



Allshelter Pty Ltd Hire Terms & Conditions

These Hire Terms & Conditions are applicable to all hire of Equipment between the Company and the Hirer.

1. Definitions

In these Hire T&Cs:

Account Application means the application by the Hirer for an account with the Company whether completed prior to or contemporaneously with the acceptance of the Hire T&Cs, which must contain such information as is reasonably required by the Company.

Approved Credit Hirer means that the Hirer has been approved by the Company for a credit account for use for Hire Agreements.

Charges mean any charges incurred pursuant to the terms of the Hire T&Cs including default charges, Charges set out in clause 6 and LDW.

Commencement Date means the date stipulated in the Hire Agreement or if no commencement date is stipulated, the date the Hirer takes possession of the Equipment.

Company means Allshelter Pty Ltd (ACN 163 288 355).

Consequential Loss means:

- (a) loss of revenue;
- (b) loss of profit or anticipated profit;
- (c) loss of business;
- (d) loss of business reputation;
- (e) loss of opportunity;
- (f) loss of anticipated savings;
- (g) loss of goodwill; and
- (h) any other loss suffered by the Hirer that cannot reasonably be considered to arise directly and naturally from a breach by the Company.

Equipment means any equipment belonging to the Company, including but not limited to shelters, containers and any associated or attached accessories and parts available for hire.

Guarantee means any agreement under which a person guarantees to the Company performance of the Hirer's obligations under the Hire Agreement, as may be required by the Company.

Hire Agreement means any contract formed pursuant to these Hire T&Cs between the Company and the Hirer, as described in clause 2.1.

Hire End Date means the date specified in a Hire End Notice on which the hiring of Equipment under the Hire Agreement will cease;

Hire End Notice means a written notice issued by either Party as described in clause 4.

Hire Fee means the agreed fee for the hire of the Equipment pursuant to the Hire Agreement.

Hire Schedule means any document titled "Hire Schedule", or other document relating to the Hire Agreement specifying the Equipment, Hire Fee and/or Commencement Date, as agreed by the Parties.

Hire T&Cs means these Hire Terms & Conditions.

Hire Term means the term of the Hire Agreement, as described in clause 4.1.

Hirer means the Hirer engaging the Company to provide services and/or supply goods, as specified in the Hire Agreement.

Initial Hire Term means the term set out in the Hire Agreement.



LDW is the Loss Damage Waiver assurance plan as described in clause 7.

MTO Equipment means made to order equipment, including any Equipment that has been specially ordered for a Hirer (whether locally or from overseas) or which is specially manufactured for the Hirer or is not a stocked item.

Parties means to the Company and the Hirer.

Payment Date means the date for payment of Hire Fees and Charges as set out in the Hire Agreement or otherwise agreed in writing between the Parties, and if no Payment Date is specified, then payment shall be due on the date stipulated by the Company in any Tax Invoice or other document.

PPS Act means the *Personal Property Securities Act 2009* (Cth) and its associated Regulations as varied from time to time.

- (a) a reference to a thing includes a part of that thing;
- (b) "including" and similar expressions, and the giving of examples, do not limit what else may be included;
- (c) headings are for ease of reference only and do not affect interpretation;
- (d) the singular includes the plural and vice versa; and
- (e) another grammatical form of a defined word or expression has a corresponding meaning.

2. Hire Agreement and Account Application

2.1. All Hire Agreements consist of:

- 2.1.1.** the version of these Hire T&Cs applicable at the time of entering into the Hire Agreement (as notified to the Hirer under clause 2.3);
- 2.1.2.** any Guarantee;
- 2.1.3.** each Hire Schedule; and
- 2.1.4.** if the Hirer is an Approved Credit Hirer, any Credit Application approval terms and any other terms stipulated by the Company in the approval notice or such other terms as the Company may notify the Hirer from time to time in writing acting reasonably.

