



callum@easydiggerhire.co.nz

022 169 0445

EASY DIGGER LIMITED HIRE AGREEMENT AND TERMS OF TRADE

PARTICULARS OF A CUSTOMER IF A COMPANY

COMPANY NAME	
COMPANY REGISTRATION NUMBER	
TRADING NAME (if applicable)	
Delivery Address	
Postal Address (if different to above)	
Company Telephone	Facsimile
Company Email	
Person acting on behalf of Company (full name)	
Contact details of person acting Mobile	Email

Checked for EASY DIGGER HIRE LIMITED by callum

PARTICULARS OF A CUSTOMER IF AN INDIVIDUAL, TRUST OR OTHER

FULL NAME (as on photo identification)					
DATE OF BIRTH					
TRADING NAME (if applicable)					
TYPE OF ORGANISATION	<input type="checkbox"/> Individual	<input type="checkbox"/> Trust	<input type="checkbox"/> Incorporated Society	<input type="checkbox"/> Partnership	<input type="checkbox"/> Other
NAME OF ORGANISATION (if applicable)					
Delivery Address					
Postal Address (if different to above)					
Telephone	Facsimile				
Email					
Postal Address					
Person acting on behalf of Organisation (full name)					
Contact details of person acting Mobile	Email				

GUARANTEE (required where Customer not an Individual)

TO: EASY DIGGER HIRE LIMITED

In consideration of you supplying Equipment and services to the Customer, from time to time at my request, I hereby unconditionally guarantee to you the due and punctual payment by the Customer of all monies as and when they shall become due and payable by the Customer to you in respect of the price of the Equipment and services and the due observance and performance by the Customer of all its obligations in respect of any agreements between EASY DIGGER HIRE LIMITED and the Customer.

I agree that my liability hereunder is not as a surety but as a principal debtor and that my liability will not be discharged or prejudiced in any way by any granting of time, credit or other indulgence or concession by you to the Customer, or any other act, event or omission which but for this clause, might operate to discharge or limit my guarantee.

GUARANTOR'S SIGNATURE	GUARANTOR'S SIGNATURE
FULL NAME	FULL NAME
DATE	DATE

HIRE DETAILS		EQUIPMENT DETAILS	
ON HIRE DATE (or if not specified the commencement of the hire period as defined in the attached terms of trade)		Hour Meter Out	
		Hour Meter In	
OFF HIRE DATE		Fleet Number 1	
HIRE TERM _____ months (from the On Hire Date)		Make John Deere	
HIRE CHARGE \$ _____ plus GST per month payable by a deposit of one month's hire charge in advance on signing this Hire Agreement and by successive monthly payments of the hire charge for the hire term		Model E18ZS	
		Serial Number for the digger WNPE018ACPD016635	
MAINTENANCE: <input checked="" type="checkbox"/> EASY DIGGER HIRE LIMITED <input type="checkbox"/> Customer (see terms of trade for restrictions)		Serial Number for the trailer SJB543GBPMD041776	
		Next Service Due 500 Hours	

HIRE CHARGE		
Total Hire Charge*		\$
Insurance *		\$
Delivery/collection Charge		\$
Cleaning Charge		\$
Fuel Charge*		\$
Maintenance Charges		\$
Sub-total		\$
GST		\$
(*if equipment returned by hire return date)	TOTAL	\$

CUSTOMER	
<p>By signing this agreement, the Customer agrees to, accepts and expressly acknowledges that the Equipment is supplied by EASY DIGGER HIRE LIMITED to the Customer pursuant to the attached terms of trade ("terms of trade") which terms include but are not limited to, acceptance by the Customer that:</p> <ol style="list-style-type: none">The Equipment is in good condition; and all buckets/pinsIt is the Customer's responsibility to check and replenish on a daily basis the following:<div>• Engine Oil Level • Hydraulic Oil Level • Radiator Level • Grease machine • Trailer plugs/lights</div>	
CUSTOMER'S SIGNATURE (by authorised signatory)	CUSTOMER'S SIGNATURE (by authorised signatory)
FULL NAME	FULL NAME
POSITION (if Customer not an Individual)	POSITION (if Customer not an Individual)
DATE	DATE

