



Harcourt & District Lions Club

Marquee Hire Terms and Conditions

1. Definitions

- (a) ACL means the Australian Consumer Law contained in Schedule 2 of the Competition and Consumer Act 2010 (Cth).
- (b) Payment means a financial deposit equal to 25% of the agreed total hire charge.

Bendigo Bank

BSB: **633-000**

ACC: **151589876**

REFERENCE: **NAME & HIRE DATE**

- (c) Club means Harcourt & District Lions Club, PO Box 100 Harcourt VIC 3453.
- (d) Customer means the person hiring the equipment from the Club, including all persons acting on behalf of, or under the instructions of the customer.
- (e) Equipment means the equipment listed on the booking form or invoice.
- (f) Hire charge means the hire charge set out within written quotation or tax invoice, together with any applicable taxes and duties.
- (g) The Club agrees to hire the equipment to the customer for the term and the customer agrees to take the equipment on hire for the term and pay the hire charge. The hire charge must be paid in full prior to the equipment being removed from the Club's premises, unless the customer is an approved account customer, in which case terms of payment are strictly 30 days from the date of the invoice. In the event of cancellation of the hire within 7 days of agreed commencement of term, the Club reserves the right to charge a cancellation fee equivalent to 25% of the hire charge rate as is current at time of cancellation.
- (h) Late return means return of hired equipment after agreed date and time of return, as specified (where no time is specified, return time is 3:00pm on final day of hire)
- (i) PPSA means the Personal Property Securities Act 2009 (Cth).
- (j) Return means the delivery of all equipment to the Club.
- (k) Return period means the date and time as agreed in the schedule that equipment is to be returned to the possession of the Club. (Where no date or time has been specified in the schedule, return period is by 4pm on final day of Hire)
- (l) Schedule means the rental contract, tax Invoice or quotation outlining details and specifics of hire, including but not limited to; term, return period, hire charge, customer.
- (m) Security bond means financial security deposit held by the Club; this amount is equal to the Hire Charge or \$1,500 whichever is lesser.
- (n) Term means the period specified within schedule. Equipment is hired strictly on the basis of the terms and conditions contained in this agreement. Modification of these terms and conditions expressed in any document of the customer will not apply to the hire of the equipment unless expressly accepted in writing by the Club.

2. Cancellations

- (a) Any customer cancellation must be made no less than 7 days prior to the event date or else no deposit fees will be refunded. No exceptions.
- (b) Cancellation of bookings will only be accepted when made in writing, and will result in the forfeit of the booking deposit.

- (c) Cancellation or postponement of event due to unforeseen and unsuitable weather conditions will be through consultation with the customer; however the Club reserves the right to the ultimate decision.
- (d) Postponement of event due to weather conditions will incur additional technician charges and any rehire of equipment for the rescheduled event once the technician has begun setting up the equipment at the venue of initial booking. The Club reserves the right to require reimbursement of reasonable expenses beyond the control of the Club or its staff.
- (e) In the event of postponement due to extreme weather prior to technician departing for the event, the Club agrees to reschedule a substitute event within 12 months of original event date at no additional cost to the customer.

3. Customer Obligations and Responsibilities:

- (f) Maintain the security of the equipment at all times.
- (g) Not move or alter the equipment without the prior consent of the Club.
- (h) Not use or allow the equipment to be used on any abnormal or hazardous location, or contrary to the instructions of use, unless the Club has given consent.
- (i) Take all reasonable precautions for the safety and security of the equipment and not use the equipment where it could be affected by extreme weather events or hazardous conditions.
- (j) Comply with all relevant laws and regulations when using the equipment.
- (k) Return the equipment to the Club by the expiry of the term in good working order and condition, and inform the Club of any damage or defect arising during the hiring or any incident that occurred during the hiring likely to cause a defect or damage.
- (l) Not attempt to adjust, repair or interfere with the equipment except where it is necessary for its proper and normal use.
- (m) Ensure the equipment is used in a skilful and proper manner by persons with the necessary experience and familiarity with that type of equipment.

4. Delivery & Collection

- (a) Delivery and/or collection of equipment will be arranged by the Club, including any associated delivery and transportation costs.
- (b) Collection of equipment shall be by mutual arrangement on the final day of the hire.

