HTC SPECIALISED TOOLS & EQUIPMENT

MAKIN' THE HARD JOBS EASY

SALES | SERVICE | CALIBRATION | HIRE

SPECIALISED TOOLS AND EQUIPMENT

PROUDLY LOCALLY OWNED AND OPERATED FOR OVER 40 YEARS

Application To Open A Credit Account

Date / /

Registered Name:.....

Company Registration Number .....

Date Established .....If less than 12 months, please tick *(if less than 12 months, a personal credit may be required)*

Trading Name .....

Physical Address ....Post Code.....

Delivery Address.....Post Code.....

Billing Address:.....Post Code.....

Phone..... Fax.....Website.....

Purchasing Manager.....Email.....Ph.....
(Account details will be communicated via email once approved)

Maintenance Workshop .....Email..... Ph.....

Accounts Dept Contact..... Email.....Ph.....

Type of business:

☐ Limited Company ☐ Partnership ☐ Sole Trader ☐ Club/Association

☐ School ☐ Registered Charity/Trust ☐ Govt/Local Govt Dept

Industry: .....

No. of Branches/Offices.....No. of Employees.....Preferred Monthly Credit Limit($).....Average Monthly Spend($).....

Purchase Order Number Required ☐ Yes ☐ No (IMPORTANT: if you check Yes, a physical copy of the PO will be required for every purchase in stores)

Directors, Partners and Sole Traders, residential addresses and dates of birth

1. Full Name..... Date of birth.....
   Address.....
2. Full Name..... Date of birth.....
   Address.....

Credit References: business who can tell us about your trading history, excluding utilities, lawyers, accountants, or banks)

1. Company.....Name..... Ph.....Email.....
2. Company.....Name..... Ph.....Email.....
3. Company.....Name..... Ph.....Email.....

Terms & Conditions:

a) HTC's Standard Terms & Conditions of Sale &/or Hire Conditions of Trade as per attached sheet are deemed to be included by reference, are accepted.

b) Accounts must be paid by the 20th of the month following date of purchase.

c) Please ensure your referees have your written permission to disclose account details to us.

We agree to these Terms & Conditions – Name..... Signed.....

To: HTC Ltd.

In consideration of you agreeing to supply goods for purchase / hire to (Company name)..... I/We DO HEREBY JOINTLY & SEVERALLY GUARANTEE 1) to you the due & punctual observance of all the terms & conditions to be performed by the applicant under the Conditions of Trade. 2) Guarantee to you the due & punctual payment of all payments due under the Conditions of Trade. 3) That as between you and the guarantor (the principal obligor) you are under no obligation to take proceedings against the applicant before taking proceedings against the guarantor. 4) The guarantor is not released from liability by reason of any forbearance, waiver, act or omission on your part, alterations to the Conditions of Trade or any other thing whereby the guarantor would have been released had the guarantor merely been a surety. 5) This guarantee continues until all payments due under the Conditions of Trade have been paid & all covenants & agreements on the part of the applicant have been fully performed.

Signed by Guarantor ..... Name ..... Occupation.....DOB.....

TERMS AND CONDITIONS OF TRADE

1. DEFINITIONS

1.1 "HTC" means HTC Limited, its successor and assigns or any person acting on behalf of and with the authority of HTC.

1.2 "Customer" means any person ordering Products from HTC and includes any person acting on behalf of the Customer.

1.3 "Products" shall include:
1.3.1 all products, goods, services and advice provided by or on behalf of HTC to the Customer and shall include without limitation the supply of electrical products and all charges for labour, hire charges, insurance charges, or any fee or charge associated with the supply of the same by HTC to the Customer;
1.3.2 all products that are marked as having been supplied by HTC or that are stored by the Customer in a manner that enables them to be identified as having been supplied by HTC; and
1.3.3 all of the Customer's present and after-acquired products that HTC has performed work on or to or in which goods, materials or services supplied or financed by HTC have been attached or incorporated.
The above descriptions may overlap but each is independent of and does not limit the others.

