

UNIVERSAL CRANES BALLINA PTY LTD GENERAL TERMS AND CONDITIONS OF HIRE

1. **DEFINITIONS:**
 - a. "The Owner" means Universal Cranes Ballina Pty Ltd and it includes its successors and assigns.
 - b. "The Hirer" means the company, firm, person, corporation or public authority taking the Owner's Crane on hire and includes the Hirer's successors or personal representatives.
 - c. "The Crane" means the Crane and/or Transport and/or Associated Services, including Provision of Labour provided for Hire by the Owner to the Hirer and includes all accessories and other equipment of the Owner, attached to the Crane or to be used in connection therewith.
 - d. General Terms and Conditions are the basic commercial conditions of hire.
 - e. Special Terms and Conditions are the operational terms relating to the actual project and/or job.
 - f. "Event of Default" means:
 - i. The Hirer is in default of any payment due under the hire or any other agreement with the Owner or in the performance of any of the Hirer's obligations under the hire or any other agreement with the Owner; or
 - ii. A receiver is appointed in respect of any of the Hirer's assets; or
 - iii. The Hirer makes any arrangement or enters into any compromise with any of the Hirer's creditors; or
 - iv. The Hirer fails to operate and maintain the Crane in accordance with the terms of the hire;
 - v. (If the Hirer is a natural person) the Hirer commits an act of bankruptcy or the Hirer becomes bankrupt or dies; or
 - vi. The Hirer does anything that prejudices our rights related to the Crane or the Hire or Owners have reasonable grounds to believe that the Crane is in jeopardy; or
 - vii. The Hirer goes into liquidation or a petition to liquidate or a notice of intention to propose a resolution to liquidate is presented to the Hirer.
 - g. This agreement is subject to Governing Law.
 - h. Governing Law means State of New South Wales or that State or Territory specifically stated in the specific rental agreements as the Governing Law.
2. **ACCC PROVISIONS**
All express and implied terms, conditions and warranties which otherwise might apply to or arise out of the agreement are excluded except as provided in the agreement and in any law which cannot be lawfully excluded or modified by agreement as per the requirements of Competition and Consumer Act 2010
3. **TERM**
The term of the hire is as stated in the quote, purchase order or agreed other similar document by the Hirer and the Owner.
Renewal or extension of the hire will require conformation from both parties or the issue of a new or supplementary order which is accepted by the Owner.
4. **SITE CONDITIONS**
The Hirer shall be responsible for ensuring the ground at the site, and on the access to the site is adequate to support the Crane under its wheels, tracks, or outriggers. There will be no reductions to the hire period or charge for lost time caused by the ground conditions.
5. **ACCESS**
Hirer is responsible for access. Should the Crane require to be assisted into or out of a site, the cost shall be additional to the rate quoted and will be for the Hirer's account or payable directly by the Hirer. There will be no reductions to the hire period or charge, for time lost associated with poor access. Where access is required through private property all arrangements and costs associated with it are the sole responsibility of the Hirer.
6. **DAMAGE TO PROPERTY**
The Hirer shall be responsible for any damage or costs of any repairs necessary to access ways footpaths, kerbs, channels, underground services, overhead services, structures or property (public or private) associated with the Crane hire. All matters and costs are to be dealt with directly by the Hirer without involvement by the Owner.
7. **HANDLING OF CRANE**
The driver shall be under the directions and control of the Hirer and shall for all purposes in connection with his employment and the working of the Crane, be regarded as the servant of agent of the Hirer who alone, will be responsible for all claims arising in connection with the operation of the Crane by the driver. The Hirer shall not allow any other person to operate the Crane without first obtaining the written consent of the Owner.
8. **RESPONSIBILITY FOR LOSS, INCLUDING CONSEQUENTIAL LOSS**
Under no circumstances whatsoever shall the Owner be liable whether in contract or tort or otherwise for any direct, indirect or consequential loss or damage arising out of any breakdown or stoppage of the Crane resulting in the delayed arrival or non-arrival of the Crane at the job site or otherwise arising out of, or in connection with the hiring of the Crane to the Hirer.
