

## **DAMAGE WAIVER AND PROOF OF INSURANCE POLICY**

At New West Equipment, we know job sites are tough environments and that accidental damage to rental equipment can happen, even when equipment is used properly and with care. Our Damage Waiver gives customers a clear option for limiting certain repair cost responsibility when accidental direct physical damage occurs, subject to the terms, conditions, limits, and exclusions outlined in this Policy.

### **NEW WEST EQUIPMENT'S DAMAGE WAIVER IS NOT INSURANCE**

The Damage Waiver carries a cost of 9% of the rental value, exclusive of taxes, and is automatically calculated on the rental invoice unless declined in accordance with this Policy. The Damage Waiver fee is non-refundable once the rental period begins.

Subject to the terms, conditions, exclusions, and limits set out in this Policy, the Damage Waiver may cover certain accidental direct physical damage to rental Equipment up to a maximum of \$2,000.00 per rental contract. This limit applies in aggregate across all Equipment listed on the rental contract, not per item or per occurrence, unless otherwise agreed in writing by New West Equipment.

Customer may decline the Damage Waiver only if New West Equipment accepts Customer's proof of insurance or otherwise approves the decline in writing before the rental begins or before Equipment is released. New West Equipment may also decline to offer the Damage Waiver for certain customers, Equipment, Sites, rental types, or risk conditions.

If the Damage Waiver is declined, unavailable, unpaid, or does not apply because of an exclusion, Customer is responsible for all costs incurred by New West Equipment to replace, repair, recover, clean, inspect, test, restore, or return Equipment to service, including lost rental charges and administrative fees. New West Equipment may require a damage deposit of at least \$200.00 per rental contract if the Damage Waiver is declined.

Customer should review this Policy carefully before accepting or declining the Damage Waiver.

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# 1. POLICY DETAILS

This Damage Waiver and Release forms part of and is incorporated into the rental contract, quote, work order, invoice, written confirmation, and New West Equipment's Rental Terms and Conditions between New West Equipment and the Customer for the rental of equipment, tools, tanks, cylinders, accessories, attachments, or other property.

By signing the rental contract, accepting delivery, using the Equipment, authorizing services, providing payment, or accepting the Damage Waiver, Customer agrees to this Policy.

For the purposes of this Policy:

**"Customer"** means the individual, company, organization, or other entity renting Equipment or receiving services from New West Equipment, including anyone signing or authorizing the rental on Customer's behalf.

**"Equipment"** means all rented equipment, tools, tanks, cylinders, accessories, attachments, hoses, cords, keys, chargers, batteries, manuals, and other property supplied by New West Equipment.

**"Rental Contract"** means the applicable rental agreement, quote, work order, invoice, written confirmation, or other rental document issued by New West Equipment.

**"Rental Period"** means the authorized rental period identified in the Rental Contract, subject to New West Equipment's Rental Terms and Conditions.

## 2. CUSTOMER RESPONSIBILITIES

### 2.1 Care, Custody, and Control

Customer is responsible for Equipment while it is in Customer's possession, care, custody, or control, including while the Equipment is on the Site, in use, in storage, being moved on the Site, or being transported by Customer or by a third party arranged by Customer.

Where New West Equipment delivers, moves, or picks up Equipment using New West Equipment personnel or New West Equipment -arranged carriers, Customer is not responsible for Equipment during New West Equipment-controlled transport, except to the extent loss, damage, delay, or additional cost is caused by Customer's instructions, Site conditions, access issues, loading or unloading assistance arranged by Customer, or acts or omissions of Customer, its employees, subcontractors, sub-trades, agents, or other third parties on the Site.

Customer remains responsible for Equipment until it is returned to and accepted by New West Equipment or recovered by New West Equipment, subject to the Rental Terms and Conditions.

## **2.2 Customer Pickup and Transport**

Where Customer picks up, returns, transports, tows, hauls, loads, unloads, or arranges transport of Equipment using Customer's vehicle, trailer, personnel, or a third-party carrier arranged by Customer, Customer is responsible for ensuring that the vehicle, trailer, driver, load securement, permits, insurance, and transport method are suitable, lawful, and safe.

Customer is responsible for all loss, damage, injury, fines, penalties, towing, recovery, repair, replacement, delay, or related costs arising from Customer-arranged pickup, transport, towing, loading, unloading, or return of Equipment.

Where Customer or Customer's carrier transports Equipment, NWE may require proof of automobile liability, cargo, trailer, contractors' equipment, or other insurance coverage acceptable to NWE before Equipment is released.