2.2. The Company may upon receipt of an Account Application approve a Hirer for a Credit Account at its sole discretion.

2.3. The Company may from time to time vary and update these Hire T&Cs and such change shall become effective for all subsequent Hire Schedules agreed by the Parties after the Company provides a copy of the updated Hire T&Cs to the Hirer.

3. Warranties, obligations and liabilities

3.1. The Company will, subject to these Hire T&Cs, hire the Equipment specified in the Hire Schedule to the Hirer.

3.2. The Hirer warrants and agrees that:

- 3.2.1.** the hire of the Equipment is for the use of the Hirer only, and that the Hirer must not allow or authorise any other person to use or have possession of the Equipment (other than as permitted under clause 3.7);
- 3.2.2.** it will pay all Hire Fees and Charges pursuant to the Hire T&Cs by the Payment Date;
- 3.2.3.** it has not relied on any representation from the Company or its agents unless specified in the Hire Schedule;



- 3.2.4.** it has satisfied itself as to the Equipment's suitability, condition and fitness for its intended purpose;
- 3.2.5.** it has appropriate knowledge and understanding of the operation of the Equipment;
- 3.2.6.** it has all necessary or required licences and permits to operate the Equipment;
- 3.2.7.** it will use all reasonable care to look after the Equipment in accordance with any reasonable notice or instruction provided by the Company;
- 3.2.8.** it will not tamper with, alter, modify or repair the Equipment without written permission from the Company;
- 3.2.9.** it will immediately notify the Company of any defect, damage or need of repair to the Equipment;
- 3.2.10.** it will take care and protect the Equipment from damage;
- 3.2.11.** it must use and operate the Equipment in a lawful manner;
- 3.2.12.** it must at the Hirer's cost, return any Equipment to the Company for any routine maintenance, in accordance with any schedule or notice issued to the Hirer by the Company;
- 3.3.** The Hirer must:
 - 3.3.1.** provide full details and information of the Hirer's requirements, experience and knowledge of any issue relevant to the Hire Agreement;
 - 3.3.2.** only use the Equipment for its intended purpose and:
 - 3.3.2.1.** safely and in accordance with all legal requirements (including work health and safety requirements);
 - 3.3.2.2.** in accordance with manufacturer's guidelines;
 - 3.3.2.3.** in accordance with the Company's reasonable instructions;
 - 3.3.3.** only use the Equipment during the Hire Term;
 - 3.3.4.** return the Equipment clean and in good working order (fair wear and tear excepted) to the Company on termination or expiry of the Hire Agreement;
 - 3.3.5.** return the Equipment by the end of the Hire Term;
 - 3.3.6.** co-operate and comply with any reasonable request or demand from the Company or a statutory authority;
 - 3.3.7.** subject to clause 6.1, pay for LDW or take out and maintain full replacement, public liability and third-party property damage insurance, covering the full replacement value of the Equipment and all liability arising from the use and operation of the Equipment.
- 3.4.** The Hirer shall assume all risks and liabilities for and in respect of the Equipment and for all injuries to or death of persons and any damage to property howsoever arising from the Hirer's possession, use, storage or transport of the Equipment.
- 3.5.** The Hirer releases, discharges and indemnifies the Company from all claims, losses, damages, actions, demands and costs incurred, claimed or payable by the Company relating to or arising out of any breach of warranty, agreement or obligation, or otherwise arising out of the use of the Equipment by the Hirer or its agents, representatives, contractors or employees.
- 3.6.** Subject to the Hire Agreement, during the Hire Term, the Company or its nominee may, on reasonable notice to the Hirer:
 - 3.6.1.** attend at any site or premises at which the Equipment is located to inspect or modify (if required for safety purposes or to better secure the Company's rights to the Equipment, or if otherwise reasonably necessary) the Equipment; and
 - 3.6.2.** install, affix, modify or remove any labels, trade marks or other markings on the Equipment from time to time,



and the Hirer must cooperate with, and provide all reasonable assistance required by, the Company in the exercise of the Company's rights under this clause.

