintenance;
- d) Facilitate the movement of the **Equipment** to and from a nominated service agent or repairer for maintenance;
- e) Ensure tyre pressures, consumables, wear items, fluids, fuels, and lubricants are maintained at the proper operating levels and in accordance with manufacturer specifications; and,
- f) Immediately report any defect to **KMH Group**.

## B17 Replacement

B17.01 You must, as soon as practicable after becoming aware, replace any part which from time to time may become worn lost, stolen, removed, destroyed, damaged beyond repair or permanently rendered unfit for use by damage or obsolescence.

B17.02 If you replace a consumable, part, attachment, accessory, or any **Associated Item** on or with the **Equipment**, whether as part of periodic maintenance or otherwise, then the replacement must be:

- a) type of the same specification
- b) at least of an equivalent quality and suitability
- c) a value and utility at least equal to the parts replaced

B17.03 All replacement parts will become the property of **KMH Group**

## B18 Excessive Usage Maintenance

B18.01 Unless explicitly defined otherwise in the **Schedule of Rates**, a daily quantity of travelled kilometres, operated hours, or similar **Equipment** usage metric is allowed for and included (**Usage Inclusion Rate**) in the hire rates for **Equipment**.

B18.02 When the average daily **Equipment** usage is likely to exceed the **Usage Inclusion Rate**, additional periodic maintenance at your expense shall be required.

B18.03 When **Equipment** usage is likely to exceed the **Usage Inclusion Rate**, you must:

- a) Notify **KMH Group** in prior to exceeding the **Usage Inclusion Rate**; and
- b) Make the **Equipment** readily available for additional service and maintenance as may be required.

B18.04 If the **Agreement** specifies that you are responsible for the cost and management of **Equipment** maintenance, you must also perform additional service and maintenance as directed by **KMH Group** at your cost.

## B19 Overdue for Maintenance

B19.01 **Equipment** will be considered **Overdue for Maintenance** and additional charges will apply if you do not notify **KMH Group** in a timely fashion of any approaching or overdue maintenance point, or if you:

- a) Fail to make the **Equipment** available in a timely fashion for maintenance; or
- b) Do not facilitate the movement of the **Equipment** to or from a nominated service agent or repairer in a timely fashion for maintenance.

B19.02 If the **Agreement** specifies that you are responsible for the cost and management of **Equipment** maintenance, then **Equipment** will also be considered **Overdue for Maintenance** if:

- a) **KMH Group** believes the **Usage Meter** exceeds any maintenance point without such maintenance having been conducted;
- b) You do not maintain the **Equipment** in accordance with manufacturer recommendations or intervals;
- c) **KMH Group** believes that the **Equipment** has not been maintained in accordance with manufacturer recommendations or intervals; or
- d) You cannot provide sufficient evidence that the **Equipment** has been maintained in accordance with manufacturer recommendations or intervals.

## B20 Harsh Operating Conditions

B20.01 You shall ensure that any **Equipment** being operated in harsh conditions is subjected to additional inspections.

B20.02 Harsh conditions include, but are not limited to:

- a) Any operating environment or activity falling within clause B13 - Usage Restrictions, whether approved or not;
- b) Constant or frequent use in dusty, rough, corrosive, or muddy conditions;
- c) Frequent use in low range or enhanced-traction modes;
- d) Use in heavy towing, lifting, pushing, pulling, or propelling activities;
- e) Frequent trips shorter than fifteen kilometres (15km);
- f) Frequent operating periods shorter than thirty (30) minutes;
- g) Use in sub-zero temperatures; or
- h) Fluid immersion to the undercarriage or greater.

B20.03 The additional daily inspections shall include all manufacturer recommended inspection items for harsh operating conditions, including at a minimum:

- a) Visual inspection of mechanical components;
- b) Inspection, cleaning, and replacement (as required) of any filter or screen elements;
- c) Checking and topping up any fluid levels including engine oil, transmission fluid, hydraulic fluid, power steering fluid, coolant, brake fluid, windscreen washer fluid, and similar consumables; and
- d) Clearing corrosive materials or excessive dirt from the body, undercarriage, glass, cargo areas, and engine compartments appropriately.
- e) Where you have not facilitated maintaining the **Equipment** for harsh conditions as specified additional charges may apply.