## **2.3 Proper Use and Operation**

Customer must:

- use Equipment only for its intended purpose;
- follow New West Equipment's instructions, manufacturer instructions, safety requirements, and applicable laws and regulations;
- ensure only competent, properly trained, and, where required, licensed individuals operate or use Equipment;
- keep Equipment reasonably clean, secure, and protected from theft, loss, vandalism, misuse, impact, contamination, unsafe conditions, unauthorized access, and unauthorized use;
- notify New West Equipment immediately of any accident, loss, damage, malfunction, theft, unsafe condition, warning light, unusual sound, unusual odour, leak, spill, suspected release, or other issue involving the Equipment; and
- follow New West Equipment's instructions regarding securing the Equipment, stopping use, obtaining police reports, providing photographs, providing written statements, or taking other reasonable steps after an incident.

Customer must not repair, service, fuel, refill, modify, bypass, alter, disconnect, reconnect, tamper with, or arrange third-party service for Equipment unless authorized by New West Equipment in writing.

## **2.4 New West Equipment Service Model**

New West Equipment performs or arranges inspections, service, maintenance, and fuelling of Equipment as part of its service model. Unless otherwise agreed in writing, the cost of consumables, fluids, filters, oil changes, coolant, excessive-use service, non-standard maintenance, service calls, repairs, replacement parts, cleaning, and other chargeable service items may be billed to Customer at New West Equipment's applicable rates.

Unless otherwise agreed in writing, all fuel, propane, and related fuel products used with New West Equipment's Equipment must be supplied by New West Equipment. Customer must not use, add, connect, refill, transfer, substitute, or permit the use of outside diesel, propane, gasoline, natural gas, or any other fuel source with New West Equipment's Equipment without New West Equipment's prior written approval.

## **2.5 Return of Equipment**

Customer must return Equipment by the agreed date and time, in substantially the same condition as received, ordinary wear and tear excepted, cleaned and free of debris, and with all accessories, attachments, keys, documents, and related items.

# **3. DAMAGE WAIVER**

## **3.1 Nature of the Damage Waiver**

The Damage Waiver is a contractual waiver of certain charges. It is not insurance.

The Damage Waiver is provided solely by New West Equipment and does not constitute a policy of insurance for Customer or any third party. Customer remains responsible for all obligations not expressly waived under this Policy, including bodily injury, third-party property damage, environmental claims, excluded losses, payment obligations, indemnity obligations, and obligations under the Rental Terms and Conditions.

## **3.2 Fee**

The Damage Waiver fee is 9% of the rental value, exclusive of taxes, unless otherwise stated in writing.

The Damage Waiver fee is automatically calculated on the rental invoice unless the Damage Waiver has been declined in accordance with this Policy. The fee is non-refundable once the rental period begins, regardless of whether a claim arises or whether Customer uses the Equipment for the full rental period.

## **3.3 Conditions for Damage Waiver to Apply**

The Damage Waiver applies only if all of the following conditions are met:

1. Customer accepts the Damage Waiver before the rental begins or before Equipment is released;
2. Customer pays the applicable Damage Waiver fee;
3. Customer complies with the Rental Contract, Rental Terms and Conditions, and this Policy;
4. Customer's account is current and not in default at the time of the loss or damage;
5. Customer promptly reports the loss or damage to New West Equipment;
6. Customer cooperates with New West Equipment's review of the loss or damage; and
7. the loss or damage is not excluded under this Policy

If any condition is not met, the Damage Waiver does not apply unless New West Equipment agrees otherwise in writing.

### **3.4 Coverage Period and Scope**

Subject to this Policy, the Damage Waiver may apply only:

- during the authorized Rental Period;
- while the Equipment is in Customer's possession, care, custody, or control;
- to accidental direct physical damage to Equipment; and
- where the damage is not excluded under this Policy.

The Damage Waiver does not provide cash payment or reimbursement to Customer. New West Equipment may determine whether to repair or replace Equipment

### **3.5 Coverage Limit**

Coverage is limited to a maximum of \$2,000.00 per rental contract.

This limit applies in aggregate across all Equipment listed on the rental contract, not per item or per occurrence, unless otherwise agreed in writing by New West Equipment.

If repair, replacement, restoration, recovery, or related costs exceed the applicable Damage Waiver limit, Customer remains responsible for the balance.

### **3.6 Deductible**

If the Rental Contract specifies a deductible, Customer remains responsible for the deductible. New West Equipment's waiver of charges applies only to covered amounts above the deductible and within the applicable Damage Waiver limit.

