

# GENERAL TRADING TERMS AND CONDITIONS OF SALE



## General Trading Terms and Conditions of Sale

### 1. CONDITIONS

The conditions of hire set out below shall apply to all contracts for the hire of goods (equipment) between the Owner (Hyde Park Hire Limited) and the person hiring the equipment (Hirer) and cannot be modified, in any way except by written agreement between the parties.

### 2. CHARGES

- 2.1 Equipment may be hired for (i) one day, (ii) two days, (iii) three days, (iv) weekly, (v) monthly, (vi) weekend, (vii) as agreed in writing. The hire periods are defined in clause 2.2. The Owner may charge the hire fee and extra on a pro rata basis for any equipment usage in excess of the maximum usage time and subject to the Owner's rights set out in Clause 5. Certain equipment may carry minimum hiring periods.
- 2.2 "1 day" means 24 hours  
"2 days" means 48 hours  
"3 days" means 72 hours  
"Weekly" means 7 days  
"Monthly" means 1 calendar month  
"Weekend" means Friday midday to Monday midday
- 2.3 The Hire period begins from the time the equipment leaves the Owner's premises and runs until the equipment is returned, or this hire agreement is terminated pursuant to Clause 5.
- 2.4 The Hirer shall pay, as invoiced, for all the amounts payable by the Hirer under the contract, plus GST, unless otherwise indicated.
- 2.5 When the weekly charge rate is less than the accumulated daily hire, the weekly rate will apply; when the monthly rate is less than the accumulated weekly rate the monthly rate will apply; the rates being defined in the hire contract

### 3. PAYMENT AND DEFAULT INTEREST

- 3.1 To confirm the order, The Hirer will immediately pay a deposit of not less than 20% of the order value. **This deposit is non-refundable.**
- 3.2 On return of the equipment in good order and condition, the actual total charges will be calculated and the Hirer will either pay or be refunded the difference between the deposit and the actual total charge.
- 3.3 Any agreed discount for charge customers is claimable ONLY if the account is paid by the due date of the invoice.
- 3.4 Without prejudice to the Owner's other remedies the Hirer will pay default interest at the Owner's current account overdraft interest rates (as certified by the Owner's Banker), plus 2.5% per annum on a day to day basis on all outstanding amounts from the end of the agreed hire period (for cash customers) or by the date of the invoice (for charge account customers) until all monies have been paid in full.
- 3.5 No credit shall be extended on overdue accounts.
- 3.6 The Hirer will pay to the Owner all costs and expenses including legal fees and disbursements on a solicitor and own client basis incurred by the Owner in connection with the exercise or attempts to exercise any of its rights or remedies under this contract.

### CANCELLATION

When you book equipment it means we cannot hire the items to another customer, therefore cancellations affect us greatly and we do apply cancellation charges as follows:

- 4.1 Cancellation greater than 3 months out from the event, loss of deposit.
- 4.2 Cancellation between 1 - 3 months from the event, a further charge of up to 50% of the total hire fee can be charged.
- 4.3 Cancellation up to 1 month from the event, the full charge for the hire goods can be made. Any goods able to be rehired during this period will be refunded from this charge.

## **5. DELIVERY AND REMOVAL**

- 5.1 The Hirer will pay delivery and removal charges for the equipment as determined by the owner.
- 5.2 This Hirer authorises the Owner to bring the Owner's vehicle on to the place where the equipment is being used or is located to deliver or remove the equipment, either on the expiry of the hire period or on the breach by the Hirer of any term in this contract. The Hirer indemnifies the Owner against any liability whatsoever incurred by the Owner whether arising directly or indirectly from the Owner's actions under this clause.
- 5.3 Requests for removal must be made by the Hirer by telephone at the completion of the hire.
- 5.4 It is expressly stipulated and agreed that any carrier or any other person uplifting the goods from Hyde Park Hire Ltd is the agent for the Hirer, and that the Hirer will be bound to acceptance of the goods, and these conditions by the action of that agent or agents.

## **6. OWNER'S RIGHT TO CANCEL**

- 6.1 If the Owner believes the equipment to be at risk for any reason whatsoever, including but not limited to the manner of its use by the Hirer, or adverse weather conditions or work conditions, or that the Hirer is unable to pay any hire charge, or might be able to pay any hire charge the Owner may take action as necessary to retake possession of the equipment. Accordingly, the Hirer grants the Owner an irrevocable right and authority to enter at any time onto any place where the equipment is situated or thought to be situated to remove the equipment.
- 6.2 The Hirer shall indemnify the Owner in respect of any liability (including full solicitor/client costs) incurred or threatened as a result of the Owner exercising the powers under Clause 5.1 or as a result of any action to recover any equipment hired or monies payable by the Hirer pursuant to this contract.
- 6.3 The Owner will not be liable to the Hirer or any other person for any claim or loss arising from cancellation or repossession.

