

# Plant and Equipment Hire

790 Jones Rd, Rolleston | [hire@73hire.co.nz](mailto:hire@73hire.co.nz) | 03 347 0450 | [www.73hire.co.nz](http://www.73hire.co.nz)

## 1. Terms and parties to hire

- 1.1 The terms set out below shall apply to any contract for the hire of goods ("equipment") between 73 Hire Limited ("the Owner") and the person hiring the equipment ("Hirer"). This being referred to as ("the Contract").
- 1.2 The Owner reserves the right to change these terms without notice, with any amendments being recorded at the time of the Contract that follows the changes coming into effect.
- 1.3 The Contract is subject to the Owner's rights to deal with the equipment as set out in these terms which are deemed to be accepted on provision of a copy of these terms.
- 1.4 All accessories, replacement parts or any additional materials whatsoever which may be attached to or supplied by the Owner to the Hirer for use or in connection with the equipment at any time during the hiring shall become part thereof and the word equipment shall be read throughout the Contract to include such accessories, replacement parts or any additional materials whatsoever.

## 2. Hire basis

- 2.1 The Equipment may be hired for varying periods, as agreed to in writing in the Contract, provided that no hire or renewal of hire is to extend longer than 12 months from the original hire date.
- 2.2 The parties agree that the Hirer has been advised that the Owner will charge extra for any equipment usage in excess of the usage agreed in the Contract.
- 2.3 Certain equipment may carry minimum hiring periods. The Hirer shall not be entitled to a refund or reduced hire charge if the Hirer returns the equipment prior to the end of the minimum period or the end of the hire period agreed.
- 2.4 The hire period begins from the time the equipment leaves the Owner's premises and runs until the equipment is returned to the Owner at the place of hire or is removed by the Owner pursuant to the terms set out in the Contract.
- 2.5 The Hirer shall pay during the hire period for all materials used, loss and damage waiver charges (if applicable), excess use charges, damage to or loss of the equipment, cleaning costs (as below in 2.6), and any default interest for late payment.
- 2.6 Returned equipment is expected to be cleaned thoroughly. Cleaning fees will be assessed and charged if the Hirer returns equipment that is not cleaned as required.

## 3. Payment and Default

- 3.1 Payment terms for account holders are by the 20<sup>th</sup> of the following month; for casual hires upon return of the plant.
- 3.2 When in default of any monies payable under the Contract, 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 until all monies have been paid in full.
- 3.3 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 an attempted exercise of any of its rights or remedies under the Contract, including commissions and legal costs on a solicitor and client basis.
- 3.4 The Hirer must make all payments due under the Contract without set-off or deduction of any kind.

## 4. Transport

- 4.1 The Contract is based on the cost of the hire of equipment only. The Hirer is responsible for arranging appropriate transport to and from the Hirer's premises or site of use.
- 4.2 The Owner authorises the Hirer to bring an appropriate vehicle onto the place where the equipment is to be collected and returned, at the beginning and expiry of the hire period. This authorisation shall be revoked if:

- 4.2.1 The Hirer's vehicle is visibly unsuitable for the purpose of transporting the equipment.
- 4.2.2 The vehicle is driven / used while on the Owner's premises in an unlawful or unsafe manner.
- 4.3 The suitability of the vehicle to transport equipment is solely the responsibility of the Hirer as is liability for any loss, damage or any consequence whatsoever of unsuitability.
- 4.4 The Owner may at their sole discretion view the transport at the time of hire for the purposes of suitability. If the Owner does such a review and the transport is deemed unsuitable for whatsoever reason, the Hirer is solely responsible for arranging alternative transport. If the Owner does such a review and the transport is deemed suitable, the suitability of the transport remains at the risk of the Hirer.
- 4.5 Unless otherwise agreed between the parties, a minimum administration and or processing cost will be payable where the Hirer's transport is deemed unsuitable and they Hirer is unable to arrange an alternative resulting in the cancellation of the Contract.