## B21 Western Australian Licensing Inspections

B21.01 It is a State Government requirement that any hire vehicle equipped with eight (8) seats or more must be inspected annually by a certified Department of Transport inspector for the purpose of vehicle licence renewal.

B21.02 Should this requirement fall due during the Hire Period, you shall be responsible for making any **Equipment** available for inspection, and you shall be responsible for transporting such **Equipment** to and from an **KMH Group**-nominated place of inspection.

## B22 Liability for Loss or Damage

B22.01 You shall be liable for any damage to **Equipment** and shall be liable for the full amount of all costs and losses incurred by **KMH Group** in connection with or arising from your hire of the **Equipment**.

B22.02 Your liability and responsibility shall include, but is not limited to, any breach by you of any term, condition, warranty, or undertaking contained in the **Agreement**, or any negligence or misconduct of the Client or Operator.

B22.03 **KMH Group** is not liable for any indirect economic or consequential loss or damage incurred by the Client.

B22.04 The Client accepts financial liability for loss or damage arising from the use of the **Equipment**, including liability for:

- a) The **Equipment** having been stolen and not recovered;
- b) Damage to the **Equipment** requiring repair or replacement;
- c) Loss or damage to third party property;
- d) Recovery and retrieval fees; and
- e) Compensating **KMH Group** for loss of rental income where the **Equipment** is unavailable for hire due to repair or replacement.

B22.05 The Client acknowledges that any repairs or modifications to the **Equipment** not authorised by **KMH Group** shall be conducted or rectified at the expense of the Client.

## B23 Lost or Stolen Equipment

B23.01 If the **Equipment** is stolen, or suspected stolen during the Hire Period, the Client shall:

- a) Report the incident promptly to **KMH Group**, the Police, and any other Relevant Authority;
- b) Obtain full particulars of all relevant persons in relation to the incident; and
- c) Provide the **KMH Group** with a copy of the Police Report.

B23.02 The **Equipment** will remain on hire until the **KMH Group** receives a copy of the Police Report and has been given a reasonable opportunity to investigate and review the matter.

B23.03 Where the **Equipment** has been stolen and not recovered, you shall be liable for the market value of the **Equipment** including Associated Items at the time of the loss.

B23.04 Where there is financing owed by the **KMH Group** on the stolen and not recovered **Equipment**, the Client agrees to pay the **KMH Group** the greater of the finance payout on the **Equipment** and Associated Items or the market value of the replacement **Equipment** and Associated Items.

## B24 Damaged Equipment

B24.01 You may remedy any damage to the **Equipment** or damaged or missing Associated Items prior to the return of the **Equipment** provided the work or replacement item is authorised by the **KMH Group**.

B24.02 If the **Equipment** is damaged or requires any repairs during the Hire Period, you shall:

- a) Advise the **KMH Group** as soon as practicable of the circumstances.
- b) At the direction of the **KMH Group**, transport the **Equipment** to a **KMH Group** authorised assessor or repairer;
- c) Comply with directions from the **KMH Group** in relation to any damages, repairs, or other rectification work to the **Equipment**.

B24.03 **Equipment** shall remain on-hire with you during the **Hire Period** or post returning the **Equipment** if repairs are required to be performed due to damage or misuse of the **Equipment**. This **Equipment** shall remain on hire until all repairs have been completed and the **Equipment** is returned to a hireable state, as determined by the **KMH Group**

B24.04 You will be charged for any repairs for damage resulting from neglect, improper servicing, incorrect fuel / fluid type, abuse or driver indifference

## B25 Accident or Incident

B25.01 If the **Equipment** is involved in any incident involving loss or damage to the **Equipment**, damage to any other property, or injury to any person during the hire term, the Client shall:

- a) Report the incident promptly to the **KMH Group**, the Police, and any other Relevant Authority;
- b) At the direction of **KMH Group**, have the **Equipment** transported to and inspected by a Company authorised assessor or repairer;
- c) Comply with directions from **KMH Group** relating to damages, repairs, or other rectification work;
- d) Give to the **KMH Group** immediately every summons, complaint, demand or notice related to loss or damage;
- e) Compel the Operator to submit to any tests required by the Police or other Relevant Authority to determine the blood concentration of alcohol or other drugs;
- f) Obtain full particulars of all relevant persons before leaving the scene of the incident; and
- g) When the Contract includes Damage Liability Limitation, authorise the **KMH Group** to bring, defend, or settle legal proceedings, and have sole conduct of any such proceedings.

