

Terms and Conditions of Trade

Hire Line Limited agrees to hire out Equipment to the Hirer and the Hirer agrees to hire the Equipment on the following terms and conditions. The Hirer acknowledges and agrees that the Hire Agreement and any other invoice or document evidencing or describing any Equipment is incorporated into and forms part of these terms and conditions.

These terms and conditions are subject to change from time to time. Any changes to these terms and conditions may be supplied to the hirer, published on www.hireline.co.nz or displayed at Hire Line's premises.

1. Definitions

"Equipment" means all equipment supplied by Hire Line to the Hirer, including consumables, accessories, parts and tools supplied to the Hirer.

"Hire Agreement" means the document given by Hire Line to the Hirer describing primarily the Equipment and the Hire Charges.

"Hire Charge" means the hire charges as agreed between Hire Line and the Hirer subject to clause 2 of these terms and conditions. Equipment is hired out at a daily rate, subject to the Minimum Hire Period.

"Hire Line" means Hire Line Limited or its agents and employees.

"Hire Period" means the period between the time as shown on the Hire Agreement, (which is the time the Equipment leaves Hire Line's premises) until the return of the Equipment to Hire Line's premises during normal trading hours, or following collection by Hire Line until the expiry of the Minimum Hire Period, whichever occurs last.

"Hirer" means the Hirer or any person acting on behalf of and with the authority of the Hirer hiring Equipment from Hire Line and shall include any person or entity hiring Equipment from Hire Line.

"Guarantor" means the person or persons or entity who agrees herein to be liable for the debts of the Hirer.

"Minimum Hire Period" means 4 hours.

2. Hire Charges and Payment

- 2.1 The Hire Charge shall be as indicated on the Hire Agreement and any other invoices provided by Hire Line to the Hirer in respect of Equipment supplied.
- 2.2 The Hire Charge excludes GST, delivery costs, fuel, cleaning charges, service charges and all saleable and consumable items. A cleaning charge will be applied on all Equipment returned unclean to Hire Line.
- 2.3 If the Hirer does not have a trade account with Hire Line, the Hirer will be required to provide a bond to Hire Line in the amount specified on the Hire Agreement, being a bond refundable upon the return of the Equipment to Hire Line at the expiry of the Hire Period subject however to Hire Line's rights and remedies contained in these terms and conditions.
- 2.4 Time for payment for the Equipment shall be of the essence. Payment for Equipment hired from Hire Line shall be payable on completion of the Hire Period. Conditions which prevent satisfactory operation of the Equipment do not relieve the Hirer of its responsibility for Hire Charges.
- 2.5 Notwithstanding clause 2.4, if the Hirer has a trade account with Hire Line, payment shall be due on the earlier of the 20th of the month following the date of the invoice or completion of the Hire Period for Equipment hired. Hire Line reserves the right to interim bill any Hire Charges at the end of each calendar month, in which case each amount owing is payable in accordance with Hire Line's credit terms as well as any balance payable at the end of the Hire Period
- 2.6 Payment of Hire Charges owing shall be free of any counterclaim, set-off, deduction or any other claim whatsoever.
- 2.7 Hire Line may charge interest on overdue invoices at a rate of 3% per month.
- 2.8 Any expenses, disbursements and legal costs incurred by Hire Line in recovering possession of the Equipment and in the enforcement of any rights contained in these terms and conditions shall be paid by the Hirer, including any reasonable solicitor's fees or debt collection agency fees.
- 2.9 Hire Line may, in its sole discretion require a deposit from the Hirer. The deposit amount will be stipulated at the time the Equipment is ordered and shall become immediately due and payable. Where a deposit is paid by the Hirer to Hire Line, such deposit shall be non-refundable.
- 2.10 If the Hirer has a trade account with Hire Line, Hire Line is entitled at any time to request additional security from the Hirer and shall be entitled to suspend the supply of Equipment to the Hirer until such security is provided.