## 5. Termination by owner

- 5.1 The Owner may terminate the Contract by notice with immediate effect. Reasons that the Owner may terminate include but are not limited to;
  - 5.1.1 The Owner's belief 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,
  - 5.1.2 The Hirer being unable to, or might be unable to, pay any continuing hire charge, or default cost in accordance with this Contract.
  - 5.1.3 Any step is taken to appoint a receiver, manager, trustee in bankruptcy, liquidator, administrator or other like person over the Hirer's business or personal affairs or assets.
- 5.2 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 in the event the Contract is terminated.
- 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 the Contract.
- 5.4 The Owner will not be liable to the Hirer or any other person for any loss suffered or liability incurred arising from termination of the Contract or repossession of the equipment.
- 5.5 Cancellation of the Contract by the Owner is without prejudice to any rights that the Owner may have under this Contract.

## 6. Non assignment of Contract

- 6.1 The Contract is personal to the Hirer and is not capable of assignment whether in whole or in part by the Hirer.
- 6.2 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 these Conditions.

## 7. Obligations of Hirer

- 7.1 The Hirer agrees and acknowledges that they are obligated to:
  - 7.1.1 Advise the Owner if the equipment is intended to be used in a location or manner which is outside the usual or ordinary use of the equipment. The Hirer must advise the intended location and / or nature of use at the time of hiring the equipment.