## B26 Unrepairable Equipment

B26.01 Any **Equipment** or Associated Item will be considered unrepairable if a **KMH Group** authorised service agent, repairer or representative determines that repair of the **Equipment** or Associated Item is not possible, practical, or financially viable.

B26.02 You will be liable for the full amount of the loss, cost, and damage for an unrepairable **Equipment** or Associated Item including the market value of a replacement **Equipment** or Associated Item.

B26.03 Where there is financing owed by the **KMH Group** on any unrepairable **Equipment**, you agree to pay the **KMH Group** the greater of the finance payout on the **Equipment** and Associated Items or the market value of the replacement **Equipment** and Associated Items.

B26.04 You will be required to pay for all associated hire charges contained within the agreement until payment or replacement has been provided to **KMH Group** in full.

## B27 Liability Coverage

B27.01 The Client acknowledges that the **KMH Group** does not offer insurance products nor insurance advice, and that the Client remains fully responsible for assessing its exposure to risk and maintaining its own Company insurances with respect to hiring the **Equipment**.

B27.02 To reduce the Client's liability to the **KMH Group** for loss or damage to the **Equipment** or liability resulting from the Client's use of the **Equipment**, the Client may either:

- a) Engage the **KMH Group** to provide a **Damage Waiver**
- b) Request to self-insure **Equipment** (**Client Self-Insurance**) at their own liability and cost

B27.03 Unless the Client has requested the **KMH Group** to provide **Damage Waiver**, the Client will be deemed to be using **Client - Self Insurance**.

B27.04 Approval for **Client Self-Insurance** is at the sole discretion of the **KMH Group**.

B27.05 If **KMH Group** believes it necessary to address risk, **KMH Group** reserves the right not to hire **Equipment** without a Client engaging the **KMH Group** to provide **Damage Waiver**.

## B28 Damage Waiver

B28.01 **KMH Group** offers **Damage Waiver** as an additional service which can reduce the total amount of the Client's liability to **KMH Group** for loss or damage to the **Equipment**.

B28.02 The Client's total amount of liability for loss or damage to the **Equipment** can be limited to the **Damage Liability Amount** defined in Schedule 1 - Inclusions and Allowances (*Part D*) – Inclusions and Allowances in respect to each incident, subject to:

- a) The exclusions and limits in Clause B29 Damage Waiver Conditions, and
- b) The Client having elected to engage **KMH Group** to provide the **Damage Waiver**.

## B29 Damage Waiver Conditions

B29.01 While **KMH Group** offers a **Damage Waiver**, the **KMH Group** specifically notifies the Client that neither are insurance policies.

B29.02 **KMH Group** notifies the Client that purchasing the **Damage Waiver**:

- a) Reduces the Client's liability to the **KMH Group** for loss or damage to the **Equipment** resulting from the Client's use;
- b) Does not mitigate any liability for the Client regarding loss or damage to any third party resulting from, or contributed to by the Client's use of the **Equipment**; and
- c) Does not mitigate any liability for the Client regarding personal injury to, or death of any third party resulting from, or contributed to by the Client's use of the **Equipment**.

B29.03 Under the **KMH Group** provided **Damage Waiver**, any limitation of the Client's liability for loss or damage is subject to following conditions:

- a) The **Equipment** is lost, destroyed or damaged as a result of, or attributable to fire, storm, earthquake, collision or accident;
- b) In the case of Theft, where the Client has supplied to **KMH Group** satisfactory evidence that the Client has taken all precautions to safeguard the property
- c) The Client supplying such information and assistance as may be requested by **KMH Group** in any investigation phase including but not limited to the provision of relevant investigative reports and Monitoring System data as may be applicable
- d) The Client having engaged the **KMH Group** at the commencement of the Hire Period to provide the **Damage Waiver**
- e) The Client complying with these terms and conditions

## B30 Damage Waiver Exclusions

B30.01 The **Damage Waiver** does not cover in the following circumstances:

- a) Damage or loss caused or contributed to by any negligent act, error, omission or default of the Client
- b) Where the **Equipment** is left unlocked, unsecured, or the Client has not kept keys secure;
- c) If the **Equipment** is subjected to off-road usage, including being driven, used, or stationary in any area within an open pit mine or anywhere other than sealed roads or roads that are: (i) Gazetted by a government authority for unrestricted public use; (ii) Graded

and regularly maintained; or (iii) Maintained and regulated by a mining or construction company;