## **NO ASSIGNMENT**

- 7.1 This contract is personal to the Hirer and is not capable of assignment by the Hirer.

## **8. HIRER'S OBLIGATION**

- 8.1 The Hirer shall:

- a) Not, for whatever reason, wilfully damage the equipment. Where wilful damage has occurred, the Hirer will be liable for the full reinstatement or replacement cost of the equipment; and
- b) take proper and reasonable care of the equipment and return it in good condition; and
- c) carry out all necessary servicing (including by way of example but not limitation the supply of all necessary oils, grease and fuel) at the Hirer's own expense; and
- d) satisfy themselves that the equipment is suitable for the intended use; and
- e) use the equipment in a lawful manner with due regard to all laws and regulations pertaining to the use of such equipment; and
- f) immediately notify the Owner by telephone if the equipment breaks down; and
- g) indemnify the Owner for all liabilities the Owner incurs to any entity as a consequence of the use of equipment; and
- h) except as permitted by the Consumer Guarantees Act 1993 not bring or threaten to claim against the Owner for loss or damage incurred or threatened against the Hirer or arising directly or indirectly from the Hirer's use of the equipment; and
- i) indemnify the Owner for all losses whatsoever suffered by the Owner as a consequence of damage to or loss of the equipment.

- 8.2 The Hirer warrants that all person who use the equipment shall be COMPETENT and QUALIFIED to use the equipment in the manner it was designed to be used, and follow any directions from the Owner, local authorities, codes of practice or from the manufacturer of the equipment relating to the safety of the equipment and comply with the obligations in relation to the use and control of the equipment and persons using said equipment pursuant to the Health and Safety in Equipment Act 1992, and all other relevant legislation.

- 8.3 If the Hirer is not an individual, the person who signs this contract on behalf of the Hirer warrants that he/she has the authority to bind the Hirer and will, in any event, be personally liable for the performance of the obligations of the Hirer.

- 8.4 In the event of the loss or theft of the equipment the Hirer shall immediately notify the Police (taking the name of the Police contact) and the Owner.

## **9. OWNER'S RESPONSIBILITY**

9.1 The Owner warrants to the best of its knowledge and belief the equipment should perform to the manufacturer's specifications after due allowance for the age of the equipment in question. This warranty is to the exclusion of all other warranties express or implied statutory or otherwise.

## **10. LIMITATION OF LIABILITY**

10.1 Save where the Owner is in breach of a supplier's guarantee in terms of the Consumer Guarantee Act 1993, the Hirer in entering into this contract, acknowledges that in all other circumstances whatsoever the Owner shall not be liable for direct or consequential damage, loss or expense whatsoever and howsoever arising (whether in contract or tort) including that resulting from the negligence of the Owner or arising by operation of law and whether suffered by the Hirer and/or any third party.

## **11. HEADINGS**

11.1 Headings are inserted for convenience and shall not effect the construction of this contract. The singular includes the plural and vice versa. Persons includes incorporated and unincorporated entities. Words importing one gender include the other. A reference to a clause or sub-clause is a reference to a clause or sub-clause hereof. A reference to Owner includes its servants and agents.

11.2 If at any time any provisions of this contract are or becomes illegal or invalid or unenforceable in any respect under the law of New Zealand, neither the legal validity nor enforceability of the remaining provisions hereof shall in any way be affected or impaired thereby to the intent that this contract should be construed as if the provisions or part thereof in question has been deleted.

## **12. PRIVACY ACT 1993**

This contract collects personal information about you. The information is principally collected to evaluate the hire of goods that you seek to hire. The information is collected and held by the Owner. The failure to provide the information on the front of this contract may result in your application to hire goods being declined or this contract subsequently being terminated by the Owner. The Hirer has rights of access to and correction of personal information contained in this contract, subject to the provisions of the Privacy Act 1993. The Hirer agrees that its personal information may be used by the Owner to advise the Hirer of the Owner's other goods and services. The Hirer authorises the disclosure of personal information held by any other party regarding any previous hire agreements entered into by the Hirer. The Hirer agrees to the Owner releasing to other parties information regarding this hire contract if the Hirer does not comply with its obligations.