2 ACCEPTANCE

2.1 Any instructions received by HTC from the Customer for the supply of Products and/or the Customer's acceptance of the Products supplied by HTC shall constitute acceptance of these terms and conditions (as varied from time to time under clause 14.5).

3 COLLECTION AND USE OF INFORMATION

3.1 The Customer authorises HTC to collect, retain and use any information about the Customer, for the purpose of assessing the Customer's credit worthiness, enforcing any rights under these terms and conditions, or marketing any products or services of HTC or its licensee to the Customer or to any other party.

3.2 The Customer authorises HTC to disclose any information, whether obtained directly from the Customer or from any other source, to any person for any of the purposes set out in clause 3.1.

3.3 Where the Customer is a natural person the authorities under clauses 3.1 and 3.2 are authorities or consents for the purposes of the Privacy Act 1993.

4 PRICE

4.1 The price for the Products shall be as indicated on invoices provided by HTC to the Customer in respect of Products supplied. Where no price has been agreed in writing prior to invoice, the Products shall be deemed to be sold at HTC's then current "standard sale price" for the Product within the relevant territory, at the date of contract.

4.2 All descriptive specifications, illustrations, drawings, dates, dimensions or weights furnished by HTC or otherwise or contained in catalogues, price lists and other advertising matter of HTC are approximate only and are intended to be by way of a general description of the Products and shall not form part of the contract unless confirmed by HTC in writing, in which case they shall be subject to recognised tolerances. Where specifications, drawings or other particulars are supplied by the Customer, HTC's price is made on estimates of quantities required. Should there be any adjustments in quantities above or below the quantities estimated by HTC and set out in a quotation, then any such increase or decrease shall be adjusted on a unit rate basis according to HTC's unit prices then prevailing.

4.3 Unless stated in writing to the contrary HTC's prices include packing in accordance with HTC's standard practice. The cost of any additional or other form of packing requested by the Customer or which may be deemed reasonably necessary by HTC on account of the nature of the Products shall be for the Customer's account and shall constitute an additional charge to the Customer payable within the relevant invoice.

4.4 Unless otherwise stated all prices are exclusive of GST, and are quoted ex HTC's Auckland store.

5 QUOTATION

5.1 Where a quotation is given by HTC for Products:
5.1.1 any quotation made by HTC shall not be construed or operate as an offer or obligation to sell but shall be an invitation to treat only and HTC reserves the right to accept or reject in its absolute discretion any orders which may be received by HTC;
5.1.2 unless otherwise agreed the quotation shall be valid for thirty days from the date of issue;
5.1.3 the quotation shall be exclusive of GST unless specifically stated to the contrary; and
5.1.4 HTC reserves the right to alter the quotation because of circumstances beyond its reasonable control.

6 INCREASES IN COSTS OF SUPPLY

6.1 HTC reserves the right to pass on to the Customer extra costs due to increases or changes in freight, port clearance charges, duties or other factors or materials affecting the delivered price paid by HTC for the relevant Products, where those increases or changes take effect between the date of contract and the date of supply. The contracted price may only be increased by HTC to the extent of any increase suffered by HTC, and without limitation may for example include any change in exchange rate or import duty.

7. PAYMENT

7.1 Payment for Products shall be made in full on or before the 20th day of the month following the date of the invoice "(the due date") without setoff or deduction.
7.2 Interest may be charged on any amount owing after the due date at the rate of 2.5% per month or part month.
7.3 Any expenses, disbursements and legal costs incurred by HTC in the enforcement of any rights contained in these terms and conditions shall be paid on a full indemnity basis by the Customer upon demand by HTC.
7.4 Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment until such negotiable instrument is paid in full.
7.5 HTC may in its discretion allocate any payment received from the Customer towards any invoice that HTC determines and my do so at the time of receipt or at any time afterwards and on default by the Customer may reallocate any payments previously received and allocated. In the absence of any payment allocation by HTC payment shall be deemed to be allocated in such manner as preserves the maximum value of HTC's purchase money security interest in the Products.
7.6 HTC may require a deposit.
7.7 Equipment ordered on an indent basis cannot be cancelled without prior written agreement from HTC. Payment terms for indent items are payment in full to be received within seven days of the goods arriving at a New Zealand port.