EASY DIGGER HIRE LIMITED MACHINERY LIMITED – TERMS OF TRADE FOR HIRE OF DIGGERS AND ASSOCIATED EQUIPMENT

The terms of trade as set out herein ("terms of trade") represent a legally binding agreement ("this agreement") between the Customer named on the front page of this agreement ("the Customer", "you") and EASY DIGGER HIRE LIMITED Machinery Limited ("EASY DIGGER HIRE LIMITED", "we", "us") under which EASY DIGGER HIRE LIMITED hires to the Customer the diggers, attachments and related equipment ("Equipment") on the terms and conditions set out on the front page of this agreement and on the terms and conditions set out in these terms of trade. The agreement governs all short term and long term rentals of the Equipment by EASY DIGGER HIRE LIMITED to you. These terms of trade are effective from the date of signing of this agreement and will replace any prior agreement that you may have with EASY DIGGER HIRE LIMITED. Your acceptance of any Equipment from EASY DIGGER HIRE LIMITED indicates your continuing acceptance of these terms of trade and those terms contained on our website at easydiggerhire.co.nz which may be amended or updated from time to time.

Definitions

"Early Termination Fee and Charges" the early termination fee and charges shall comprise:

- The sum of the remaining unpaid monthly hire charges payable for the balance of the hire term which hire charges and hire term are shown on the front page of this agreement;
- All interest payable in accordance with clause 12 of these terms of trade;
- EASY DIGGER HIRE LIMITED's transport costs of uplifting the equipment;
- EASY DIGGER HIRE LIMITED's administration charges (calculated in EASY DIGGER HIRE LIMITED's sole and absolute discretion for the cancellation of this agreement and the rehire of the equipment to another customer of EASY DIGGER HIRE LIMITED).

"The Customer" means any party described on the face of this agreement and includes that Customer's servants, employees, agents, sub-contractors and invitees.

"The Equipment" means the equipment referred to on the face of this agreement and forms the subject of this agreement and includes any accessories, replacements, additional or other Equipment which are supplied with the Equipment at the time of hire or thereafter.

"Hire Period" means the period commencing either from delivery of the Equipment by EASY DIGGER HIRE LIMITED to the address specified by the Customer, or collected for hire by the Customer until the time of collection of the Equipment by EASY DIGGER, or the return of the Equipment to EASY DIGGER HIRE LIMITED by the Customer, whichever is earlier. EASY DIGGER HIRE LIMITED will confirm to the Customer when it considers the Hire Period to be at an end by the issue of an "off hire" number. Nothing in this definition will effect EASY DIGGER HIRE LIMITED's right to take possession of the equipment and to demand and collect the early termination fee and charges should the Customer cancel or repudiate this agreement prior to the expiry of the hire term shown on the front page hereof.

General

- All applications to hire are subject to these terms of trade. A binding agreement containing these terms of trade shall arise in respect of each application to hire placed by the Customer with EASY DIGGER HIRE LIMITED when EASY DIGGER HIRE LIMITED issues an invoice or delivers the Equipment to the Customer, whichever is earlier.
- No quotation by EASY DIGGER HIRE LIMITED shall constitute an offer to hire.

