

Please complete the following credit application and return to contactus@stratquip.com.au for processing.

Legal Entity Name:	
Main Trading Name:	
ABN/ACN:	
Postal Address:	
Street Address:	
Phone Number:	
Email Address:	
Nature of Business:	
Years in Business:	

Authorized Persons: _____ Purchase Order Required: _____

Accounts Payable Contact Name: _____

Accounts Payable Contact Phone Number: _____

Email Address for Invoices: _____

Email Address for Statements: _____

Anticipated Monthly Usage: \$ _____

CREDIT LIMIT: _____

Please provide full name, address and phone number of Owner/Partners/Directors:

Full Name: _____ Address: _____ Phone: _____

1: _____

2: _____

3: _____

4: _____

5: _____

6: _____

Please
Initial: _____

Please include a minimum of three (3) Trade References and their contact details:

Name:	Company:	Email Address:	Phone Number:

Damage Waiver Required: Yes No

[If no please attach Certificate of Currency of Insurance covering Hired in Plant] Note: Damage Waiver will be automatically applied if no Certificate of Insurance is provided and kept current. It is the client's responsibility to ensure an updated Certificate is supplied.

I/We agree to abide by the trading terms of strictly 30 days from invoice date.

I/We also agree that should it become necessary to incur extra costs to recover overdue accounts, I/We will be responsible for any collection charges reasonably incurred.

I/We also agree that QHG Pty Ltd t/as Stratquip may give to and seek from any credit provider named in our credit application form and from any credit reporting agency information about our history or credit capacity.

Execution

Signed for and on behalf of the Buyer by _____ who warrants to the Company that he or she is duly authorized to sign on behalf of the Buyer and to thereby bind the Buyer to the Credit Trading Conditions and that these Credit Trading Conditions have been read and understood.

Owner/Partner/Director Signature: _____

Name: _____ Date: _____

Owner/Partner/Director Signature: _____

Name: _____ Date: _____

Witness Signature: _____

Name: _____ Date: _____

Please
Initial: _____

Credit Trading Conditions

1. Binding Agreement

In the event of the Company's approval of the Buyer's credit account application QHG Pty Ltd trading as Stratquip (ABN 42 605 425 992) ("the Company") agrees to supply Goods (as defined in the Terms and Conditions) to the Buyer, and all transactions between the Buyer and the Company from the date of such approval, shall be bound and governed by these Credit Trading Conditions and the Terms and Conditions below.

2. Trading Terms

The Buyer will pay to the Company the agreed price for all Goods requested of and supplied by the Company, together with any applicable GST or other charges, within thirty (30) days of receipt of an invoice or statement, or within such other period of time as may be notified by the Company to the Buyer.

3. Interest

The Buyer will further pay to the Company interest, in respect of any amount as may from time to time be overdue and payable to the Company pursuant to this agreement, at the rate of twelve percent (12%) per annum calculated on daily balances.

4. Expenses

The Buyer will further pay to the Company, in addition to the price of goods supplied pursuant to this agreement and interest payable thereon as set out in paragraph 3 hereof, the cost of any expenses the Company may incur in recovering or attempting to recover payment from the Buyer of any amounts which may from time to time be overdue or payable pursuant to this agreement, including without limitation legal fees, debt collection agency commissions and fees.

5. No Representations

The Buyer acknowledges that no representations have been made by any employee or agent of the Company to the Buyer whatsoever. This agreement contains the entire understanding of the parties as to its subject matter. There is no other understanding, agreement, warranty or representation whether express or implied in any way defining or extending or otherwise relation to these provisions or binding on the parties with respect to the services or the manner of provision.

6. Release

The Buyer hereby releases the Company and each of the Company's employees and officers, to the maximum extent allowable by law, from any and all liability for any loss or damage, including consequential loss, which may arise in respect of, or incidental to the Goods or their provision, including without limiting the foregoing, any liability arising from any negligent act or omission of the Company or its employees or agents.

7. Indemnity

The Buyer agrees to indemnify the Company against all claims or demands whatsoever by whomsoever made in excess of the liability of the Company under this Agreement, in respect of any loss, damage or injury including consequential loss, howsoever caused, whether or not by the negligence or willful act or omission of the Company, its servants or agents, which may arise in respect of, or incidental to the goods.

8. Authority to Enquire

The Buyer expressly authorizes the Company to make any necessary enquiries in respect of credit worthiness of the Buyer, and specifically of the credit references detailed on the credit account application.

9. Charging Clause

In consideration of the Company approving the Buyer's Credit application, and as an essential condition of these Credit Trading Conditions, the Buyer and each of the guarantor's name below charge all their real property whether owned now or in the future with the amount of the Buyer's indebtedness to the Company from time to time and each such person must, immediately upon demand being made by the Company, sign all documents and do all such things as the Company may reasonably require to further secure to the Company the amount of such indebtedness including, without limitation, a bill of mortgage over any real property (whether acquired before or after this agreement) or such bills of sale or mortgage debenture over any or all items of personal property owned by such persons. Each such person irrevocably appoints the Company or a representative of its directors, managers or credit managers severally to be the duly constituted attorney of each person to execute any such consents, to such caveats as the Company may wish to lodge against any dealings in any real property.

Please
Initial: _____

10. Termination

The Company may, at any time and in its absolute discretion, terminate any credit trading agreement then current or in force between the Buyer and the Company, or, without terminating any such agreement, refuse to supply any Goods requested by the Buyer on credit terms.

11. Joint and Several Obligations

Where the Buyer comprises more than one individual or entity, each such individual or entity will be jointly and severally liable under this agreement, to the Company, in respect of all monies payable pursuant to this agreement by the Buyer to the Company.

12. Authorized Persons

The Buyer warrants that the persons noted above as "Authorized Persons" are persons who are authorized and empowered by the Buyer to bind the Buyer and to validly enter into agreements, and act on behalf of, the Buyer. The Buyer acknowledges that the Company will also be entitled to assume that any other persons who hold themselves out as being an agent or duly authorized representative of the Buyer are able to bind the Buyer and validly enter into agreements, and act on behalf of, the Buyer.

13. Errors Must Be Notified

Any claim by the Buyer of an error in the invoice or statement provided by the Company, must be made to the Company within seven (7) days of receipt of such invoice or statement, failing which the Buyer is not thereafter entitled to raise any objection in respect of any item on such invoice or statement.

14. Proper Law

This Agreement is governed by the laws of the State of Queensland.

15. PPSA

15.1 We may register any actual or impending security interest (in any manner we consider appropriate) in relation to any security interest contemplated or constituted by this Hire Agreement in the Equipment and the proceeds arising in respect of any dealing in the Equipment.

15.2 You undertake to:

(a) do anything that is required by Us

(i) so that We acquire and maintain one or more perfected security interests under the PPSA in respect of the Equipment and its proceeds,

(ii) to register a financing statement or financing change statement and

(iii) to ensure that our security position, and rights and obligations, are not adversely affected by the PPSA;

(b) not register a financing change statement in respect of a security interest contemplated or constituted by this Hire Agreement without our prior written consent; and

(c) not create or purport to create any security interest in the Equipment, nor register, or permit to be registered, a financing statement or a financing change statement in relation to the Equipment in favour of a third party without our prior written consent.

15.3 You:

(a) waive Your right under section 157 of the PPSA to receive a copy of the verification statement relating to a security interest created under the Hire Agreement;

(b) agree that to the extent permitted by the PPSA, the following provisions of the PPSA will not apply and are contracted out of section 95 (to the extent that it requires the secured party to give notices to the grantor); section 96; section 118 (to the extent that it allows a secured party to give notices to the grantor); section 121(4); section 125; section 130; section 132(3)(d); section 132(4); section 135; section 142 and section 143; and

(c) agree that the following provisions of the PPSA will not apply and you will have no rights under them: section 127; section 129(2) and (3); section 130(1); section 132; section 134(2); section 135; section 136(3), (4) and (5) and section 137.

15.4 Unless otherwise agreed and to the extent permitted by the PPSA, you and we agree not to disclose information of the kind referred to in section 275(1) of the PPS Act to an interested person, or any other person requested by an interested person. You waive any right you may have, or but for this clause may have had, under section 275(7)(c) of the PPSA to authorise the disclosure of the above information.

15.5 For the purposes of section 20(2) of the PPSA, the collateral is Equipment including any Equipment which is described in any Hire Schedule/Contract/Deed/Invoice provided by us to you from time to time. This Hire Application is a security agreement for the purposes of the PPSA.

15.6 You agree to notify us in writing of any change to your details set out in the Credit Application, within 5 days from the date of such.

Please
Initial: _____

Guarantee

Please provide full name, address and phone number of Guarantors:

Full Name:	Address:	Phone:
1: _____	_____	_____
2: _____	_____	_____
3: _____	_____	_____

1. Proper Law

In consideration of the Company agreeing at the request of the Guarantors to supply Goods to the Buyer pursuant to the Credit Trading Conditions and Terms and Conditions above, the Guarantors each unconditionally guarantee the due and punctual payment to the Company on any account whatsoever under or in relation to the credit trading conditions, including without limitation, interest fees, cost, charges, indemnities and damages, and to Guarantee the performance by the Buyer of all of its obligations pursuant to the Credit Trading Conditions and Terms and Conditions.

2. Nature of Guarantee

This Guarantee:

- Is a principal obligation and will not be treated as ancillary or collateral to any other right or obligation however created or arising;
- May be enforced against the Guarantors without the Company first being required to exhaust any remedy it may have against the Buyer;
- Is a continuing Guarantee and will be irrevocable and will remain in full force and effect until released by the Company; and
- Will not be considered as discharged by the payment at any time of any sum or by any settlement of account or by any other matter or thing whatsoever and will apply to moneys presently or in the future owing.

3. Liability is Absolute

The liability of the Guarantors is absolute and will not be affected by any act, omission, matter or thing which but for this provision might operate to release or otherwise exonerate the Guarantors from their obligation in whole or in part.

4. Obligations are Joint and Several

The obligations on the part of the Guarantors contained in the Guarantee take effect as joint and several obligations and references to those persons or any one of them. None of them will be released from liability under this Guarantee by reason of the other Guarantors not executing this Guarantee, or this Guarantee ceasing to be binding as a continued security on any of the Guarantors, and the release by the Company of any one of the Guarantors from this guarantee will not affect the liability of the other of the Guarantors.

5. Assignment of Rights

This Guarantee and the rights of the Company under it may be assigned or transferred by way of security or absolutely by the Company, without the consent of the Buyer or the Guarantors.

6. Notices

Any demand or notice will be made in writing signed by an officer or agent of the Company and may be served on the Guarantors either by hand or by post. Any demand or notice may be addressed to the Guarantors at the address noted above, or at the address or place of business of the Guarantors last known to the Company and will be deemed to have been received on the second business day following the day on which it was posted and will be effective even if it is returned undelivered to the Company.

7. Guarantors Endorse Trading Terms

Each Guarantor acknowledges having read understood and agrees to be bound by the provisions of the Credit Trading Conditions and Terms and Conditions set out above and that they are binding upon the Guarantor as if he, she or they were named therein as the Buyer.

Owner/Partner/Director Signature: _____

Name: _____ Date: _____

Please
Initial: _____

Terms and Conditions of Hire

1. Definitions

In these Hire Terms:

Claim means any claim, demand, suit, proceeding, action, damages, loss, liability, costs, charges, expenses, outgoings or payments suffered, paid or incurred or threatened, including those arising in contract (including, but not limited to, breach of warranty), those arising in tort (including, but not limited to, misrepresentation or negligence), those arising under statute, those in relation to any breach of an agreement or deed, those based on any statement, representation, warranty, promise, indemnity or undertaking and damages or compensation of any nature and on any grounds.

Consequential Loss means:

- (a) In the case of loss or damage resulting from a breach of contract, by virtue of any breach of any fiduciary obligation, by virtue of any actionable wrongful act, or under any other principle of equity, by virtue of any breach of any statutory duty, or under any other legal doctrine, principle or theory all:
 - (i) loss of revenue (other than revenue derived directly from payments for goods or services to be made, or which represents the value of goods or services required to be delivered or provided, under the express terms of these Hire Terms);
 - (ii) loss of profit (other than profit derived directly from payments for goods or services to be made, or the turning to account of the value of goods or services required to be delivered or provided, under the express terms of these Hire Terms);
 - (iii) loss or denial of opportunity, loss of access to markets, loss of goodwill or loss of business reputation;
 - (iv) increased overhead costs; and
 - (v) all other loss which is indirect, remote or unforeseeable loss or loss resulting from some supervening event or special circumstance, whether or not in the reasonable contemplation of the parties at the time of execution of these Hire Terms as being a probable result of the relevant breach; and
- (b) In the case of loss or damage arising from any tort (which expression, for the purposes of this definition, includes any breach of a contractual duty of care and also negligence) - all loss of the kind described in paragraph (a) of this definition, all other loss which is indirect, remote or unforeseeable loss and all pure economic loss of any kind not flowing directly from the commission of the tort.

Damage Waiver Amount means the amount designated as such in the Rental Quote.

Damage Waiver Fee means the amount designated as such in the Rental Quote.

End Date means the earlier of the date all Equipment is returned to the Stratquip Facility by the Hirer or the date the relevant Rental Agreement is terminated in accordance with these Hire Terms.

Equipment means all equipment described in the Rental Agreement or if not described there, set out in any other document issued or accepted by Stratquip, together with such accessories, machinery, tools and associated items, manuals, log books and vehicles as accompanies such Equipment when the Hirer takes possession and includes any tools or parts for any of the foregoing.

Event of Default is defined in clause 14(a).

Facility means Stratquip's facility at 1-3 Industrial Place Yandina Queensland or 8-14 Irving Place Bathurst New South Wales or another place nominated by Stratquip in writing to the Hirer.

Hirer means the person who hires Equipment from Stratquip pursuant to these Hire Terms.

Hire Charges means the amount payable for rental of the Equipment, as set out in the Rental Quotation or if not included there, Stratquip's standard rate at the start of the Term.

Hire Terms means these terms and conditions.

Legal Requirement means a requirement under any approval, statute, regulation, order, rule, subordinate legislation or other document enforceable under any statute, regulation, order, rule or subordinate legislation.

Minimum Period is defined in clause 5(c).

DBR is Equipment that lost or destroyed, substantially lost or destroyed or which is deemed DBR in clause 6(g).

DBR Date is defined in clause 6(d).

DBR Price is defined in clause 6(a).

PPSA means the *Personal Property Securities Act 2009* (Cth) as amended from time to time.

PPSR means the Personal Property Securities Register established under the PPSA.

Rental Agreement means the agreement between the Hirer and Stratquip for the hire of the Equipment.

Rental Quote means the form issued by Stratquip which includes job details, Equipment and other details for the hire, to which these Hire Terms relate.

Start Date means the date the Hirer or the Hirer's nominated carrier agrees to take possession of the Equipment from Stratquip at Stratquip's Facility.

Stratquip means OHG Pty Ltd t/as Stratquip.

Term means the period between the Start Date and the End Date, including the whole of both the Start Date and the End Date.

2. Application of these Hire Terms

- (a) These Hire Terms will apply to and be incorporated into each Rental Agreement (which is the only agreement regulating the hire of Equipment from Stratquip) and prevail over any inconsistent terms or conditions contained or referred to in the Hirer's purchase order, confirmation of order, acceptance of a quotation or specification or other document supplied by the Hirer or implied by law, trade custom, practice or course of dealing.
- (b) A purchase order or request to hire Equipment given by a person to Stratquip, or a person's acceptance of a Rental Quote for hiring Equipment from Stratquip, constitutes an offer by the person to enter into a Rental Agreement for the Equipment specified in it on these Hire Terms. No offer by a person will be accepted by Stratquip other than:
 - (i) by a written acknowledgement issued and executed by Stratquip; or
 - (ii) (if earlier) by the provision of the Equipment by Stratquip to the person,
 when a Rental Agreement for the hire and rental of the relevant Equipment on these Hire Terms will be established. The Hirer's standard terms and conditions (if any) attached to, enclosed with or referred to in any purchase order or other document will not govern the Rental Agreement.
- (c) Rental Quotes are given by Stratquip on the basis that no Rental Agreement or any other agreement will come into existence except in accordance with this clause 2. Any quotation is valid for a period of 30 days from its date, provided that Stratquip has not previously withdrawn it.

- (d) No change to a Rental Contract, whether as to scope, price, Start Date, End Date or any other terms will be binding on Stratquip unless reduced to writing and signed by an Authorized Officer of Stratquip.

3. Delivery and Risk

- (a) Risk of and all liabilities for and in respect of the Equipment passes to the Hirer on the Start Date and remains with the Hirer until it is returned to the possession of Stratquip at Stratquip's Facility.
- (b) Transport, collection and delivery arrangements of the Equipment from and to Stratquip will be the responsibility of the Hirer, at the Hirer's sole risk and expense. Any transport arranged by Stratquip at the request of the Hirer will be undertaken at the Hirer's sole risk and charged to the Hirer at commercial rates.
- (c) The Hirer must provide Stratquip a purchase order or request as contemplated in clause 2(b) physically or by fax or email for the Equipment in a form acceptable to Stratquip before any Equipment can be loaded out of the Stratquip Facility.
- (d) The Hirer must secure and protect the Equipment while the risk of the Equipment is with the Hirer and must not part with possession, remove or allow the Equipment to be removed from the job location stated in the Rental Agreement without Stratquip's prior written approval.
- (e) The Hirer will be liable for the cost of repairing any damage suffered to or loss of the Equipment while the Equipment is at the Hirer's risk.
- (f) The right to hire Equipment is personal to the Hirer and the Hirer must not allow nor authorise any person to use, re-hire or have possession of the Equipment at any time, unless expressly agreed by Stratquip in writing.
- (g) The Hirer will on request by Stratquip at any time, advise Stratquip of the current location of the Equipment and the Hirer will allow and procure access by Stratquip to any place where the Equipment is located for the purposes of Stratquip inspecting the Equipment.
- (h) The Hirer acknowledges that the Equipment is being provided on a dry hire basis only and Stratquip has no obligation to provide any other equipment, materials, consumables, supplies, operators or personnel relating to the operation or maintenance of the Equipment.

4. Term

- (a) Unless stated otherwise in the Rental Quote, the period of hire commences on the Start Date and ends on the End Date, whether or not the Hirer uses the Equipment for only part of that period.
- (b) The dates upon which the Equipment is respectively collected and returned to Stratquip's Facility will, in each case, be treated as a full day's hire.
- (c) On termination of the Rental Agreement for any reason whatsoever, should Stratquip be unable to gain access to the Equipment, hire will continue at the relevant rate and Hire Charges must be paid by the Hirer until the Equipment is restored to the possession of Stratquip.

5. Hire and Other Charges

- (a) The Hirer will pay Stratquip Hire Charges for hire of the Equipment, payable as set out in the Rental Quote or if not set out there, weekly in advance.
- (b) If a Damage Waiver Fee is included in the Rental Quote, the Hirer will pay the Damage Waiver Fee as part of the Hire Charges.
- (c) Where a minimum Term (Minimum Period) of hire is specified in the Rental Quote, the Hirer agrees to pay for such period irrespective of the utilisation or return to Stratquip of the Equipment or whether the period of hire includes weekends or public holidays.

6. Lost or Damaged Equipment

- (a) The DBR Price will be the landed replacement cost, free into store at the Stratquip Facility, of the Equipment that is DBR.
- (b) If any Equipment is DBR, the Hirer will pay Stratquip the DBR Price within 14 days (DBR Payment Date) from the earlier of:
 - (i) the date that the Hirer declared to Stratquip either by email, letter or fax that the Equipment was DBR; or
 - (ii) the Equipment is declared DBR by Stratquip on notice to the Hirer,
 (each, DBR Date).
- (c) Except where there is a remaining Minimum Period, the Hire Charges for the DBR Equipment will cease from the DBR Date, provided that the DBR Price is paid in full to Stratquip by the DBR Payment Date, after which, in default of such payment, the Hirer must continue to pay Hire Charges from the DBR Payment Date until the DBR Price has been received in full by Stratquip. If that date is after the end of a Minimum Period, the Hire Charges will run from the end of the Minimum Period until payment.
- (d) If the DBR Date is before the end of any remaining Minimum Period, the Hirer must pay the Hire Charges for the remainder of the Minimum Period on the DBR Payment Date.
- (e) If:
 - (i) Stratquip believes that Equipment that is damaged is not economically feasible to repair; and
 - (ii) if the Hirer has requested a third-party inspection under clause 8(b) no later than 7 days after the third-party inspector confirms that the Equipment is DBR,
 the Equipment will be deemed DBR and the Hirer must pay Stratquip the DBR Price upon demand as a liquidated debt due and payable by the Hirer to Stratquip.
- (f) The Equipment returned at the end of the Term may, at the election of Stratquip, be inspected by a third-party inspection service selected by Stratquip. Should the Hirer not accept the result of that inspection, it must request a re-inspection in writing to Stratquip within 7 days of receiving notice of the original inspection. Re-inspection will be undertaken by a third-party inspector selected by Stratquip (not being the original inspector) who is qualified under Legal Requirements to conduct such inspection, at the expense of the Hirer.
- (g) All costs and charges:
 - (i) costs and charges for third party inspections that concluded that the Equipment (Damaged Equipment) was damaged by the Hirer; or
 - (ii) inspections requested by the Hirer under clause 6(h);
 - (iii) for freight and transport to send Damaged Equipment for repairs and to retrieve it;
 - (iv) replacement parts and the cost of repairs
 (collectively, Repair Costs), will be recharged to the Hirer at commercial rates and are payable by the Hirer upon demand by Stratquip as a liquidated debt due and payable by the Hirer to Stratquip.

- (h) Despite anything in these Hire Terms, if a Damage Waiver Amount is included in the Rental Agreement and the Hirer has paid the Damage Waiver Fee, the DBR Price is deemed for all purposes to be the Damage Waiver Amount, to the extent permitted by law, provided that Stratquip is satisfied, acting reasonably, that the loss of or damage to the Equipment was not caused or contributed to by a breach by the Hirer of the Rental Agreement.

- (i) The Hirer agrees and represents that the Damage Waiver Fee is not a payment for insurance.

7. Interest and recovery expenses

- (a) Without limiting any statutory right to interest, Stratquip may charge interest to the Hirer on amounts which remain unpaid after the due date for payment. Interest will be calculated at a rate of 1.5% per month, calculated daily and compounded monthly.
- (b) The Hirer will indemnify and hold harmless Stratquip for all costs and expenses (including commissions payable to commercial or mercantile agents and legal costs on a full indemnity basis) incurred by Stratquip in recovering amounts which remain unpaid after the due date.

8. Return of Equipment

- (a) All Equipment will be returned, by the Hirer, in the same serviceable condition it was, when it left the Stratquip Facility.
- (b) Any certificates requested by the Hirer must be requested prior to the rental of Equipment

9. Safety and Operation

- (a) The Hirer must ensure that all relevant Legal Requirements and safety standards relating to the safe use and handling of the Equipment are complied with and that the Equipment does not place the public, the community or the environment at risk of injury, illness or damage.
- (b) The Hirer must ensure its employees and other persons working on or around the Equipment:
 - (i) employ the highest safety standards appropriate in Australia;
 - (ii) take active steps, including review of operating manuals, to ensure they are familiar with the safe operation and operating parameters of the Equipment;
 - (iii) are fit for duty and not under the influence of drugs or alcohol; and
 - (iv) are appropriately briefed by the Hirer as to the site, safe work systems, restricted zones and any applicable lift plans or studies.
- (c) The Hirer will pay all fines and penalties incurred while the Equipment is in the possession of the Hirer, or while the risk of the Equipment is with the Hirer.
- (d) The Hirer must, in respect of Equipment during the Term:
 - (i) operate the Equipment in accordance with all Legal Requirements (including those relating to the environment or the use and protection of the environment);
 - (ii) ensure persons operating or erecting the Equipment:
 - (A) are suitably trained on its safe and proper use, qualified to use the Equipment and where necessary, hold a current licence to perform high risk work;
 - (B) wear suitable clothing and protective equipment when operating the Equipment as required or recommended by the manufacturer;
 - (C) ensure that no persons operating the Equipment are under the influence of drugs or alcohol;
 - (D) conduct a job safety analysis prior to using the Equipment; and
 - (E) ensure that no persons carry illegal, prohibited or dangerous substances in or on the Equipment;
 - (iii) display all safety signs and instructions (as required by a Legal Requirement) on or about the Equipment;
 - (iv) ensure that all instructions and signs are observed by operators of the Equipment;
 - (v) ensure the safe loading, securing and transporting of all Equipment in accordance with all Legal Requirements and manufacturer's guidelines, including by observing any safety directions advised by Stratquip and/or the manufacturer of the Equipment to ensure its safe loading and handling;
 - (vi) not use the Equipment in an area where friable asbestos is present, or move the Equipment over water, without Stratquip's prior written consent; and
 - (vii) ensure that the Equipment is not contaminated with any hazardous substances (including asbestos), and if the Equipment becomes contaminated, the Hirer must effectively decontaminate the Equipment, as well as provide Stratquip with written details of decontamination processes applied.
- (e) If the Equipment is involved in any accident resulting in injury to persons or damage to property (including damage to the Equipment) immediate notice must be given to Stratquip by phone, facsimile or quickest possible means and confirmed in writing to Stratquip within 48 hours of the date of the accident. All provisions of the *Queensland Work Health and Safety Act* (2011) relating to notification of accidents and incidents must be strictly adhered to.

10. Hirer's Warranties

- (a) The Hirer warrants that:
 - (i) it has examined the Equipment to satisfy itself as to the suitability and specifications of the Equipment and its fitness for the Hirer's purposes;
 - (ii) the Equipment is suitable for all the Hirer's purposes;
 - (iii) the Equipment will only be used for a proper purpose and for which it has been designed, manufactured and supplied;
 - (iv) prior to each use of the Equipment, the Hirer will fully inspect the Equipment and the site on which the Equipment is to be used, complete pre-start checks required by Stratquip or the OEM, review OEM operating manuals, safety alerts and inspection reports and take such other steps required to determine the suitability of the Equipment to undertake the proposed task; at the same time, the Hirer will identify any foreseeable hazards or risks of harm in respect of the planned use of the Equipment and

- implement appropriate controls to minimise or where possible, eliminate the risks in accordance with all relevant Legal Requirements;
- (v) the Equipment will only be operated by qualified, experienced and trained personnel who possess current licenses (if required) to operate the Equipment;
 - (vi) the Equipment will be operated to a standard of skill, knowledge and competence of an experienced and professional operator of the Equipment in compliance with all relevant Legal Requirements;
 - (vii) the Hirer will ensure that all safety information supplied with the Equipment is conveyed to the operator of the Equipment and that any safety related signs, banners, flags or warnings supplied by Stratquip in relation to the Equipment are prominently displayed; and
 - (viii) the Equipment will be returned to Stratquip in the same condition as it was provided by Stratquip at the start of the rental period;
- (b) The Hirer warrants and represents to Stratquip that:
- (i) the Hirer, being a body corporate, is duly incorporated and validly existing under the *Corporations Act 2001* (Cth) and has full power and authority to enter into and observe and perform the terms of the Rental Agreement, or the Hirer, being an individual, has full power and capacity to enter into and observe and perform the terms of the Rental Agreement;
 - (ii) the Rental Agreement constitutes legal, valid and binding obligations enforceable against the Hirer in accordance with its terms;
 - (iii) all consents and approvals, whether governmental or otherwise, required in order for the Hirer to observe and perform the Hirer's obligations have been obtained and are in full force and effect;
 - (iv) no Event of Default exists, and no event has occurred or is continuing to occur which constitutes or might, with the passing of time or giving of notice, or both, constitute an Event of Default; and
 - (v) no information supplied by the Hirer to Stratquip in relation to the Rental Agreement contained any material misstatement of fact or omitted to state a material fact.

11. Hirer's Obligations

The Hirer must, in respect of Equipment during the Term:

- (a) store the Equipment safely and securely;
- (b) only use the Equipment for its intended purpose and in accordance with the manufacturer's instructions;
- (c) The Hirer must, in respect of Equipment during the Term:
 - (i) Operate the Equipment in accordance with all Legal Requirements (including those relating to the environment or the use and protection of the environment);
 - (ii) Only use the Equipment for its intended purpose and in accordance with the manufacturer's instructions;
 - (iii) At the Hirer's own cost, clean, fuel, lubricate and keep the Equipment in accordance with the manufacturer's and Stratquip's reasonable instructions. Stratquip reserves the right to inspect the Equipment to ensure it is kept in accordance with the manufacturer's and Stratquip's instructions. If Stratquip finds the Equipment in disrepair, Stratquip holds the right to bring the Equipment back to manufacturer's specification at the Hirer's cost;
 - (iv) Not in any way alter, modify, tamper with, damage or repair the Equipment without Stratquip's prior written consent;
 - (v) Not deface, remove, vary or erase any identifying mark, logo, plate, number, notices or safety information, on the Equipment;
 - (vi) Not remove fuel or oil tank caps, bund plugs or seals from the Equipment and ensure that they are in place when the Hirer returns the Equipment;
 - (vii) Not remove the Equipment from the site where the Hirer advised Stratquip it was intended to be used, without Stratquip's prior written consent;
 - (viii) In respect of electrical Equipment, re-test and re-tag of the Equipment in accordance with the manufacturer's instructions and the applicable Australian Standard(s) and Legal Requirements.
- (d) Not alter or make any additions to the Equipment or interfere with the Equipment;
- (e) Employ the Equipment solely in its own work and not permit the Equipment or any part thereof to be used by any other party for any other work;
- (f) Not fix any of the Equipment in such a manner as to make it legally a fixture forming part of the Hirer's freehold or any other freehold; and
- (g) Immediately advise Stratquip orally of any failure in or damage to the Equipment, whatsoever arising and within 48 hours provide written confirmation.

12. Liability and Indemnity

- (a) Stratquip is not a common carrier and is not responsible for any loss or damage to the Hirer's property or goods in transit. Responsibility and risk for insurance of goods in transit rests exclusively with the Hirer.
- (b) The Hirer assumes liability for and indemnifies and holds harmless Stratquip from and against all Claims, costs, damages, losses or expenses of any kind howsoever arising under tort (including but limited to negligence), contract, strict liability, statute or otherwise in relation to the use, possession, maintenance or repair of the Equipment.
- (c) Despite anything in this Agreement, this clause 12 sets out the entire financial liability of Stratquip (including any liability for the acts or omissions of its employees, agents, consultants, and subcontractors) to the Hirer in respect of:
 - (i) any breach of a Rental Agreement;
 - (ii) any Claim by the Hirer against Stratquip under or in relation to a Rental Agreement or its subject matter;
 - (iii) any use made by the Hirer of the Equipment or any part of them; and
 - (iv) any representation, statement or tortious act or omission (including negligence) arising under or in connection with a Rental Agreement.
- (d) Under no circumstances will Stratquip be liable to the Hirer for:
 - (i) any Consequential Loss;
 - (ii) to the extent that the Claim relates to acts or omissions of the Hirer or someone other than Stratquip or the Hirer.
- (e) Without limiting any other provision of this clause 12, Stratquip's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance, or contemplated performance of any Rental Agreement, will be 10% of the Hire Charges received by Stratquip from

the Hirer under the relevant Rental Agreement in the 30 days preceding the date Stratquip's liability arises.

- (f) Without limiting any other provision of this clause 12, the Hirer will have no Claim against Stratquip under or in relation to a Rental Agreement or its subject matter and the Hirer releases and discharges Stratquip in respect of such Claims, if the Hirer does not notify Stratquip of the Claim in writing within 1 month of return of the Equipment to which the Claim relates and within 1 month of that date, the Claim has not been agreed, compromised or settled or the Hirer has not commenced legal proceedings against Stratquip in respect of the Claim.
 - (g) Without limiting this clause 12, the Hirer acknowledges and agrees that Stratquip is not liable to the Hirer for any Claim, loss, costs, damages or delay relating directly or indirectly to or caused by breakdown, mechanical defect or accident to or of Equipment.
 - (h) To the fullest extent permitted by law, Stratquip makes no express warranty, representation or condition and excludes all implied warranties, representations and conditions of any type, including as to the fitness of the Equipment for any use to which it is employed by the Hirer.
- (b) All conditions, terms and warranties that are or might otherwise be implied by law, practice, trade usage, or international convention, are excluded to the fullest extent permitted by law.
- (i) The Equipment is provided by description. The Hirer decides what purpose to use the Equipment for and the Hirer alone is responsible for determining the Hirer's technical requirements.
- (k) Any Equipment specifications or performance figures provided by Stratquip are approximations and only for general guidance. The Hirer does not rely on any representation made or implied by Stratquip or arising out of or implied by Stratquip's conduct, nor upon any description, illustration or specification contained in any document provided by Stratquip. To the extent that Stratquip has made or implied, or by conduct given rise to or implied, any representation that is not expressly stated in these conditions, the Hirer is not proceeding in reliance on that representation because the Hirer (warrants and represents to Stratquip that it) has had and taken the opportunity to independently check, verify and form the Hirer's own view about the significance and the accuracy or otherwise, of any representation upon which the Hirer relies.
- (l) Provisions of the Australian Consumer Law under the *Competition and Consumer Act 2010* (Cth) and other legislation in some cases either cannot be excluded, restricted or modified or can only be restricted or modified to a limited extent. If any provision of that type applies, then to the extent permitted by law, Stratquip's liability under the provision is limited as follows. Stratquip's liability in relation to supply of goods is limited to its option to replacement of the goods or the supply of equivalent goods or repair of the goods or payment of the cost of replacing the goods or of acquiring equivalent goods or payment of the cost of having the goods repaired or modified. Stratquip is not intending to supply any service, but if it does, Stratquip's liability where any service is supplied is limited at the option of Stratquip to re-supply of the service or the payment of the cost of having the service supplied again.

13. Title

- (a) The rights of the Hirer to use and take possession of the Equipment are as bailed only. The Equipment is and will at all times remain the absolute property of Stratquip.
- (b) The Hirer will not offer, sell, assign, sub-let, pledge, mortgage or otherwise deal with or part with possession of the Equipment in any way which is inconsistent with the rights of Stratquip to the Equipment, whether Stratquip is owner, lessee, hirer or otherwise of the Equipment without the written permission of Stratquip.
- (c) The Hirer must ensure if any security interest in the Equipment is created or arises in favour of Stratquip, that Stratquip's priority is preserved and any defect in the security interest or the perfection of that security interest as a first ranking security interest is overcome, including by promptly executing any further document and doing anything further that is reasonably required by Stratquip.
- (d) The Hirer must not do or purport to do any of the following in relation to the Equipment – sell, lease, dispose of, create a security interest in, mortgage or part with possession of the Equipment or any interest in it (or purport or attempt to purport to do such thing) or permit any lien or security interest to arise over it. The Hirer may only disclose information or documents, including information of a kind referred to in section 275(1) of the PPSA, if Stratquip has given its prior written consent.
- (e) In connection with any such security agreement and to the extent that the PPSA permits, the Hirer waives its rights to receive a copy of any verification statement or financing change statement, any notice required under the PPSA, and its rights and any otherwise existing obligations of Stratquip under sections 96, 96, 117, 118, 120, 121(4), 123, 125, 126, 128, 129, 130, 135, 142 and 143 of the PPSA.
- (f) If the Hirer fails to return the Equipment to Stratquip, then Stratquip or Stratquip's agent may enter upon and into land and premises owned, occupied or used by the Hirer, or any premises where the Equipment is situated as the invitee of the Hirer and take possession of the Equipment without being responsible for any damage thereby caused.
- (g) The Hirer is not authorised to pledge Stratquip's credit for repairs to the Equipment or to create a lien over the Equipment in respect of any repairs.