8. RISK AND DELAY

8.1 All risk for the Products passes to the Customer on delivery.
8.2 Delivery of Products shall be deemed complete when HTC gives possession of the Products directly to the Customer or possession of the Products is given to a carrier, courier, or other bailee for purposes of transmission to the Customer or its nominee. Unless otherwise agreed in writing or where possession has been given directly to the Customer, delivery will be made from HTC's Auckland store.
8.3 If any of the Products are damaged or destroyed following delivery but prior to title passing to the Customer, HTC is entitled to receive such amount of the insurance proceeds payable for the Products as is required to apply towards monies owing from the Customer to HTC. The production of these terms and conditions by HTC is sufficient evidence of HTC's rights to receive the insurance proceeds without the need for any person dealing with HTC to make further enquiries.
8.4 Any time or date of delivery is an estimate only and while every reasonable effort will be made by HTC to tender delivery on or before the estimated delivery date HTC does not guarantee that delivery will take place on such estimated delivery date. Failure to deliver by the estimated delivery date shall not entitle the Customer to subsequently refuse to take delivery or to cancel any order or render HTC liable to the Customer for any damages.

9. TITLE & SECURITY (PERSONAL PROPERTY SECURITIES ACT 1999)

9.1 Notwithstanding that risk may have already passed to the Customer, title to the Products shall not pass to the Customer until:
9.1.1 the Customer has paid all amounts owing for the particular Products, and
9.1.2 the Customer has met all other obligations due by the Customer to HTC in respect of all contracts between the Customer and HTC.

9.2 Receipt by HTC of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then HTC's ownership or rights in respect of the Products shall continue.
9.3 In the event that the Customer is in breach of any of its obligations to HTC, HTC may give notice in writing to the Customer to return the Products or any of them to HTC. Upon such notice the rights of the Customer to obtain title or any other interest in the Products shall cease.
9.4 If Products are attached, fixed, or incorporated into any property of the Customer, by way of any manufacturing or assembly process by the Customer or any third party, title in the Products shall remain with HTC until the Customer has made payment for all Products, and where those Products are mixed with other property so as to be part of or a constituent of any new Products, title to those new Products shall deemed to be assigned to HTC as security for the full satisfaction by the Customer of the full amount owing between HTC and the Customer.
9.5 The Customer gives irrevocable authority to HTC to enter any premises occupied by the Customer or on which Products are situated at any reasonable time after default by the Customer or before default if HTC believes a default is likely and to remove and repossess any Products and any other property to which Products are attached or in which Products are incorporated. HTC shall not be liable for any costs, damages, expenses or losses incurred by the Customer or any third party as a result of this action, nor liable in contract or in tort or otherwise in any way whatsoever unless by statute such liability cannot be excluded. HTC may either resell any repossessed products and credit the Customer's account with the net proceeds of sale (after deduction of all repossession, storage, selling and other costs) or may retain any repossessed Products and credit the Customer's account with the invoice value thereof less such sum as HTC reasonably determines on account of wear & tear depreciation, obsolescence, loss of profit & costs.
9.6 The following shall constitute defaults by the Customer:
9.6.1 non-payment of any sum by the due date;
9.6.2 the Customer intimates that it will not pay any sum by the due date;
9.6.3 any Products are seized by any other creditor of the Customer or any other creditor intimates that it intends to seize Products;
9.6.4 any Products in the possession of the Customer are materially damaged while any sum due from the Customer to HTC remains unpaid;
9.6.5 the Customer is bankrupted, becomes insolvent or is put into liquidation or voluntary administration or a receiver is appointed to any of the Customer's assets;
9.6.6 a Court judgment is entered against the Customer and remains unsatisfied for more than seven (7) days;
9.6.7 the Customer is in breach of any of its obligations under these terms and conditions;
9.6.8 HTC has reasonable grounds to believe that the Customer will be in breach of any of its obligations under these terms and conditions; or
9.6.9 there is any material adverse change in the financial position of the Customer.
9.7 Upon assenting to these terms and conditions in writing the Customer acknowledges and agrees that:
9.7.1 these terms and conditions constitute a security agreement for the purposes of the Personal Property Securities Act 1999 (PPSA); and
9.7.2 a security interest is taken in all Products previously supplied by HTC to the Customer (if any) and all Products that will be supplied in the future by HTC to the Customer.
9.8 The Customer undertakes to:
9.8.1 sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which HTC may reasonably require to register a financing statement or financing change statement on the Personal Property Securities Register;
9.8.2 indemnify, and upon demand reimburse, HTC for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register or releasing any Products charged thereby;
9.8.3 not register a financing change statement or a change demand without the prior written consent of HTC; and
9.8.4 immediately advise HTC of any material change in its business practices of selling the Products which would result in a change in the nature of proceeds derived from such sales.
9.9 HTC and the Customer agree that nothing in sections 114(1) (a), 133 and 134 of the PPSA shall apply to these terms and conditions.
9.10 The Customer waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129, 131 and 132 of the PPSA.
9.11 Unless otherwise agreed to in writing by HTC, the Customer waives its right to receive a verification statement in accordance with section 148 of the PPSA.

