

HELICRETE PTY LTD – TERMS AND CONDITIONS OF SALE & HIRE

These Standard Terms and Conditions apply to all purchases and hires from Helicrete Pty Ltd and or from The Manufacturer. These terms and conditions are split into the following Sections: Section 1 (General) which generally applies to all sales; Section 2 (Conditions of Hire) which contains additional provisions applicable to hires; Those clauses and sub clauses marked (*) Do not apply to consumers. All Terms & Conditions from Section 1 & 2 apply for both the sale and hire of Goods sold and Goods hired, as some clauses and or situations will cross between sale & hire.

1. Definitions

1.1 In these conditions the following words have the following meanings:
"Additional Payment" - means payments falling due to the Company under the terms of the Contract in addition to the Contract Price.
"Contract" - means a contract which incorporates these conditions and made between the Customer and the Company for the supply of Hire Goods and/ or the purchase of Products and or services and or carrying out of the Works which also include the Estimate/Quotation, Acceptance of Estimate, Invoice, Specification, and these Conditions together with any further documents identified in the Estimate/Quotation as Specification Documents.
"Contract Price" - means the price for the Equipment and or Works set out in the Estimate/Quotation.
"Customer" - means the person, firm, company or other organisation purchasing or hiring the goods/ works.
"Customer" - means the person for whom the Company has agreed to invoice the goods, and or the hire of the goods, and or carry out the works (this also includes a Helicrete Dealer).
"Commencement Date" – means the date the Company will commence the hire/works provided full information/equipment has been supplied by the Customer.
"Company" - means Helicrete Pty Ltd, its employees, servants, agents and or duly appointed representatives.
"Confidential Information" - means all information designated as such by either party in writing to the other and all such other information which relates to the business, affairs, equipment, developments, trade secrets, know how, personnel, Customers and companies of either party or information which may reasonably be regarded as the confidential information of the disclosing party.
"Conditions" - means the provisions set out in this document and others.
"Delivery" - means if requested as an addition to the order by the customer, shall mean by best means; charges for palletable goods will be based on an open or curtain sided vehicle, the customer being responsible for offloading by forklift or other means. Any variation on vehicle is chargeable as additional payment.
"Deposit" - means any advance payment required by the Company in relation to the order of Special Machines/Hire Goods/works which is to be held as security by the Company secure the order and or reserve equipment.
"Estimate" - means the Company's written Estimate, being the Company's written guideline of materials and or labour required based on the information provided by the Customer.
"Helicrete Dealer" – means a company or individual who has been approved for a Helicrete Dealership to sell, hire and or repair the Goods.
"Force Majeure" - means any event outside a party's reasonable control also including, but not limited to, acts of God,

war, flood, fire, labour disputes, strikes, sub contractors, lock outs, riots, civil commotion, malicious damage, explosion, terrorism, governmental actions, freight delays and any other similar events.
"Goods" - means all equipment, accessories, parts and the like designed, fabricated, sold and or hired by The Company and or The Manufacturer.
"The Hirer" - means the person and or company for whom our Company has agreed to hire the goods to.
"Hire Goods" - means any machine, article, tool, and or device together with any accessories specified in a Contract which are hired to the Customer.
"Hire Period" means the period commencing when the Customer holds the Hire Goods on hire (this also includes Saturdays, Sundays and Bank Holidays) and ending upon the happening of any of the following events (i) the physical return of the Hire Goods by the customer into the Company's possession or (ii) the physical repossession or collection of Hire Goods by the Company.
"Liability" - means liability for any and all damages, claims, proceedings, actions, awards, expenses, costs, and any other losses and or liabilities.
"Manufacturer" – means Autoguide Equipment Ltd, the Manufacturer of the Goods being sold.
"Products" - means the products sold to the customer by the Company.
"Materials" - means the materials set out in the Estimate/Quotation to be supplied to the Customer by the Company.
"Quotation" - means the Company's written quotation.
"Rental" - means the Company's charging rate for the hire of the Hire Goods which is current from time to time during the Hire Period.
"Services" - means the services and or work (if any) to be performed by the Company for the Customer in conjunction with the hire of Hire Goods which will also include any delivery and or collection service for the Hire Goods.
"The Order" - means the order issued by the Customer to the Company for the supply of Materials and or carrying out of the Works.
"The Site" - means the premises to which the Materials are to be supplied and or the Works are to be carried out.
"The Specification" - means the specification for the Product/Works.
"Works" - means the works to be carried out under the Contract will also include without limitation the procurement and delivery of Materials and Equipment, and where applicable the carrying out of all work/fitting as stated in the Estimate/ Quotation and or Specification.
"Working Day" - means Monday to Friday 9.00am until 5.00pm inclusive, excluding Bank and Public holidays in Australia and England. In these Terms and Conditions references to the masculine also include the feminine and the neuter and to the singular also include the plural and vice versa as the context admits or requires. In these Terms and Conditions headings will not affect the construction of the Contract. In these Conditions references to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to that statute or statutory provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced.

SECTION 1: GENERAL

1. General

All products are sold and services supplied to these terms and conditions and in so far as they may be excluded all other liabilities, conditions, guarantees, warranties, terms, undertakings and representations, expressed or implied, statutory or otherwise are hereby

expressly excluded and unless previously agreed in writing by an authorised officer (i) no verbal, written or other addition hereto or variation or waiver hereof shall be effective and in the event of any conflict or inconsistency between these conditions and the terms of any order or acceptance these conditions shall prevail. The giving of any delivery instructions, the acceptance of or payment for any products or any conduct or confirmation of the transaction hereby contemplated shall constitute unqualified acceptance by the Customer of these conditions.

2. Validity

Estimates/Quotations/Pro-Formas and offers are open for acceptance within 30 days only from date thereof and are subject to our written confirmation of such acceptance. The right is reserved to withdraw any Estimate/Quotation or offer at any time either verbally or in writing and no liability whatsoever shall be incurred by such withdrawal.