9. **SLINGS AND RIGGING**
Rigging including, but not limited to, synthetic slings, FSWR slings, spreader beams, blocks and tackle, man cages, concrete skips, may be supplied at charges quoted if requested. In any case if any slings or lifting equipment – the property of the Owner – are destroyed or damaged, the Hirer shall pay to the Owner the cost of replacement or repair (as the case may be) resulting from such destruction or damage.
10. **SUBLETTING**
The Hirer shall not sublet or otherwise part with possession of the Crane or any part thereof, to any third party without first obtaining the written consent of the Owner. The Hirer, at the Hirer's own expense, shall protect and defend the Owner from all claims, liens and legal processes of creditors of the Hirer and shall keep the Crane and any part thereof free and clear of any such claims.
11. **INSURANCE AND INDEMNITY**
The Hirer shall be solely liable for and shall indemnify the Owner from and against any actions, claims, demands, proceedings, damages, costs, charges, and expenses whatsoever in respect of loss or damage to the plant or to any property of the Hirer or third party and shall effect and maintain during the period of the hire an insurance against any liability, loss, claim or proceedings, in respect of which he is required to indemnify the Owner and shall on request produce to the Owner the relevant policy of insurance any receipt for the renewal of during the period of hire.
The Hirer should also note that the Owner does not hold insurance cover for the items being lifted, and will not accept any responsibility for any damage to them caused by any incident including Crane breakdown or operator error.
12. **PROPERTY RIGHTS**
The Hirer is entitled to the unencumbered use of the Crane for the term of the hire, unless the Owner becomes entitled under the hire agreement to inspect or repossess the Crane (for example, where the Hirer breaches the terms of the hire agreement). The Owner will retain ownership of the Crane and nothing in the hire agreement will give any form of ownership of the Crane to the Hirer.
The Hirer must not sell, lend, lease, transfer, grant any security interest in, modify or otherwise deal with the Crane (or even attempt to do so) without first obtaining the Owner's written consent.
13. **EVENT OF DEFAULT**
If an Event of Default occurs, then without prejudice to the Owner's other rights, the Owner may without notice to the Hirer enter any premises occupied by the Hirer or any other place where the Crane may be and recover possession of it.
14. **ALLOCATION OF FUNDS**
The Owner may at its discretion and in such manner as they determine allocate payments made by the Hirer for the Crane supplied by the Owner or any other amount that may be due to the Owner by the Hirer.
15. **PERSONAL PROPERTY SECURITIES ACT 2009 ("PPSA")**
For the purposes of the PPSA:
 - a. Purchase money security interest
The Hirer acknowledges that the Owner holds a purchase money security interest in the Crane supplied by the Owner as security for the price payable by the Hirer to the Owner at any time for the Crane.
Hirer to do all things necessary for "perfection"
If requested by the Owner, the Hirer shall promptly and without undue delay execute any documents (including any new contracts or mortgages over real estate), provide all information required in order to complete a Financing Statement (as defined under the PPSA) and comply with any other reasonable requests by the Owner to ensure that the Owner's purchase money security interest(s) and general security interest are perfected.
The Hirer shall immediately notify the Owner in writing of any change in the name and shall also provide all information required in order to complete a financing change statement.
 - c. Hirer waives right to receive verification statement
The Hirer waives its right to receive a copy of the verification statement confirming registration of a financing statement or a financing change statement in relation to the Owner's security interests.
 - d. Hirer to pay all filing fees for financing statement
The Hirer shall be responsible for all costs, expenses and other charges incurred, expended or payable by the Owner in relation to the filing of a financing statement or a financing change statement.