Hire Charges

- The Customer will pay to EASY DIGGER HIRE LIMITED the Hire Charges applying at the time of hire in accordance with the terms of payment set out below, together with any additional payments invoiced or demanded by EASY DIGGER HIRE LIMITED to the Customer in accordance with these terms of trade including, but not limited to, charges for delivery, labour charges, maintenance, repair, replacement and collection of the Equipment, interest and solicitor/client costs of recovery in the event of default of payment by the Customer.
- EASY DIGGER HIRE LIMITED can not increase the Hire Charges during the Hire Period.
- When Equipment is returned in a condition other than when received by the Customer, fair wear and tear during the period of Hire, accepted, EASY DIGGER HIRE LIMITED may in addition to the Hire Charge, charge the Customer for cleaning, reconditioning, renewing, repairing or replacing the Equipment where considered necessary by EASY DIGGER HIRE LIMITED including damage suffered to the Equipment in the course of delivery and/or return (in the event that the Equipment is not delivered or collected by EASY DIGGER HIRE LIMITED).
- Hire Charges quoted do not include any duty, tax or levy. Where applicable, any such duty tax or levy shall be borne by the Customer.
- Hire Charges quoted are those applicable at the date of quotation and for a period of seven (7) days after the date of quotation. If EASY DIGGER HIRE LIMITED's standard Hire Charges for any of the Equipment increase after the date of quotation and before a Hire Agreement is entered into, EASY DIGGER HIRE LIMITED reserves the right to revise their quotation.

Terms of Payment

- EASY DIGGER HIRE LIMITED shall invoice the Customer monthly in advance on the 20th day of each month.
- All invoices are due for payment before the 20th day of the month following the date of the invoice.

- The Customer shall be required to set up and maintain an automatic monthly payment to pay EASY DIGGER HIRE LIMITED the Hire Charges, and provide evidence of the automatic payment prior to collection of the Equipment or delivery of the Equipment.
- In the event of any payment being in arrears for more than fourteen (14) days, EASY DIGGER HIRE LIMITED may terminate the agreement without notice and without prejudice to any monies which may have become due and payable by the Customer to EASY DIGGER HIRE.
- All charges payable by the Customer to EASY DIGGER HIRE LIMITED not paid on the due date shall carry interest at the rate of 18% per annum calculated daily from the due date of payment but compounding monthly.
- Overdue accounts may be referred for collection and all costs incurred (including solicitor/client costs) will be added to the amount due.

Early Termination

- Should for any reason (save default of EASY DIGGER HIRE LIMITED) the Customer cancels or repudiates this agreement prior to the expiry of the hire term set out on the front page of this agreement then in such case EASY DIGGER HIRE LIMITED will be entitled to immediately demand and collect from the Customer as liquidated damages the early termination fee and charges. The Customer acknowledges and agrees that the early termination fee and charges are reasonable in all of the circumstances including by way of example only, the Equipment being specially adapted to meet the Customer's requirements and the loss in value of the Equipment during the period of hire.

Delivery

- If requested by the Customer, EASY DIGGER HIRE LIMITED will deliver the Equipment at the commencement of this agreement and collect the Equipment at the expiration (or earlier termination) of this agreement.
- The Customer will pay to EASY DIGGER HIRE LIMITED on each occasion a delivery and erection charge and a dismantle and collection charge at EASY DIGGER HIRE LIMITED's standard transport and labour rates applicable at the date of delivery or collection immediately upon presentation of a tax invoice by EASY DIGGER HIRE LIMITED. Such charge shall include any wasted journey or transport time incurred by EASY DIGGER HIRE LIMITED in attempting reasonably to comply with the express or implied requirements of the Customer and wasted without fault on the part of EASY DIGGER HIRE LIMITED.
- EASY DIGGER HIRE LIMITED is not liable to the Customer for failure to deliver the Equipment on a specific date or within a specified time from receipt of order for hire.
- The Customer shall be responsible for receiving the Equipment on site. In the event of any shortage and/or damage to the Equipment prior to delivery, the delivery docket must be endorsed by the Customer at the time of delivery specifying such shortage and/or damage and immediately notified to EASY DIGGER HIRE LIMITED.