- 7.1.2 Take proper and reasonable care of the equipment and, if the equipment is hired, return it to the Owner at the end of the hire period (to the place of hire, unless otherwise specified in the Contract) in the same order and condition as at the commencement of the hire (fair wear and tear excepted).
- 7.1.3 Carry out all necessary daily servicing, (including by way of example the inspection and where necessary the supply of all necessary tyre pressures, water, oils, grease and fuel) at the Hirer's expense.
- 7.1.4 Satisfy themselves that the equipment is suitable for the intended use; and use the equipment in a lawful manner with due regard to all laws and regulations pertaining to the use of such equipment.
- 7.1.5 If the equipment is faulty in any way whatsoever, immediately cease operating the equipment and notify the Owner by telephone if the equipment is faulty, breaks down or if any warning light or buzzer is activated; and
- 7.1.6 Except as permitted by the Consumer Guarantees 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.
- 7.2 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 that they are aware of, understand and will follow any directions from the Owner, local authorities, codes of practice or from the manufacturer of the equipment relating to the use and safety of the equipment and with all obligations in relation 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.
- 7.3 If the Hirer is not an individual, the person who signs the 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 on the Hirer. 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 Contract failing to have such power or authority.
- 8 Vehicle Hire**
- 8.1 If the equipment being hired is a vehicle (as defined in the Land Transport Act 1998), then notwithstanding any other provision in the Contract including these Conditions, the Hirer shall:
- 8.1.1 Ensure that the vehicle is driven during the period of hire only by the Hirer and persons named on the Contract and only if they hold a current full driver's licence appropriate for the vehicle at the time when they are driving the vehicle.
- 8.1.2 As soon as possible, where the vehicle is damaged or requires repair or salvage, whether because of an accident or breakdown, advise the Owner of the full circumstances by telephone.
- 8.1.3 Not arrange or undertake any repairs or salvage (excluding servicing under clause 7.1.2) without the authority of the Owner except to the extent that the repairs or salvage are necessary to prevent further damage to the vehicle or to other property.
- 8.1.4 Ensure that no person shall interfere with the distance recorder or speedometer or, except in any emergency, any part of the engine, transmission, braking, or suspension systems of the vehicle.
- 8.1.5 Not use or permit the vehicle to be used for the carriage of passengers for hire or reward unless the vehicle is hired with the knowledge of the Owner for use in a passenger service licensed under Part 4A of the Land Transport Act 1998.
- 8.2 The Hirer shall not:
- 8.2.1 sublet or hire the vehicle to any other person;
- 8.2.2 permit the vehicle to be operated outside the Hirer's authority;
- 8.2.3 operate the vehicle or permit it to be operated, in circumstances that constitute an offence by the driver against any of sections 56, 57, 57A and 58 of the Land Transport Act 1998 (which relates to driving under the influence of drink or drugs);
- 8.2.4 operate the vehicle or permit it to be operated in any race, speed test, rally or contest;
- 8.2.5 operate the vehicle or permit it to be operated in breach of the Transport Act 1962, the Land Transport Act 1998, the Transport (Vehicle and Driver Registration and Licensing) Act 1986, the Traffic Regulations 1976 or any other Act, regulations, rules or bylaws relating to road traffic; or
- 8.2.6 operate the vehicle or permit it to be operated for the transport of more than the number of passengers or more than the weight of goods specified in the certificate of loading for the vehicle.
- 8.3 The Hirer will be responsible for all penalties relating to traffic offences incurred during the hire period, including without limitation speeding, parking, toll and traffic signal offences.
- 8.4 The Hirer will be wholly responsible for the full replacement cost of the vehicle plus any legal or other costs whatsoever in the event the Owner's insurance is invalidated by any act or omission by the Hirer in breach of this agreement or otherwise.
- 8.5 The Hirer will be wholly responsibly for any insurance excess or other costs associated with any claim by the Owner for any act or omission by the Hirer. In the event the Owner in their sole discretion decides to forgo a claim to their insurance provider, the Hirer is wholly responsible for the cost of what would otherwise have been claimed for any act or omission by the Hirer.
- 8.6 In addition to the costs set out in clauses 8.4 and 8.5 the Hirer shall be responsible for and shall indemnify the Owner for any loss of revenue suffered by the Owner due to the unavailability of the equipment and / or vehicle for hire due to loss, theft or damage.
- 8.7 The Owner will forward a copy of any relevant infringement notices it receives, along with the copy of the Contract (including these Conditions) to the Hirer as soon as practicable and advise the Hirer that if the Owner receives a reminder notice of the infringement, it will deduct payment from the Hirer's credit card. If the Owner receives a relevant reminder notice without having received an infringement notice, it will forward a copy of the reminder notice, along with the copy of the Contract (including these Conditions) to the Hirer as soon as practicable and advise the Hirer that the Owner will deduct payment from the Hirer's credit card.
- 8.8 The Hirer acknowledges that an administration fee will be applied by the Owner to the Hirer to process these infringements and deduct payment from the Hirer's credit card or account. The Hirer acknowledges that it has the right to challenge, complain about, query or object to the alleged offence to the authority issuing the infringement notice and to seek a court hearing within 56 days of the date of any infringement notice and 28 days from the issue of a reminder notice.
- 8.9 The Hirer will ensure that a copy of the Contract (including these terms) is kept within the vehicle throughout the hire period and produced without delay for inspection upon demand by an enforcement officer.
- 8.10 If the Owner is unable to deduct the relevant payment from the Hirer's credit card for whatsoever reason the Owner may pursue the Hirer for the full cost of the payment plus

administration fee. The failure to pay these sums will result in the Hirer being in default as outlined in this agreement.

## **9 Personal Property Securities Act 1999 (PPSA)**

- 9.1 The Hirer acknowledges and agrees that title to the equipment remains with the Owner at all times. This Contract only permits the Hirer (or third party on behalf of the Hirer) a limited right to use the equipment and does not grant (expressly or on an implied basis) any title or interest in the equipment, nor does it allow the Hirer to encumber, sell, sub-hire, grant a security interest or attempt to grant a security interest in the equipment.
- 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 the Contract (including these Conditions) 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 the Contract.
- 9.4 The Hirer waives its rights under sections 114(1) (a), 116, 117, 119, 120(2), 121, 125, 129, 131, 132, 133, 134 and 148 of the PPSA.