10 DISPUTES AND RETURN OF PRODUCTS

10.1 No claim relating to the Products will be considered unless made in writing within seven days of delivery.
10.2 Products returned for credit will be accepted only with prior written authorisation from HTC. Authorised returns will be subject to a handling charge of 15% (fifteen percent) and a minimum charge of $25.00 (twenty five dollars) will be levied. Any freight charges paid by HTC on the original shipment of Products will be deducted from the amount of credit. Merchandise returned must be unused and in the original packing or a reconditioning charge may be made. Freight on returned Product must be pre-paid.

11 LOSS OR DAMAGE IN TRANSIT

11.1 Where delivery takes place at a place other than from HTC's Auckland store, and only where HTC has agreed in writing to be responsible for carriage to the place of delivery, HTC agrees to repair or at its sole option to replace free of charge any Products lost or damaged in transit to the place of delivery provided always that written notice of such loss or damage is given to HTC no later than 3 days after the date of delivery or within such other period of time as will enable HTC to reasonably comply with the carrier's conditions of carriage (if any) concerning loss or damage in transit (whichever period is the longer). In addition it is agreed and declared that;
11.1.1 HTC is not a common carrier; and
11.1.2 this condition limits the nature and extent of the liability of HTC to the Customer or to any other person that provides the sole and exclusive remedy of the Customer against HTC for or on account of such loss or damage.

12 LIABILITY

12.1 The Consumer Guarantees Act 1993, the Fair Trading Act 1986 and other statues may imply warranties or conditions or impose obligations upon HTC which cannot by law (or which can only to a limited extent by law) be excluded or modified. In respect of any such implied warranties, conditions or terms imposed on HTC, HTC's liability shall where it is allowed, be excluded or if it is not able to be excluded only apply to the minimum extent required by the relevant statute.
12.2 The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the Customer acquires products from HTC for the purposes of a business in terms of section 2 & 43 of that statute.
12.3 Except as otherwise provided by clause 13.1, for Products not manufactured by HTC, the warranty given shall be the current warranty provided by the manufacturer of the Products and the Customer accepts that warranty in place of any warranty from HTC. HTC shall not be bound by nor be responsible for any term, condition, representation or warranty. Inspection and repair under warranty is the sole responsibility of HTC. If any Products are found to have been dismantled, re-assembled or had repair work carried out by any other person or organisation, the manufacturer's warranty will automatically be cancelled and repairs and rectification from that point on will be charged to the Customer.
12.4 Except as otherwise provided by clause 13.1, HTC shall not be liable for any loss or damage of any kind whatsoever, arising from the supply of Products by HTC to the Customer, including consequential loss whether suffered or incurred by the Customer or another person and whether in contract or tort (including negligence) or other, irrespective of whether such loss or damage arises directly or indirectly from Products provided by HTC to the Customer, and the Customer shall indemnify HTC against all claims and loss of any kind whatsoever, brought against HTC by any customer or recipient of Products from the Customer.

