

## TERMS AND CONDITIONS OF HIRE

1. **HIRE PERIOD:** The hire period commences at the time shown in the front of this form being the time the equipment is made available to the hirer at the owner's yard and terminates on delivery of the equipment by the hirer back to the owner's yard. The hirer will return the equipment before the date and time shown on the front of this form as the return time. If the hire equipment is not returned by the return time the hirer shall be charged for the additional time at the owner's standard rates. The owner may at any time and without assigning any reason therefore either collect the equipment or require the hirer to return the equipment to the owner's yard.
2. **RESPONSIBILITY FOR CORRECT USE OF EQUIPMENT:** Unless otherwise advised at the point of hire, the hirer warrants to the owner that the hirer is familiar with the correct operating procedures relative to the hired equipment. The owner is happy to demonstrate the correct use of the equipment if so requested.
3. **OPERATOR:** The owner shall determine whether any piece of equipment will be hired out with or without an operator. If an operator is required, the hirer shall pay in addition to the equipment hire charge the labour charge for the operator as determined by the owner (the labour charge will include additional charges for overtime or work carried out on weekends or public holidays).
4. **HIRER'S RESPONSIBILITY:** During the hire period the hirer will:
  - (a) Operate the equipment in a competent and careful manner and in accordance with the operator manuals provided or made available to the hirer and all the relevant laws, bylaws, regulations codes of practice or recognised conventions and not misuse, abuse or overload the equipment.
  - (b) Keep the equipment secure at all times and not leave the equipment unattended, ensure that any normal running or maintenance requirements of the equipment are met and generally take good care of and protect the equipment from theft or accidental damage.
  - (c) Immediately notify the owner if the equipment breaks down or is damaged, is interfered with or lost or destroyed.
  - (d) Indemnify the owner against any costs, claims, proceedings, loss or damage suffered by any third party arising out of the hirer's use of the equipment or out of the breakdown damage or loss of the equipment or out of the delivery of the equipment to or retrieval thereof from the hirer by the owner (except in the case of the owner's negligence during such delivery) .
  - (e) Not allow the equipment to be operated by any person other than the hirer or a duly qualified and competent employee or contractor to the hirer. If an operator is required, only the operator may operate the equipment.
  - (f) Indemnify the owner against all costs, claims, proceedings, damages and losses suffered or incurred as a consequence of any breach of this agreement by the hirer or its representatives or otherwise caused the hirer or its servants or agents.
5. **BREAKDOWN LOSS OR DAMAGE:** In the event of the equipment being damaged (fair wear and tear excepted) or being lost whilst on hire to the hirer then the hirer shall pay to the owner a sum equivalent to the cost of replacement or reinstatement of the equipment so damaged or lost.
6. **HIRE CHARGES:** The hirer will pay to the owner the hire rate and other charges, including non-refundable fuel and insurance charges for each item of hire equipment, for the hire period, at the rates set out on the front of this form. Hire rates are subject to change by the owner giving reasonable notice to the hirer.
7. **PAYMENT OF ACCOUNTS:** Approved accounts strictly net, due for payment 20<sup>th</sup> of the month following the date of the invoice. In the event of any payment being in arrears for more than 30 days, the company may terminate the hire agreement without prior notice (notice to be provided immediately after termination) and without prejudice to any monies which may have become due and payable by the Hirer to the Company. Overdue payments from the Hirer can incur interest costs calculated at 5% per annum over the then overdraft rate of the owner, such costs calculated daily. Overdue accounts may be referred for collection and all costs incurred (including solicitor/client costs) will be added to the amount due.
8. **OWNER'S AUTHORITY:** The hirer authorises the owner, its servants and agents to enter on to the property on which the equipment is to be used or has been used for the purposes of delivery or collection of the equipment. The hirer further authorises the owner and its servants and agents to enter onto any premises of the hirer and as the act of the hirer to enter on any other premises where the equipment or any of the same or any part thereof is or may be for the purposes of taking possession of the same. The owner will not be liable for any loss or damage of any nature whatsoever incurred by the hirer during the delivery or retrieval of the equipment by the owner.
9. **NO REPRESENTATIONS OR WARRANTIES BY THE OWNER:** The owner makes no warranty or representation as to the quality or fitness of the equipment for any purposes and no such warranty or representation shall be implied hereby or by law.
10. **WARRANTY OF AUTHORITY:** The person signing this document for and on behalf of the hirer (if not personally the hirer) warrants that he has the authority of the hirer to make this contract on the hirer's behalf and that he is empowered by the hirer to bind the hirer to this agreement. The person so signing hereby indemnifies the owner against all costs, claims, proceedings, damages and losses that may be incurred by the owner arising out of the person so signing the agreement failing to have such power or authority.
11. **NO ASSIGNMENT OR SUBLETTING:** The hirer shall not assign its rights under the agreement, and shall not sublet or otherwise part with the possession of the equipment.
12. **CONSEQUENTIAL LOSS:** Neither party shall not be liable for any consequential or indirect loss arising from the hire of the equipment to the hirer, the use of or breakdown or failure to operate any hired equipment.
13. **CONSUMER GUARANTEES ACT EXCLUSION:** The hirer acknowledges that any goods supplied by way of hire by the owner to the hirer are being hired for the purposes of a business and that the provisions of the Consumer Guarantees Act 1993 and of the Sale of Goods Act 1908 shall have no application to such supplies.
14. **AGREEMENT:** This agreement is the entire agreement between the hirer and the owner and may only be amended by the written agreement of the owner. The owner may terminate this agreement at any time and take possession of the equipment in accordance with clause 9. This Agreement is governed by New Zealand law.