

Waikato Trailer Hire Ltd

GENERAL TERMS AND CONDITIONS OF HIRE

1. DEFINITIONS

In these terms and conditions:

- a. "Agreement" means the Agreement to Hire, the Addendum to Hire (if any) and these Terms and Conditions of Hire.
- b. "Equipment" means the Equipment hired by the Owner to the Hirer (whether the original equipment or any substitute) and includes all accessories and other equipment of the Owner attached to the equipment or to be used in connection with it. For the purposes of this Agreement the equipment shall be deemed to be the property of the Owner whether such is the fact or not.
- c. "Hirer" means you and includes your successors or personal representatives.
- d. "site" means the place or area where the Equipment is to be operated for the purposes of this Agreement (if appropriate).

2. HIRE

The Owner shall let, and the Hirer shall take on hire, the equipment specified in the Agreement to Hire from the Commencement Date specified in the Agreement until the Return Date specified in the Agreement (the "period of hire").

3. CARE OF MACHINERY/ EQUIPMENT

The Hirer shall maintain the equipment in good working order during the period of hire and shall return the equipment clean after use.

- a. The Hirer is responsible for:
 - (i) Any damage to the Trailer by any party other than the Owner; whether malicious, negligent or accidental;
 - (ii) The cost of repair or replacement of the Trailer which has been modified or altered in any way by any person other than the Owner;
 - (iii) The repair or replacement of the Trailer where any action by the Hirer or any person other than the Owner invalidates any warranty for the equipment given to the Owner by its manufacturer or supplier.

and the Hirer will pay to the Owner upon demand, all costs incurred by the Owner in relation to repair or replacement of the Trailer and any other loss suffered by the Owner.

4. USE AND HANDLING OF EQUIPMENT

- a. The Hirer shall not:
 - (i) require, permit or suffer the Equipment to be used for anything contrary to any Act, regulation, by-law, requirement, code of practice or recognized convention;
 - (ii) allow any other person other than those named in the Agreement to operate the Equipment without first obtaining the written consent of the Owner;
 - (iii) permit or suffer the operation or direction of the Equipment by any person who by reason of intake of drink or drugs has his or her faculties impaired.
- b. The Hirer shall be responsible for all loss or damage whatsoever caused by the Equipment while in the possession of the Hirer, including the cost of repairs suffered or incurred by the Owner as a consequence of any breakdown or damage to the Equipment where such breakdown or damage is caused by any negligent act, omission, misdirection or misuse of the Equipment on the part of the Hirer or the Hirer's servants, agents, contractors or subcontractors and in particular shall be responsible for the payment of the hire at the rate specified in the Agreement during the period the Equipment is necessarily idle as a result of any such negligent Act or omission or misdirection or misuse of the Equipment.
- c. The Equipment shall be at the sole risk of the Hirer throughout the period of hire.

5. NO EXTENSION

If the Hirer wishes to extend the period of hire a new Agreement to Hire must be entered into with the Owner.

6. DAMAGE TO SERVICES AND PROPERTY

The Hirer shall be solely responsible for all damage which may be caused by any property whatsoever caused by the Hirer or the Equipment during the period of hire.

7. NOTICE OF ACCIDENT

If the Equipment is involved in any accident resulting in injury to any person or damage to any property, immediate notice must be given by the Hirer to the Owner by telephone and confirmed by letter or email to the Owner's principal office.

8. PAYMENT

Payment terms are strictly due at time of hire unless prior arrangement has been made. Payment via internet banking or cash.

9. TERMINATION OF AGREEMENT

- a. The Owner may immediately and without notice terminate the hire and retake possession of the Equipment if:
 - (i) the Hirer makes default in the observance or performance of any of the Terms and Conditions of Hire and the Agreement;
 - (ii) the Owner believes on reasonable grounds that the Hirer is about to breach the terms of the Agreement of these Terms and Conditions of Hire and that such breach might endanger any person or property; or
 - (iii) the Equipment for any reason is damaged so as to be inoperable or unsafe for use.
 - (iv) the Hirer commits any act of bankruptcy or any act which would render it liable to be wound up or if a resolution is passed or proceedings are filed for the winding up of the Hirer or if a receiver is appointed for all or any assets of the Hirer.
- b. Any determination to terminate the hire and retake possession of the Equipment shall be without prejudice to the rights of the Owner in respect of any breach of this Agreement.