- d) In the event of dangerous operating causing damage, which includes using the **Equipment** in a dangerous, reckless, or careless manner contrary to prevailing road conditions and speed limits;
  - e) In relation to corrosion damage - irrespective of any cleaning or preventive maintenance methods or processes implemented by the Client;
  - f) In relation to preventable loss or damage caused by lack of attention, failure to follow preventative and maintenance measures, **Equipment** misuse, carelessness, or neglect;
  - g) In the event of water damage;
  - h) Where additional cleaning, deodorising, or detailing beyond the Included Detailing is required to address any soiling, stains, marks, or unpleasant aromas in the interior of the **Equipment** and any bitumen, mud, dirt, soiling, or staining to the exterior, cargo area, or undercarriage of the **Equipment**.
  - i) In the event of damage, including:
    - i) Punctures, cuts, abrasions, stakes or other tyre and wheel damage;
    - ii) Chips, cracks, stars, or other windscreen damage;
    - iii) Overhead damage, commonly arising from operating the **Equipment** into any object of the same height as the **Equipment**, or the use of accessories;
    - iv) Cargo area damage, commonly caused by loading, unloading, or failing to properly secure a load;
    - v) Undercarriage damage, commonly arising from contact with any object, obstruction, or ground surface;
  - j) In relation to unreported damage, including damage which cannot be attributed to a specific reported incident; and
  - k) In relation to any missing or damaged Associated Items supplied with the **Equipment** by the **Equipment** manufacturer or supplied with the **Equipment** by the **KMH Group**.
  - l) Loss or damage caused by misappropriation or wrongful conversion of the **Equipment** by the Client
  - m) Loss or damage due to mysterious or unaccounted disappearance of the **Equipment**
  - n) Loss or damage, caused or contributed to, by misuse, abuse, improper servicing of the **Equipment**, overloading or exceeding the capacity of the **Equipment**, use or operation of the equipment in breach of any conditions or in violation of any law, regulation, by-law or appropriate Australian Standard or other Standard applicable, transportation of the **Equipment**, exposure to any corrosive flammable or dangerous chemicals or substances
- B30.02 The Client's liability will be payable in full in respect to legal costs or expenses, on a full indemnity basis, and interest as a result of the Client's failure to deliver immediately every summons, complaint, demand or notice relating to loss or damage.

## B31 Client Self-Insurance

B31.01 If requesting **Client Self-Insurance**, the Client shall provide suitable documentation to evidence that the Client can and will indemnify the **KMH Group** for any damage, liability, or loss in relation to the Contract for the duration of the **Hire Period**, and for a further period no less than one (1) month beyond the **End Date**.

B31.02 As part of the request for **Client Self-Insurance**, the Client must provide the **KMH Group** with a valid Certificate of Currency for a third-party liability insurance policy with a monetary value of not less than twenty million dollars (\$20,000,000).

B31.03 If KMH Group approves the Client Self-Insurance, the Client will provide the KMH Group with a complete copy of the insurance policy prior to the Start Date. The Client shall maintain this insurance throughout the Hire Period and for one (1) month beyond the End Date.

B31.04 The Client acknowledges that if KMH Group approves the request for Client Self-Insurance, any financial liability for loss or damage will not be limited by KMH Group and therefore payable by the Client in full.

## Part C Workforce Solutions

### C01 Application

C01.01 If KMH Group is to provide any Personnel Services as specified in the Agreement, the terms of this Part C - Workforce Solutions shall apply.

### C02 Placement Period

C02.01 KMH Group agrees to provide to you the Personnel Services for the Placement Period defined in the Agreement under the conditions of these TERMS.

C02.02 The Placement Period shall commence on the Start Date defined in the Agreement and conclude on the End Date defined in the Agreement, unless the Placement Period is modified in accordance with these TERMS.

### C03 Service Requests

C03.01 You may requisition Personnel Services from KMH Group by providing a Service Request that contains, at a minimum, the following information:

- a) Quantity of Temporary Personnel, Rostered Personnel or Permanent Placement roles required;
- b) Classification of the role(s), necessary and preferred licences, qualifications, and experience.
- c) Start Date and End Date of the Placement Period;
- d) Location for the provision of Personnel Services;
- e) Scope or nature of work to be undertaken;
- f) Mobilisation and induction requirements; and
- g) Other requirements or expectations.