3. Hire Period

- 3.1 Hire Line will charge the Hirer Hire Charges for the Minimum Hire Period irrespective of the length of hire.
- 3.2 Hire Line may in its absolute discretion decline to hire equipment to the Hirer at any time
- 3.3 All Equipment is used at the Hirer's risk and risk shall pass to the Hirer upon the commencement of the Hire Period until the end of the Hire Period. .
- 3.4 Hire Line may at any time and without reason or notice to the Hirer and/or any Guarantor:

- 3.4.1 Terminate or suspend any Hire Agreement or credit arrangement it has with the Hirer (and recover any Equipment) in which case the amount owing by the Hirer to Hire Line shall be immediately due; and
- 3.4.2 In Hire Line's sole discretion increase, decrease, suspend or revoke the amount of credit supplied to the Hirer.
- 3.4.3 Notwithstanding termination of the Hire Period, the Hirer shall be obliged to pay Hire Line a sum equivalent to Hire Charge at the rate specified in the Hire Agreement in respect of any period from the date of termination of the Hire Period until the Equipment is actually returned to Hire Line in a condition fit for rehire.

4. **Delivery and Collection of Equipment**

- 4.1 Where Hire Line agrees to deliver and collect the Equipment:
 - 4.1.1 The Hirer will pay all delivery charges;
 - 4.1.2 The Hirer authorises Hire Line to bring Hire Line's vehicle onto the Hirer's property (or the property where the Equipment is located) to deliver and/or recover the Equipment at the end of Hire Period. Hire Line shall not be responsible to the Hirer or any third party for any damage that may be caused by Hire Line's vehicle or Hire Line during the delivery or collection of the Equipment; and
 - 4.1.3 Requests for collection must be made by telephone when the Hirer has finished with the Equipment. The Hirer must give Hire Line 3 working days' notice to allow Hire Line to collect and return the Equipment to Hire Line's property within Hire Line's normal trading hours. Insufficient notice may incur a penalty equivalent to a half day's hire (or a day and a half hire if notice is given on a Saturday afternoon).

5. **Care of Equipment**

- 5.1 The Hirer acknowledges that the Equipment may not be new stock but all Equipment will be clean and in good working order for normal use at its stated capacity at the commencement of the Hire Period.
- 5.2 The Hirer must:
 - 5.2.1 Satisfy itself that the Equipment is suitable and in a condition for its purposes.
 - 5.2.2 Ensure that the Equipment is operated:
 - (a) by a suitably qualified operator using sufficient safety equipment (as offered or provided by Hire Line or manufacturer);
 - (b) in a skilful and proper manner, within the instructions provided by Hire Line;
 - (c) only for the purpose and within the capacity for which it was designed; and
 - (d) strictly in accordance with the law.
 - 5.2.3 Be liable for all consumables and the cost of reconditioning items blunted or deemed unfit for further use (such as blade or stone wear).
 - 5.2.4 At the Hirer's expense, clean, fuel, lubricate, check water, maintain, keep and return the Equipment in good and substantial repair and condition, failing which Hire Line may charge the Hirer to reinstate the Equipment to its original condition at the time of commencement of the Hire Period.
 - 5.2.5 Immediately notify Hire Line of any breakdown, damage, destruction, theft or loss of the Equipment and assist Hire Line's enquiries in regards to the same (including filing a Police report). Breakdowns or damage resulting from negligence or misuse shall not in any circumstances shorten the Hire Period.
 - 5.2.6 Be liable for any loss, theft, damage or destruction of any Equipment during the Hire Period. All Equipment lost or damaged beyond repair will be paid for by the Hirer and shall be limited to the total Hire Charges due to Hire Line as set out in the Hire Agreement.
 - 5.2.7 Safely secure all Equipment loaded in the Hirer's vehicle, and indemnify Hire Line in respect of any injury and/or damage caused by Equipment falling from the Hirer's vehicle or trailer operated by or on behalf of the Customer.