## 4. WHAT THE DAMAGE WAIVER MAY COVER

Subject to this Policy, the Damage Waiver may cover accidental direct physical damage to Equipment arising from ordinary and intended use, including accidental damage caused by collision, overturning, or impact with another object, where the damage is not caused by an excluded event.

Damage caused by fire or sudden weather events may be considered under the Damage Waiver only where the damage was not caused or worsened by Customer's misuse, negligence, failure to secure Equipment, failure to follow instructions, or failure to protect Equipment from known or reasonably foreseeable conditions.

New West Equipment will determine, acting reasonably, whether a loss falls within the Damage Waiver or an exclusion.

## 5. EXCLUSIONS

### 4.1 What Is Not Covered

The Damage Waiver does not apply to, and Customer remains fully responsible for, the following:

1. theft, conversion, unexplained loss, disappearance, missing Equipment, or failure to return Equipment;
2. intentional acts, deliberate damage, gross negligence, reckless use, misuse, or abuse;
3. operation contrary to instructions, manufacturer requirements, safety requirements, or applicable laws;
4. use beyond rated capacity or specifications;
5. use by anyone impaired by alcohol, drugs, medication, fatigue, or any condition that may affect safe operation;
6. use by anyone not properly trained, competent, licensed, or authorized where required;
7. use on prohibited terrain, in prohibited conditions, or outside the agreed Site or Project without New West Equipment's written approval;
8. failure to secure or safeguard Equipment, including leaving Equipment unattended with keys in or accessible, failing to use anti-theft devices where provided or required, or allowing unauthorized access or use;

9. water damage, flooding, submersion, freezing, contamination, fuel contamination, or environmental contamination, unless expressly authorized and intended in the ordinary use of the Equipment;
10. mechanical damage from neglect, including ignoring warning lights or alarms, continued operation after a known or suspected issue, failure to stop use, or failure to notify New West Equipment of a known or suspected issue;
11. damage caused by unauthorized fuel, propane, fuel source, service, repair, modification, alteration, connection, disconnection, bypass, refill, transfer, or tampering;
12. tire damage, track damage, wear components, hoses, cords, filters, fluids, batteries, chargers, and similar consumables, except where New West Equipment determines the damage directly resulted from a covered accidental event;
13. cosmetic damage, excessive wear and tear, or cleaning charges, including paint overspray, concrete, mud buildup, smoke, odour removal, staining, or contamination;
14. loss or damage to accessories and small items, including attachments, tools, manuals, keys, batteries, chargers, hoses, cords, adapters, and similar items, unless New West Equipment expressly agrees in writing that such items are included under the Damage Waiver;
15. damage arising from Customer's breach of the Rental Contract, Rental Terms and Conditions, or this Policy;
16. fines, penalties, regulatory costs, environmental cleanup, contaminated fuel handling, fuel disposal, third-party claims, bodily injury, death, or third-party property damage;
17. consequential, indirect, incidental, special, punitive, or economic loss, including loss of use, business interruption, delay, lost profits, or additional project costs; and
18. any loss, damage, cost, or charge not expressly covered by the Damage Waiver.

Excluded losses remain Customer's responsibility and are not waived or reduced by the Damage Waiver.

## **6. ADDITIONAL CHARGES NOT WAIVED**

Customer remains responsible for, and the Damage Waiver does not waive:

- > rental charges;
- > delivery and pickup fees;
- > fuel, fuelling, monitoring, environmental, after-hours, and emergency delivery charges;
- > applicable taxes;
- > cleaning, decontamination, restoration, inspection, testing, purging, contaminated fuel handling, and fuel disposal;

- recovery, towing, standby, return trip, or failed pickup charges;
- repair or replacement costs above the applicable Damage Waiver limit;
- lost rental charges or loss of use charges where Equipment is damaged, missing, not returned on time, or subject to an excluded loss;
- administrative fees to coordinate repair, restoration, replacement, recovery, or claims handling;
- deductibles, if applicable; and
- any excluded loss described in this Policy.

Customer authorizes New West Equipment to charge all amounts due under the Rental Contract, Rental Terms and Conditions, and this Policy to any credit card or account provided, and to invoice Customer for any remaining balance. Amounts are due upon receipt unless otherwise stated in writing.

## **7. DECLINING THE DAMAGE WAIVER**

Customer may decline the Damage Waiver only if New West Equipment accepts Customer's proof of insurance or otherwise approves the decline in writing before the rental begins or before Equipment is released.