C03.02 KMH Group will notify you of the acceptance of the Service Request, clarify the details of the Service Request, or engage with you further in relation to the provision of Personnel Services.

C03.03 You shall provide suitable notice prior to the Start Date to request changes to the Start Date, Service Request, or other details of the Agreement.

C03.04 Regardless of any notice provided, additional fees and charges may apply for such changes.

C03.05 Subject to these TERMS, KMH Group will supply you with Personnel Services that meet the requirements of the Service Request.

C03.06 Should the nature of work or the working conditions for Personnel change, KMH Group reserves the right to adjust the Schedule of Rates accordingly.

C03.07 KMH Group will use all reasonable endeavours to deliver the Personnel Services but are not obliged to provide the Personnel Services you have requested.

### C04 Minimum Shift Duration

C04.01 You acknowledge that a Minimum Shift Duration applies to any shift or work requirement for Personnel on any given day.

C04.02 If a shift or work requirement is less than the Minimum Shift Duration, you agree that Personnel will be remunerated, and you will be invoiced for the Minimum Shift Duration.

### C05 Introducing of Candidates

C05.01 KMH Group will screen candidate qualifications, capabilities, medical history, suitability to meet the job specification, and verify any necessary work permits prior to introducing Personnel.

C05.02 You shall pay a Placement Fee for any Personnel introduced to you who may be subsequently engaged by you or an Associate of yours within twelve (12) months from the introduction.

### C06 No Solicitation

C06.01 The Client must not, and must ensure that its Related Bodies Corporate do not, without the prior written consent of KMH Group:

- a) solicit, entice away or attempt to entice away any KMH Group Personnel or other employee of KMH Group either on behalf of the Client or any of its Related Bodies Corporate or any other person; or
- b) without consent, engage or employ any person within 12 months of the person ceasing to be engaged or employed by KMH Group.

C06.02 If the Client engages or employs any person in breach of clause C06.01, KMH Group may invoice the Client, and the Client must pay to KMH Group, the hourly charge rate applicable to that person's role, the average daily hours such person has been engaged or employed by the Client, by the roster cycle performed for the Client over a 3 month period.

C06.03 This clause in no way limits or prevents the Client from making an offer of employment to any person who has responded to a job advertisement without individual solicitation by the Client.

### C07 Temporary & Rostered Personnel

C07.01 Specific Personnel are not guaranteed throughout the term of the assignment.

C07.02 You must contact KMH Group and stand down the Personnel prior to the end of the Minimum Shift Duration if you are not reasonably satisfied with the Personnel.

C07.03 KMH Group will immediately work with you to find a suitable replacement.

C07.04 Unless otherwise specified, you must at own expense adequately supervise KMH Group Personnel at all times and ensure that the KMH Group Personnel:

- a) Have access to the Site and other resources as are reasonably necessary to perform the obligations under this Agreement; and
- b) Have access to a Client representative at the relevant Site to liaise with as necessary to support KMH Group in performing its obligations under this Agreement

C07.05 Where KMH Group provide personnel who perform work under the sole direction, supervision, and control of the Client, KMH Group accepts no liability for any poor workmanship, defects, errors, or outcomes arising from the personnel's performance. The Client assumes full responsibility for ensuring work quality, outcomes, and compliance with relevant standards and regulations.

### C08 Permanent Placement Personnel

C08.01 Unless otherwise agreed in writing the Placement Fee for Permanent Personnel will be calculated as a percentage of the total remuneration package including superannuation and all other allowances and benefits.

C08.02 You acknowledge the requirement to pay a Placement Fee within fourteen (14) days of invoice for a successful placement, regardless of any other payment terms in place.

## C09 Replacement Guarantee

C09.01 **KMH Group** offers a replacement guarantee for a **Permanent Placement** who leaves your employ or is terminated based on performance within 3 months of placement (**Guarantee Period**).

C09.02 The replacement guarantee does not apply in situations of redundancy, role modification, or changes to the original job description and assignment specification provided to **KMH Group** and is subject to the following conditions:

- a) Your account has been paid in full within 14 days and you have no other amounts outstanding to **KMH Group**;
- b) You request replacement exclusively from **KMH Group**;
- c) You notify **KMH Group** as soon as practicable, and within the **Guarantee Period**, that you wish to utilise the replacement guarantee;
- d) Replacement **Personnel** must be employed in the same role and under the same terms as the previous **Permanent Placement**.
- e) The job description and assignment specification has not altered from the original placement; and
- f) You do not unreasonably delay in requesting **KMH Group** source a replacement.