## **10 Liability of the Hirer**

- 10.1 The Hirer shall notify the Owner immediately if the hired equipment and / or vehicle malfunctions, is lost, stolen or damaged and shall follow all reasonable instructions of the Owner.
- 10.2 Subject to clause 11, the Hirer shall be responsible, and shall indemnify the Owner, for any malfunction, loss, theft or damage to the equipment and / or vehicle that occurs from the time the Hirer takes possession of the equipment until it is returned to the Owner's possession including;
- 10.2.1 In the case of malfunction or damage, the full cost of all repairs to restore the equipment and / or vehicle to the condition it was in at the time of hire; and
- 10.2.2 In the case of loss, theft or irreparable damage to the equipment and / or vehicle however caused the full cost to the Owner of replacing the equipment.
- 10.3 In addition to the costs set out in clauses 10.2 the Hirer shall be responsible for and shall indemnify the Owner for any loss of revenue suffered by the Owner due to the unavailability of the equipment and / or vehicle for hire due to loss, theft or damage.

## **11 Limitation of Liability**

- 11.1 In entering into the Contract, the Hirer acknowledges that the Owner has no liability to the Hirer for any direct or indirect or consequential loss or damage or for any loss of profit (or any other form of economic loss) arising in connection with the Contract (whether in contract or in tort) including that resulting from the negligence of the Owner or arising by operation of law. Without limiting the foregoing, the Owner is not liable for any indirect or consequential loss or damage including any loss of profit or other loss suffered by the Hirer, or liability incurred by the Hirer, as a result of the breakdown of any hired equipment, however caused or unsuitability of the equipment.
- 11.2 Subject to the exclusion of liability in clause 12.1 above, the maximum aggregate liability of the Owner for all claims made

by the Hirer, whether as a result of any breach of the Contract or on any other ground or terms whatsoever (including, but not limited to, liability as a result of tort, including negligence) will not exceed the lesser of the hire charges paid by the Hirer to the Owner pursuant to the Contract and three months hire charges paid by the Hirer to the Owner pursuant to the Contract.

- 11.3 The Hirer will indemnify the Owner against any liability, losses, damages or expenses incurred or suffered by the Owner as a result of any claim made by a third person against the Owner in respect of any loss or liability arising from the contract or arising out of the use of the equipment hired or purchased by the Hirer.
- 11.4 Nothing in the Contract affects the Hirer's rights under the Consumer Guarantees Act 1993. If the Hirer is hiring the equipment for the purposes of a business, the provisions of that Act do not apply.
- 11.5 No employee, agent or contractor of the Owner is authorised to make any statement or representations as to the equipment, its fitness for purpose, or with respect to the Hirer's proposed use of the equipment (other than providing information relating to the proper operation and maintenance of the equipment). The Hirer shall not be entitled to rely or to seek to rely upon any such statement or representation made by an employee, agent or contractor of the Owner, and (without limiting clause 12.1) the Hirer acknowledges that the Owner shall have no liability for any loss arising out of the Hirer's reliance on any such statement.

## **12 Severance**

- 12.1 If at any time any provision of the 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 the Contract should be construed as if the provision or part thereof in question has been deleted.

## **13 Privacy Act 2020**

- 13.1 The Hirer authorizes 73 Hire or 73 Hire's agent to:
- 13.1.1 Access, collect, retain and use any information about the Hire for the purpose of:
- 13.1.1.1 Evaluate the hire of equipment; and
- 13.1.1.2 Support purposes; and/or
- 13.1.1.3 Assessing the Hirer's creditworthiness; or
- 13.1.1.4 Marketing products and services to the Hirer
- 13.1.2 The failure to provide the information required for the Contract may result in your application to hire equipment being declined or the Contract subsequently being terminated by the Owner.
- 13.2 Disclose information about the Hirer, whether collected by 73 Hire from the Hirer directly or obtained by 73 Hire from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Customer.
- 13.3 Where the Hirer is an individual, the authorities under clause 19.1 are authorities or consents for the purposes of the Privacy Act 2020.
- 13.4 The Hirer shall have the right to request 73 Hire for a copy of the information about the Hirer retained by 73 Hire and the right to request 73 Hire to correct any incorrect information about the Hirer held by 73 Hire.