3. Price

Prices are quoted in Australian Dollars ex-works and are based on the cost of materials, labour, transport, duties, levies, currency exchange rates and statutory obligations ruling at the date of quotation/estimate and if between delivery of all the product there occurs any increase in any of such costs, the price payable may be increased to allow for such variations. We shall be entitled to increase such prices in the event of any error or omission on our part, our servants or agents affecting price or its calculation. Quotes are not to be taken as an offer.

4. Misrepresentations

We shall be under no liability nor shall the Customer be entitled to any remedy by reason of the Misrepresentation Act 1972 to the extent (if any) that the court or any arbitrator may allow reliance on this provision as being fair and reasonable.

5. Passing of Property

5.1 The property of products shall not pass to the Customer until they have been delivered and the total price therefore and any other payments due to us from the Customer in respect thereof have been made in full.
5.2 If payment of the total price or other sums is not made on the due date or dispatch date, we shall have the right with or without prior notice at any time to retake possession of the whole or any part of the products and for that purpose to go upon any premises occupied by the Customer thereof without prejudice to any of our other remedies. Customer in respect thereof have been made in full.

6. Transfer of Risk and Insurance

The risk of the products shall pass to the Customer as follows:
6.1 In all cases where all the products are to be delivered to an address in Australia and New Zealand, the risk will pass when all goods have been delivered.
6.2 In all cases where goods are to be collected by the Customer all risk will pass when the products have been collected by the Customer or by anyone acting on behalf of the Customer, or if the Customer fails to collect the products within fourteen days after we have given the Customer written notice that the products are ready for delivery and collection.

7. Acceptance of Order

The Customers order must be accompanied by all information and instructions necessary to enable us to proceed with the execution thereof.

8. Installments

In the case of an order for delivery and payments for products by instalments, every delivery of products shall be deemed to be the subject matter of a separate contract and failure in delivery or in payment for any one or more of the said installments shall not, subject to our rights contained in these Conditions, entitle the Customer or us, as the case may be to treat such failure, as a repudiation of any further installments.

9. Part Deliveries

Where an order is in respect of a number of products (whether the same or different) we reserve the right to dispatch all or any number thereof, and the Customer shall accept such deliveries and honor all statements in respect thereof in accordance with the terms and payment set out herein.

10. Damage or Loss in Transit

Packages and products must be examined by the Customer on receipt and notification of damage or breakage must be sent in writing both to ourselves and the carrier thereof within seven days of receipt of the products by the Customer. In the case either of loss in transit or delay in delivery, notification in writing must be sent to both ourselves and the carrier thereof within fourteen days of the date of the advice note relating to the products. Unexamined signatures shall not relieve the Customer of any liability and we shall not be responsible for any claim if the Customer fails to comply with this condition.

11. Acceptance of Goods

11.1 Unless within seven days from the date of the delivery the Company are notified by telephone or writing, products shall be deemed to have been accepted by the Customer. If the Customer is not totally satisfied with the purchase, the Customer must notify us within 14 days from date of delivery for a refund of the Goods minus any restocking fees and excluding delivery charges. The item must be returned in its original/delivered condition and packaging. The Customer is responsible for the cost of delivery and safe return of the goods. Goods cannot be returned if it is just a change of mind and/ or after the Goods have been used, customised, changed and or adapted from the Goods original state. Goods must be deemed by the Company/ Manufacturer to be damaged and or faulty to be accepted as returnable. The Customer must send an email or written letter describing the Goods in question for return with photos and or videos to the Company within 14 days of delivery and or within 12 months of delivery for warranty purposes.
11.2 Prior to returning any products, the Customer must inform the Company via telephone and email to discuss the return and obtain a Returns Number.
11.3 The responsibility for the condition in which the products that are returned, is the Customers sole responsibility. Any items returned in a nonsatisfactory condition will be rejected, on the basis of diminished value.
11.4 The Company, once approved from the Manufacturer, will refund the agreed price of the item to the Customer (minus any restocking fees and delivery charges) or exchange it as soon as it is received by the warehouse. The Company will raise a credit note if applicable within 14 working days. Restocking Fees: 25% if returned within 14 days of delivery; 50% if returned within 15-29 days of delivery; No credit will be applied if returned after 30 days from delivery. Any item that has been made as a special, custom item or

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painted in a custom paint are exempt from our returns policy. These items are prepared specifically to order and are not considered stock lines or a defective product. Full payment and a 25% restocking fee apply on these products if the order is cancelled after fabrication/alteration has begun.

11.5 If the Customer hires to install, the Company infers that the Customer is using all reasonable skill and care during that installation and accepts no liability whatsoever for incorrect installation, host machine or unsuitable soil conditions.

11.6 If a product is covered under warranty and a service call is required, all costs will be covered by the Company/Manufacturer unless the fault is deemed to be, but not limited to, due to no general upkeep/pre start checks & logged use, misuse, neglect, harsh use, outside the purpose of the product. Charges will then be applicable for the labour, freight, part and material costs payable by the Customer/Dealer.

12. Terms of Payment

12.1 Full payment, in Australian dollars, must be received before fabrication/freighting of the order can begin. A payment remittance/receipt must be emailed through to the Company for confirmation of payment.

12.2 For approved credit accounts, payment in full within 30 days from date of the invoice. A Credit limitation of 5% will be added to the value of the goods. This may be deducted if payment is made in full by the due date. TAX is charged on the net value of the goods only.

12.3 Export shipment. Payment must be made in full in Australian dollars to the Company before dispatch/delivery. All prices are the actual amounts payable to us free of all deductions whatsoever and the Customer is responsible for all freight, GST, insurance, rent, storage, demurrage, any additional documentation not notified at the time of order, tariffs, taxes, import duties, and all other charges and payments which may be levied, charged, assessed, or imposed in respect of the products and all other charges which may be incurred through circumstances beyond our control.