5. State of Equipment

- (a) The customer will check the equipment upon receipt and unless it notifies the Club promptly upon receipt, it will be deemed to be accepted as being complete and in good working order.
- (b) Return of hired equipment in a dirty state may attract an additional cleaning surcharge at the discretion of the Club.
- (c) The Club may deduct such amounts from the security bond. The customer shall be liable for any additional amounts in excess of the security bond.

6. Return of Equipment

- (a) All equipment contained in the hire transaction is to be return no later than agreed with the Club on the final day of hire.
- (b) Late return will be subject to a surcharge equal to the daily hire charge for every 24 hours or part thereof after agreed return period.
- (c) Return of equipment constitutes an implied warranty from the customer that all components and items have been returned in full working condition (less

reasonable wear and tear from acceptable use) unless written notification is provided at time of return.

7. Title

- (a) The customer acknowledges that the Club holds a security interest in the equipment, which the Club may register.
- (b) The customer waives its right to receive a notice or statement under sections 95, 141(4), 130 and 157 of the PPSA.
- (c) In this clause 7, the terms "security interest" have the same meanings as under the PPSA.

8. Risk, loss of Equipment and insurance

- (a) The customer accepts responsibility for the care and safekeeping of the equipment and is liable for any damage to or loss or destruction of the equipment from any cause whatsoever (including the acts and omissions, whether negligent or not, of technicians) from the time the equipment leaves the Club's premises until the time the equipment is returned, including occasions where the Club agrees to deliver or pick up the equipment.
- (b) The Club will be entitled to demand and recover from the customer any losses (including costs) incurred by the Club in respect of loss or damage to the equipment, howsoever arising.
- (c) Notwithstanding any insurance cover in respect of the equipment, the customer remains liable under the provisions of this agreement and will also be liable to pay the hire charge for the equipment at the rate applicable for the term until the equipment is replaced or repaired as the case may be.
- (d) Any loss of or damage to the equipment must be immediately notified to the Club and the customer will, at the request of the Club, take any steps reasonably required of the customer in respect of making reports to the Club, the insurer, the police or other appropriate authorities concerning any such loss or damage.
- (e) Any claim on the customer's own insurance policy will be at the discretion of the customer and will not be an obligation or requirement of the Club.
- (f) The customer will not do any act or thing whereby any warranty or insurance in respect of the equipment may be voided or prejudiced in any way. The customer acknowledges that installation to the equipment of non-authorized third party hardware, and use other than in accordance with manufacturer's instructions will in most cases void the cover.
- (g) The customer acknowledges and agrees that insurance held by the Club does not extend to cover damage to the equipment, loss or theft during hire and whilst in the possession of the customer.
- (h) A standard security bond may be payable and held by the Club in the form of a credit card authorization or cash (up to \$500) for each and every instance of hire. This bond is refundable upon full compliance with the return times and equipment being returned, complete in good, clean working order. This bond may be applicable to all forms of customer, including cash and 30 day account holders. The Club may deduct such amounts from the security bond and the customer shall be liable for any additional amounts in excess of the security bond (where applicable).

9. Pricing & Quotation

- (a) Any and all advertised or otherwise communicated pricing is subject to change and variation at any time without notice to the customer.
- (b) Any prices, charges, costs or estimations provided either verbally or in writing (other than by means of formal written quotation) are defined as estimates only and are not legally or financially binding to any or either party.

- (c) All pricing (unless otherwise specified in writing) excludes freight, delivery, transport, operator, technician, labour, insurance or licensing costs.

10. Availability & Reservations

- (a) The Club makes no offer, agreement or assurance of availability of equipment whether in writing or verbally prior to receipt of booking confirmation, signed rental agreement and payment of booking deposit.
- (b) The Club reserves the right to provide equipment to an alternative customer in the event a booking deposit has not been received to confirm the booking.
- (c) The customer agrees and acknowledges that the Club shall not be held liable for any loss, financial or otherwise due to unavailability of equipment where that equipment has been booked by another customer prior to the booking deposit being paid.
- (d) The Club cannot and does not guarantee the availability of equipment until booking deposit has been received.