## Landscape Supplies

1 Hoskyns Rd | [sales@73hire.co.nz](mailto:sales@73hire.co.nz) | 03 347 0560 | [www.73hire.co.nz](http://www.73hire.co.nz)

1. These Terms and Conditions apply to all transactions made with 73 Hire – Landscape Zone. This includes orders placed online, email, phone, fax, post or by any other means. 73 Hire – Landscape Zone reserves the right to change these Terms and Conditions at any time. These Terms and Conditions are to be read in conjunction with the Terms and Conditions set out for 73 HIRE
2. **Disclaimer**
  - 2.1 All media such as images or video produced by or for 73 HIRE – LANDSCAPE ZONE that represents products may vary in colour or physical accuracy due to variations in photographic equipment, colour rendering of displays, printed materials such as brochures or packaging.
  - 2.2 Our organic products can change over time due to weathering and continued microbial activity. It is the purchaser's responsibility to satisfy themselves that products meet their requirements before placing an order either online, by phone or at our premises.
  - 2.3 73 HIRE LANDSCAPE - ZONE endeavours to maintain a consistent product from batch to batch but variations in raw materials, weather and age mean that there will be some variation from batch to batch. Customers are advised to view products before purchase to satisfy themselves that a product is fit for purpose. If a customer purchases product sight unseen, it is considered the customer is satisfied the product is fit for purpose by some other means (third party recommendation or inspection for example).
- 3 **Products Sold by Third Parties**
  - 3.1 73 HIRE LANDSCAPE - ZONE does not accept responsibility for products sold by third parties. Customers must seek satisfaction with the third-party seller in the first instance. If this is unsatisfactory 73 HIRE LANDSCAPE – ZONE may intervene and mediate a settlement.
- 4 **Privacy Policy**
  - 4.1 See 73 HIRE LANDSCAPE - ZONE
- 5 **Visitors**
  - 5.1 All visitors to any site operated by 73 HIRE LANDSCAPE - ZONE must report to the site office for induction to onsite hazards. Safety hat, high visibility vest and appropriate clothing must be worn when around machinery. All visitors must be always accompanied by a member of staff.
- 6 **Returns**
  - 6.1 Due to the delivery nature of the services, we supply, we will not be obliged to refund any payment you make to us or exchange any products or services we supply, except that which is required by law.
  - 6.2 If you have been incorrectly supplied a product at the fault of 73 HIRE – LANDSCAPE ZONE, we will cover all costs related to returning the incorrect product to us and supplying you with the correct product. If you wish to return a product due to ordering incorrectly or for any other reason other than at the fault of 73 HIRE – LANDSCAPE ZONE, unless otherwise agreed upon, collection costs must be met by you.
- 7 **Hire Equipment including Trailers**
  - 7.1 Where a customer hires or loans equipment being the property of 73 HIRE LANDSCAPE - ZONE it shall be the customer's responsibility to insure said equipment against loss or damage including to 3rd parties.
  - 7.2 It is the customer's responsibility that the equipment is used in accordance with accepted use practices and they should first satisfy themselves that the equipment is fit for purpose, has all legal certifications attached to it, such as warrants of fitness, current road user charges if applicable, etc and if a towing or road use vehicle is safe to operate with any accompanying vehicle or equipment the customer so combines such as their personal motor vehicle.
  - 7.3 73 HIRE LANDSCAPE - ZONE accepts no responsibility or liability for failure on the part of the customer to exercise fair use and good judgment that results in damage to the customers or any other parties' property or person.
  - 7.4 Equipment must be used within the manufacturer's designated specifications and in accordance with any legal requirements such as the New Zealand Road Transport Authority may require to operate on a public carriageway.
  - 7.5 Customers who use 73 HIRE LANDSCAPE - ZONE supplied trailers are solely responsible for ensuring said trailers are not overload, are within the towing limitations of the towing vehicle and that the load is safely contained.
  - 7.6 Equipment is to be returned in good order, as clean as it was when loaned or hired and empty of any product it was used to carry.
  - 7.7 In the event that the equipment is damaged or breaks down the customer is to inform 73 HIRE LANDSCAPE - ZONE before days end if practicable or by 9am the following day.
  - 7.8 If the customer cannot return the equipment because of an accident, breakdown, or other factors the customer shall be liable for any costs associated with recovering the equipment back to 73 HIRE LANDSCAPE - ZONE premises.
  - 7.9 Please refer to our Terms and Conditions for 73 Hire regarding Hire Equipment
- 8 **Delivery**
  - 8.1 Where customers request a specific date and time for delivery 73 HIRE LANDSCAPE - ZONE will endeavour to meet that request as accurately as possible. If this cannot be achieved due to unforeseen circumstances such as traffic congestion, road works/closure, inaccurate delivery information, breakdown, staff illness or accident or workload then 73 HIRE LANDSCAPE - ZONE will advise the customer and reschedule delivery with the customer.
  - 8.2 The company will make every effort to deliver products ordered on the agreed date. If the company is unable to deliver for any reason, then no liability will fall to the company; whether in damages or otherwise, for the delay in whole or any part of the goods ordered arising from any cause whatsoever.
  - 8.3 If a delivery driver arrives at a customer's specified delivery location and no representative of the customer is available or can be contacted to provide direction the driver may unload based on their interpretation of the delivery instructions. A delivery driver may refuse to unload if the area is deemed to be unsafe, inaccessible due to risk of damage to property or the vehicle, risk of the vehicle becoming stuck, the load is at risk of damage by contaminants or for any other reason deemed reasonable in the circumstances.