12.4 Punctual payment is the essence of the contract.

12.5 If payment of the price or any part or installment thereof is not delivered on the due date we shall be entitled to charge interest on the outstanding amount at the rate of 10% per calendar month (and any other costs incurred in relation to the recovery of any sums outstanding shall be for the Customer's account).

12.6 No deductions shall be made by the Customer in respect of any set-off or counterclaim howsoever arising.

12.7 Refunds/cancellations will not be given for change of mind, or the like, after purchase and Goods are in transit, fabrication and or delivery of the Goods.

13. Packaging, Insurance and Carriage

For catalogue items, prices quoted exclude packaging insurance, and carriage to AUS/NZ destinations. Otherwise, delivery shall mean delivery ex-works, all packaging, insurance, and carriage, taxes and duties, shall be for the Customer's account.

14. Value Added Tax

The Customer shall pay to us in addition to the contract price a sum equal to the value added tax chargeable in respect of the value of the supply of products and or services.

15. Cancellations and Insolvency

15.1 If there is any default in or breach of any Customers obligations hereunder or in any payments due to us under any

contract whatsoever, or if any distress, execution or other legal process is levied upon or served against the Customer's property, or if the Customer shall make an offer or make any arrangement or composition or commit any act of bankruptcy or if any petition or receiving order is presented or made against the Customer, or if a company, any resolution or petition to the Customer up shall be passed or presented, or if a receiver of all or any of its assets shall be appointed, then (without prejudice to other remedies) in each such case we shall have the right at any time to determine the contract and cancel any outstanding delivery and stop any products in transit and notwithstanding any other provisions, payment in respect of any delivery already made shall be immediately due.

15.2 The cancellation of an order by the Customer shall not be effective without our prior written consent and shall be subject to the payment to us of such a sum as we shall consider reasonable in respect of work done and materials supplied or ordered.

16. Force Majeure

Every effort will be made to carry out any contract based on this Estimate/Quotation, but if we are prevented (directly or indirectly) from making delivery of the products or performing or completing any of our obligations hereunder by reason of acts of God, war, strikes, lockouts, trade disputes, or other industrial action, fire, droughts, floods, explosions, breakdowns, interruption of transport, refusal of licence, Government or administrative action, delays in delivery to us or increase in the price of any goods or materials, any statute rule, regulation, order requisition recommendation or directive of any Government council or other authority or body, or case whatsoever (whether or not of the like nature to these specified above) outside our control, we shall be under no liability whatsoever to the Customer and shall be entitled at our option (to be notified to the Customer in writing) either to cancel the contract whereupon we shall be relieved of all liabilities hereunder or to extend the time of its performance by a period equivalent to that during which performance by us has been prevented by the circumstances herein before referred to.

17. Delivery

We undertake to make every endeavor to adhere to our delivery schedule. Such schedule, is however not guaranteed or to be deemed to be part of the essence of the contract and we shall in no case be liable for any delay in delivery or any losses, or the like, resulting directly or indirectly there from howsoever caused and any delay in delivery shall not be sufficient cause for cancellation or refund by the Customer. Freight is conducted by a third party company and is therefore out of the Company's control. If the Customer requests to cancel the order and or request for a refund, if the Goods are still in the Manufacturer's country and the Goods are standard items, a cancellation fee will apply, which will also include, but not limited to, the Company's time put into the order and the Freight company's cancellation fees. If the Goods are non standard/custom fabricated items they are non refundable. If the Goods have left the Manufacturer's country a refund will also not be given.

18. General Liability

The Company warrants that the goods to be delivered consequent upon the acceptance of the Customer's order are as described in his acknowledgment of good quality and workmanship, and that

the Company has title, thereto and the right to sell same, the Company obligation under this warranty shall be limited to replacing without charge, for delivery ex-works, unpacked any part or parts of said goods which prove defective within twelve calendar months from the date on which the original goods shall first have been delivered from the Company's works and or Manufacturer, and which are carefully packed and returned at the Customer's expense to the Company works, proved that notice of such defects and satisfactory proof thereof is given by the Customer immediately after discovery and provided further that said products shall not have been taxed beyond their normal capacity and shall in all respects have been operated and maintained in normal and proper manner with hours of use, oil changes/maintenance & replaced parts logs completed. The Company's/Manufacturer's obligation in this respect shall not apply to nor include any of the said products or parts thereof which have been subject to accident, alteration, abuse, misuse or said logs have not been completed and retained. Notwithstanding the foregoing, the Company's/ Manufacturer's liability in respect of items e.g. engines, gearboxes, radiators or expendable materials which by their nature or application have an unpredictable life shall not exceed the liability under the warranty by the Manufacturer of these articles. Logs still need to be kept. Also in this clause herein before expressed, we shall be under no liability in contract tort or otherwise for any personal consequential or other injury, loss or damage of whatsoever kind or howsoever caused or for anything done or omitted in connection with the products of any work in connection therewith also including any breach by us, our servants, or agents of any fundamental term or any fundamental breach by us, our servants or agents of any terms of the contact and our liability under this clause shall be in lieu of and to the exclusion of any liability condition, guarantee, warranty term undertaking or representation whether express or implied statutory or otherwise. The Manufacturer, The Company or its agents do not accept any liability or offer warranty if damages occur due to unsuitable and or overpowered host machine/s. It is the customer's responsibility to decide whether or not the manufacturer's products, parts and accessories are suitable for their host machine/s and purpose of use. The Customer/Dealer shall be liable for the acts and/ or omissions of its employees, agents, servants and/ or subcontractors as though they were its own acts and or omissions under this Contract.

18.1 The rubber buffers on top of the Product/ PostMasters are wear and tear items and are not covered under warranty.

19. Suitability

You assume responsibility that products, host machines and applications of use stipulated by you are sufficient and suitable for the Manufacturer's products and accessories and for your purpose.

