

# **Hire Agreement**

## **Excavator Hire Sunshine Coast**

**ABN 13 600 926 690**

### **Terms and Conditions**

Excavator Hire Sunshine Coast agrees to hire Equipment to the Customer subject to the terms and conditions set out in this document. By signing this hire agreement the customer acknowledges that they have read, understand and will follow all requirements set out in the hire agreement, In order for the customer to hire equipment from Excavator Hire Sunshine Coast they must complete and sign the hire agreement and any other documents Excavator Hire Sunshine Coast may require. Excavator Hire Sunshine Coast reserves the right to decline hiring Equipment to the Customer at any time.

### **1. Definitions**

**Customer:** The person, firm, company, government institution, entity or corporation (including any personal representatives or permitted assigns of such) that engages Excavator Hire Sunshine Coast.

**Hire Period:** Is duration of time from Commencement of hire until the end of the hire shown on the hire Agreement.

**Commencement:** The date and time the customer picks up machine or machine is delivered and possession is taken.

**Hire Agreement:** The agreement entered into between Excavator Hire Sunshine Coast and the Customer hiring the equipment.

**Equipment:** any kind of Equipment provided to the Customer by Excavator Hire Sunshine Coast under the Hire Agreement including any and all machinery and trailer, accessories, tools, attachments and manuals.

**Hire Charge:** The rates and costs payable by the Customer for the hire of Equipment.

**Wet Hire:** Customer engages Excavator Hire Sunshine Coast to provide equipment and operator to complete work.

### **2. Excavator Hire Sunshine Coast Obligations**

Ensure equipment is in good working order prior to commencement of hire.

Ensure the equipment has a full tank of fuel prior to commencement of hire.

For wet hire, Excavator Hire Sunshine Coast will provide a machine operator to work under the direction of the customer. It is the customer's responsibility to obtain a site plan and carry out all dial before you dig service checks for the area they wish Excavator Hire Sunshine Coast to operate. Excavator Hire Sunshine Coast will only operate under direction from the customer therefore the customer remains liable for any damages incurred during the period of wet Hire.

### **3. Customer Hire Obligations**

The customer acknowledges that they will not on-Hire the equipment unless written permission to do so is given by Excavator Hire Sunshine Coast.

The customer warrants that they are authorised to sign the hire agreement and that all information provided is true and correct.

By signing the Hire agreement warrants that the customer has read, understood and will comply with all directions, terms and conditions and safety information provided.

The Customer agrees to provide Excavator Hire Sunshine Coast with permission to enter the premises where equipment is being used or stored to carry out inspections and servicing required.

The customer must not alter, modify, tamper with, damage or repair the Equipment without written permission from Excavator Hire Sunshine Coast;

It is the customers responsibility to ensure all equipment loaded on or in customers vehicle is secured correctly during transport.

The customer must not exceed the designed GTM (gross trailer mass) or ATM (aggregate trailer mass) of any trailer used to transport the Equipment.

The customer must take full responsibility for the vehicle being used to tow any form of Equipment and make sure the vehicle meets the requirements made by the Department of Transport and Main Roads, or any legislation or regulation.

The customer is responsible for ensuring their vehicle is suitable and has the towing capacity required to transport the hired equipment and attachments.

It is the customers responsibility to ensure that the hired equipment is:

- (a) Stored in a safe, secure area and where possible in a locked yard or shed.
- (b) Operated safely by a suitably trained, competent, licensed, experienced and (if necessary) certified operator in accordance with all laws and regulations, the operator's manual and any instructions Excavator Hire Sunshine Coast provides;
- (c) Used only for its intended purpose, in suitable terrain and in a manner that is within the Equipment's capabilities and limitations;
- (d) Not used underground, in a mine or in an area where friable asbestos is present.
- (e) Not used excessively, including excessive use of the attachments;
- (f) Not used in, on or over water;
- (g) Not removed from the state of Queensland without prior written consent of Excavator Hire Sunshine Coast

(h) Returned to Excavator Hire Sunshine Coast in the same clean condition and good working order it was in when received, and with full tanks of clean fuel, filled either directly from fuel station bowser or using jerry can provided by Excavator Hire Sunshine Coast.

(I) Ensure unregistered machinery is only operated on private property.

The Customer must ensure that all persons who operate the Equipment:

(a) Prior to any use are made aware of all safety information, operating instructions and notices supplied with, attached to or contained in the Equipment.

(b) Do not operate the Equipment while under the influence of any alcohol or drugs;

(c) Do not use the equipment for any illegal activities;

(d) Do not deface or remove any safety information from the Equipment;

(e) Wear suitable clothing and protective equipment as required or recommended by the safety and operating instructions, the law or any regulations;

(f) Not alter, deface, erase or remove any identifying mark, plate or number on or in the Equipment or otherwise interfere with the Equipment;

(g) Not use a hydraulic attachment that has not been supplied by Excavator Hire Sunshine Coast without prior written agreement from Excavator Hire Sunshine Coast; and

(h) Re fuel, lubricate and maintain the Equipment in good condition and in accordance with all instructions and the operator's manual.

The Customer takes full responsibility for any traffic infringements incurred during the Hire Period and must not exceed the recommended or legal speed limits during transport of the Equipment.

The Customer must report all accidents and damage to Excavator Hire Sunshine Coast immediately if an accident or damage occurs.

The Customer acknowledges, and Excavator Hire Sunshine Coast advises, that the Customer must obtain a "Dial Before You Dig" site plan and council building site plan before any use of Equipment or wet hire. Information in regard to "Dial Before You Dig" can be found at [www.1100.com.au](http://www.1100.com.au) and through local councils.