Declining the Damage Waiver does not remove, reverse, or credit Damage Waiver fees applied to rentals that have already started, prior rental contracts, or invoices already issued.

If the Damage Waiver is declined, unavailable, unpaid, or does not apply because of an exclusion, Customer accepts responsibility for all costs incurred by New West Equipment to replace, repair, recover, clean, inspect, test, restore, or return Equipment to service, including lost rental charges and administrative fees.

New West Equipment may require a damage deposit of at least \$200.00 per rental contract if the Damage Waiver is declined. A damage deposit does not limit Customer's responsibility for amounts owing.

## **8. RECOVERED EQUIPMENT AND THIRD-PARTY RECOVERY**

If lost, stolen, missing, or unreturned Equipment is later recovered, New West Equipment retains ownership of the Equipment regardless of any payment made by Customer or Customer's insurer. Customer must promptly notify New West Equipment and return recovered Equipment.

Payments made for lost, stolen, missing, or unreturned Equipment are non-refundable unless New West Equipment agrees otherwise in writing.

Customer agrees to cooperate with New West Equipment and its insurers in pursuing recovery from any person, insurer, or third party responsible for loss, theft, damage, or destruction of Equipment. Customer must not release, settle, waive, or impair any claim relating to Equipment without New West Equipment's written consent.

## **9. INSURANCE REQUIREMENTS**

### **9.1 Customer's Insurance Obligation**

Unless waived by New West Equipment in writing or unless the Damage Waiver applies, Customer must maintain, at its own cost, insurance adequate to cover the Equipment and Customer's obligations under the Rental Contract, Rental Terms and Conditions, and this Policy.

Required insurance may include:

- commercial general liability insurance with minimum coverage of \$1,000,000.00 per occurrence for bodily injury and property damage;
- contractors' equipment, rented equipment, leased equipment, or similar all-risk physical damage coverage for the full replacement value or purchase value stated by New West Equipment, with a deductible acceptable to New West Equipment; and
- any other coverage reasonably required by New West Equipment based on the Equipment, Site, rental value, rental duration, or risk.

### **9.2 Evidence of Insurance and Additional Insured**

Upon request, Customer must provide certificates of insurance or endorsements confirming required coverage.

New West Equipment may require that New West Equipment be named as additional insured and/or loss payee, as applicable to the Equipment supplied, and may require notice of cancellation or material change.

Customer authorizes New West Equipment to contact Customer's insurance broker, agent, or insurer to verify coverage where proof of insurance is provided.

### **9.3 No Limitation of Liability**

Customer's insurance obligations and any Damage Waiver accepted by Customer do not limit Customer's responsibility for amounts, claims, losses, damages, or obligations not covered, waived, or released under the applicable policy, Damage Waiver, Rental Contract, Rental Terms and Conditions, or this Policy.

Failure to provide acceptable proof of insurance or accept the Damage Waiver may delay, suspend, or prevent rental, delivery, service, or release of Equipment

## **10. RELEASE, WAIVER OF CLAIMS, AND INDEMNITY**

### **10.1 Assumption of Risk**

Customer acknowledges that using Equipment involves inherent risks of personal injury, death, and property damage, which cannot be entirely eliminated even when Equipment is used as intended. Customer voluntarily assumes those risks on behalf of itself and any operators or users of Equipment under its supervision or control.

### **10.2 Release and Waiver**

To the fullest extent permitted by law, Customer, on behalf of itself and its officers, employees, agents, contractors, guests, invitees, successors, and assigns, releases New West Equipment and its affiliates, owners, directors, officers, employees, contractors, and agents from claims, demands, actions, damages, losses, costs, or expenses arising out of or connected with the rental, possession, transportation, or use of Equipment, except to the extent caused directly by New West Equipment's gross negligence or wilful misconduct

### **10.3 Indemnity and Hold Harmless**

To the fullest extent permitted by law, Customer agrees to defend, indemnify, and hold harmless New West Equipment and its affiliates, owners, directors, officers, employees, contractors, and agents from claims, demands, actions, damages, losses, liabilities, fines, penalties, and expenses, including legal fees on a solicitor-and-client basis, arising out of or related to:

- Customer's rental, possession, transportation, storage, handling, or use of Equipment;
- any breach of this Policy, the Rental Contract, or the Rental Terms and Conditions by Customer; or
- any claim by third parties for bodily injury, death, property damage, environmental damage, contamination, or regulatory costs connected with Equipment,

except to the extent caused directly by New West Equipment's gross negligence or wilful misconduct.

