

Hospitality Accessories

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Agreement for the Hire of Party and Event Equipment

Definitions

Owner is the proprietor of the equipment listed in the Schedule to this agreement.

Hirer includes an agent of the hirer and agrees to hire the equipment specified in the Schedule from the owner upon the terms and conditions in this agreement.

Equipment means any item of party and event equipment listed in the Schedule to this agreement including accessories.

Site is the location where the equipment is delivered, collected, picked up or returned to and from.

Hirer Representative is the person, other than the Hirer, signing for goods delivered or returned in the event that the Hirer should be absent at the point and time of delivery or return of the hire items

1. Hire of equipment

- 1.1. The hiring of the equipment will commence from the commencement date specified in the Schedule and continue for the term specified in the Schedule.
- 1.2. The hirer is entitled to use the equipment once during the hire period. Any extension of the period or if multiple uses during the hire period is required must be agreed to by the owner.
- 1.3. If unspecified the hire period is for 1 day from the commencement date.
- 1.4. The hirer agrees to return the equipment to the address identified by the owner on or before the end of the hire period as outlined in the Schedule and that failure to do so can be criminal theft and may be immediately reported to the police.
- 1.5. The Owner has inspection procedures in place to ensure that items delivered for hire are in good quality and in the quantity as described on the packing slip/delivery docket or Hire Contract. It is the Hirers responsibility to ensure notification, of any shortages or damages to the delivered or collected goods, within 12 hours or before used, which ever comes first.

2. Payment for rental

2.1. General Payment Policies

- (i) The hirer agrees to pay the owner the hire fee and the damage waiver fee specified in the Schedule for the equipment for the hire period including any applicable GST, stamp duties, tolls, fines, penalties, levies or freight and other charges relevant to this agreement and the hire.
- (ii) The required fees must be paid to the owner prior to or on the commencement date of the hire period. Account customers who do not pay their account on the terms agreed will be deemed to be in default. Equipment not returned on time and in accordance with this agreement will be subject to a continuance of the agreed rental until return is complete.
- (iii) The owner may agree to make equipment delivery and collection arrangements to and from the hirer's site and the hirer will pay to the owner any charges and expenses incurred in such delivery, installation and/or collection. The owner will use its best endeavours to deliver the equipment by the agreed time but will not be liable to the hirer for a late delivery, non-delivery or any associated loss or damage due to a late or non-delivery.
- (iv) A cancellation fee may be charged by the owner where equipment has been reserved by booking and the hirer cancels the booking without reasonable notice or fails to take delivery of the equipment.
- (v) The owner may charge the hirer a fee for accepting payment by credit card.
- (vi) The owner reserves the right at any time without notice to revise the hire charges.

3. Deposits

- 3.1. All non-account customers will be required to pay 20% deposit at the time of booking. Verbal and written confirmation does not constitute a confirmed booking until such a time as a deposit is received along with a written remittance advice. Once remittance advice is received, following a deposit, only then will this constitute a confirmed order upon which availability and prices are guaranteed.