13 CANCELLATION

13.1 HTC may cancel these terms and conditions at any time by giving written notice to the Customer.

13.2 Where HTC cancels these terms and conditions, then unless the Customer is in default of these terms and conditions, HTC will use reasonable efforts to complete delivery of any Products for which HTC has accepted orders from the Customer. HTC shall not otherwise be liable for any loss or damage whatever arising from such cancellation.

13.3 If the Customer is in default under these terms and conditions then HTC may cancel delivery of Products at any time before the Products are delivered by giving written notice. On giving such notice HTC shall repay to the Buyer any sums paid in respect of the Price, after deducting any monies owed to HTC. HTC shall not otherwise be liable for any loss or damage whatever arising from such cancellation.

13.4 In the event that the Customer cancels delivery of Products the Customer shall be liable for any loss incurred by HTC (including, but not limited to, any loss of profits) up to the time of cancellation.

14 MISCELLANEOUS

14.1 HTC reserves the right to make partial deliveries of any Products to the Customer and to invoice such partial deliveries separately. Partial deliveries shall not entitle the Customer to cancel its order.

14.2 Notwithstanding that a sample of the Products may be exhibited to and inspected by the Customer, such sample will be exhibited and inspected solely to enable the Customer to judge for itself the quality of the bulk and not so as to constitute a sale by sample.

14.3 HTC shall not be liable for delay or failure to perform its obligations if the cause of the delay or failure is beyond its reasonable control, and any failure by HTC to enforce any of these terms and conditions shall not be deemed to be a waiver of any of its rights.

14.4 If any provision of these terms and conditions shall be invalid, void or illegal or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

14.5 HTC reserves the right to review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which HTC notifies the Customer of such change. That change shall be deemed to have been accepted upon the Customer ordering further Products.

Terms and Conditions of Hire

1. Delivery and Removal of Equipment

The Hirer authorises the Owner to bring its vehicle onto his property to deliver and to recover the equipment at the end of hire. The Owner shall not be responsible to the Hirer or any third parties for any damage that may be done to driveways or underground services by any reason of the weight of the vehicle. Requests for collection must be made by telephone when the Hirer has finished with the equipment and not by prior arrangement. Always ask for a pick-up number. All cartage charges are to be paid by the Hirer. Equipment must be packed up, ready for loading and assistance rendered to the Owner's driver if more than one person is required to load it.

2. Hire Period

Hiring commences at the time shown on the face of this form which is the time the equipment leaves the Owner's store. The hiring shall terminate at the time stated by the Hirer on the face of this form. By that time the equipment is to be delivered back into the Owner's store either by the Hirer or following collection by the Owner's vehicle at the Hirer's request.

3. Owners Right to Hire

(a) The owner may terminate the hire at any time without reason by giving the Hirer 48 hours written notice. Such notice may be given either by personal delivery or by post to either the job address or any other address of the Hirer specified on the face of this agreement. In the case of notices posted to the Hirer the period of notice shall commence to run from the time at which the notice would have been delivered in the ordinary course of the post. The Owner will not be responsible to the Hirer for any loss arising as a result of such termination.

(b) Not withstanding termination of the hiring the Hirer shall be obliged to pay the Owner a sum equivalent to hire fees at the rate specified herein in respect of any period from the date of termination of the hiring until the equipment is actually returned to the Owner's store.

