



Naki Hire 2017 Limited
27 Connett Road, Bell Block
Phone: 06 753 6254
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Email: nakihire@xtra.co.nz

ACCOUNT APPLICATION FORM

COMPANY TRADING NAME: _____
REGISTERED NAME: _____
POSTAL ADDRESS: _____

DELIVERY ADDRESS: _____

BUSINESS PHONE: _____ BUSINESS FAX: _____
BUSINESS EMAIL: _____
CONTACT PERSON: _____
POSITION: _____
ACCOUNTS PAYABLE EMAIL: _____
AP CONTACT PERSON: _____

DIRECTOR/OWNER: _____
ADDRESS: _____

PHONE: _____ MOBILE: _____
EMAIL: _____
WORKSHOP CONTACT: _____
ORDER NUMBER REQUIRED: YES / NO (DELETE ONE)

BANK & BRANCH: _____
COMPANY ACCOUNTANT: _____
COMPANY LAWYER: _____

CREDIT REFERENCES:

(1) _____ PHONE: _____
(2) _____ PHONE: _____
(3) _____ PHONE: _____

NAKI HIRE 2017 LTD – TERMS AND CONDITIONS

The conditions set out below shall apply to all contracts for the hire and/or sale of goods ("equipment") between **NAKI HIRE 2017 LTD** ("the owner") and the person hiring or buying the equipment. ("Hirer") and shall apply from the time of collection/delivery of equipment until the equipment is returned/collected in good condition and working order as set out in clauses 1.3 & 1.4. These conditions shall not be modified, amended, waived, in whole or in part, except by written agreement between the parties. These conditions replace and supersede all other terms and conditions of hire, if any, previously in force between the Company and the Hirer.

ACCOUNT:

The amount shown as Debit balance of this account will be paid in full by the twentieth (20th) of the month following the date of purchase. Payment by cheque will not be treated as made if the cheque is subsequently dishonored by the customer's bank. Interest of 3% may be charged on the total sum payable on overdue accounts. In the case of default payments, bankruptcy, insolvency or the assignment by the customer for the benefit of its creditors the entire outstanding debt owing shall become due and payable immediately at the option of Naki Hire 2017 Ltd. All costs (including solicitors/client basis) of recovering overdue amounts will be due and payable by the customer.

OWNERSHIP:

Ownership in any goods supplied by Naki Hire 2017 Ltd shall not pass to the Customer unless and until all monies owed by the customer to Naki Hire 2017 Ltd for both goods/services and any goods/services supplied to at any time to the Customer. Nothing in this condition shall prevent the sale by the customer of these goods in the normal course of the Customer's business, but the Customer acknowledges that the proceeds of any such sale will be held in trust in a separate account for Naki Hire 2017 Ltd and that the customer stands in a fiduciary relationship with Naki Hire 2017 Ltd

REPOSSESSION:

The customer acknowledges the right of Naki Hire 2017 Ltd or its representative or agent to enter any premises in which the Customer has stored such goods and to take possession of those goods if payment has not been made within the stipulated time, or the customer has become bankrupt or, in the case of a body corporate a receiver or a liquidator is appointed, or the customer has indicated that the Customer is unwilling or unable to pay for the goods.

RISK:

The product shall be at risk of the customer from the time they leave Naki Hire 2017 Ltd.

RETURN OF GOODS:

No goods will be accepted for return without prior agreement by Naki Hire 2017 Ltd. Such agreement shall always be subject to receipt of goods free of freight charges to the company, in good order and condition and suitable for resale and returned within 14 days of receipt and the quotation of the relevant invoice number. A service charge may be applied to defray administrative and handling costs equal to 10% of the price of the procured goods returned, unless expressly waived by the company.