10. WARRANTIES AND EXCLUSIONS

- a. The Hirer warrants that he/she;
 - (i) has a current driver's licence;
 - (ii) has a vehicle which has a current registration and warrant of fitness and which is suitable to tow the Trailer and its intended load;
 - (iii) is fully insured for any damage it may cause to the trailer or which may occur to the Trailer while under the care and use of the Hirer;
 - (iv) will connect the trailer to the Hirer's vehicle using the Trailer coupling, light connector and safety chain, and comply with the terms of the Transport Act 1962 and the Transport (Vehicle and Driver Registration and Licensing) Act 1986;
 - (v) will keep the Trailer within the Hirer's control and will return it to the Premises forthwith after use;
 - (vi) will not alter the Trailer or any identifying number or mark thereon;
 - (vii) will maintain and keep the Trailer in full working order (fair wear and tear excepted) and will use the Trailer in a safe manner;
 - (viii) will not use the trailer in a manner which may cause damage to the Trailer;
 - (ix) will not permit or suffer the trailer to be used for anything contrary to any Act, regulation, bylaw, requirement, code of practice or recognized convention;
 - (x) will not allow the Trailer to be used by any person under the influence of alcohol or drugs;
 - (xi) will not load the Trailer in excess of the recommended drawbar limit (Payload also listed on Contract);
 - (xii) acknowledges that they use the Trailer at their own risk and accept responsibility for any breakdown or damage which may occur while the Trailer is in the Hirer's possession where such breakdown is caused by the Hirer's negligent act, omission, misdirection or misuse of the Trailer on the part of the Hirer or the Hirer's servants, agents, contractors or subcontractors;
 - (xiii) will not part with possession of the Trailer except to return the Trailer to the Company in the same good, clean and working order and will not allow any Third party to use the Trailer without the Owner's consent.
- b. The Hirer agrees to inspect the Trailer prior to leaving the Premises to ascertain that it is in good order and condition and is fit for the use of which it is required by the Hirer and the Hirer loading the Trailer with its goods and departing the Premises shall be deemed to be conclusive evidence of inspection and approval of the Trailer by the Hirer.

11. INDEMNITY

The Hirer shall indemnify and keep indemnified the Owner from and against all damage or loss:

- a. suffered or incurred in consequence of:
 - (i) any breach of the terms of the Agreement of these Terms and Conditions of Hire by, or
 - (ii) any negligent Act or omission on the part of, or
- b. otherwise caused by the Hirer or the Hirer's servants, agents, contractors or subcontractors during the term of this Agreement.

12. ORAL AGREEMENTS AND STIPULATIONS

No oral agreement, promise, collateral stipulations, representation, condition or warranty given or entered into by the Owner or by any agent or employee of the Owner and not in conformity with this Agreement shall be binding upon the Owner unless confirmed in writing by the Owner.

13. WAIVER

All the rights, powers and remedies of the Owner shall remain in full force notwithstanding any neglect, forbearance or delay by the Owner in the enforcement of them.

14. GOVERNING LAW

This Agreement shall be governed by and interpreted in accordance with the laws of New Zealand. The Hirer shall observe and comply with the provisions of all Acts, regulations, by-laws and codes of practice in force during the period of hire in relation to the work on which the Equipment is to be employed and the manner of performance of that work and in relation to the Site and with all orders and directions lawfully given by any competent authority.

15. ARBITRATION

If during the continuance of the hire or at any time thereafter any dispute, difference or question shall arise between the Owner and the Hirer in regard to the hire or to the construction of this Agreement or the rights or liabilities of the Owner or the Hirer, that dispute, difference or question shall be referred to a sole Arbitrator to be agreed upon by the Owner and the Hirer if they can agree upon one and otherwise to two Arbitrators (or to their Umpire in the case of disagreement) one to be appointed by each party and in either case in accordance with the provisions of the Arbitration Act 1908.

16. CONTRACTING OUT

The Agreement, the Terms and Conditions of Hire and the Addendum to Hire (if any) contain the whole of the terms of the contract between the parties and all other terms, conditions and warranties which might otherwise have been implied or have any application are hereby to the extent permitted by law expressly excluded.