Under a wet hire agreement the customer must give direction as to what earthworks they want completed. The customer accepts and takes full responsibility for any damages incurred by Excavator Hire Sunshine Coast during the wet hire period.

#### **4. Hire Charges**

Initial Hire Charges are based on the Hire Period outlined in the Hire Agreement.

The customer acknowledges that one day hire is strictly limited to a 10 hour period or return by 5:00pm, whichever comes first.

The Customer acknowledges and accepts that if the Equipment is not returned to Excavator Hire Sunshine Coast by the conclusion of the Hire Period, then additional charges will apply at a daily rate until the Equipment is returned.

The Customer accepts that equipment is not to be used continuously for more than 8 hours over a 24 hour period.

## **5. Payment**

The Customer must pay to Excavator Hire Sunshine Coast:

- (a) Full payment of the Hire Charge prior to Commencement;
- (b) All costs incurred by Excavator Hire Sunshine Coast to fix, repair or replace damage caused to the Equipment by the Customer or any person using the Equipment while it was hired to the Customer including insurance costs, (i.e. cost of excess on claim, and subject to any damage waiver) and costs of recovery of the Equipment. This includes repairs to all parts and attachments for the Equipment that are excessively worn or used;
- (c) All cleaning and refuelling costs of the Equipment; Refuelling will be charged at a rate of \$1.50 per litre and cleaning of machine charged at \$65 plus GST per hour.
- (d) All costs incurred by Excavator Hire Sunshine Coast to recover, clean, repair or refuel the Equipment;
- (e) All tolls, fines, levies, penalties or charges payable in respect of this hire agreement or arising from the Customer's use of the Equipment; and
- (f) Any legal expenses or legal cost incurred by Excavator Hire Sunshine Coast , on a solicitor and own client basis, for any actions taken whatsoever due to Customer's default of these terms and conditions.

Prior to Commencement, the Customer must (unless agreed in writing prior with Excavator Hire Sunshine Coast):

- (a) Pay a cash deposit of \$500 or
- (b) Provide a valid credit card to Excavator Hire Sunshine Coast to be used for all payments pursuant to these terms and conditions.

The Customer must pay for the new listed price of any Equipment which is damaged or not returned to Excavator Hire Sunshine Coast.

The Customer authorises Excavator Hire Sunshine Coast to charge the nominated credit card of the customer for any additional costs plus bank fees if applicable on top of the initial hire charge created pursuant to any clause of these terms and conditions.

## **6. Responsibility for the Equipment**

The 'Customer' acknowledges and accepts it is solely responsible for any loss, theft or damage of or to the Equipment (including if a damage waiver has been provided) from any and every event

whatsoever and howsoever and by whosoever caused while the equipment is being hired to the Customer.

## **7. Breach of Hire Agreement by the Customer**

If the Customer breaches any clause whatsoever of this document, or becomes insolvent, bankrupt or ceases business then Excavator Hire Sunshine Coast shall be entitled to immediately terminate the Hire Agreement, repossess the Equipment (and is authorised to enter any premises where the Equipment is located to do so) and institute proceedings against the Customer for recovery of all monies owing by the Customer.

## **8. Liability and Indemnity**

It is the customers responsibility to locate all services and infrastructure in the area that the machine is to be operated in prior to works commencing.

It is the customers responsibility to ensure machine is operated within the manufacturers specifications by a competent person.

It is the customers responsibility to ensure machine is loaded and unloaded safely by a competent person and will supervise all machine operations where required.

It is the customers responsibility to ensure children do not have access to the job site, work area or machine.

The Customer acknowledges that use of the Equipment comes with dangers and risk of injury and the Customer accepts all dangers and risks associated with the use of the Equipment.

The Customer assumes all risks and liabilities for, and in respect of, the use of the Equipment including, but not limited to:

- (a) Any injury or death of any persons or animals;
- (b) Any damage to property or claim by a third party howsoever arising from the possession use maintenance, repair or storage of the 'Equipment-(including as a result of the Customer not using the Dial Before You Dig service); and
- (c) Transport of the Equipment, including damage or injuries caused by incorrect transport of the Equipment in any way.

The Customer is liable to, and indemnifies and forever keeps indemnified Excavator Hire Sunshine Coast against any and all damage, loss, claims, cost and expenses (including, without limitation, legal fees, cost and disbursements on a full indemnity basis, whether incurred or awarded against Excavator Hire Sunshine Coast and any environmental loss, cost, damage or expense) resulting from the use of the Equipment by any person or a breach of any of these terms and conditions. Such liability may be limited by a damage waiver if one has been provided.

No delay or 'omission' by Excavator Hire Sunshine Coast of its rights under the Hire Agreement or these terms and conditions will impair any such right, power or remedy, nor will it be construed to be a waiver of any rights to take action or make a claim in respect of a continuing breach or default.

## **9. Guarantor**

The person signing the hire agreement agrees to:

- (a) Personally guarantee all terms and conditions imposed on the Customer; and
- (b) Indemnify and keep indemnified Excavator Hire Sunshine Coast against any and all breaches by the Customer of these terms and conditions, or agreement created by it.

## **10. Customer Signature**

By signing below I acknowledge that I have read and agree to all terms and conditions outlined in this hire contract and will follow excavator safe work procedures and safe work Australia's excavation code of practice.

Customer Name:

Machinery Type:

Additional Attachments:

Hire commencement Date:

Date machinery to be returned:

Customer Signature: