

CEVOL INDUSTRIES PTY LTD
A.C.N. 005 182 598
TERMS OF HIRE

1. Interpretation

In these terms:

"**Cevol**" means Cevol Industries Pty. Ltd. A.C.N. 005 182 598 (its successors and assigns) the owner and hirer-out of the Equipment, under these Terms of Hire.

"**Daily Hire Rate**" in respect of each item of Equipment means the rate specified for that type of Equipment as notified in writing from time to time by Cevol subject to amendment in accordance with these Terms plus GST

"**Equipment**" means a Pallet or Stillage of steel wire mesh or steel sheet sections and a steel base, and any variations.

"**Hirer**" means any person, firm or corporation who hires Equipment from Cevol.

"**Hiring**" commences at the point that the Hirer takes possession of the Equipment. The Hiring ends when the Hirer returns the Equipment to Cevol and Cevol accepts the return of the Equipment.

2. Safe Custody of the Equipment

(a) The Hirer must not deal with the Equipment or any of its parts in any way which is inconsistent with Cevol's rights as owner of the Equipment. The Hirer must not allow a lien to be created over the Equipment and will protect the Equipment against distress, execution, or seizure and protect and indemnify Cevol against all losses, costs, charges, damages, and expenses incurred by Cevol by reason of the Hirer's default under this clause.

(b) The Hirer accepts full responsibility for the safe-keeping of the Equipment and indemnifies Cevol (under clause 10) for all loss, theft of or damage to the Equipment however caused whether or not such loss, theft or damage is attributable to any negligence, failure or omission of the Hirer.

(c) The Hirer irrevocably grants to Cevol the right to enter upon the Hirer's premises from time to time as is reasonable during the Hiring, to inspect the Equipment. Where the Equipment is located other than on the Hirer's premises, the Hirer shall do everything within its power to obtain permission for representatives of Cevol to enter the premises where the Equipment is located.

(d) It is fundamental to these terms of hire that the Hirer immediately advises Cevol in writing of any change in its shareholding or to its Directors, including any change of name of the Hirer at which time Cevol may at its absolute discretion give notice under Clause 9.

3. Hire Charges

The hire charges shall be the Daily Hire Rate determined by Cevol for each item of Equipment multiplied by the quantity of each item of Equipment on hire multiplied by the number of days the Equipment is hired.

Cevol reserves the right to vary the Daily Hire Rate and will apply the new Daily Hire Rate after giving 60 days written notice of the new Daily Hire Rate and the date from which the new rate shall apply.

4. Transport

Hire charges do not include any transportation of the Equipment by Cevol and the Hirer will pay the cost for any transportation of the Equipment incurred by Cevol.

5. Returns

(a) In the event of any Equipment being structurally damaged, the Hirer shall immediately return it to Cevol for its assessment of such damage, and will indemnify Cevol its costs of repairing the damage. Any repairs must be carried out by Cevol's authorised repairer.

(b) Any Equipment returned to Cevol by the Hirer shall be clean and serviceable and the Hirer agrees to pay Cevol's costs of rendering the Equipment serviceable.

(c) Equipment must be returned to an authorised Cevol depot.

6. Invoicing

- (a) The Hirer shall pay within 30 days of the date of the invoice to Cevol the amounts contained in the invoice.
- (b) Each invoice will include what Cevol determines to be:-
 - (i) The quantity of Equipment on hire on the first day of the accounting period covered by the invoice.
 - (ii) The quantity of any additional items of Equipment hired out to the Hirer during the accounting period and the date of each such Hiring.
 - (iii) The quantity of Equipment if any returned by the Hirer to Cevol on any day during the accounting period and the date of each such return.
 - (iv) The quantity of Equipment if any deemed pursuant to Clause 9 to have been returned during the accounting period and the date of each such return.
 - (v) The Daily Hire Rate applicable to each item of Equipment on hire and the total hire Charges for the accounting period Charges for handling and specific colouring
 - (vi) Charges for any repairs for damage to the Equipment
 - (vii) Charges for any lost or irreparable Equipment
 - (viii) Charges for transport or any other costs incurred by Cevol in respect of the Equipment
 - (ix) Any tax or government charge incurred by Cevol including but not limited to GST.
 - (x) Any interest on outstanding accounts.
- (c) The quantity of Equipment stated in the invoice shall be a final and conclusive determination of the quantity of Equipment on Hire unless the Hirer within twenty-one days of the date of the invoice gives notice in writing to Cevol that the Hirer disputes the quantity of Equipment so stated or there is a clerical error by Cevol manifest on the face of that invoice or Cevol within ninety days after that the date of the invoice serves upon the Hirer an amended invoice in which case the amended invoice shall be a final and conclusive determination of the quantity of Equipment on hire for that accounting period.
- (d) Where the quantity of Equipment on hire has last been determined under this clause 6 such determination will supersede all previous determinations.

7. Interest on Outstanding Accounts

If an invoice remains unpaid for 30 days Cevol may charge the Hirer interest at a rate equivalent to the National Australia Bank's benchmark rate plus 5% which will be calculated daily on the outstanding balance.

8. Identifying Marks and Repairs

The Hirer must not remove, deface or cover up any identifying marks of ownership on any Equipment or repair or modify the Equipment in any way. Cevol will not accept the return of any Equipment:

- (a) Which cannot be clearly identified by Cevol as its Equipment; or
 - (b) That Cevol determines to be on hire to someone else; or
 - (c) That has been repaired or modified in any way; and
- the Equipment will remain on hire to the Hirer.

9. Termination of Hire

- (a) Cevol may at any time serve upon the Hirer a written notice to return all or part of the Equipment on hire within 14 days and in the event of the Hirer returning less than the quantity of Equipment demanded the Hirer will be deemed to have lost the quantity of Equipment which the Hirer has failed to return and must immediately pay to Cevol a sum equal to the then current new replacement value from Cevol's preferred supplier of that quantity of Equipment. The Hirer shall not be entitled to any damages or compensation from Cevol for any loss suffered whether directly or indirectly by reason of the service upon the Hirer by Cevol of such notice to return or the consequences of service of such notice.
- (b) Without prejudice to any other remedies available to Cevol, Cevol may terminate the Hire Agreement without notice to the Hirer, if the Hirer:
 - (i) Breaches any of these Terms of Hire; (and continues to be in a breach for 7 days); or
 - (ii) Fails to pay any amount due to Cevol on invoices rendered to the Hirer; or

- (iii) The Hirer is in receipt of a statutory demand under the Corporations Act, has a winding up petition presented against it, is wound up, goes into voluntary liquidation, commits an act of bankruptcy, has a Receiver or Manager or both appointed to its assets or any of them or makes an assignment or compromise for the benefit of its creditors, is placed under administration or ceases to carry on business.

In the event of termination of the Hire Agreement under this clause 9(b) the Hirer (or anyone authorised to act for them) must immediately return or deliver up all of the Equipment on hire to Cevol.

- (c) Upon termination of this Agreement, Cevol will be entitled to retake possession of the Equipment and Cevol is irrevocably authorised by the Hirer to enter the Hirer's premises (or any premises under the control of the Hirer or as agent of the Hirer if the Equipment is stored at such premises) and use reasonable force to take possession of the Equipment without liability for the tort of trespass, negligence or payment of any compensation to the Hirer or anyone claiming through the Hirer. The Equipment remains on Hire until Cevol accepts delivery of it.

10. Losses

The Equipment remains on hire to the Hirer until it has been returned to Cevol under clause 5. If the Hirer informs Cevol it does not have some or all of the Equipment then the Hirer must continue to pay the Hire Charges under clause 3 until it has paid to Cevol the new current replacement value of the lost Equipment. Lost Equipment includes Equipment that has been destroyed whether by fire or some other means.

11. Limitation of Liability and Indemnity

To the full extent permitted by law neither Cevol gives, nor any agent of Cevol has given, any condition, warranty or representation whatsoever in favour of the Hirer:

- (a) as to the condition or quality of the Equipment including, without limitation, latent and other defects and whether or not discoverable by Cevol or the Hirer;
- (b) as to the suitability or fitness for ordinary or any special use or purpose of the Equipment; or
- (c) whether the Equipment corresponds to any description of them.

No further or other covenants or provisions, whether in respect of the Equipment or otherwise will be deemed to be implied into this Agreement or will arise between the Hirer and Cevol by way of collateral or other agreement by reason of any promise, representation, warranty or undertaking given or made by Cevol or any agent of Cevol. The existence of any such implication or collateral or other agreement is hereby negated.

Any covenant or provision which is deemed by statute to be incorporated into this agreement but the operation of which may be lawfully excluded, restricted or modified by agreement between the Hirer and Cevol or otherwise is hereby, to the maximum extent possible, so excluded, restricted or modified.

To the full extent permitted by law in no event will Cevol be liable (whether before or after the expiry or termination of the Hiring) for any loss or damage which the Hirer suffers arising from, or caused or contributed to by Cevol's negligence or the negligence of Cevol's servants or agents. Nor will Cevol be liable for special, indirect or consequential loss or damage as a result of a breach by Cevol of this agreement including, but not limited to, loss of profits or revenue, the costs arising from the loss of use of the Equipment and the costs of any substitute Equipment which the Hirer acquires.

The Hirer shall indemnify Cevol from and against all claims which may be made against Cevol for damages or otherwise, in respect of or arising directly or indirectly out of any loss, damage, death or injury whatsoever caused directly or indirectly by or arising directly or indirectly out of the use of any Equipment whilst on hire to the Hirer which indemnity shall extend to and include all costs and expenses incurred by Cevol in investigating and defending any such claim.

12. Variation

Cevol is entitled to vary the terms in this document at any time by giving the Hirer written notice.

13. Notices

Any notice or invoice Cevol gives the Hirer must be in writing and given to the Hirer either personally, or sent by facsimile transmission, or sent by email, or sent by posting it by ordinary prepaid mail to the last known address of the Hirer. The Hirer agrees that any notice or invoice given under this clause is taken to be received by the Hirer, if given personally, when it is given, if sent by facsimile transmission, when Cevol receives confirmation of receipt from its facsimile machine, if sent by email when acknowledgment of receipt is recorded on Cevol's computer, and if sent by ordinary prepaid post, when it would be delivered in the ordinary course of post but in any event not later than two days after posting.

14. Cevol's Recovery Costs

The Hirer agrees to pay Cevol, on a full indemnity basis, for all expenses (both legal and administrative) Cevol incurs as a result of taking action to recover money owing by the Hirer to Cevol.

15. Risk

The equipment on hire shall remain at all times the property of Cevol but is at the Hirer's risk until the Equipment on Hire is returned to and accepted by Cevol.

16. Government Charges and Taxes

The Hirer must pay all stamp duty or hire duty (if any) and GST and all other applicable Government taxes and charges imposed on the hire of the Equipment without deduction or set off of any other amounts.

17. Severability

If any of these terms of hire are invalid or unenforceable in any jurisdiction, they are, if possible, to be read down so as to be valid and enforceable. The read down provision will only apply in the relevant jurisdiction. If the provision cannot be read down, and it can be severed to the extent of the invalidity or unenforceability, it is to be severed. The rest of the provisions, and the validity or enforceability of the affected provision in any other jurisdiction, will not be affected.

Assignment

18. These terms of hire must not be assigned by the Hirer without Cevol's prior written consent. If Cevol gives consent then a completed transfer of pallets form must be received by Cevol from the transferee before the assignment takes effect. Cevol may assign the agreement to another party, if Cevol gives the Hirer written notice of that assignment.

19. Precedence

These terms of hire prevail over and terms or conditions in the Hirer's documents and represents the entire agreement between Cevol and the Hirer.

20. Jurisdiction

These terms of hire are governed by the law in force in Victoria. Cevol and the Hirer submit to the non-exclusive jurisdiction of the Courts of Victoria and any Court which can hear appeals from these Courts.