4. Hiring Charges

In the absence of any special arrangements to the contrary equipment is hired on a daily rate, Saturday, Sunday and public holidays included. The hire period is based on the time the equipment is uplifted until the time the equipment is returned or advised for pickup, not the time the equipment is used for.

5. Payment

(a) Unless the Hirer operates a credit account with the Owner a bond is required before hiring commences which will exceed the estimated total charges and an appropriate refund will be made to the Hirer on return of the equipment in good order and condition. Should total charges exceed the amount of the bond the balance is payable by the Hirer promptly on return.

(b) The Hirer by accepting the goods or services agrees to the terms and conditions as laid down by the Owner and agrees to pay any costs of collection and all legal fees incurred by the Owner in the event of legal action becoming necessary.

(c) Where the Hirer operates a credit account with the Owner payment is due on the twentieth day of the month following the date of invoice. Where payment is not made by the due date the Owner reserves the right to charge default interest at the rate of 2% above the Hirer's overdraft rate as it may apply.

(d) If the Hirer does not require the Owner to waive the Hirer's responsibility for loss or damage to equipment under Condition 11 then the Hirer must make alternative arrangements in writing with the Owner through the Owner's credit department.

6. Care of Equipment and Breakdowns

(a) The Hirer shall not use the equipment in a manner or to an extent which is inconsistent with the manner or extent of use that a reasonable hirer would expect to obtain from the equipment and any express instructions given by the Owner either directly or accompanying the equipment in writing shall be taken as prima facie evidence of the manner or extent of the use to which the equipment shall be put.

(b) The Hirer shall take proper care of the equipment. In the event of the equipment being damaged the Hirer shall pay the Owner a sum equivalent to the cost of making good said damage. In the event of the equipment being lost on hire to the Hirer then the Hirer shall pay to the Owner a sum equivalent to the cost of replacing the equipment as lost, this obligation subject to Condition 11 as applicable.

(c) The Hirer warrants that he is competent and qualified to use the equipment in the way or for which it is designed.

(d) Breakdown resulting from misuse shall not in any circumstances shorten the period of hire.

(e) The equipment does not purport to be new stock or equal to new, but when sent out all items are understood to be in good condition and fit for normal use.

7.

(a) Where this hire agreement would otherwise be subject to the provisions of the Consumer Guarantees Act 1993 and where the hire is a hire for business purposes as recorded on the fact hereof, then the Hirer agrees that the equipment hired is a supply to the Hirer for business purposes in terms of Sections 2 and 43 of that Act and the provisions of that Act shall not apply to this hire.

(b) Where this hire agreement is not subject to the provisions of the Consumer Guarantees Act 1993 as provided in Clause 7(a) hereof, or where the Hirer is a person who is not a consumer in the said Act, then:

(i) The Hirer takes the equipment hired on the express condition that the owner gives no warranty, undertaking or promise of any kind whatsoever as to the condition, state of repair or fitness of the equipment hired, nor as to the suitability of the equipment hired for the work to be undertaken with it by the Hirer and the hirer shall use the equipment hired entirely at his own risk. The Hirer shall consequently have no claim of whatsoever nature or kind against the Owner by reason of this condition or of the operation of the equipment hired whether correctly or incorrectly or otherwise howsoever arising and the Hirer shall hold the Owner safe, harmless and indemnified against claims actions and proceedings on account or touching or concerning any of the aforesaid matters and against all costs.

(ii) All representations or warranties whether expressed or implied by the owner, its employee or employees, agent or agents whether made before or after the execution of these conditions by the Hirer shall be null and void and of no effect except as the same are included in these conditions and the Hirer hereby acknowledges that these conditions cover the whole terms of hire of the equipment hired by him from the owner. Any liability attributed to the owner shall be limited to the value of the hire charges charged.

