



Taking you to greater heights

Skyrise Hire Limited
9-13 Sims Rd, Penrose, Auckland
PO Box 259261, Botany, Auckland, N.Z.
Phone: (09) 525 6770 Fax: (09) 525 6760
Email: info@skyrise.co.nz

APPLICATION FOR CREDIT

ACCOUNT DETAILS

Applicant: ..... Trading Name: .....
Business Type: Ltd.Company [ ] Partnership [ ] Trust/Club/Society [ ] Sole Trader/Individual [ ]
Registered Office (if Ltd.Company): ..... Date Incorporated: .....
Street Address: .....
Postal Address: .....
Contact Name and Position: ..... Email: .....
Telephone Business: ..... Mobile: ..... Fax: .....
Accounts Payable Contact Name: ..... Telephone: ..... Email: .....
Receive Invoices/Statements Electronically: Yes [ ] No [ ] Monthly Credit Required: \$.....
Purchase Order Required: Yes [ ] No [ ]

Damage Waiver Required: Yes [ ] No [ ] (If no, a letter is required from your Insurer stating that hire equipment is covered by your policy. Minimum cover of \$250, 000 is required under a Material Damages policy. If neither yes or no is indicated then a 6% DAMAGE WAIVER fee will apply to all invoices)

FINANCIAL & PROFESSIONAL ADVISORS

Accountant: ..... Solicitor: ..... Bank: .....

OWNERSHIP (Please insert Owner(s) / Directors Name(s) in full)

Name: ..... Address: ..... Ph: .....
Name: ..... Address: ..... Ph: .....
Name: ..... Address: ..... Ph: .....
Name: ..... Address: ..... Ph: .....

TRADE REFERENCES (Nominate only businesses you have traded with for at least 6 months -exclude service accounts eg. power, telephone)

Name of business, address & telephone number: .....
.....
.....

I/We hereby apply for credit, knowing such credit may be withdrawn by Skyrise Hire Ltd at any time in its sole and unfettered discretion.
I/We agree to accept the terms and conditions as detailed on the reverse of this form, and acknowledge that the terms and conditions may be changed from time to time by notice in writing.
I/We accept that the new terms and conditions will apply on our ordering of equipment after receipt of the written notice of change.

Privacy Act 1993

Where you are an individual, the information included in this credit application is required so as to use Baycorp Advantage's credit reporting service to credit check you and determine whether Skyrise Hire Ltd will accept this application for credit and whether to continue to provide credit.
I/We understand that: Baycorp Advantage will provide Skyrise Hire Ltd with information about me/us for that purpose; Skyrise Hire Ltd will give my/our personal information to Baycorp Advantage, and that Baycorp Advantage will hold that information on their systems and use it to provide their credit reporting service; when other Baycorp Advantage customers use the Baycorp Advantage credit reporting service, Baycorp Advantage may give the information to other Baycorp Advantage customers; if I/we default in my/our payment obligations to Skyrise Hire Ltd, information about that default may be given to Baycorp Advantage and Baycorp Advantage may give information about my/our default to other Baycorp Advantage customers.
I/we understand that if full information is not provided, my/our application for credit may be declined and that I/we have a right of access to, and to ask for correction of any personal information.

Signature: ..... Print Name: ..... Position ..... Date: .....
Signature: ..... Print Name: ..... Position ..... Date: .....

## Personal Guarantee

I/We, the undersigned guarantor/s below acknowledge that I/We am/are aware of all provisions of this application and the terms upon which credit is to be provided to the above applicant (the Hirer) and in consideration of Skyrise Hire Ltd providing goods for hire to the Hirer at my/our request I/We unconditionally and irrevocably guarantee to Skyrise Hire Ltd the due and proper performance by the Hirer of all its obligations to Skyrise Hire Ltd (in accordance with Skyrise Hire Ltd's Terms and Conditions, as amended from time to time).

This guarantee is a continuing guarantee. If this guarantee has been executed by more than one party as guarantor/s, then the liability shall be joint and several.

Guarantors Signature: .....

Witness Signature: .....

Full Name & Address of Witness: .....

Guarantors Signature: .....

Witness Signature: .....

Full Name & Address of Witness: .....

# SKYRISE HIRE LIMITED

## TERMS AND CONDITIONS OF TRADING

### 1. CONDITIONS

The Conditions set out below shall apply to all contracts for the hire and/or sale of goods ("equipment") between Skyrise Hire ("The Owner") and the person hiring or buying the equipment ("Hirer"). These conditions shall not be modified, amended, waived, in whole or in part, except by written agreement between the parties.