C09.03 From applicable request, the Client must exercise the replacement guarantee within 12 months. If the guarantee is not exercised within this period, it will expire and will no longer be available to the Client.

C09.04 The **Schedule of Rates** incorporates ordinary costs including recruitment, candidate management, administration costs, and other statutory on-costs including payroll tax, portable long-service leave, superannuation, insurances, and similar.

C09.05 Unless explicitly stated, the **Schedule of Rates** does not include costs such as allowances, bonuses, incentives, travel and accommodation, training, orientations, inductions, competency verifications, MSIC, ASIC, Working with Children, criminal history checks, PPE, uniforms or any incidental costs **KMH Group** or **Personnel** may incur at your request to perform the Services.

C09.06 Unless explicitly stated, the **Schedule of Rates** does not include any medical assessments including functional, pre-employment, or drug and alcohol screening.

C09.07 All authorised travel (or travel allowances) to be included must be agreed in advance and explicitly stated in the **Schedule of Rates**.

C09.08 All costs, charges, and expenses incurred by **KMH Group** that are not explicitly stated, or agreed in writing or detailed in the Charge Rates prior will be considered additional costs and you will be liable for these costs in addition to a Service and Handling fee.

## C10 Timesheet Arrangements

C10.01 You will be provided access to a timesheet process or system for recording hours worked by **Personnel** in the performance of **Personnel Services**.

C10.02 The signature or electronic approval of a timesheet by you, a signatory, or an approver will be considered your confirmation that the hours shown are correct.

C10.03 Timesheets that you, a signatory, or an approver approve will be taken as final and conclusive evidence of hours worked by **Personnel** and you warrant that any signatory or approver of timesheets has the authority to bind you.

C10.04 You acknowledge that each timesheet must be approved before midday of the first business day after the end of each pay week so that **Personnel** remuneration and invoices can be processed.

C10.05 **KMH Group** cannot be held responsible for inaccurate timesheet approval. Additional employee entitlements and charges may be applicable.

## C11 Workplace Health and Safety

C11.01 You may be required to complete an **KMH Group** Health and Safety Checklist prior to the commencement of **Personnel Services**.

C11.02 You acknowledge your responsibility for the care and supervision of all **Personnel**, which includes providing a safe working environment and maintaining appropriate practices and procedures to avoid compromising the safety and health of **Personnel**, other people, and property.

C11.03 You must ensure that all activities undertaken by **Personnel** are in accordance with workplace health and safety requirements, including:

- a) Controlling exposure to risks and hazards to health and safety in the workplace;
- b) Providing safe and suitable equipment and facilities;
- c) Clearly communicating safe and appropriate systems of work for all activities within the role or tasks; and
- d) Providing all necessary information, instruction, familiarisation, supervision, and on-the-job training for activities to be undertaken.

C11.04 In the event of any incident or injury involving **Personnel** you must immediately notify **KMH Group** immediately upon becoming aware of any incident or injury, and shall:

- a) Provide **KMH Group** with an incident report as soon as practicable;
- b) Include an **KMH Group** representative as an active part of the investigation; and
- c) Provide **KMH Group** with all investigation information no later than ten (10) working days post incident.

C11.05 You acknowledge a joint responsibility for the initial medical treatment and rehabilitation of injured **Personnel**, including the provision of assisting injured **Personnel** to return to normal duties by providing suitable duties where possible, in accordance with the treating medical practitioners advice:

C11.06 If injured **Personnel** cannot perform their usual duties, **KMH Group** may offer to place **Personnel** with you on alternative duties at a reduced or waived charge.

## C12 Insurance

C12.01 You must obtain, maintain, and evidence all insurances required by law and good practice including:

- a) Adequate public liability insurance of not less than twenty (20) million dollars for any one occurrence.
- b) Adequate insurance to cover death or personal injury of **Personnel**;
- c) Adequate insurance to cover any death or personal injury caused or contributed to by **Personnel**;
- d) Adequate insurance to cover property damage caused or contributed to by **Personnel**; and
- e) Adequate insurance to cover machinery, vehicles, plant, and equipment that may be operated by **Personnel**.