Warranties and Exclusions

- The Customer warrants that he/she/it:
 - Has truly represented the payment of the full amount of the deposit;
 - Is not a convicted person, an undischarged bankrupt, or if a Easy Digger, insolvent within the meaning of the Companies Act 1993 (or amendments thereto);
 - Will keep the Equipment within the Customer's control;
 - Will not alter the Equipment or any identifying number or mark thereon;
 - Will not remove the Equipment from the Customer's premises or the address to which they were delivered without the written consent of EASY DIGGER HIRE LIMITED;
 - Will maintain and keep the Equipment in good order and repair throughout the period of hire and will reimburse EASY DIGGER HIRE LIMITED upon demand being made for the costs of any want of such maintenance and repair on the termination of this agreement for any reason;
 - Will not part with possession of the Equipment except to return the Equipment to EASY DIGGER HIRE LIMITED;
 - Will produce/make available the Equipment for inspection at all reasonable times during usual business hours, when requested by EASY DIGGER HIRE LIMITED.
 - Will notify EASY DIGGER HIRE LIMITED of any change in his/her/its address for service of any notice if the same changes during the course of this agreement.
- Nothing in these Terms of trade shall be construed or deemed to be an express warranty or condition by EASY DIGGER HIRE LIMITED as to the quality, fitness or suitability of the Equipment hired and all implied terms, conditions or warranties statutory or otherwise are hereby excluded to the extent permitted by law.
- The Customer agrees to inspect the Equipment upon collection of the Equipment or prior to delivery and to ascertain that they are fit for the use for which they are required by the Customer; collection of the Equipment or acceptance of delivery of the Equipment (as the case may be) by the Customer shall be deemed to be conclusive evidence of inspection and approval of the Equipment.
- To the extent that any warranty is implied into this agreement which cannot be excluded by law, or for the breach of any term of this contract for which liability is not lawfully excluded, EASY DIGGER HIRE LIMITED hereby limits its liability for any such breach to the re-supply of the hire service.
- EASY DIGGER HIRE LIMITED will not be liable for any loss or damage (including consequential loss or damage) suffered by the Customer as a

result of any breakdown or non-performance of the Equipment during the period of hire.

Repossession of Equipment

24. The Customer agrees that:
- 24.1. If any false statement has been made in relation to this agreement; or
 - 24.2. If any deposit referred to on the face of this agreement is not paid in full; or
 - 24.3. If any default is made or breach is committed in relation to this agreement or it is terminated for any reason; or
 - 24.4. If the Customer commits any act of bankruptcy, is subject to execution or distress or, being a Easy Digger, goes into receivership or liquidation; or
 - 24.5. Being a natural person, is declared insane then in any such event, EASY DIGGER HIRE LIMITED will be immediately entitled to possession of the Equipment and may repossess them without notice and with the use of force.

Repair and Maintenance of Equipment

25. EASY DIGGER HIRE LIMITED shall use its best endeavours to service the Equipment on or around the date/s specified on the second page of this agreement. Failure by EASY DIGGER HIRE LIMITED to service the Equipment shall not release the Customer from any of their obligations to EASY DIGGER HIRE LIMITED under these terms of trade.
26. Subject to clause 27, the Customer agrees that should any Equipment require maintenance and/or repair (including any required maintenance and/or repair noted during a service of the Equipment), such maintenance and/or repairs shall be effected only by EASY DIGGER HIRE LIMITED or its duly authorised agent at the cost of the Customer.
27. The Customer shall be solely responsible for completing any maintenance and/or repairs to the tyres on any Equipment, including but not limited to any punctures to the tyres, and the cost of such repairs and/or maintenance.
28. The Customer is responsible for:
- 28.1. Any damage to the Equipment by any party other than EASY DIGGER HIRE LIMITED; whether malicious, negligent or accidental;
 - 28.2. The cost of repair or replacement of any Equipment which have been modified or altered in any way by any person other than EASY DIGGER HIRE LIMITED;
 - 28.3. The repair or replacement of the Equipment where any action by the Customer or any person other than EASY DIGGER HIRE LIMITED invalidates any warranty for the equipment given to EASY DIGGER HIRE LIMITED by its manufacturer or supplier and the Customer will pay to EASY DIGGER HIRE LIMITED upon demand all costs incurred by EASY DIGGER HIRE LIMITED in relation to repair or replacement of the Equipment and any other loss suffered by EASY DIGGER HIRE LIMITED.

No Lien or Charge

29. The Customer is prohibited from creating any lien or charge over the Equipment or pledging the credit of EASY DIGGER HIRE LIMITED..