4. Final Payments

- 4.1. Non-Account Customers: Final payment for non-account customers are required to be cleared 10 days prior to the function date, and failure to do so may, to the discretion of the Owner, result in cancellation of the order, upon which the Hirer will forfeit its right to the 20% Deposit.
 - 4.2. Account Customers: Unless otherwise specified payment is strictly 30 days from invoice .
- 5. Late Payment**
- 5.1. Non-Account Customers: Failure to make full payment 10 days prior to the function will incur an immediate 10% charge on the whole invoice amount and will accrue daily at the rate of 21% per annum from the invoice date.
 - 5.2. Account Customers: All payments outstanding after 30 days from the invoice date will accrue daily at the rate of 21% per annum until the Owner receives full payment.
- 6. Payment Recovery**
- 6.1. In the event that payment for Goods remains outstanding 35 days after the invoice date, legal action may be taken for the recovery without further notice. Costs associated with legal action are recoverable from the Hirer.
 - 6.2. The Hirer agrees to submit to the non-exclusive jurisdiction of the courts of Perth Western Australia.
- 7. Amendments, Variations and Cancellations**
- 7.1. Ordered Items cancelled after 7 days from the confirmed order date will be charged 20% of the full item hire price.
 - 7.2. Ordered Items cancelled within 7days prior to the function date will be charged at 50% of the full item hire price. Ordered items cancelled after delivery or pickup will be charged for at the full hire price.
 - 7.3. The Owner reserves the right to cancel any orders on the bases of unsatisfactory working conditions, unsatisfactory weather conditions or if the Owner feels that for any reason the hire equipment are in danger of being stolen or damaged.
 - 7.4. If the Owner is unable to provide goods to the Hirer, for reasons outside of its control, then the Owner may, make changes to the order, or cancel the order (even if full payment had been received), upon which the Owner will forfeit all rights to the hire fee and a refund will be made accordingly.
- 8. Returns**
- 8.1. Upon the collection or return of goods the Owner has the right to count the goods once it arrives back at the Owners premises, upon which, the Hirer will remain responsible for any losses or damages.
- 9. Late Returns**
- 9.1. All items returned after the due date as outlined on the Hire Contract will incur additional late return charges. Late returns, will incur a day rate based on the original hire fee being for 7 days unless otherwise stated.
- 10. Security Bond**
- 10.1. In some instances a security bond might be required and if so any missing/damages will be deducted from this amount. Missing Items will be deducted from the bond at full replacement cost. A appropriate refund will be made when the missing goods are returned in conjunction with the terms of clause 9.
 - 10.2. Bonds will be refunded within 14 days from the time of return less any late return fees, losses or damages, as listed in clause 10.1 and clause 15.
 - 10.3. In the event that the bond should not cover the full charge for missing/damaged goods, an invoice will be issued and will be payable immediately.
- 11. Damage waiver fee**
- 11.1. Upon payment by the hirer of the damage waiver fee the owner shall be responsible for the cost of repairs or replacement of the equipment due to damage occurring during the hire period subject to any excess payable by the hirer.
 - 11.2. This clause in no way entitles the hirer to, or implies the availability of, compensation from the owner for any liability incurred by the hirer in relation to the use of the hired equipment.
 - 11.3. This clause will not continue to operate after the expiration of the hire agreement unless an extension by the owner is granted in writing and an additional agreed fee is paid.
 - 11.4. This clause will not apply to loss or damage which relates to or arises from:
 - (i) breach of any statutory laws or regulations in connection with the use of the equipment by the hirer;
 - (ii) misuse, abuse, wilful and/or malicious acts, negligent and/or reckless use and/or overloading of the equipment;
 - (iii) theft, loss or damage by whatever cause to tools and/or accessories supplied with the equipment including but not limited to; hoses, drills, bits, grease guns, electric leads, tyres and tubes;
 - (iv) lack of lubrication or non-adherence to other normal maintenance requirements that could reasonably be expected of the hirer under the agreement;

- (v) disregard for instructions given to the hirer by the owner in respect of the proper use of the equipment or in contradiction of the Manufacturer's Instructions if supplied with the equipment at the commencement of hire;
- (vi) unexplained disappearances of the equipment;
- (vii) theft of the equipment in circumstances where site security is available including, but not limited to, locked yards, buildings and sheds, where proper security is not used by the hirer to secure the equipment whilst they are left unattended;
- (viii) loading or off loading equipment from maritime vessels, transportation of equipment on maritime vessels or the use of equipment on any wharf or bridge or over any body of water.