14. Default and Termination

- An Event of Default occurs if:
- (i) any money payable under a Rental Agreement is not paid on the due date for payment, time being of the essence;
 - (ii) the Hirer fails to observe and perform any of the Hirer's obligations, other than a failure to pay money and such failure continues for more than 3 days after Stratquip has given the Hirer notice requiring the Hirer to remedy the breach;
 - (iii) any warranty, representation or statement made by the Hirer under or in connection with a Rental Agreement has, is or has been false in any material respect;
 - (iv) the Hirer, being an individual, commits an act of bankruptcy, is declared mentally ill or is convicted of a criminal offence or dies;
 - (v) to the extent permitted by law:
 - (A) a receiver, or an agent in possession for a mortgagee is appointed in respect of any property of the Hirer;
 - (B) a mortgagee takes possession of any property of the Hirer;
 - (C) any execution or similar process is made against the property of the Hirer;
 - (D) an application is made, a resolution is passed, or a meeting is convened for the purpose of considering a resolution for the Hirer to be wound up unless the winding up is for the purpose of reconstruction or amalgamation;
 - (E) a compromise or arrangement is made between the Hirer and its creditors;

- (F) a resolution is passed, or a meeting is convened for the purpose of considering a resolution for the Hirer to be placed under official management;
 - (G) the Hirer admits in writing its inability to pay its debts;
 - (H) an application is made to a court for an order summoning a meeting of any class of creditors of the Hirer;
 - (I) an application is made, or notice given, or other procedure commenced for the dissolution or cancellation of the registration of the Hirer under the *Corporations Act 2001* (Cth) or any similar process; or
 - (vi) an investigation is commenced under section 13 of the *Australian Securities Commission Act 2001* (Cth) to investigate the affairs of the Hirer.
- (b) On the occurrence of an Event of Default, Stratquip may take possession of the Equipment with or without notice to the Hirer and the Hirer must at the Hirer's expense immediately on demand deliver the Equipment in good order and repair in accordance with the directions of Stratquip and the Hirer irrevocably authorises Stratquip to enter any premises occupied or controlled or believed by Stratquip to be occupied or controlled by the Hirer, at the Hirer's risk and repossess the Equipment and for such purposes, break open any gate or lock and dismantle the Equipment from any part of the premises to which they may be affixed and the Hirer indemnifies Stratquip in respect of any damages. Loss of Claims arising from any act done under or by virtue of this subclause.
- (c) Upon termination of a Rental Agreement following the occurrence of an Event of Default, the Hirer must pay to Stratquip by way of liquidated damages, in addition to and without prejudice to any other right or remedy of Stratquip, an amount equal to the total of:
- (i) the unpaid balance of Hire Charges for the Term which would have been payable until the expiration of the Term had the Rental Agreement not been terminated;
 - (ii) any other amounts payable by the Hirer under clauses 5, 6, 7 and any other provision of these Hire Terms;
 - (iii) Stratquip's costs and expenses incurred in repossessing and storing, insuring and registering the Equipment and in entering on and removing the Equipment from land or premises on which the Equipment was situated, and make good any injury or damage caused to the land or premises;
 - (iv) Stratquip's costs and expenses of repairs reasonably necessary to bring the Equipment to a saleable condition or if applicable under these Hire Terms, the DBR Price; and
 - (v) interest calculated in accordance with these Hire Terms.

15. Miscellaneous

- (a) If Stratquip fails to or delays in exercising any right, power or remedy which it is entitled to under these Hire Terms, such failure does not amount to a waiver of that right, power or remedy nor does it preclude any further exercise of such rights, powers or remedies as may be provided under these Hire Terms.
- (b) If any provision of these Hire Terms is invalid or unenforceable in any jurisdiction, it is to be read down, if possible, so as to be valid and enforceable and will otherwise be capable of being severed to the extent of the invalidity or unenforceability without affecting the validity or enforceability of the remaining provisions.
- (c) In these Hire Terms, no obligation imposed on the Hirer is limited in any way by any other obligation imposed on the Hirer.
- (d) All indemnities given pursuant to these Hire Terms will survive the termination of the Rental Agreement. All indemnities given to Stratquip under these Hire Terms are also given to Stratquip's directors, officers, agents and employees and Stratquip accepts the benefit of those indemnities and limitations of liability for them as their agent and trustee.
- (e) All import taxes, customs duties, clearing costs, quarantine, cleaning and GST costs and any other charges are the responsibility of the Hirer. If Stratquip arranges freight which may include importation or exportation of equipment, these costs will be rebilled to the Hirer at cost plus 15%.

16. Personnel

- (a) All induction fees for employees and agents of Stratquip required to attend the Hirer's sites will be paid for by the Hirer.
- (b) No Stratquip personnel will have the right to waive or change any of these Hire Terms without the written consent of the CEO of Stratquip.

17. Insurance

- (a) The Hirer will, at all times during the Term, effect and maintain the following insurances:
 - (i) workers compensation insurance of unlimited cover in respect of all employees and workers of the Hirer under the laws of the place of their employment, or the place of injury, which covers any Claims for Loss for personal injury in connection with the use of the Equipment;
 - (ii) plant and equipment insurance which covers the Equipment against physical loss or damage for its DBR value as at the date the Rental Agreement;
 - (iii) third party and product liability insurance covering liability to any third party for death or bodily injury (including illness and nervous shock) and loss of and or damage to property arising out of anything done or omitted to be done by the Hirer for a liability of not less than \$20 million in respect of any one event; and
 - (iv) motor vehicle compulsory third party insurance as required by law and comprehensive insurance for all motor vehicles being the property of the Hirer for a liability of not less than \$10 million in respect of any one incident.
- (b) The insurance policies must, to the extent possible:
 - (i) include Stratquip as an additional insured party;
 - (ii) provide that the insurance is primary with respect to the interests of Stratquip and that all other insurance maintained by Stratquip is in excess to and not contributory with the insurance policies maintained by the Hirer;
 - (iii) waive all rights of subrogation by insurers against Stratquip; and
 - (iv) contain a "cross liability" endorsement and will operate in the same manner as if there was a separate insurance policy covering each named insured.