Drawings

30. EASY DIGGER HIRE LIMITED accepts no responsibility for any drawings, designs or specifications and submission of any drawings, designs, or specifications does not constitute any warranty, guarantee, representation or opinion of the practicality of construction or the efficacy, safety or otherwise of the Equipment to be supplied by EASY DIGGER HIRE LIMITED in accordance therewith and EASY DIGGER HIRE LIMITED will not be responsible for the cost of any additional work caused by defects in such drawings, designs or specifications. EASY DIGGER HIRE LIMITED will not be liable for any consequential loss or damage caused directly or indirectly by any defect or otherwise however caused.

Force Majeure

31. EASY DIGGER HIRE LIMITED shall not be liable for any failure or delay to supply, deliver or collect the Equipment where such failure or delay is wholly or partly due to any cause or circumstance whatsoever outside the reasonable control of EASY DIGGER HIRE LIMITED including, but not limited to war, strikes, lockouts, industrial disputes or unrest, government restrictions or intervention, transport delays, fire, act of God, breakdown of plant, shortage of supplies or labour, storm or tempest, theft, vandalism, riots, civil commotions or accidents of any kind.

Indemnity

32. The Customer indemnifies EASY DIGGER HIRE LIMITED in respect of any claim for loss or damage arising out of or in any way related to the improper, negligent or unlawful use of the Equipment by the Customer and the Customer warrants that the Customer holds third party liability insurance, to cover the Customer's liabilities arising from or relating to the use of the Equipment. Nothing in this clause constitutes an attempt to contract out of Section 28 of the Health and Safety at Work Act 2015 or to transfer liability under that Act.
33. The Customer indemnifies EASY DIGGER HIRE LIMITED against the destruction or loss of the Equipment by any means or for any reason whatsoever, including lawful confiscation.

Insurance

34. The Equipment shall be at the sole risk of the Customer from the time of delivery by EASY DIGGER HIRE LIMITED (or collection of the Equipment by the Customer) until collection by EASY DIGGER HIRE LIMITED or return to EASY DIGGER HIRE LIMITED by the Customer. The Customer will effect replacement insurance in the joint names of the Customer and EASY DIGGER HIRE LIMITED against loss or damage however caused, and will provide proof of such insurance to EASY DIGGER HIRE LIMITED upon request.

Access to Site

35. The Customer will allow EASY DIGGER HIRE LIMITED at its request, to enter the premises of the Customer or provide access to any site, building or location under the control of the Customer where the Equipment are situated for the purpose of inspection, maintenance or repossession of the Equipment. If the Customer is not the owner of the site, the Customer warrants that it has the authority to permit such entry to EASY DIGGER HIRE LIMITED.

Return of Equipment

36. When Equipment are returned to EASY DIGGER HIRE LIMITED by the Customer's transport, the Equipment returned will be counted in EASY DIGGER HIRE LIMITED's yard and a delivery docket with an acknowledgement of receipt of the Equipment noted thereon will be issued to the Customer. This docket will be conclusive proof of the return of the quantity of Equipment listed thereon but not the condition of the Equipment at the time of return. If Equipment are collected by EASY DIGGER HIRE LIMITED they will be checked on site for quantity and upon arrival in EASY DIGGER HIRE LIMITED's yard such Equipment will be checked for both quantity and condition. In both cases the check in EASY DIGGER HIRE LIMITED's yard for quantity and condition will be the only legal proof of the quantity and condition of Equipment returned.
37. In all cases the Customer will be responsible for returning all Equipment to EASY DIGGER HIRE LIMITED unless the Customer requests EASY DIGGER HIRE LIMITED to collect the Equipment.
38. No returns will be accepted on weekends or public holidays or after 5pm Monday to Friday.
39. Upon the expiration of the Hire Period (evidenced by the issue of an off hire number by EASY DIGGER HIRE LIMITED to the Customer) EASY DIGGER HIRE LIMITED will at the Customer's request, (and in the absence of the Customer returning the Equipment to EASY DIGGER HIRE LIMITED) use its best endeavours to collect the Equipment from the Customer within two working days from the end of the Hire Period.
40. The obligations of the Customer under this agreement shall not cease upon notification by EASY DIGGER HIRE LIMITED to the Customer of an off hire number. The Customer acknowledges that the rights of EASY DIGGER HIRE LIMITED herein shall continue until such time as EASY DIGGER HIRE LIMITED is satisfied that the provisions hereof have been complied with. All of the Customer's obligations under this agreement have been complied with.