## **11. LIMITATION OF LIABILITY**

To the maximum extent permitted by applicable law, New West Equipment's total aggregate liability arising out of or in connection with the rental or use of Equipment, whether in contract, tort, negligence, or otherwise, is limited to the total rental charges actually paid by Customer for the relevant rental period.

New West Equipment is not responsible for indirect, incidental, special, punitive, or consequential damages, including loss of profits, loss of business, loss of use, business interruption, delay, or additional project costs, even if advised of the possibility of such damages.

## **12. GENERAL PROVISIONS**

### **12.1 Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein.

### **12.2 Severability**

If any provision of this Policy is held invalid or unenforceable, the remaining provisions remain in full force and effect.

### **12.3 Entire Agreement**

This Policy, together with the Rental Contract and Rental Terms and Conditions, constitutes the entire agreement between the parties with respect to the Damage Waiver and supersedes all prior or contemporaneous agreements, representations, or understandings on that subject.

### **12.4 Amendments**

No modification or amendment of this Agreement shall be effective unless made in writing and signed by an authorized representative of New West Equipment.

### 13. ACKNOWLEDGMENT

Customer acknowledges that Customer has read this Agreement, understands its terms, has had the opportunity to obtain independent legal advice, and agrees to be bound by its terms.

Accept Damage Waiver

Decline Damage Waiver, subject to New West Equipment's acceptance of proof of insurance or written approval

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**Customer Name**

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**Customer Signature**

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**Title**

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**Date**



# PROOF OF INSURANCE AUTHORIZATION

As a user of Equipment rented from New West Equipment, Customer is required to maintain adequate insurance coverage when required by New West Equipment. New West Equipment offers a Damage Waiver that may cover certain accidental direct physical damage to Equipment up to a maximum of \$2,000.00 per rental contract, subject to the Damage Waiver Policy.

If Customer does not wish to use New West Equipment's Damage Waiver and has its own insurance policy that covers rented Equipment, this form must be completed and approved by New West Equipment before the Damage Waiver is removed from future rental contracts.

**Customer-Arranged Transport:** If Customer picks up, returns, tows, hauls, or arranges transport of Equipment, NWE may require proof of automobile liability, cargo, trailer, contractors' equipment, or other coverage acceptable to NWE before Equipment is released

**Equipment will not be rented or released without either acceptance of the Damage Waiver, accepted proof of insurance, or written approval from New West Equipment.**

Please have your insurance broker or agent forward an endorsement or certificate of insurance to New West Equipment confirming the following.

- > **INSURED:** Customer name, policy number, and policy expiry date
- > **GENERAL LIABILITY:** Minimum acceptable coverage of \$1,000,000.00 per occurrence for bodily injury and property damage
- > **CONTRACTORS EQUIPMENT ALL-RISK PHYSICAL DAMAGE:** Coverage for the full replacement value or purchase values stated by New Equipment with a deductible acceptable to New West Equipment.
- > **ADDITIONAL NAMED INSURED AND LOSS PAYEE:** With respect to Equipment supplied by New West Equipment, and arising out of Customer's operations, New West Equipment must be added to the policy as additional insured and/or loss payee, as applicable.
- > **NOTIFICATION:** New West Equipment must receive notice before cancellation or material change to the above coverage where available from the insurer.

By signing this form, Customer authorizes New West Equipment to contact Customer's insurance agency, broker or insurer to verify insurance coverage. Completed forms and insurance documents should be sent to [info@newwestequipment.com](mailto:info@newwestequipment.com).

# DAMAGE WAIVER DECLINE REQUEST

As an authorized representative of the company named below, I request that the New West Equipment Damage Waiver no longer be applied to rental contracts from the date approved by New West Equipment below.

I acknowledge that this request does not remove, reverse, or credit Damage Waiver fees applied to rental contracts that have already started, prior rental contracts, or invoices already issued.

I acknowledge that declining the Damage Waiver means the company listed below accepts responsibility for all costs incurred by New West Equipment to replace, repair, recover, clean, inspect, test, restore, or return Equipment to service, including lost rental charges and administrative fees, except to the extent covered by insurance accepted by New West Equipment.

**COMPANY NAME:**

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**CONTACT NAME:**

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**CONTACT PHONE:**

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**INSURANCE AGENCY:**

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**ADDRESS:**

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**AGENT NAME:**

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**AGENT PHONE:**

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**EMAIL:**

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**FAX:**

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**POLICY NUMBER:**

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**EXPIRY:**

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**AUTHORIZED SIGNATURE**

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**DATE**

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**NEW WEST SIGNATURE**

**APPROVAL DATE**