20. Performance and Drawing

All particulars given by us relating to technical performance, dimensions, capacity output, consumption and weight of any products are all illustrations, descriptions, specifications and drawings are given as accurately as possible, but are an approximate only and all such materials contained in brochures, catalogs, price lists and other advertising matter is intended merely to present a general idea of our products described therein and none of such material shall

form part of the contract and products and pricing may vary and change over time.

21. Modifications

Every effort is made to ensure that the latest specification and design are available and we reserve the right to incorporate changes in design, construction, composition, materials, arrangement or equipment as we shall think fit without notifying the Customer/Dealer and to supply products which may not be in strict accordance with the agreed specification.

22. Copyright

We shall retain the exclusive property and reserve the copyright on all documents supplied or produced to you in connection with any contract or tender and it shall be a condition of such a supply or production that the contents of such documents or any part thereof shall not be communicated either directly or indirectly to any other person, firm or company without our prior written consent. All communication in connection with any contract or intended contract and all arrangements for the inspection of products and or facilities shall be regarded strictly confidential between us and shall not be divulged to any other person, firm or company without our prior written consent.

23. Patents

23.1 The Customer agrees to indemnify us and the Manufacturer against all demands, claims, damages, charges, liabilities, costs and expenses which may be incurred or sustained by us or the manufacturer by reason of or arising directly or indirectly out of any third party claims or rights or otherwise howsoever in respect of any products manufactured or services supplied in accordance with any specification, design, information, equipment or instruction given by or on behalf of the Customer and whether relating to the infringement of the alleged infringement of a Patent Copyright Registered Design or other protected industrial right or property on otherwise howsoever.

24. Design Rights

24.1 The property in the design of the products covered by the contract shall, subject to any existing rights of any third party in any design or invention incorporated on used in the design of the products remain exclusively our property and neither the Customer nor any other agent, contractor or other person authorised by the Customer, nor any other person, firm or company shall at any time make use of the design or any part. The Customer agrees to not copy, recreate, reproduce, duplicate or the like any of the equipment sold, designed and or fabricated by The Company and or the Manufacturer.

24.2 All products, accessories, parts and custom made products are designed and owned by the Manufacturer and or the Company and therefore cannot be duplicated in any way, shape or form under penalty by law unless authorised in writing from the Manufacturer or the Company.

25. Notices

Any notice required or authorised to be given hereunder, may be given either personally or by post addressed to such other party at its address furnished to the other by written notice and shall be deemed to have been served 48 hours after the same is posted and proof that the envelope containing the notice was properly addressed and sent by prepaid post shall be sufficient evidence of service.

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26. Legal Construction

Nothing in this contract shall exclude or limit any statutory rights of the Customer which may not be excluded or limited due to the Customer acting as a consumer. Where the Customer is acting as a consumer any provision which is marked with an asterisk (*) may be subject to determination by the Courts, have no force or effect. For further information about your statutory rights contact your local authority Trading Standards Department or Government body. The contract shall in all respects, be constructed and operate as an Australian contract and in conformity with Australian law and products shall not be required to comply with the provision of any other law.

27. Arbitration

Any questions, differences or disputes arising under or relating to this contract shall be first referred to the Company's solicitor. If a decision cannot be agreed upon based on this contract and any written agreements made with the customer, a third party arbitrator in the Australian state where The Company is located may be called upon to resolve any and all issues.

28. Waiver

The Company failure to insist upon the strict performance of these conditions shall not be deemed to be a waiver of its rights or remedies in respect of any future default of the Customer in performance or compliance with any of these conditions.

29. Repairs & Maintenance

The Customer/Dealer must not repair or attempt to repair the Goods unless authorised to do so in writing by the Company/Manufacturer. The Company/Manufacturer will not be liable for any costs the Customer/Dealer incurs for any repairs, parts, maintenance, replacement hire equipment and its transport costs, freighting equipment for unauthorised repairs that have not been authorised by the Company/Manufacturer. Any non genuine parts not approved by the Company/Manufacturer used to repair the goods shall void the warranty. The Customer/Dealer must notify the Company immediately after any breakdown, loss and or damage to the Goods (within 24 hours). Logs must be kept and presented upon any warranty claims, if the hours of use logs, oil change logs and replacement parts logs cannot be presented upon a warranty claim, the Company/Manufacturer will not be liable for the warranty claim, as the use hours and oil changes cannot be guaranteed to be done within the required amount.

SECTION 2: CONDITIONS OF HIRE

1. Definitions

Refer to statement and definitions at the start of this document.

2. Basis of Contract

2.1 Hire Goods are hired subject to them being available for hire to the Customer at the time required by the Customer. The Company will not be liable for any loss suffered by the Customer as a result of the Hire Goods being unavailable for hire where the Hire Goods are unavailable due to circumstances beyond the Company's control.

2.2 Hire Goods are only to be operated by a qualified and competent user. Familiarisation sessions are available on request within 100 kilometers of the Company's address. All persons involved in the Hire Goods must read and understand the User Manual Operating Instructions and all literature involved in the use and care of the Hire Goods.

2.3 For Business Hirers, your identity will need to be confirmed by sufficient document(s) e.g. a company purchase Order on company letterhead, a Driver's licence and or other documents requested from time to time; for individuals a Driver's Licence supported by a current Utility Bill showing the hirer's residential address is required. For both a business Hirer and an individual Hirer bank card details will be required for the purpose of any additional Hire period payments and or any other payments such as but not limited to damaged, lost, stolen, unclean, unreturned hire goods. The Customers bank card details will be held with the utmost strictest confidence.

2.4 Where the value of the Hire Goods exceeds \$10,000 a satisfactory credit check will be required before Hire.

2.5 Hire Goods are supplied on a confidential basis. Pictures, sketches etc of the equipment may not be taken by anyone except by the Company personnel.