- 8.4 Where delivery is predicated upon payment on delivery, unloading is subject to satisfactory payment completion.
- 8.5 The delivery truck sizes are governed by the load size, load type, dispatch sequences, access dimensions and or geometry. You must ensure that you have sufficient access for the vehicle before placing an order. It is the customer's responsibility to inform the company if there may be an access problem.
- 8.6 Your chosen ideal drop off area should be a flat and even surface near the area you want to lay the product.
- 8.7 Where we are to deliver the Goods, the Customer must:
- 8.7.1 Ensure we have all-weather encumbrance free access to the site, to enable us to deliver the Goods safely;
- 8.7.2 Obtain all necessary resource and other consents from the relevant local authority and inform us of all matters relating to such consents;
- 8.7.3 Locate, mark and advise us of all gas pipes, water pipes, sewerage lines, septic tanks, drainage lines, telephone cabling and other utilities that are on, or near, or adjacent to the delivery point, and of any actual or possible subsidence, slip, erosion, flooding or any other thing that might constitute a hazard on the land where Goods are to be delivered;
- 8.7.4 The customer, or somebody appointed by the customer, must be at the delivery point to accept the delivery or the customer has explained in detail and left a marker for where product load is to be dumped.
- 8.8 The company reserves the right to cancel or hold any orders that the company deems may suffer from potential delivery problems and the customer understands that delivery dates may be delayed in these instances.
- The customer will clearly advise in writing the place where the goods are to be delivered and acknowledges that the site is accessible for delivery. If the customer provides delivery information orally, 73 HIRE LANDSCAPE - ZONE will not be held accountable for any miscommunication or misunderstanding. There will be no liability whatsoever on the vendor or its subcontractors for any damage which may be caused in the course of delivery and unloading onsite.
- The Customer shall pay all freight and cartage charges including any additional costs or expenses incurred by us (including charges for waiting time or delivery outside of normal business hours).
- 8.9 The company will not accept any liability for damages to property caused during delivery.
- The customer indemnifies Us against any costs, claims and damages incurred in the delivery of the Goods including any cleaning, repairing damage to the site or delivery equipment, and returning the delivery vehicle to the road, provided we have acted with reasonable care and skill.
- 8.10 The Customer must make any claims for short delivery within 48 hours of delivery of Goods by 73 HIRE LANDSCAPE - ZONE and must state the date of delivery of the Goods and the delivery docket number.
- 9 Conditions of All Deliveries**
- 9.1 TITLE: The title and property does not pass in either the goods or proceeds from the sale or otherwise of the goods to a third party until paid in full.
- 9.2 CONDITIONS: When material is to be delivered in places other than on paved or metaled streets, the customer is to provide roadways or approaches permitting access of trucks to point of