Lost Equipment

41. Where Equipment is not returned to EASY DIGGER HIRE LIMITED or where EASY DIGGER HIRE LIMITED receives notice that the Equipment has been lost or where after reasonable notice from EASY DIGGER HIRE LIMITED the Customer does not produce all or part of the Equipment, such Equipment shall be treated as "Lost Equipment". EASY DIGGER HIRE LIMITED may invoice the Customer for the Lost Equipment at the standard sale price at the date of the invoice and the Customer will pay the invoice immediately upon demand. Until such sum is paid, Hire Charges will continue to accrue for the Lost Equipment.
42. Where Lost Equipment are subsequently returned to EASY DIGGER HIRE LIMITED or recovered and taken back into use by the Customer, the Customer shall be entitled to a credit equal to the sum paid for the Lost Equipment and EASY DIGGER HIRE LIMITED shall be entitled to off-set against such sum received in payment of the Lost Equipment hire charges in respect of the Equipment as if such Equipment had never been lost but had throughout and continuously been in the possession and use of the Customer.

Waiver

43. No waiver by EASY DIGGER HIRE LIMITED of any breach of this agreement shall be deemed a waiver of any continuing or recurring breach. EASY DIGGER HIRE LIMITED's rights are not affected by any waiver or indulgence granted by EASY DIGGER HIRE LIMITED.

Credit Contracts and Consumer Finance Act 2003 ("CCCFA")

44. Where this agreement would otherwise be subject to the provisions of the CCCFA and where such supply is a supply for business purposes, the Customer agrees that the Equipment is supplied by EASY DIGGER HIRE LIMITED to the Customer for business purposes and is not for personal, domestic or household purposes within the meaning of Consumer Credit Contract set out in section 11 of the CCCFA and that the provisions of the CCCFA do not apply to the supply of Equipment for hire to the Customer.

Privacy Act 1993

45. The Customer authorises any person or Easy Digger to provide EASY DIGGER HIRE LIMITED with information in response to EASY DIGGER HIRE LIMITED's credit enquires and authorises EASY DIGGER HIRE LIMITED to make such enquires. The Customer further authorises EASY DIGGER HIRE LIMITED to furnish to any third party details of this agreement and any subsequent dealings that the Customer may have with EASY DIGGER HIRE LIMITED.

Service of Documents

46. The Customer agrees that service of any notices or Court documents may be effected by forwarding the same by pre-paid post, facsimile or personal delivery to the last known address of the Customer.

Governing Law

47. This agreement will be governed by and construed according to the laws of New Zealand.

Essentiality of Terms

48. All of the terms and conditions set out in the agreement are essential terms.

Personal Property Securities Act

49. Should, for any reason, the term of the hire of the equipment in this agreement be for a period longer than one (1) year, then in such case and for the better securing of EASY DIGGER HIRE LIMITED ownership of the Equipment, the Customer hereby grants to EASY DIGGER HIRE LIMITED a security interest over the equipment and the Hirer hereby grants to EASY DIGGER HIRE LIMITED a security interest over the Equipment and the Hirer acknowledges that EASY DIGGER HIRE LIMITED will register details of the security interest on the Personal Property Securities Register.
50. The Hirer waives any right to receive a copy of a verification statement under the Personal Property Securities Act and confirms that the following sections of the Personal Property Securities Act do not apply to this agreement – sections 114(a)(a), 116, 117(1)(c), 119, 120(2), 121, 125, 126, 127, 129, 131, 132, 133 and 134.