6. **Ownership of Equipment and Hire Line's right to repossess Equipment**

- 6.1 Any Equipment supplied by Hire Line to the Hirer shall remain Hire Line's property.
- 6.2 Whilst the Equipment is in the Hirer's possession, the Hirer shall:
 - 6.2.1 Keep the Equipment insured for full replacement value in Hire Line's name against all risks of every usual description and such other risks as Hire Line may require from time to time;
 - 6.2.2 Not tamper with, damage or repair the Equipment;

- 6.2.3 Not attempt to sell, assign, mortgage, lend or otherwise deal with or part with the possession or control of the Equipment or any part thereof;
- 6.2.4 Not alter or make any additions to the Equipment, including, but without limitation, alter make any additions to, deface or erase any identifying mark, plate or number or any part thereof, on or in the Equipment of any other part of the Equipment or in any other manner interfere with the Equipment; and
- 6.2.5 Permit Hire Line (or Hire Line's agents) at any time without notice to enter all premises at which Hire Line believes on reasonable grounds the Equipment to be stored, to inspect, remove, or repossess the Equipment supplied by Hire Line.

7. Personal Property Securities Act 1999 ("PPSA")

- 7.1 The Hirer grants to Hire Line a security interest in all present and after acquired Equipment and their proceeds.
- 7.2 On the request of Hire Line the Hirer shall promptly execute any documents and do anything else required by Hire Line to ensure attachment and perfection of the security interest over the Equipment and their proceeds including providing any information Hire Line reasonably requires to complete a financing statement or a financing change statement and enabling Hire Line to secure first priority for its security interest and exercise all its rights in relation to its security interest.
- 7.3 The Hirer waives any right to receive a copy of a verification statement under the PPSA.
- 7.4 The Hirer will pay to Hire Line all costs, expenses and other charges incurred, expended or payable by Hire Line in relation to the filing of a financing statement or a financing change statement in connection with these terms and conditions.
- 7.5 Hire Line and the Hirer agree that nothing in Sections 114(1)(a), 117(1)(c), 133 and 134 of the Act shall apply to these terms and conditions.
- 7.6 Hire Line and the Hirer also agree that the following rights of the Hirer as debtor shall not apply:
 - 7.6.1 To receive a statement of account under Section 116;
 - 7.6.2 To recover surplus under Section 119;
 - 7.6.3 To receive notice of a secured party's proposal to retain collateral under Section 120(2);
 - 7.6.4 Object to a secured party's proposal to retain collateral under Section 121;
 - 7.6.5 Not to have Equipment damaged when a secured party removes an accession under Section 125;
 - 7.6.6 Refuse permission to remove an accession under Section 127;
 - 7.6.7 Receive notice of the removal of an accession under Section 129;
 - 7.6.8 Apply to the Court for an order concerning the removal of an accession under Section 131;
 - 7.6.9 Redeem collateral under Section 132.
- 7.7 The Hirer acknowledges that it has received a copy of these terms and conditions and that the terms and conditions constitute a security agreement for the purposes of the PPSA.

8. Cancellation

- 8.1 Hire Line may terminate the Hire Agreement on [48] hours notice.
- 8.2 Hire Line shall not be liable for any loss or damage whatever arising from such cancellation.
- 8.3 Once placed, no order may be cancelled by the Hirer except in writing and then only with the prior written consent of Hire Line which Hire Line may withhold at its discretion.
- 8.4 If the Hirer or any Guarantor:
 - 8.4.1 Breaches any of these terms and conditions;
 - 8.4.2 Becomes bankrupt, insolvent or ceases business,then Hire Line may:
 - 8.4.3 Terminate the Hire Agreement;
 - 8.4.4 Commence proceedings to recover all monies owing by the Hirer;
 - 8.4.5 Recover the Equipment (and the Hirer authorises Hire Line to enter any property where the Equipment is located to remove and repossess any and all Equipment);
 - 8.4.6 Retain any bond provided;And Hire Line shall not be liable to the Hirer for any loss resulting from such termination.
- 8.5 Any payments due to Hire Line by the Hirer shall become immediately payable to Hire Line upon cancellation of the Hire Agreement.