12. Use, operation and maintenance

- 12.1. The hirer agrees that the use of the equipment carries with it dangers and risks of injury and the hirer agrees to accept all dangers and risks.
- 12.2. The equipment shall not be used by anyone other than the hirer without the express permission of the owner.
- 12.3. The hirer will ensure that all persons operating or erecting the equipment are instructed in its safe and proper use and where required hold a valid Certificate of Competency or are fully licensed to use it.
- 12.4. The hirer agrees to operate, maintain, store and transport the equipment in a proper manner and where required strictly in accordance with any instruction provided by the owner and with due care and diligence.
- 12.5. The hirer agrees that the equipment will only be used for its intended purpose and in accordance with any manufacturer's instructions and recommendations whether supplied by the owner or posted on the equipment in regard to its operation, maintenance and storage
- 12.6. The hirer agrees to comply with all occupational health and safety laws and regulations relating to the use of the equipment and associated operations.
- 12.7. The hirer shall ensure the equipment is returned to the owner clean of all foreign matter or agrees to a reasonable cleaning fee being charged by the owner.
- 12.8. The reasonable costs of fuel or other consumables provided by the owner and used by the hirer are to be paid to the owner at the completion date.

13. Hirer's warranties

- 13.1. The hirer warrants that:
 - (i) the equipment will be used in accordance with the conditions outlined in the Schedule;
 - (ii) the particulars in the Schedule are correct in every respect and are not misleading in any way including, without limitation, by omission;
 - (iii) the hirer holds a valid current driver's licence, operating licence or permit valid for the type of equipment hired;
 - (iv) the equipment will not be used for any illegal purpose;
 - (v) the hirer's vehicle is suitable for towing the equipment if required;
 - (vi) the hirer will not, without prior written consent of the owner, tamper with, repair or modify the equipment in any way, or permit another to do so;
 - (vii) the hirer agrees that the equipment complies with its description, is in merchantable condition and is fit for the hirer's purpose.
 - (viii) the hirer agrees that the equipment has been received by the hirer clean and in good working order.
 - (ix) the hirer will not in any way part with possession of the equipment, nor assign this hire contract, nor remove the equipment from the State without the prior approval of the owner.

14. Indemnity

- 14.1. To the full extent permitted by law the hirer releases, discharges and indemnifies the owner from all claims and demands on the owner arising out of or consequent on the use or misuse of the equipment during the hire period.
- 14.2. Without limiting clause 14.1 of this agreement, the hirer agrees that to the full extent permitted by law, no warranties are given by the owner in respect of the equipment. Any liability of the owner pursuant to any warranty which cannot be excluded by law will not exceed either the cost of repairing the equipment or the cost of resupplying the equipment, at the discretion of the owner.

15. Loss, damage or breakdown of equipment

- 15.1. Subject only to the obligations of the owner following payment of the damage waiver fee by the hirer in accordance with Clause 11 the hirer will be responsible for any loss or damage to the equipment irrespective of how the loss or damage occurred, except for fair wear and tear, during the hire period.
- 15.2. The hirer is liable for the payment of the new list price of any equipment not returned to the owner.

- 15.3. If there is a breakdown or failure of the equipment the hirer shall notify the owner immediately for the appropriate action to be taken.
- 15.4. Upon receiving the returned goods, the Owner will inspect all goods within 14 days, and if any damages, losses or equipment in unsatisfactory condition are found then the Hirer shall compensate the Owner for all expenses required to replace, fix or clean the affected goods.
- 15.5. All linen items returned with holes, burns, rips, tears or any other permanent markings will be charged at a full replacement cost. Replacement charges will be limited to marks that are considered permanent as a result of the inability to remove them by means of ordinary laundry treatment. Professional cleaning requirements such as dry-cleaning will be charged in full to the Hirer.
- 15.6. Missing Goods returned after 60 days from the invoice date will not be accepted by the Owner but will be subjected to full replacement cost instead.
- 15.7. Returned missing equipment, in accordance with clause 15.6, is subjected to day rate hire charges, Collection fees and Administration fees associated with issuing the credit invoice.
- 15.8. Credits for the return of missing items are only valid for 6 months from the date issued, after which it expires.