### 2. CHARGES

2.1 Equipment may be hired for: a) half day period, b) daily, c) weekend, d) monthly or e) as agreed to in writing. The hire periods are as defined in clause 2.2, PROVIDED THAT the Hirer agrees that the Owner may charge extra on a pro rata basis for any equipment usage in excess of the maximum usage time as set out in clause 2.2, and subject always to the Owner's rights in clause 5. Certain equipment may carry minimum hiring periods.

2.2 Hire periods and maximum periods of usage are:

- "Minimum period Half Day" means 4 hours (maximum usage 4 hours) or overnight providing the equipment is returned by 8:30am the following day, charged at 90% of the agreed daily rate.
- "Daily" means 24 hours (maximum usage 8 hours).
- "Weekend" means Friday 1630hrs to 0830hrs the following Monday (maximum usage 16 hours).
- "Weekly" means 5 days (maximum usage 40 hours).
- "Monthly" means 1 calendar month (maximum usage 180 hours).

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 the hire period for all materials used, loss and damage waiver charges (if applicable), delivery/removal costs, excess use charges, damage to or loss of the equipment, cleaning costs (if any), default interest for late payment. If the weekly charge rate is less than the accumulated daily hire charge, the weekly rate will apply, if the monthly charge rate is less than the accumulated weekly rate the monthly rate will apply.

### 3. PAYMENT AND DEFAULT INTEREST

3.1 All charges are plus GST unless otherwise indicated.

3.2 For hire of equipment:

- a) The Hirer may be required to pay a deposit of not more than the estimated total charge.
- b) 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 with the difference between the deposit and the actual total charge.

3.3 For purchase of equipment, the Hirer will pay the Owner the agreed price. Risk passes on delivery of the equipment.

3.4 Any agreed discount for charge account customers is claimable ONLY if the account is paid by the 20<sup>th</sup> OF THE MONTH following the date of Invoice.

The Hirer must not make any claim for credit more than 14 days after the date of invoice.

Without prejudice to the Owner's other remedies under these conditions at law or otherwise, the Hirer will pay default interest at the rate of 2% per calendar month on all outstanding amounts from the end of the agreed hire period (for cash customers) or from the 20<sup>th</sup> of the month following date of invoice (for charge account customers) until all monies have been paid in full.

3.7 No credit shall be extended on overdue accounts.

3.8 The Hirer shall pay to the Owner all costs and expenses incurred by the Owner in recovering money or in connection with the exercise or attempted exercise of any of its rights or remedies under this contract, including commissions and legal costs, solicitor and client basis.

3.9 The Hirer must make all payments due under this contract without set-off or deduction of any kind.

### 4. DELIVERY AND REMOVAL

4.1 Delivery and removal charges are payable by the Hirer in addition to the hire/purchase costs.

4.2 The Hirer authorises the Owner to bring the Owner's vehicle onto the place where the equipment is to be used or is located to deliver and/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 cost, claim, damaged, expense or liability suffered or incurred by the Owner arising directly or indirectly from the Owner's actions under this clause.

4.3 The Hirer must make any requests for removal by telephone at completion of the hire to the initiating depot.

### 5. OWNERS RIGHT TO CANCEL

5.1 The Owner may cancel these terms and conditions or cancel delivery of any equipment at any time before the equipment is delivered by giving written notice. On giving such notice the Owner shall promptly repay to the hirer any sums paid in respect of the hire or purchase of the equipment. The Owner

shall not be liable for any loss or damage whatever arising from such cancellation.

5.2 If the Owner believes that equipment is to be at risk for any reason whatsoever including but not limited to the manner of its use by the Hirer or adverse weather or work conditions, or that the Hirer is unable to, or might be unable to pay any hire charge or purchase price the Owner may take action as necessary to retake possession of the equipment. Accordingly, the Hirer grants the Owner or will procure that the Owner is granted 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.

5.3 The Hirer indemnifies the Owner against any cost, claim, damage, expense or liability suffered or incurred by the Owner whether arising directly or indirectly from the Owner exercising its rights under this clause or otherwise acting to recover any equipment hired or monies payable by the Hirer pursuant to this contract.

5.4 The Owner will not be liable to the Hirer or any other persons for any loss suffered or liability incurred arising from cancellation or repossession of the equipment.