2.6 The total value of Hire to an individual cannot exceed \$10,000.

2.7 Where hire of the Hire Goods is to a Customer who is an individual and the hire would be covered by the Consumer Credit Act 1995 the duration of the Hire Period shall not exceed 1 month, after which time the Contract shall be deemed to have automatically terminated and the Hire Goods must either be returned immediately or a new Hire Contract put in place. Accordingly the hire of any Hire Goods is not covered by the Consumer credit Act 1995.

2.8 The Company will provide the relative information, as requested by the Customer, regarding to the Hire equipment's use and it's general ability. It is up to the customer to decide whether the Hire equipment is suitable for, but not limited to, their intended use, soil conditions, application, host machine and the like. The Company/Manufacturer will not be liable, in any way, if the Hire equipment is not suitable for the Customer/Dealer.

3. Payment

3.1 The amount of any Deposit, Rental and or charges for any Services shall be as quoted to the Customer or otherwise shown in the Company's current price list from time to time. Where a Deposit is required for the Hire Goods it must be paid in advance of the Customer hiring the Hire Goods. The Company may also require an initial payment on account of the Rental in advance of the Customer hiring the Hire Goods.

3.2 The Customer shall pay the Rental charges for any Services, monies for any Products and or any other sums payable under the contract to the Company at the time and in the manner agreed. The Company's prices are, unless otherwise stated, exclusive of any applicable GST for which the Customer shall additionally be liable.

3.3 Payment by the Customer on time under the Contract is an essential condition of the Contract. Payment shall not be deemed to be made until the Company has received either cash or cleared funds in respect of the full amount outstanding.

3.4 If the Customer fails to make any payment in full on the due date the Company may charge the Customer interest (both before and after judgment/decree) on the amount unpaid at the rate implied by law under the Late Payment of Commercial Debts (Interest) Act 2003 (where applicable). If payment is not received within 7 days we reserve the right to apply interest at the rate of 10% above the cash rate fixed by the Reserve Bank of Australia, calculated weekly.

3.5 The Customer shall pay all sums due to the Company under this Contract without any set-off, deduction, counterclaim and or any other withholding of monies.

3.6 The Company may set a reasonable credit limit for the Customer. The Company reserves the right to terminate or suspend the Contract for hire of the Hire Goods and or the provision of Services if allowing it to continue would result in the Customer exceeding its credit limit or the credit limit is already exceeded.

3.7 On return of the Hired Goods to the Company/ Manufacture, all items will be inspected and if applicable, the deposit will be credited and will be returned to the Customer's account within 7 working days and or the Customers bank card will not be charged any applicable fees providing the Hire Goods are returned in a suitable condition for rehire.

3.8 Minimum hire payable is one weeks hire, additional day/s or week/s thereafter will be charged accordingly. The weekly hire amount is stated in the Company's Quotation, Invoice and or information email. The payable one weeks hire is a non refundable amount, even if the hire period is less than one week, as the Hire Goods can take more than 5 working days to be delivered to the Hire Customer and upon return to the Company can take 5 or more workings days depending on the Customer's location, see clauses 9.5 & 12.3.

4. Risk Ownership and Insurance

4.1 Risk of the Hire Goods and any Products shall pass immediately to the Customer when they leave the physical possession or control of the Company.

4.2 Risk in the Hire Goods will not pass back to the Company from the Customer until the Hire Goods are back in the physical possession of the Company/ Manufacture. This shall apply even is the Company has agreed to cease charging rental.

4.3 Ownership of the Hire Goods remains at all times with the Company. The Customer has no right, title or interest in the Hire Goods except that they are hired to the Customer. Ownership of any Products remains with the Company until all monies payable to the Company by the Customer for the Products have been paid in full.

4.4 The Customer must not deal with the ownership or any interest in the Hire Goods, this also includes, but is not limited to, selling, assigning, mortgaging, pledging, charging, securing, hiring, withholding, replicate/reproduce the design and inter-workings of the Hire Goods, exerting any right to withhold, disposing of and or lending.

4.5 The Company requires the Customer to insure the Hire Goods on such reasonable terms and for such reasonable risks as the Company may specify. The proceeds of any such insurance that relate directly to the Hire Goods shall be held by the Customer in trust for the Company and be paid to the Company on demand. The Customer must not compromise any claim in respect of the Hire Goods and or any associated insurance without the Company's written consent.

4.6 The hired equipment will only be loaned to the Customer and is only covered by our insurance if agreed prior to dispatch, and whilst it remains on your premises or under your direct control. The Hire Goods cannot be hired onto a third party and will not be covered by our insurance or warranty if exposed to be doing so. Our contract remains between the Company and Customer. No contract will exist between the Company and your third party Customer.

5. Delivery Collection and Services

5.1 It is the responsibility of the Customer to collect the Hire Goods from the Company and return them to the Company at the end of the Hire Period. If the Company agrees to deliver and collect the Hire Goods to and or from the Customer it will do so at its standard delivery cost and such delivery and or collection will form part of the Services payable by the Customer.

5.1.1 If the Company arranges collection, the Customer must notify the Company when the Hire Goods are going to be available for collection, hire goods must be collected from Customer's supplied address front driveway for suitable space for freight vehicle to collect. All Hire Goods must be strapped securely and safely so that the Hire Goods are not to become damaged during transit or harm any person(s) loading or unloading the Hire Goods. Failure to do so will result in additional costs to the Customer.

5.2 Where the Company provides Services the persons performing the Services are servants of the Customer and once the Customer instructs such persons they are under the direction and control of the Customer. The Customer shall be solely responsible for any instruction, guidance and or advice given by the Customer to any such person and for any damage which occurs as a result of such persons following the Customer's instructions, guidance and or advice except to the extent that the persons performing the Services are found to be negligent by the Company.

