

Borrower's Agreement

1. Membership

- Members must be age 18 or over to hire tools from the Gap Filler Trust t/a the Tool Lendery (the "Tool Lendery").
- Prior to hiring tools, all Members must:
 - create an account with MyTurn;
 - sign the Liability Waiver form;
 - sign this Borrower's Agreement & Tool Use Policy form.
 - verify their identity. This includes presenting the following forms of identification to a Tool Lendery staff member:
 - a valid government-issued photo ID
 - proof of current address

2. Hiring tools

- Membership to the Tool Lendery is free, however every tool borrowed will incur a hire charge of \$5 per tool.
 - The Tool Lendery has the right to change the hire price at any time.
- Payments are to be made online via MyTurn, with a valid debit or credit card.
- The hire period is for 7 days, from the date the tool/s is/are collected.
- Members may borrow up to 5 tools at any one time.
- The Tool Lendery reserves the right to refuse the loan of any tool at its discretion.
- Tools may only be used for home and personal uses and not commercial uses.

3. Reservations

- Items may be reserved free of charge online, up to ten days before check out.
- All reservations must be confirmed by a Tool Lendery staff member to be effective.
- All reservations due to be collected during our open hours on a specified day, will be cancelled if not collected by the end of the day's open hours.

4. Tool Use

- Only the Member is authorized to use Tool Lendery tools hired under their account (**Borrowed Tools**), and shall not permit the Borrowed Tools to be used by any other person except with the express permission of the Tool Lendery.
- Items must be operated safely, for their intended use, and in accordance with any operation manual supplied by the Tool Lendery.
- Tool Lendery staff are available to assist in explaining the operation of tools, however by taking possession of any tool, the Member is certifying that they are able to operate that tool in a safe and proper manner.
- The Member acknowledges that some of the tools are second hand, and that if the Borrowed Tool stops working or becomes unusable due to normal wear and tear, the Tool Lendery will find, if available, a replacement for the Borrowed Tool without any extra charge or fines.
- The Member agrees that the Tool Lendery is not responsible for any manufacturing defects in quality of workmanship or materials inherent in any Borrowed Tools nor any damage to any property arising out of such defect in the Borrowed Tool.
- The Member agrees that if any Borrowed Tool becomes unsafe to use or otherwise becomes unusable, they must immediately discontinue use of the tool and notify the Tool Lendery of the issue in writing within two business days.
- The Member agrees that they will not tamper with or attempt to repair any tool.

5. Returning Tools

- All Borrowed Tools are to be returned by close of Tool Lendery open hours on their due date.
- Borrowed Tools must be returned in person to the Tool Lendery during our open business hours, as stated on our website.
- All Borrowed Tools are to be returned in the same condition than they were issued, barring normal wear and tear. All Borrowed Tools must be cleaned before they are returned.
- If a Borrowed Tool is returned late, the Member will pay a late fee as follows:
 - This late fee will be \$1 per day for every day until the Borrowed Tool is returned.
 - Late fees are capped at the full replacement cost of the Borrowed Tool plus a \$5 administrative fee per Borrowed Tool.
 - Fines must be paid in full before borrowing additional tools.

6. Renewals

- Members may extend the hire period for a Borrowed Tool by renewing the hire agreement online, so long as no other Member has reserved the same tool.
- The Tool Lendery reserves the right to refuse or limit renewals and will do so at its discretion.

7. Loss or theft of tools

- All tools supplied by the Tool Lendery to the Member under this agreement shall remain the property of the Tool Lendery.
- Members are responsible for the damage to, and loss or theft of Borrowed Tools. They must pay immediately on request by the Tool Lendery:
 - the list price of any Borrowed Tool that, for any reason whatsoever, is not returned to the Tool Lendery; and
 - the full cost of repairing any damage to the Borrowed Tool caused or contributed to by the Member plus a \$5 administrative fee.
- The Tool Lendery reserves the right to take appropriate steps to retrieve unreturned Borrowed Tools or unpaid fines and fees, including any expenses and legal costs incurred by the Tool Lendery in enforcing the terms of this Borrower's Agreement.
- The Member authorises the Tool Lendery to charge any amounts owing by the Member to any credit card, the details of which, the Member has provided to the Tool Lendery.
- The Tool Lendery also reserves the right to forgive fees due to special circumstances.

8. Breach of Borrower's Agreement & Tool Use Policy

- If the Member breaches any clause whatsoever of this Borrower's Agreement then the Tool Lendery will be entitled to terminate this Borrower's Agreement with immediate effect and the Member must immediately return the Borrowed Tool to the Tool Lendery.

9. Privacy Act 1993

- The Tool Lendery complies with the New Zealand Privacy Act 1993 when dealing with personal information.
- We will take reasonable steps to keep your personal information safe from loss, unauthorised activity, or other misuse.
- While we take reasonable steps to maintain secure internet connections, if you provide us with personal information over the internet, the provision of that information is at your own risk.
- We will use your personal information:
 - to verify your identity
 - to communicate with you
 - to protect and/or enforce our legal rights and interests, including defending any claim

10. Exclusion of Warranties and Liabilities.

- Where the Consumer Guarantees Act 1993 (“CGA”) applies, the Member has the benefit of guarantees in relation to the hire of the Borrowed Tools which cannot be excluded.
- To the extent that the CGA (or any other law which cannot be excluded) does not apply, the Tool Lendery makes no representations and gives no warranties other than those set out in Borrower’s Agreement, and will not be liable to the Member for any damages, costs or other liabilities whatsoever (including for consequential loss) in relation to the hiring of the Borrowed Tools by the Member but, if for any reason, the Tool Lendery is liable for any damages, costs or other liabilities whatsoever, then its liability is limited to a maximum of \$1 for all claims whatsoever.
- The Tool Lendery shall have no liability to the Member or any other person whether in contract, tort or otherwise for any special, consequential or indirect damages or losses except to the extent otherwise mandatorily required by law.
- No action or proceedings for any breach of this Agreement shall be commenced after the expiry of 12 months from the date of hire of the Borrowed Tool.
- The Member indemnifies the Tool Lendery against all liabilities, damages, expenses, losses (including all legal costs) and claims suffered, incurred or made against the Tool Lendery by a third party arising out of or in connection with the Member’s hire and/or use of a Borrowed Tool.

11. Member Warranties

The Member gives the following warranties to the Tool Lendery:

- The Member has read and fully understands the rules and regulations of the Tool Lendery (including this Borrower’s Agreement), and the Member understands that failure to comply with any of these rules may result in revocation of the Member’s borrowing privileges and/or legal action against the Member.
- The Member affirms that the information that the Member has provided on the Membership Application is current, true, and correct. The Member understands that this information may be subject to verification.
- The Member has read and signed a Waiver and Indemnification form, relinquishing any and all claims against the Tool Lendery.

Please check the box on the sign up form, acknowledging that you have read and agree to the Tool Lendery Borrower’s Agreement.