delivery under their own power. The seller reserves the right to stop deliveries in the event that such roadways are not provided.

- 9.3 If the customer orders deliveries beyond the curbing, the customer assumes all liability for damage to curbs, footpaths, driveways or other property, and shall be liable for all cost incurred in removing the truck from the site.
- 10 **DISCLAIMER OF LIABILITY:** Media and landscaping products, including composts are made from batch to batch. Control cannot be exercised over all the conditions including some fertilizer responses, weather, plant and property management before during and after any processing. No responsibility will be excepted by 73 HIRE LANDSCAPE - ZONE under any circumstances for any failure in performance, loss, damage or injury whether direct or indirect or consequential arising from storage handling, mixing or use of these products, and the purchaser shall bear sole responsibility for the correct selection, use and application of this product and acknowledges that the purchaser is buying this product in reliance on the purchaser's skill or judgment and not that of 73 HIRE LANDSCAPE.

In the event of a failed delivery (when a delivery vehicle arrives to site and can't unload) due to unsuitable delivery areas or conditions, 73 HIRE LANDSCAPE - ZONE reserves the right to charge the customer for the time and distance of travel.

**11 Quotations**

- 11.1 Written quotations are valid as per the expiry date stated on the quote or 30 days, whichever is greater. Verbal quotes are valid for 24 hours unless otherwise agreed to.

**12 Payments**

- 12.1 Where a customer orders product based on payment on delivery the customer shall pay by credit card over the phone or cash as the case may be.
- 12.2 The customer agrees to pay for all products and services that you order upon 73 HIRE LANDSCAPE - ZONE completing your order and receipt of an invoice.

**13 Payment and Default**

- 13.1 Payment terms for account holders are by the 20<sup>th</sup> of the following month; for casual purchases upon purchase of material.

When in default of any monies payable under the Contract, 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 until all monies have been paid in full.

The Purchaser shall pay to the Owner all costs and expenses incurred by the Owner in recovering money or in connection with the exercise or an attempted exercise of any of its rights or remedies under the Contract, including commissions and legal costs on a solicitor and client basis.

The Purchaser must make all payments due under the Contract without set-off or deduction of any kind.

**14 Cancellations**

- 14.1 73 HIRE LANDSCAPE - ZONE may charge a cancellation fee of \$80 if cancellation occurs after the consignment of the order.

**15 Hours**

- 15.1 73 HIRE LANDSCAPE - ZONE operates 6 days per week. The hours listed below are standard operating hours, however, these are varied throughout the year depending on operational requirements, weather, regulatory compliance and seasonal demands. These hours may change without notice.
- 15.2 Landscape Zone Yard: **Mon - Sat** 7.30 – 5pm Closed all Public Holidays.

## 16 Limitations of 73 HIRE LANDSCAPE - ZONE Products & Services

16.1 We will take all reasonable care to ensure that our Products & Services are fit for the purpose for which they have been designed, but we are not responsible for factors and circumstances beyond our control. If products are out of stock then the company also reserves the right to cancel or hold orders for reasons beyond our control.

16.2 Any Products/Service that you purchase is generated only at your request and solely on the basis of information you provide to us.

You agree that:

(a) Any information we provide to you is information only, and not advice.