### 6. NO ASSIGNMENT

6.1 This contract is personal to the Hirer and is not capable of assignment whether in whole or in part by the Hirer.

### 7. HIRER'S OBLIGATION

7.1 The Hirer is responsible for any loss of or damage to the equipment (other than damage arising as a consequence of a breach by the Owner the guarantees in the Consumers Guarantees Act 1993, should they apply) from the time the Hirer takes possession of the equipment until, in the case of hired equipment, it is returned to the possession of the Owner. The cost of any replacement or repairs resulting from loss or damage shall be charged to the Hirer. The Hirer shall notify the Owner immediately if the equipment is lost or damaged, and shall follow any reasonable request by the Owner.

7.2 The Hirer shall:

- a) take proper and reasonable care of the equipment, if the equipment is hired, return it in good order and condition; and
- b) carry out all necessary servicing, (including by way of example the supply of all necessary oils, grease and fuel) at the HIRER'S OWN EXPENSE; and
- c) satisfy themselves that the equipment is suitable for the intended use; and
- d) use the equipment in a lawful manner with due regard to all laws and regulations pertaining to the use of such equipment; and
- e) if the equipment is hired, immediately notify the Owner by telephone if the equipment breaks down; and
- f) If the equipment is hired, reimburse the Owner for any damage to or loss or forfeiture of the equipment howsoever arising including (by way of example and not limited to) any loss of or damage caused by overloading of electric tools and motors, incorrect electric current, lack of lubrication, blowouts and cuts to tyres, disappearance or theft of equipment, fire, damage in transit, negligence, misuse; writing on or defacing hired equipment, or allowing them to be damaged; and
- g) except as permitted by the Consumer Guarantees Act 1993 not bring or threaten to bring a claim against the Owner for loss or damage incurred or threatened against the Hirer or arising directly from the Hirer's use of the equipment; and
- h) Indemnify the Owner against any claim made by any person against the Owner for any loss suffered or liability incurred arising directly or indirectly out of the Hirer's use or possession of the equipment.

7.3 The Hirer warrants that all persons who use the equipment shall be COMPETENT and QUALIFIED to use the equipment, shall use the equipment in the manner it was designed to be used, and follow any directions from the Owner, local authorities, codes of practice of the manufacturer of the equipment relating to the use and safety of the equipment and shall comply with all obligations relating to the use and control of the equipment as required by the Health and Safety in Employment Act 1992 and all other relevant legislation and shall be required to make sure that any employee or third person using the equipment are compliant with the above.

7.4 If the Hirer is not an Individual, the person who signs this contract on behalf of the Hirer warrants that they have authority to bind the Hirer and will, in any event, be personally liable for the performance of the obligations of the Hirer.

### 8. TITLE

8.1 Unless sold to the Hirer under a separate contract, the Owner continues to own the equipment and the Hirer must not let any other person use, dispose of or otherwise deal with the Equipment in any way which is inconsistent with the Owners rights of ownership and these conditions. Neither the payment of compensation nor any other circumstance or event shall amount to or result in any transfer of property or other interest in the equipment from the Owner to Hirer.

### 9. PERSONAL SECURITIES PROPERTY ACT 1999 (PPSA)

9.1 Hire or acquisition of equipment may create a security interest in the equipment. If so, the provisions of this clause 9 apply. All terms in this clause 9 have the meaning given in the PPSA and section references are sections to sections of the PPSA.

9.2 On the request of the Owner, the Hirer shall promptly execute any documents, provide all necessary information and do anything else required by the Owner to ensure that the security interest created under this contract constitutes a perfected security interest in the equipment and their proceeds which will have priority over all other security interests in the equipment.

9.3 The Hirer will pay to the Owner all fees and expenses incurred by the Owner in relation to the filing of a financing statement in connection with this contract.

9.4 The Hirer agrees that nothing in sections 133 and 134 of the PPSA applies to this contract.

9.5 To the extent they are applicable to the Hirer, the Hirer waives the Hirer's right to:

- a) receive a notice under sections 114(1Ha);
- b) receive a statement of account under section 116;
- c) receive a surpluses distributed under section 117;
- d) recover any surplus under section 119;
- e) receive notice of any proposal of the Owner to retain the collateral under section 120(2);
- f) object to any proposal of the Owner to retain collateral under section 121;
- g) not have goods damaged in the event that the Owner was to remove an accession under section 125;
- h) receive notice of the removal of an accession under section 129;
- I) apply to the court for an order concerning the removal of an accession under section 131;
- j) redeem collateral under section 132; and
- k) receive a copy of any Verification Statement.

#### **10. RISK**

10.1 All risk passes to the Hirer on delivery of the equipment.

10.2 The Hirer acknowledges that it will be liable for any loss or damage to the equipment from the time of delivery until the equipment is returned to the Owner.