11. Exclusion of Warranties

Except to the extent:

- (a) that the exclusion, restriction or modification of certain conditions, warranties, liabilities and rights is prohibited by the ACL; and
- (b) of any express warranty against defects, then:
- (c) any conditions, warranties or rights implied to the customer's benefit by legislation, conduct or common business practice are hereby excluded to the maximum extent permissible; and
- (d) the Club will not be liable for any defects or damage caused in whole or in part by misuse, abuse, neglect, or accident;
- (e) The Club's total maximum liability in relation to or arising from any hire of equipment is the hire charge paid by the customer.
- (f) Where the goods are not of a kind ordinarily acquired for personal, domestic or household use or consumption, the customer's remedy under Part 3-2 of the ACL, other than in respect of sections 51, 52 or 53, is limited to one or more of:
- (i) the replacement of the goods;
 - (ii) the supply of equivalent goods; or
 - (iii) the cost of replacing the goods or of acquiring equivalent goods;
 - (iv) the cost of having the goods repaired.
- (g) Where any services supplied by the Club are not of a kind ordinarily acquired for personal, domestic or household use or consumption, the customer's remedy under Part 3-2 of the ACL is limited to one or more of:
- (i) the supply of the services again; or
 - (ii) the payment of the cost of having the services supplied again.
- (h) Where the Club is deemed to be a "manufacturer" for the purposes of Part 5-4, Div 3 of the ACL, then where the goods are not of a kind ordinarily acquired for personal, domestic or household use or consumption, Club's liability under section 274 of the ACL is limited to the lowest of:
- (i) the cost of replacing the goods;
 - (ii) the cost of obtaining equivalent goods;
 - (iii) the cost of having the goods repaired.
 - (iv) the limitation in paragraphs (b), (c) and (d) above do not apply where the customer establishes that the limitation is not fair and reasonable.
- (i) If the equipment is found to be defective, the customer must immediately notify the Club, which will endeavour, in its sole discretion, to replace or repair the defective item as expeditiously as possible, or authorize a competent repairer to repair the equipment. If the defect is determined by the repairer to be caused by misuse, neglect or carelessness, the full cost of

repairs will be borne by the customer, who will also be liable to pay the hire charge until the equipment is returned to the Club fully repaired.

- (j) The Club is solely responsible for carrying out all service and repairs to the equipment and no repairs are to be carried out without the prior written consent of the Club.

12. Termination

- (a) If the customer defaults in punctual payment of any amount due under this agreement, is in breach of any term of this agreement, is declared bankrupt or enters into any agreement for the benefit of its creditors or if any execution of distress is levied against it and remains unsatisfied, or being a company, is placed into receivership, receivership or liquidation, then in any such case the Club may without further notice, and without prejudice to any of its rights, terminate this agreement.
- (b) In the event of termination the customer must immediately at its own risk and cost deliver up the equipment to the Club, provided however that in the event that the customer neglects or refuses to do so, it is agreed that the Club, its servants and agents may without prior notice and without liability for trespassing or any resulting damage, enter any premises where the equipment is situated and seize and retake possession of the equipment. It is further agreed that the customer will be liable to pay upon demand all costs and expenses which are incidental to any such retaking of possession incurred by the Club, together with penalty interest calculated at a rate which is 3% above the 90 day bank bill rate of the Club's bank from time to time.

13. Authority

- (a) Where any person signs this agreement on behalf of the customer, the person so signing warrants that he or she is duly authorized by the customer to enter into this agreement.

14. Governing Law

- (a) This agreement will be governed by the laws applicable in the state of Victoria, Australia and both the Club and the customer submit to the jurisdiction of the courts of that state and any courts competent to hear appeals from those courts.

15. Agreement

I..... acknowledge that I have read and understood these Terms and Conditions of the equipment hire. I acknowledge that I have been provided with the necessary advice and instruction on how to use the equipment. I acknowledge that it is my responsibility to understand the operation of the hired goods and to complete a risk assessment prior to using the equipment to identify and control any associated hazards. I accept full responsibility for the assessment of risks, operation, care and maintenance for the period the equipment is in my care. I will not hold the Club or its staff, responsible for any injury or damage incurred while using the equipment. I understand that I am responsible for returning the equipment on the date indicated within the schedule in the same condition as it was provided.

Signed..... Date.....