5.3 The Customer will allow and or procure sufficient access to and from the relevant site and procure sufficient unloading space, facilities, equipment and access to utilities for the Company's employees, sub contractors and or agents to allow them to carry out the Services and or Delivery of the Hire Goods. The Customer will ensure that the site where the Services and or Delivery are to be performed is, where necessary, cleared and prepared before the Services and or Delivery are due to commence. The Customer/ Dealer must be present upon delivery and collection or fees for futile delivery and redelivery will be charged.

5.4 If any Services and or Delivery are delayed, postponed and or are cancelled due to the Customer failing to comply with its obligations the Customer will be liable to pay the Company's additional standard charges from time to time for such delay, postponement and or cancellation except where the Customer is acting as a consumer and the delay is due to a Force Majeure event.

5.5 The Hire Period payable by the Customer will commence on the delivery of the Hire Goods to the Customer and will end at the collection of the Hire Goods from the Customer.

5.6 If the Customer cancels the hire within 48 hours of the hire goods being dispatched the Customer shall be subject to pay one days hire rate of the goods intended for hire and or such a sum as the Company shall consider reasonable for the steps that have been taken to have the Hire Goods ready & available to the Customer.

6. Care of Hire Goods

6.1 The Customer shall:-

6.1.1 not remove any labels from and or interfere with the Hire Goods, their working mechanisms to any other parts of them and shall take reasonable care of the Hire Goods and only use them for their proper purpose in safe and correct manner in accordance with any operating

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instructions provided or supplied to the Customer.

6.1.2 notify the Company immediately after any breakdown, stolen, loss and or damage to the Hire Goods (within 2 working hours)

6.1.3 take adequate and proper measures to protect the Hire Goods from theft, damage and or other risks. If the Hire Goods are damaged, lost, stolen or otherwise they must be repaired and or replaced at the Customer's expense in full. Damaged Hire Goods must not be used as further damage may occur and will further be payable by the Hire Customer.

6.1.4 notify the Company of any change of its address and upon the Company's request provide details of the location of the Hire Goods.

6.1.5 permit the Company at all reasonable times and upon reasonable notice to inspect the Hire Goods also include procuring access to any property where the Hire Goods are situated.

6.1.6 keep the Hire Goods at all times in its possession and control and not to remove the Hire Goods from the country where the Customer is located and or the country where the Company is located without the prior written consent of the Company.

6.1.7 be responsible for the conduct and cost of any testing, examinations and or checks in relation to the Hire Goods required by any legislation, best practice and or operating instructions except to the extent that the Company has agreed to provide them as part of any Services.

6.1.8 not do or omit to do anything which the Customer has been notified will or may be deemed to invalidate any policy of insurance related to the Hire Goods.

6.1.9 not continue to use Hire Goods where they have been damaged or worse and will notify the Company immediately if the Hire Goods are damaged in anyway, other property and or injury to any person/s and

6.1.10 where the Hire Goods require fuel, oil and or electricity ensure that the proper type and or voltage is used and that, where appropriate, the Hire Goods are properly installed and used by a suitably qualified and competent person.

6.2 The Hire Goods must be returned by the Customer in good working order, clean/debris free, unaltered, not damaged and in the same condition as the Hire Goods left the Company and together with all additional spares, parts and user manual with completed logs and if applicable all insurance policies, licenses, registration and other documents relating to the Hire Goods. Hire Goods that are returned damaged, altered, in an unclear/non rehire-able manner and or without listed additional or damaged spares, parts, user manual or user manual without uncompleted logs will incur additional fees payable by the Customer to the Company. The Customer must pay the additional fees within 7 days of written notice by the Company.

7. Breakdown

7.1 Allowance will be made in relation to the Rental to the Customer for any non-use of the Hire Goods due to breakdown caused by the development of an inherent fault and or fair wear and tear on condition that the Customer informs the Company immediately of any breakdown (within 2 hours). If access is not permitted to repair the Hire goods, hire period will continue upon delivery of repair and or replacement parts to the Hire Customer.

7.2 The Customer shall be responsible for all expenses, loss (also including loss of Rental) and or damage suffered by the Company arising from any breakdown of the Hire Goods due to the Customers

negligence, misdirection and or misuse of the Hire Goods.

7.3 The Company/Dealer will at its own cost carry out all routine maintenance and repairs to the Hire Goods during the Hire Period and all repairs which are required due to fair wear and tear and or inherent fault in the Hire Goods. The Customer will be responsible for the cost of all repairs necessary to the Hire Goods during the Hire Period which arise otherwise than as a result of wear and tear, an inherent fault and or the negligence of the Company while carrying out routine maintenance and/ or repairs.

7.4 The Customer/Dealer must not repair or attempt to repair or replace parts of the Hire Goods unless authorised to do so in writing by the Company. The Company will not be liable for any costs the Customer incurs for repairs or replacements that have not been authorised by the Company.

7.5 The Customer must notify the Company immediately after any breakdown, loss and or damage or the like there of to the Hire Goods (within 2 hours).

8. Loss or Damage to the Hire Goods

8.1 If the Hire Goods are returned in a damaged, unclean and or defective or non original state except where due to wear and tear and or inherent fault in the Hire Goods the Customer shall be liable to pay the Company for the cost of any repair, replacement and or cleaning required to return the Hire Goods to a condition for rehire and to pay the Rental and loss of Rental, in accordance with the provisions of clause

8.2 until such repairs and or cleaning have been completed.

8.2 The Customer will compensate the Company for all retail associated costs in full for the replacement of any Hire Goods and any freight, import fees applicable, which are but not limited to lost, stolen, damaged parts and or damaged beyond economical repair during the Hire Period and not properly secured for transport.

8.3 The Customer shall pay the Rental for the Hire Goods for the period that they are in the possession of the Hire Customer and not in the possession of the Company. The Hire Customer is liable to pay for hire of the Hire Goods up to and also including the date and or time it notifies the Company that the Hire Goods have been, but not limited to, lost, stolen, damaged and or damaged beyond economical repair. From that date and or time until the Company has replaced such Hire Goods the Customer shall pay, as a genuine pre-estimate of lost rental profit, a sum as liquidated damages being equal to weekly/daily amount of the Rental that would have been applied for such Hire Goods for that period. The Company shall use its reasonable commercial endeavours to purchase replacements for such Hire Goods as quickly as possible using the monies paid under clause 8.2 above.