CHARGES:

- 1.1 Equipment may be hired for a) daily, b) weekly, c) monthly, or e) as agreed to in writing. The hire periods are as defined in clause 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 and subject always to the Owners rights in clause 5. Certain equipment may carry minimum hiring periods.
- 1.2 Hire periods, Usage and Maximum periods of usage are:
 - "Day/Daily" means up to 8hrs used in any 24 hour period
 - "Week/Weekly" means 5 days
 - "Monthly" means calendar month
 - "Minimum Period" is a period up to 4hrs from collection to return
 - "Standby" means not used/run; backup unit only
 - "Runtime" means the hrs/days the unit is being used/run
- 1.3 The hire period is reckoned from the date/time on which the equipment leaves the owners premises until it arrives there again or this hire agreement is terminated pursuant to clause 5.
- 1.4 No allowance whatever can be made for the time during which the equipment is not in use, unless special arrangements are made before and confirmed in writing. Time out Not time used.
- 1.5 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.
- 1.6 The cost of reconditioning equipment blunted by use or rendered unfit for further service, without repairs, by the Hirer, will be charged for by the Owner

PAYMENT AND DEFAULT INTEREST:

- 2.1 All charges are plus GST unless otherwise indicated.
- 2.2 For hire of equipment
The Hirer may be required to pay a deposit of not less than the estimated total charge
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 total charge
- 2.3 For purchase of equipment the Hirer will pay the owner the agreed price. Risk passes on delivery of equipment.
- 2.4 Any agreed discount for charge account customers is claimable ONLY if the account is paid by the 20TH OF THE MONTH following the date of the invoice.
- 2.5 The Hirer must not make any claim for credit more than 14 days after the date of the invoice
- 2.6. Without prejudice to the Owners other remedies under these conditions at law or otherwise, the Hirer will pay default interest at the rate of 3% per calendar month on all outstanding amounts from the end of the agreed hire period (for cash customers) or from the 20th of the month from the date of invoice (for charge account customers) until all monies have been paid in full.
- 2.7. No credit shall be extended on overdue accounts.
- 2.8. 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 right or remedies under this contract including commissions and legal costs, solicitor and client basis.
- 2.9 The Hirer must make all payments due under this contract without set off or deduction of any kind.

DELIVERY AND REMOVAL:

- 3.1 Delivery and removal charge payable by the Hirer in addition to the hire/purchase costs
- 3.2 The Hirer authorises the Owner to bring the Owners 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, damage, expense or liability suffered or incurred by the Owner whether arising directly or indirectly from the Owners actions under this clause.
- 3.3 The Hirer must make any requests for removal by telephone at the completion of the hire to the Owner.

OWNERS RIGHT TO CANCEL:

- 4.1 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 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 and 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.
- 4.2 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.
- 4.3 The Owner will not be liable to the Hirer or any other person's for loss suffered or liability incurred arising from cancellation or repossession of the equipment.

1 NO ASSIGNMENT:

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

2 HIRERS OBLIGATIONS:

- 6.1 Subject to clause 9 (Damage Waiver on Hire) in the case of hired equipment, the Hirer is responsible for any loss or damage to the equipment from the time the Hirer takes possession of the equipment until it is returned to the Owners possession. The Hirer shall notify the Owner in writing immediately if the equipment is lost or damaged and shall follow all reasonable instructions of the Owner.
- 6.2 In the case of damage to the equipment, however caused, the Hirer shall be responsible for and indemnify the Owner for the full cost of any repairs to restore the equipment to the condition it was in at the time of the hire.
- 6.3 In the case of loss of the equipment, however caused, the Hirer shall be responsible for and indemnify the Owner for the full cost to the Owner of replacing the equipment. The cost of the equipment shall be no less than the management book value of the equipment.
- 6.4 In addition to the costs set out in clauses 7.2 and 7.3 the Hirer shall be responsible for and indemnify the Owner for any loss of revenue suffered by the Owner due to the unavailability of the equipment for hire due to loss or damage. The costs for lost revenue shall not exceed the equivalent rate for 120 days hire of the equipment.
- 6.5 The Hirer shall
 - a. take proper and reasonable care of the equipment, if the equipment is hired, return 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 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. Except as permitted by the Consumers Guarantee Act 1993 not bring or threaten to bring 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
- g. 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.