8. Injury or Damage to Hirer or Third Persons or Property

The hirer shall not have any claim against the Owner for loss or damage suffered by the Hirer as a result of the Hirer's use of the equipment and further the Hirer will indemnify the Owner against any claim by a third person in respect of any loss, injury or liability arising from this hiring or arising out of the use of the equipment by the Hirer.

9. No Assignment of Hire Agreement

This agreement is personal to the Hirer and is not capable of assignment by him, and the Hirer shall not sublet the equipment to any other person, but this shall not prevent employees of the Hirer using the equipment in conformity with this agreement. The Hirer will not sell, offer for sale, assign, mortgage, pledge, charge or otherwise encumber or deal with or part with possession of the equipment hired on any part or parts thereof other than to the Owner.

10. No Warranties by Owner

The Owner makes no warranty or representation as to the state, quality or fitness of the equipment for any purpose and no such warranty shall be implied by the description of the equipment on the face of this form. All implied warranties and conditions as to the state, quality or fitness of the equipment for any purpose are hereby excluded.

11. Limitation of Hirer's Responsibility for Loss of or Damage to Equipment

Provided that the Hirer has obtained and paid for damage waiver cover with the owner, then this clause 11 will apply, but not otherwise.

If the Hirer has:

1. Delivered to the Owner within 24 hours of the time when the Hirer first became aware of the loss of or damage to the equipment, a complete and correct written report of the circumstances of such loss of or damage to the equipment; and

2. If required by the Owner, lodged a written report in respect of any such loss or damage to the equipment with the police; and

3. Rendered such assistance and done such other things as the Owner shall have reasonably required for the purposes of enabling the Owner to exercise such legal remedies as the Owner may have for the recovery of such loss or damage of the equipment;

The Owner will limit the liability of the Hirer for loss of or damage to the equipment caused by fire, storm, collision, accident, or theft provided however that the Owner will not waive the Hirer's liability for:

(a) One half of the cost of the purchase of new equipment to replace the equipment lost or damaged (if the damage is such as to render the equipment irreparable), or if the cost of repairing it exceeds the cost of replacement or is impracticable in the Owner's reasonable opinion, to a limit of $1,000.00.

(b) One half of the cost of repairing equipment damaged through accident where that damage is not due to misuse, abuse or overloading of the equipment or failure to take reasonable care of it subject to Clause 11 (a) above.

(c) Unjustifiable loss of the equipment.

(d) Loss or damage of the equipment arising from a breach by the Hirer of the conditions of this agreement.

(e) Loss or damage from misuse of the equipment in violation of any statute, regulation or by-law.

(f) Damage caused by tyres and tubes by blow-out, bruises, cuts or other causes arising from misuse of the equipment.

(g) Loss or damage resulting from lack of lubrication or other normal servicing of the equipment.

(h) Loss or damage to motors or other electrical appliances or devices caused by overloading.

(i) Theft arising from circumstances where the Hirer has failed to secure the property against theft.

12. The person signing this document for and on behalf of the Hirer (if not personally the Hirer) warrants that he has the authority of the Hirer to make this contract on the Hirer's behalf and that he is empowered by the Hirer to bind the Hirer to this agreement. The person so signing hereby indemnifies the Owner against all losses and costs that may be incurred by the Owner arising out of the person so signing the agreement failing to have such power of authority.

13. The Hirer shall forthwith on request by the Owner advise the Owner of the whereabouts of the equipment and allow the Owner or its agent or servants reasonable time to inspect and test the equipment and for such purposes the Hirer hereby gives irrevocable leave and licence to the Owner its servants and agents to take possession of the equipment remove and same and to enter upon any premises of the Hirer and as the act of the Hirer enter upon any premises where the equipment or any of the same or any part thereof may be.

14. In the case of a person entering into this contract in a private capacity as Hirer, the Hirer by entering into this contract hereby authorises the disclosure of personal information which may be used by the Owner to advise the Hirer of the Owners other goods and services The Hirer has rights of access to and correction of personal information contained in this contract, subject to the provisions of the privacy Act 1993