8.4 If the Hirer is not the person signing for the equipment on site, the Hire Customer will be responsible and liable for, but not limited to, any loss, stolen or damage to the Hire Goods.

8.5 If the Hire Customer is found to repair and or replace damaged and or faulty parts of the Hire equipment with non genuine/unauthorised parts, repairs and freighted to receive repairs, The Company will replace and or repair the Hire equipment with genuine equipment, parts and authorised repairs which will be payable by the Hire Customer. The Company/Manufacturer are not liable for any transport costs of the damaged equipment to receive unauthorised repairs and or parts by an unauthorised equipment, repair and or maintenance

company or any Hire Goods and freight to replace the Company's Hire Goods payable by the Hire Customer within 7 days of the Company's invoice.

9. Termination by Notice

9.1 If the Hire Period has a fixed duration, subject to the provisions of Section 10 neither the Customer nor the Company shall be entitled to terminate the Contract before the expiry of that fixed period unless agreed with the other party.

9.2 If the Hire Period does not have a fixed duration either the Customer or the Company is entitled to terminate the Contract upon giving to the other party any agreed period of notice.

9.3 If no period of notice has been agreed or specified the Customer may terminate the Hire Period by the physical return of the Hire Goods to the Company, in which the Hire Period ends when the Hire Goods are collected by our freight company and a receipt from the freight company showing the date and time of collection. The Customer and or the freight company will give notification of the Hire Goods being returned to the Company to give reasonable notice to the Company to be available to collect the returned Hire Goods.

9.4 The Company shall be entitled to terminate the hire of the Hire Goods at any time by giving not less than 24 hours notice to the Customer. If the Company deems the Hire Goods are in danger of, but not limited to, being damaged, lost, stolen, sold or misused the Company can terminate the Hire period immediately and will retrieve the Hire Goods from the Customer at the Customer's cost.

9.5 The billable hire period starts upon the Hire Goods being delivered to the Customer and or collected by the Customer and ends upon the Company collecting the Hire Goods, the Company's chosen freight company collects the Hire Goods and or the Customer returns the Hire Goods to the Company. This Hire period is not less than one week. Minimum hire payable is one week, see clauses 3.8 & 12.3.

10. Default

10.1 If the Customer

10.1.1 fails to make any payment to the Company when due without just cause

10.1.2 breaches the terms of the Contract and where the breach is capable of remedy has not remedied the breach within 4 days of receiving notice requiring the breach to be remedied

10.1.3 persistently breaches the terms of the Contract

10.1.4 provides incomplete, materially inaccurate or misleading facts and or information in connection with the Contract

10.1.5 pledges, charges or creates any form of security over any Hire Goods or proposes to compound with its creditors, creates a trust deed for its creditors, applies for an interim moratorium in respect of claims and or proceedings, any distress/ diligence, executions or other legal process is levied on any property of the Customer, has Bankruptcy

Potion/Petition for Sequestration presented against it or the Customer takes or suffers any similar action in any jurisdiction

10.1.6 being a company ceases or threatens to cease to carry on business, enters into voluntary or compulsory liquidation, has a receiver, administrator or administrative receiver or an examiner appointed over all or any of its assets, any attachment order/arrestment is made against the Customer, any distress/diligence, execution or other legal process is levied on any property of the Customer on the Customer takes or

suffers any similar action in any jurisdiction

10.1.7 appears reasonably to the Company due to the Customer's credit rating to be financially inadequate to meet its obligations under the Contract; and or

10.1.8 appears reasonably to the Company to be about to suffer any of the above events. Then the Company shall have the right, without prejudice to any other remedies, to exercise any or all of the rights set out in clause 10.2 below.

10.2 If any of the events set out in clause 10.1 above occurs in relation to the Customer then:-

10.2.1 except where the Customer is acting as a consumer the Company may enter, without prior notice, any premises of the Customer (or premises of third parties with their consent) where Hire Goods and or Products owned by the Company may be and repossess and Hire Goods and or Product.

10.2.2 the Company may withhold the performance of any Services and cease and Services in progress under this and or any other Contract with the Customer

10.2.3 the Company may immediately cancel, terminate and or suspend without Liability to the Customer the Contract and or any other contract with the Customer, and or

10.2.4 all monies owed by the Customer to the Supplier/Company shall be immediately become due and payable

10.3 Any repossession of the Hire Goods and or Products shall not affect the Company's right to recover from the Customer any monies due under the Contract and or damages in respect of any breach which occurred prior to repossession of the Hire Goods and or Products.

10.4 Upon termination of the Contract the Customer shall immediately

10.4.1 return the Hire Goods to the Company or make the Hire Goods available for collection by the Company as requested by the Company; and

10.4.2 pay to the Company all arrears for Rentals, freight, Charges for any Services, monies for any Products and or any other sums payable under the Contract.

11. Limitations of Liability

11.1 All warranties, representations, terms, conditions and duties implied by law relating to fitness, quality and or adequacy are excluded to fullest extent permitted by law.

11.2 If the Company and or the Manufacturer is found to be liable in respect of any damage to the Customer's property the extent of the Company's Liability will be limited to the retail cost of replacement or repair of the damaged property, whichever is in lesser amount.

11.3 Any defective Hire Goods must be returned to the Company for inspection if requested by the Company before the Company will have any Liability for defective Hire Goods.

11.4 The Company shall have no Liability to the Customer if, without just cause, any monies due in respect of the Hire Goods and or the Services have not been paid in full by the due date for payment.