16. Termination

- 16.1. Without prejudice to any other remedies the owner may have against the hirer and notwithstanding the period of hire specified in the contract, the hire agreement may be terminated by the owner as follows;
 - (i) Upon giving the hirer two days written notice of termination at any time during the period of hire
 - (ii) Without notice if the hirer has a winding-up petition presented against it, or be wound up, or go into voluntary liquidation, or has a receiver of any of its assets appointed, or it makes an assignment/compromise to the benefit of its creditors or if its business is placed under official management or if it ceases to carry on business.
 - (iii) Without notice if the hirer commits a breach of any part of this hire contract in accordance with Clause 21.5.

17. Insurance

- 17.1. The owner will maintain current insurance policies in respect of the equipment to its full insurable value. This insurance does not cover the hirer unless they elect to pay the damage waiver fee described in Clause 11.

18. Liability

- 18.1. The hirer will assume all risks and liabilities for, and in respect of, the equipment and for all injuries to or deaths of persons and any damage to property howsoever arising from the hirer's possession, use, maintenance, repair, storage or transport of the equipment.

19. Disclaimer

- 19.1. To the extent permitted by law the owner disclaims all liability for and does not give any warranties to the hirer as to the condition of the equipment.

20. Title to equipment

- 20.1. The hirer acknowledges that the owner retains title to the equipment and that the hirer has rights to use the equipment as a mere bailee only. The hirer agrees that the hirer has no rights to pledge the owner's credit in connection with the equipment.
- 20.2. The hirer agrees not to agree, offer or purport to sell, assign, sub-let, lend, pledge, mortgage let or hire or otherwise part with or attempt to part with personal possession or otherwise not to deal with the equipment and not to conceal or alter the goods or make any addition or alteration to, the equipment.

21. Repossession and remedies on default

- 21.1. The owner may retake possession of the equipment if the hirer breaches any provision of this agreement or does not pay their account in the time agreed, notwithstanding anything else herein contained.
- 21.2. If repossession takes place, the owner shall only charge the hire fee up to and including the time of repossession.
- 21.3. All costs incurred by the owner incurred in repossessing due to a breach are to be paid by the hirer.
- 21.4. In the case of repossession due to a breach of this agreement the hirer agrees to grant the owner permission to enter any premises where the equipment listed in the Schedule is situated to disconnect, decommission and/or remove that equipment.
- 21.5.** In addition to the owner's right to retake possession the owner is entitled in its discretion, following any breach of any provision of this agreement by the hire, to terminate this agreement and/or sue for recovery of any damages or charges or loss suffered by the owner, and/or to cancel any insurances effective in respect of the equipment hired.

22. Completion of the hire period

- 22.1. The hire period is completed when the equipment has been returned to the owner in the same condition as when it was hired:

- 22.2. on or by the date and time outlined in the Schedule, or
- 22.3. will be deemed completed on the date agreed for pick-up by the owner.
- 22.4. Where pick-up is agreed the owner will arrange to pick-up the equipment within a reasonable period after a request to do so and will issue the hirer with a pick-up number on request.
- 22.5. The hirer agrees to maintain the responsibility for the equipment whilst it is awaiting pick-up.

23. Non-merger

- 23.1. The covenants, agreements and obligations contained in this agreement will not merge or terminate upon the termination of this agreement and to the extent that they have not been fulfilled or satisfied or are continuing obligations they will remain in force and effect.

24. Severance

- 24.1. If any provision of this agreement is wholly or partly invalid, unenforceable, illegal, void or voidable, this agreement must be construed as if that provision or part of a provision had been severed from this agreement and the parties remain bound by all of the provisions and part provisions remaining after severance.

25. Governing law

- 25.1. This agreement is governed by the laws of the State or Territory where the agreement is made and each party submits to the exclusive jurisdiction of the Court of that State or Territory.

26. Privacy policy

- 26.1. The owner will comply with the National Privacy Principles in all dealings with hirers. Information on our privacy policy is available on request.

27. Disputes

- 27.1. Both the owner and the hirer agree that any disputes arising from the hire and use of the equipment (except in regard to payment of fees or charges) shall be negotiated with a view to settlement with the assistance of the Hire and Rental Industry Association Limited (Tel 02 9997 5166) before litigation is pursued.