## C13 Industrial Instruments

C13.01 Prior to, or at the time of providing a **Service Request**, you must provide any industrial instrument applicable to the conditions of engagement for **Personnel**.

C13.02 If you fail to provide an industrial instrument applicable to the conditions of engagement for **Personnel**, **KMH Group** may retrospectively modify the **Schedule of Rates** to account for such an instrument while maintaining the original margin.

C13.03 You shall release, hold harmless, and indemnify **KMH Group** and any officer, employee, agent, or contractor from any underpayment, penalty, or settlement arising from the provision of any incorrect advice or information or from the withholding of any information related to the conditions of engagement for **Personnel**.

#### C14 Personnel Equipment Provision

C14.01 Where Equipment is required for the provision of **Personnel Services**, the following terms shall apply and are separate from the terms and conditions governing **Rental Equipment**:

C14.02 The Equipment will be specified in the **Schedule of Rates** and the Client will be charged for the provision of the Equipment throughout the term of the Agreement

C14.03 The Equipment is provided solely for the purpose of enabling **KMH Group** personnel to perform their role and will not be used for any other use.

C14.04 **KMH Group** will be responsible for ensuring the Equipment is operated in accordance with applicable laws and regulations.

C14.05 **KMH Group** will be responsible for any damage, excessive wear, or misuse of the Equipment during the period of use.

C14.06 Fuel, routine maintenance, and consumables shall be the responsibility of the Client unless otherwise agreed in writing.

C14.07 The Client must keep the Equipment secure from theft and damage and not do or allow anything to be done which is likely to jeopardise their safety, condition or value.

C14.08 The Client must notify **KMH Group** immediately if the Equipment is lost, stolen or damaged

C14.09 The Client must not sell, remove from site, alter, operate, dispose the Equipment without **KMH Group** consent in writing

## Part D Schedule 1 - Inclusions and Allowances

### D01 Rental Equipment

**D01.01 Short / Medium / Long Term Hire Rate Variations:** Where a Hire Rate is agreed specific to a hire term and the term goes over the initially agreed timeframe. The Client may request to vary the rate to an alternative Hire Rate within the new term. This request must be provided to **KMH Group** in writing and is subject to **KMH Group** approval. The newly agreed Hire Rate will apply from the date of notification and will not be backdated.

**D01.02 Usage Inclusion Rate:** A Usage Inclusion Rate of usage (kilometres / hours) will be provided within the Hire Rate. Any excess usage will be charged at the Excess Usage Charge.

**D01.03 Company Managed Maintenance:** The daily rate charged for the provision of Company-Managed Maintenance during the Hire Period as quoted in the Contract.

**D01.04 Damage Waiver Charge:** The daily rate charged for the provision of Damage Liability Limitation during the Hire Period.

**D01.05 Damage Liability Amount:** An excess charge to the amount of 1% of the market value, or a minimum charge of \$3,500, whichever is greater

**D01.06 Minimum Notice Period:** A request from the Client for Contract changes must be made, and written agreement from the Company received no less than 72 hours prior to the implementation of the proposed change. For changes required under 72 hours, **KMH Group** reserves the right to implement the requested change within 7 business days.

**D01.07 Early Return Charge:** Where the initial hire is greater than a 30 day Hire Period. A Client must provide a minimum of a Months' Notice (30 days) to return any Equipment prior to the End Date listed in the Hire Contract.

**D01.08 Included Detailing:** Two (2) hour of cleaning and detailing time per Equipment to return the Equipment to a suitable condition for hire. For any additional cleaning time additional charges will apply.

**D01.09 IVMS Charges:** The charge for the hire of the IVMS for or every consecutive twenty-four (24) hour period (or part thereof) during the Hire Period

**D01.10 Service & Handling Charges:** An additional charge will be provided to the cost of any:

- a) Toll, fine, infringement, penalty, Court fee, or Impoundment charge, or a similar charge processed by **KMH Group**.
- b) Costs incurred in taking possession of a Vehicle; and
- c) Costs incurred in any replacement, cleaning or repair of any Equipment or Associated Items; or incurred in undertaking damage rectification work.
- d) Arrangement of any services

**D01.11 Refuelling Fee:** fuel and fuel service charges where the Equipment's tank is returned with less than a full tank will be charged at a per litre rate including a labour component.