11.5 The Company shall have no Liability for additional damage, loss, liability, claims, costs, expenses or the like there of caused or contributed to by the Customer's continued use of defective Hire Goods and or Services after a defect has become apparent or suspected or should reasonably have become apparent to the Customer.

11.6 The Customer shall give the Company a reasonable opportunity to remedy any matter for which the Company is liable before the Customer incurs any costs and or expenses in remedying the matter itself. If the

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Customer does not do so the Company shall have no liability to the Customer.

11.7 The Company shall have no Liability to the Customer to the extent that the Customer is covered by any policy of insurance arranged as a result of the Contract and the Customer shall ensure that the Customer's insurers waive any and all rights of subrogation they may have against the Company.

11.8 The Company shall have no Liability to the Customer for any:-

11.8.1 consequential losses (also including, but not limited to, any loss of profits and or damage to goodwill);

11.8.2 economic and or other similar losses

11.8.3 special damages and indirect losses and or

11.8.4 business interruption, loss of business, contracts and or opportunity

11.9 To the extent that any Liability of the Company to the Customer would be met by an insurance of the Company then the Liability of the Company shall be extended to the extent that such Liability is met by such insurance.

11.10 Each of the limitations and or exclusions in this Contract shall be deemed to be repeated and apply as a separate provision for each of:

11.10.1 liability of breach of contract

11.10.2 *liability in tort/delict (also including negligence); and

11.10.3 *liability for breach of statutory and or law duty; except clause 11.9 above which shall apply once only in respect of all the said types of Liability.

11.11 Nothing in this Contract shall exclude or limit the Liability of the Company and or the Manufacturer for death or personal injury due to the Company's and or the Manufacturer's negligence nor exclude or limit any other type of Liability which is not permitted to exclude or limit as a matter of Common law.

12. General

12.1 Upon termination of the Contract the provisions of clauses 3.2, 3.4, 3.5, 8.1, 8.2, 8.3, Section 6 and other that may otherwise be specified shall continue to be in full force and effect.

12.2 Each hire of an item of Hire Goods shall form a distinct Contract which shall be separate to any other Contract relating to other Hire Goods.

12.3 The Hire Goods are charged at a minimum weekly hire rate, they will not be available for hire for any time less than the weekly hire period/rate. If the Hire Goods are returned/collected by a freight company within the weekly Hire Period, returned before the weekly Hire Period ends, no refund for the remaining days will be given, as the time to transport the Hire Goods to and from the Customer's location and the Hire Goods not being in the Company's possession to be able to be rehire to the next Customer are accounted for within the weekly hire rate.

12.4 The Customer shall be liable for the acts and or omissions of its employees, agents, servants and or subcontractors as though they were its own acts and/ or omissions under this Contract.

12.5 The Customer agrees to indemnify and keep indemnifying the Company against any and all losses, lost profits, damages, claims, costs (also including legal costs on a full indemnity basis), actions and any other losses and or liabilities suffered by the Company and arising from or due to any breach of contract, any tortious/delictual act and or omission and or any breach of statutory duty by the Customer.

12.6 *No waiver by the Company of any breach of this Contract shall be considered as a waiver of any subsequent breach of the same provision or any other provision. If any provision is

held by any competent authority to be unenforceable in whole or in part the validity of the other provisions of this Contract and the remainder of the affected provision shall be unaffected and shall remain in full force and effect.

12.7 The Company shall have no Liability to the Customer for any delay and or non performance of a Contract to the extent that such a delay is due to any Force Majeure events and or outside/out of our control. If the Company is affected by any such event then the time for performance shall be extended for a period equal to the period that such an event or events delayed such performance.

12.8 The Company/Manufacturer shall have no liability to the Customer for any chosen accessories, custom made products/parts, hitches/brackets, or any aspects of the purchased equipment and or Hire Goods that the Customer has chosen. The equipment is supplied to the Customer with any of the Customer's chosen/requested items/parts/hitch(s)/accessories, if found to be incompatible it is not grounds for a refund.

12.9 All third party rights are excluded and no third parties shall have any rights to enforce the Contract, This shall not apply to any finance company with whom the Company has an outstanding finance agreement relating to the Hire Goods. Such finance company shall, subject to the Company's consent, have the right to enforce this Contract as if they were the Company. This Contract is governed by and interpreted in accordance with the law of the country and state where the Company is located and that country and state will have exclusive jurisdiction in relation to this Contract.

12.10 All Dealers, Sale and Hire customers must check their site/s soil conditions before purchasing, hiring and or using the equipment. It is up to the Dealer/Customer to decide whether or not the Sale Goods and or Hire equipment is suitable. When purchasing or hiring the equipment and accessories you, the Dealer/Customer, have made the decision that the Goods are, but not limited to, suitable for the host machine, soil conditions, post/type/size and application/use. The Company/The Manufacturer will not be liable, in any way, and no refunds will be given if the Sale Goods and or Hire equipment is not suitable for the Dealer/Customer. The Customer/ Dealer is expected to have read through and understood any and all website and emailed material before proceeding to purchase or hire the equipment and or accessories.

12.11 The Company Helicrete Pty Ltd and The Manufacturer Autoguide Equipment Ltd are not accountable, at fault, responsible or the like for any delays in and or force majeure of, but not limited to, sourcing materials, fabricating equipment, freighting, custom clearing, all stages that require third party services for the Customer's purchased equipment. These delays are not grounds for a full or partial refund.

12.12 Warranty on used , demo, ex hire equipment will be 3 months warranty from delivery to the Customer.

12.13 We reserve the right to make changes, additions and deletions to our terms and conditions without prior notification to our previous, current and/ or future Customers, Dealers or Inquirers. Our updated Terms & Conditions will supersede previous ones, contact us for an updated version.

12.14 All these Terms & Conditions also apply if Hire Goods are hired through the Company, Helicrete Pty Ltd, but the property of another company or individual, i.e. if the Company does not have the requested Hire Goods available

for hire, the Company can source the equipment from a previous customer.