10.3 The Hirer shall be required to have the equipment covered under a Material Damage Policy with an Insurer approved by the Owner, which shall not be unreasonably withheld, covering standard industry perils including but not limited to accidents, fire, theft, and burglary and other usual risks. The policy shall be subject to standard industry excesses, which shall be payable by the Hirer. The Hirer shall have a Certificate of Currency signed by the Insurer, faxed to the Owner. The Certificate of Currency shall be in the joint names of the Owner and the Hirer. Upon demand the Hirer shall provide copies of the receipts for payment of the Insurance premium/s to the Owner.

10.4 The Hirer shall immediately notify both the owner and Insurer of any event which gives rise to the making of a claim under the policy of insurance.

10.5 The Hirer shall not use the equipment not permit the equipment to be used in such a manner as would permit the insurer to decline any claim.

#### **11. LIMITATION OF LIABILITY**

11.1 Except where the Owner is in breach of a guarantee in terms of the Consumer Guarantees 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 in tort) including that resulting from the negligence of the Owner or arising by operation of law and whether suffered by the Hirer and/ or third party for any amount that exceeds the amount actually paid by the Hirer to the Owner pursuant to this contract.

11.2 If the Hirer is acquiring the services for the purposes of a business as defined in the Consumer Guarantees Act 1993, the provisions of that Act do not apply.

11.3 If the Hirer is purchasing equipment, then except as prohibited by law, all guarantees in respect of the equipment, whether express or implied, are excluded.

#### **12. GENERAL**

12.1 Headings are inserted for convenience and shall not affect the construction of this contract. The singular includes the plural and vice versa. Persons include incorporated and unincorporated entities. Words implying 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.

12.2 If at any time any provision of this contract is or becomes illegal, 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 provision or part thereof in question has been deleted.

12.3 Equipment purchased from the Owner remains the property of the Owner until paid in full.

#### **13. CONSTRUCTION CONTRACTS ACT**

13.1 In the event that the Hirer is a residential occupier as defined by the Act then the Hirer hereby expressly acknowledges that:

(a) The Owner has the right to suspend work within five (5) working days of written notice of its intent to do so if a payment claim is served on the Hirer, and;

(i) payment is not made in full by the due date for payment and no payment schedule has been given by the Hirer; or

(ii) a scheduled amount stated in a payment schedule issued by the Hirer in relation to the payment claim is not paid in full by the due date for its payment; or

(iii) the Hirer has not complied with an adjudicators notice that the Hirer must pay an amount to the Owner by a particular date; and

(iv) the Owner has given written notice to the Hirer of its intention to suspend the carrying out of construction work under the construction contract.

(b) If the Owner suspends work, it:

(i) is not in breach of the contract; and

(ii) is not liable for any loss or damage whatsoever suffered or alleged to be suffered, by the Hirer or any person claiming through the Hirer; and

(iii) is entitled to an extension of time to complete the contract; and

(iv) keeps its rights under the contract including the right to terminate the contract and may at any time lift the suspension, even if the amount has not been paid or an adjudicator's determination has not been complied with.

(c) If the Owner exercises the right to suspend work, the exercise of that right does not:

(i) affect any rights that would otherwise have been available to the Owner under the Contractual Remedies Act 1979; or

(ii) enable the Hirer to exercise any rights that may otherwise have been available to the Hirer under the Act as a direct consequence of the Owner suspending work under this provision.

13.2 In the event that the Hirer is not a residential occupier as defined by the Act, then for the purposes of the Construction Contracts Act 2002 this contract is not a commercial construction contract or a construction contract whether for a commercial or residential property or work and liability under the contract shall in no way be limited by any contract that the Hirer may have entered into with a third party in relation to the supply of equipment or the payment by the third party to the Hirer of any moneys whether by progress payments or otherwise.

#### **14. HIRER'S DISCLAIMER**

14.1 The Hirer hereby disclaims any right to rescind or cancel the contract or to sue for damages or to claim restitution arising out of any misrepresentation made to him by the Owner or any servant or agent of the Owner and the Hirer acknowledges that he/she buys the equipment relying solely upon his/her own skill and judgement and that the Owner shall not be bound by nor responsible for any term, condition, representation or warranty.

#### **15. PRIVACY ACT 1993**

If the Hirer is an individual, this clause 15 applies. This contract collects personal information about you. The information is principally collected to evaluate the hire of equipment that you seek. 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 equipment being declined or this contract subsequently being terminated by the Owner. The Hirer has rights of access to 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.

Hirer's Initials [\_\_\_\_\_]