6.6 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 or from the manufacturer of the equipment relating to the use and control of the equipment and person using said equipment to the Health and Safety in Employment Act 1992 and all other relevant legislation.

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

PERSONAL PROPERTIES SECURITIES ACT 1999 (PPSA):

7.1 Hire or acquisition of equipment may create a security interest in the equipment. If so, the provisions of this clause 8 apply. All terms in this clause 8 have the meaning given in the PPSA and section references are sections to sections of the PPSA.

7.2 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.

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

2.4 The Hirer waives its rights under sections 114(1) (a), 116,117,119,120,(2),121,125,129,131,132,133,134and 148 of the PPSA.

DAMAGE WAIVER ON HIRE:

8.1 If the Hirer has paid the Damage Waiver, the Owner will waive the Hirer's liability (in terms of clause 7) for accidental damage (PROVIDED THAT the Hirer has at all times acted reasonably) or theft of any equipment from secure premises PROVIDED FURTHER THAT in the case of theft the Hirer shall immediately notify the Police (taking the name of the Police contact) and the Owner

8.2 For The avoidance of doubt the Hirer acknowledges that the mysterious disappearance, loss or damage resulting from negligent acts or omissions of the Hirer, earthquake and war damage, punctures and damage to tyres, cabin windows and glass, panel damage are not covered by the damage waiver charge.

8.3 Special conditions or exclusions may apply depending on the nature or location of the Hirer's use of the equipment and these should be notified to the Owner prior to the equipment leaving the Owners premises.

8.4 The Owner requires the Hirer to take the Owners damage waiver unless written confirmation of suitable insurance cover is provided by the Hirer.

8.5 Excess. All claims are subject to an excess charge of \$1000 plus GST for all registered rolling plant (vehicles) all other equipment, 33.3% of full replacement cost with a minimum of \$100 plus GST applying , up to a maximum of \$1000 plus GST for any one item of equipment.

LIMITATION OF LIABILITY:

9.1 Except when 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 or 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 any third party for any amount that exceeds the amount actually paid by the Hirer to the Owner pursuant to this contract.

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

9.3 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.

GENERAL:

10.1 Headings are included for convenience and shall not affect the construction of this contract. The singular includes the plural and vice versa. Persons include incorporated and sub clause is a reference to a clause or sub clause hereof. A reference to Owner includes its servants and agents

10.2 If at any time any provision of this contract is or becomes illegal, invalid or non enforceable 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.

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

PRIVACY ACT 1993:

11.1 If the Hirer is an individual, this clause 12.1 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 Owners other goods and services. The

Hirer authorises 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 any other parties information regarding this hire contract if the Hirer does not comply with its obligations.

11.2 The Hirer and each person who signs the Owners application for Credit authorises the Owner:

To collect retain and use information about the Hirer or such other signatory's creditworthiness; to disclose information about the Hirer or such other signatory:

To any person who guarantees, or who provides insurance, or who provides any other credit support, in relation to the Hirer's obligations to the owner

To such persons as may be necessary or desirable to enable the Owner to exercise any power, enforcement or attempted enforcement of the Owner's rights, remedies and powers under these conditions.

I/We _____ (Full Names) hereby guarantee that due and punctual performance by the above company/person(s) of debt and obligations which are now or may in the future be owed to Naki Hire 2017 Ltd.

1/We hereby acknowledge and accept Naki Hire 2017 Ltd's Terms and Conditions (above).

1/We understand that failure to adhere to these terms may result in the cancellation of credit facilities.

1/We authorise Naki Hire 2017 Ltd to collect any information as may be required to evaluate my/our credit worthiness.

I/We also consent to the passing of information to Credit Agencies, if I/We fail to meet My/Our financial commitment.

SIGNED: _____ DATE: _____ POSITION: _____