(b) We are not responsible for checking the accuracy, relevance, or significance of any information you provide to us.

(c) You will ensure that the information you provide is complete, accurate, and up-to-date. If you are uncertain about what information to provide in response to our questions, you will seek appropriate advice from a third party of your choice.

(d) You will provide us with your full and accurate contact details and you will keep those contact details up to date.

## 17 Product Variances

17.1 Colour, texture, size, content, individual rocks, stones, barks, shells & soil types of Goods made may be broken or misshaped variations due to:

(a) The use of naturally occurring materials in the manufacturing process; and

(b) Normal manufacturing tolerances and processes.

Such variations do not constitute a product defect and we shall not be liable for any loss or damage suffered by you as a result of such variations.

The sizes of products specified are approximate and can vary.

Due to the products we market are natural products – they will change due to weathering, seasons and different seams in the quarry. 73 HIRE LANDSCAPE - ZONE will do their utmost to ensure your products are consistent – but there are times when this is out of 73 HIRE LANDSCAPE - ZONE control. We advise to view products before purchase. All inquiries regarding products should be directed to our sales staff.

## 18 Copyright Information

18.1 All copyright, trademarks and other intellectual property rights subsisting in or used in connection with the Products & Services and the Website are and will remain the sole property of 73 Hire Landscape.

18.2 When you purchase a Product or Service from us, you may download and copy documents provided to you as part of that service providing that you:

(a) Only use those documents for the single, specific transaction for which you purchased the Product and/or Service; and

(b) Only make copies of those documents for purposes relating to that transaction; and

(c) Do not otherwise copy, reproduce, publish, modify, make an adaptation of those documents in any way.

18.4 You may not remove our trademarks, copyright symbols, or any other statement or device which asserts our intellectual property rights from any materials you download from the Website, or from any authorised copies you make of them.

You may not copy, modify, or otherwise interfere with any part of the Website.

You may not create any hyper-links to the Website unless you have our permission in writing.

## 19 Hyperlinking

19.1 We reserve the right to prohibit links to the Website and the user agrees to remove or cease any link on 73 HIRE's request. The user may not frame any part of the Website material by including advertising or other revenue generating material.

## 20 External links

20.1 The contents of the Website may include links to third party materials (linked sites). We will not be responsible for the contents of any linked site or liable for any direct or indirect loss or damage suffered by the user or any other person from accessing, using, relying on or trading with third parties. These links are provided to the user only as a convenience, and the inclusion of any link does not imply our endorsement of the site or any association with it.

## 21 Disclaimer

21.1 We make the Website available to the user as a service. Whilst reasonable care has been taken to ensure the facts, prices and descriptions stated on the Website are accurate and the opinions given are fair and reasonable, we do not give any warranty of accuracy or reliability of information to the user or any other person. The use of and reliance on information contained on the Website is at the user's own risk. We are not responsible for any adverse consequences arising out of such use or reliance.

## 22 Hazardous Materials Warning

22.1 Soils, Mulches, Composts and Potting Mixes manufactured by 73 HIRE LANDSCAPE - ZONE could contain micro-organisms including bacteria, fungi and protozoa. When handling, avoid breathing dust or mists and wear a particulate mask if dusty. Wear gloves and keep moist when handling. Wash hands immediately after use.

22.2 Where 73 HIRE LANDSCAPE - ZONE provides third party products customers are required to ensure they read any instructions that may come with the product either by brochure, printing on packaging or media included within the product.

22.3 If a customer is unsure due to either lack of information on or in the product packaging the customer should contact the manufacturer in the first instance, however, if that is impractical the customer should contact 73 HIRE LANDSCAPE - ZONE for further assistance.

22.4 By purchasing from 73 HIRE LANDSCAPE - ZONE and using any of 73 HIRE - LANDSCAPE ZONE's online or offline resources, the user agrees to abide by 73 HIRE LANDSCAPE - ZONE terms and conditions.