9. Liability and Indemnity

- 9.1 To the maximum extent permitted by law, Hire Line shall be under no liability whatsoever to the Hirer for any indirect loss and/or expense (including loss of profit) suffered by the Hirer arising out of a breach by Hire Line of these terms and conditions (provided that this clause does not affect any rights the Hirer may have under any applicable consumer law legislation).
- 9.2 The Hirer indemnifies Hire Line in respect of any breach by the Hirer of any of these terms and conditions and for all injury and/or damage caused to persons and property in relation to the Equipment and its operation and use by the Hirer.

10. No Warranties

- 10.1 Hire Line expressly excludes all warranties and conditions to the fullest extent possible by law as to the state, quality, fitness for purpose of the Equipment and should Hire Line breach any of these terms and conditions, or warranty, Hire Line's only liability shall be limited to supplying the Equipment again to the Hirer or otherwise repairing the Equipment, provided that this clause does not affect any rights that the Hirer may have under any applicable consumer law legislation.

11. Hirer Authority

- 11.1 The Hirer warrants that it has authority to sign these terms and conditions and contract with Hire Line for the hire of the Equipment and identifies Hire Line against all losses and costs that may be incurred by Hire Line arising out of the person signing failing to have such authority to do so.

12. Disputes

- 12.1 Should a dispute arise relating to any of these terms and conditions, the hire or the use of any Equipment (with the exception of any payments due to Hire Line) the parties agree to resolve the dispute between themselves, and in the event of failure to come to some resolution by this means, the parties agree to settle the dispute by mediation with the assistance of the Hire Industry Association of New Zealand Inc. before commencing any litigation proceedings.

13. Privacy Act 1993

- 13.1 The Hirer and any Guarantor authorises Hire Line to collect, retain, disclose to any person and use any information about the Hirer and any Guarantor, for the purpose of assessing the Hirer's or Guarantor's creditworthiness, enforcing any rights under these terms and conditions or marketing the Equipment provided by Hire Line to any other party. The Hirer or Guarantor has the right to access personal information (as defined in the Privacy Act) held by Hire Line and request corrections of any errors in that information.

14. Guarantors

- 14.1 Any personal guarantee made by any third party shall not exclude the Hirer in any way whatsoever from the liabilities and obligations contained in these terms and conditions. The Guarantor(s) and the Hirer shall be jointly and severally liable under these terms and conditions.
- 14.2 If the Hirer is a company or trust, the director(s) or trustee(s) signing the Hire Agreement or Application for Trading Account, in consideration for Hire Line agreeing to supply Equipment and grant credit to the Hirer at their request, also sign these terms and conditions in their personal capacity and jointly and severally personally undertake as principal debtors to Hire Line the payment of any and all monies now or hereafter owed by the Hirer to Hire Line and indemnify Hire Line against non-payment by the Hirer. Any personal liability of a signatory to these terms and conditions shall not exclude the Hirer in any way whatsoever from the liabilities and obligations contained in this application. The signatories and the Hirer shall be jointly and severally liable under the terms and conditions of this application and for payment of all sums due by the Hirer to Hire Line.

15. General

- 15.1 If any of the terms and conditions is held by a Court to be ineffective by virtue of non-registration, illegality or otherwise, then such condition, or part of it, shall be severed from all other conditions without affecting the validity or enforceability of all other conditions or part of them.
- 15.2 The law of New Zealand shall govern all contracts and the Hirer submits to the exclusive jurisdiction of the New Zealand courts.
- 15.3 The Hirer shall not set off against the Hire Charge amounts due from Hire Line.
- 15.4 Hire Line may license or sub-contract all or any part of its rights and obligations without the Hirer's consent.
- 15.5 Hire Line is entitled at any time to assign to any other person all or part of the debt owing by the Hirer to Hire Line without the prior consent of the Hirer.
- 15.6 Hire Line shall not be liable for delay or failure to perform Hire Line's obligations under these terms and conditions if the cause of the delay or failure is beyond its control.

We confirm that we are authorised to sign these terms and conditions.
We acknowledge and agree to be bound by these terms and conditions of trade.

Dated:

Signed by: _____

Position: _____

For and on behalf of: _____

Witness Signature: _____

Witness Name: _____

Witness Address: _____