**D01.12 Pro – Rata Servicing:** Where the Client has opted to maintain the Equipment themselves. If the Equipment is returned partway through a servicing interval, and servicing has been carried out as per the defined Servicing Intervals by the Client up to the point of return. **KMH Group** will calculate a pro-rated servicing fee based on the percentage of the servicing interval used since the last completed service. This charge will be determined by multiplying the Pro – Rata Service Fee by the number of kilometres or hours, used from the last service to the time of collection.

**D01.13 Replacement Tyres Charges:** The Client is responsible for the proper operation and care of the Equipment, including avoiding hazardous terrain that may cause damage to tyres. If excess tyre damage occurs including where the tyre is unroadworthy regardless of tread life (shows evidence of damage, such as cuts, punctures, sidewall tears, or deformation) due to improper use, including but not limited to driving over sharp objects, rocks, or unsuitable terrain, the Client will be liable for:

- a) The cost of repairing or replacing the damaged tyre(s).
- b) Where the Client replaces a tyre at its own cost, the replacement tyre must be the same brand and tread pattern as the other tyres on the Equipment. If the Client does not do this, then **KMH Group** may charge the Client for an entire replacement set of tyres (of no lesser standard than the replaced set).

**D01.14 Environmental Levy:** The charge for the provision of the Environmental Levy is applicable to all equipment hire charges for the duration the Hire Period.

### D02 Workforce Solutions

**D02.01 Minimum Shift Duration:** A 4-hour minimum is chargeable for any employee that commences work.

**D02.02 Cancellations:** A minimum of 3 hours' notice prior to the start of shift is required. Late cancellations will incur a 4-hour penalty.

**D02.03 Shift Work Notification:** Any employee required to perform shift work shall be given a minimum of 48hrs notice prior to the change of any shift work requirement commencing.

**D02.04 Working in the Rain:** Where an employee is required to Work in the Rain, this is to be noted on the Employees timesheet and an additional Allowance may be paid and charged at the equivalent to Ordinary time payment for all hours worked.

**D02.05 Meal Allowance:** Unless detailed in the Schedule of Rates, a Meal Allowance may be chargeable for any employee who is required to work 1.5 hours or more of overtime and 4 Hours or more of overtime after Ordinary hours is worked.

**D02.06 Travel Allowance:** Unless detailed in the Schedule of Rates a Travel Allowance will be paid and charged each day an Employee presents for work.

**D02.07 First Aid Allowance:** Unless detailed in the Schedule of Rates a First Aid Allowance will be paid and charged for Employees appointed as first aid officers.

**D02.08 Travel Allowance Kilometres:** This charge may be applicable for an employee required to travel to and from work either when the Employee is required to use their own vehicle or when defined in the Schedule of Rates / Quotation. This is paid per kilometre when noted on the Employees timesheet.

**D02.09 Regional Travel:** Travel time will be paid and charged for each way.

**D02.10 Inclement Weather:** Paid and charged when Rained Off / Heated off site at the Ordinary time rate for all ordinary hours

**D02.11 Multistorey Allowance:** A multistorey building means a building which will, when complete, consist of 5 or more storey levels. An allowance may be paid and charged per hour when one of the following components of the building—structural steel, reinforcing steel, boxing or walls— rises above the floor level first designated in the allowance scale.

**D02.12 Annual Rate Increase:** Charge rates increase with effect from 01 July each year. This increase will be in line with changes to any applicable Consumer Price Index (CPI), Wage Price Index (WPI), Annual Wage Review or other statutory regulations, legislation, agreements, awards, or similar instruments that underpin employee and charge rates.

D02.13 **Service & Handling Charges:** An additional charge will be provided to the cost of any: Service arrangement, handling or provision of travel, accommodation, allowances, levy's, schemes, personal integrity checks (working with children, police etc), uniforms, assessments, PPE, equipment and onboarding provisions (medical assessments including functional, pre-employment, drug and alcohol screening, etc) that are not defined in the Schedule of Rates / Quotation.

D02.14 **Temporary to Permanent Arrangements:** Are applicable to temporary / labour hire agreements only and are not available to Rostered Personnel Services. Applicable charges apply for any personnel engaged under the **Minimum Temp to Perm Agreement Hours** with the minimum hours of engagement being 1500 hours.