 - e. Opt-out of enforcement provisions
The Hirer waives its rights under sections 95 (notice of removal of accession), 118 (enforcing security interests in accordance with land law decisions), 121(4) (enforcement of liquid assets), 125 (obligation to dispose of or retain collateral), 128 (secured party may dispose of collateral), 129 (disposal by purchase), 130 (notice of disposal), 132(3)(d) (contents of statement of account after disposal), 132(4) (statement of account if no disposal), 135 (notice of retention), 142 (redemption of collateral) and 143 (reinstatement of security interest) of the PPSA and the parties agree that those provisions do not apply to the Agreement or any supply of the Crane pursuant to the Agreement.
 - f. Re-lease of Collateral
If the Owner repossesses the Crane, for the purpose of the PPSA it shall be permitted to re-hire the Crane in any manner and on terms that it sees fit.
 - g. Confidentiality
Each party agrees that it will not disclose information of the kind referred to section 275(1) of the PPSA and that this clause constitutes a confidentiality agreement for the purposes of section 275 of the PPSA and other provisions of the PPSA.
The Hirer agrees to waive any right it may have, or but for this clause may have had, under section 275(7)(c) of the PPSA to authorise the disclosure of information of the kind referred to section 275(1) of the PPSA.
16. **TERMINATION OF HIRE**
The hire shall be suspended or terminated by notice from the Owner by any of the following:
Any breach of the above noted conditions.
In any other case where justified by job conditions or job management. Unless previously terminated, the Crane order shall expire upon completion of the work or the period covered by the work order, whichever occurs first.
17. **GST**
All quoted rates and charges are exclusive of GST unless otherwise stated specifically in the Special Terms and Conditions.
18. **TERMS OF PAYMENT**
Normal terms of payment are 30th of the month following date of invoice.
Interest at the rate of 2.5% per month will be charged on overdue accounts.
1.1 Any costs incurred by the Owner in the recovery of overdue accounts will be paid by the Hirer.
1.2 Rates and conditions may be subject to change without notice.
1.3
19. **PURCHASE ORDER NUMBERS**
If the quote is accepted via email or as a signed returned document then the quote/agreement will be deemed to be valid. In the absence of written confirmation and if the crane is accepted on site, then this also will be treated as a valid order and replaces any purchase order number related to the agreement.
20. **ORAL AGREEMENT AND STIPULATION'S**
No oral agreement, promise, collateral, stipulation, representation, condition or warranty given or entered into by the Owner or by any agent or employee of the Owner and not in conformity with these terms and conditions shall be binding upon the Owner unless confirmed in writing by the Owner.
21. **VALIDITY OF QUOTATIONS**
Crane hire quotations which are provided on standard quotation forms are valid for up to 30 days from the date of issue. However, all quotations are subject to availability as all cranes are constantly being offered to other potential hirers.
22. **ACCEPTANCE OF TERMS AND CONDITIONS**
The plant is hired out under the Owner's General Terms and Conditions, subject to any Special Terms and Conditions of hire. For avoidance of doubt the General Terms and Conditions are basic terms that relates to commercial aspects of any hire agreement and are superseded or replaced in the event that Special Terms and Conditions contradict.

SPECIAL CONDITIONS & RESPONSIBILITY MATRIX

ITEM	DESCRIPTION	WET HIRE		DRY HIRE	
		OWNER	HIRER	OWNER	HIRER
1	Equipment Insurance	X			X
2	Daily Inspection & Greasing	X			X
3	Fuel	X			X
4	Consumables	X			X
5	Routine Servicing & Maintenance	X			X
6	On-Site Commissioning	X			X
7	Crane to (Un)load / (Dis)Assemble	X			
8	Labour to (Un)load / (Dis)Assemble	X			
9	Annual Inspection / Compliance	X		X	
10	Ground Protection / Mats		X		X
11	Commencement of Hire	At Departure Local Depot			
12	Completion of Hire	Upon return to Local Depot			
13	Overtime shall apply outside of the hours of 7am – 3.00pm, Monday to Friday; and on Saturday, Sunday and Public Holidays. Labour Charges based on UBA Employee Agreement.				
14	Quotation is based upon Single Shift. Additional Rates may apply for second shift.				