- 3.7.** The Hirer must not sub-hire (or otherwise part with possession of) the Equipment to any third party without the prior written consent of the Company in the Company's absolute discretion. If the Equipment is sub-hired or possession of it is given to a third party:
 - 3.7.1.** the Hirer must ensure that the third party complies with these Hire T&Cs as if the third party was named as the Hirer, other than in respect of obligations to make payments to the Company;
 - 3.7.2.** the Hirer will be fully responsible for all acts or omissions by the third party in relation to the Equipment;
 - 3.7.3.** the Hirer will remain responsible for payment of the Hire Fees and any other amounts payable to the Company under the Hire Agreement; and
 - 3.7.4.** if required by the Company, the Hirer must procure that the third party enters into a direct agreement with the Company in the form reasonably required by the Company, before the Equipment is provided to the third party.

4. Term of Agreement

- 4.1.** The Hire Term shall commence on the Commencement Date and continue until the Hire End Date provided by either Party, subject to clause 4.2.
- 4.2.** The Hire End Notice:
 - 4.2.1.** must specify a Hire End Date that is not earlier than one calendar month from the date of service of the Hire End Notice; and
 - 4.2.2.** cannot be served earlier than one calendar month prior to the expiry of the Initial Hire Term.

5. Hire Fees and Payment

- 5.1.** The Hire Fee shall be calculated from the Commencement Date and shall continue to accrue until the Hire End Date.
- 5.2.** The Hire Fee and calculation method shall be as set out in the Hire Schedule.
- 5.3.** Hire Fees are invoiced and payable monthly in advance.
- 5.4.** All Hire Fees and Charges must be paid by the applicable Payment Date.
- 5.5.** All Hire Fees and Charges are subject to GST which is payable in addition to the Hire Fees and Charges on the Payment Date provided the Company provides the Hirer a compliant Tax Invoice.

6. Charges

- 6.1.** In addition to the Hire Fees, the Hirer must pay all Charges for:
 - 6.1.1.** all minor repairs and maintenance due to wear and tear of the shelter and replacement of consumable components, which may be charged up to the maximum of one month of the Hire Fee;
 - 6.1.2.** any additional cleaning and major repairs if the Equipment is not returned clean and in working order, or is damaged beyond fair wear and tear, or for the replacement of any missing items;
 - 6.1.3.** all fines, penalties, charges or levies incurred by the Hirer or its agent relating to the use, operation or possession of the Equipment;
 - 6.1.4.** all government duties, fees, GST, taxes and charges imposed or relating to any goods or services provided by the Company pursuant to the Hire Agreement; and
 - 6.1.5.** all costs of delivering and/or collecting the Equipment.



- 6.2. If the Hirer has booked or reserved Equipment (except MTO Equipment) for hire and fails to collect the Equipment or cancel such booking or reservation with less than forty-eight (48) hours' notice, then the Company may charge a cancellation Charge of 50% of the Hire Fee for the Initial Hire Term.
- 6.3. The hire of MTO Equipment is not subject to cancellation.
- 6.4. The Hirer must pay for the full cost of repair or replacement of all or any part of the Equipment that is damaged as a result of a breach by the Hirer of any warranties in the Hire T&Cs.
- 6.5. Any Charges incurred pursuant to the Hire T&Cs shall be payable by the due date on any Tax Invoice or demand issued by the Company to the Hirer.

7. Loss Damage Waiver Assurance Plan (LDW):

- 7.1. As a precondition of hiring Equipment from the Company, the Hirer must produce evidence of insurance with a reputable insurer that covers loss of or damage to the Equipment arising from or associated with the hire and the use by the Hirer, for an amount not less than full new replacement cost of the Equipment (as specified by the Company), or the Hirer must purchase the LDW from the Company. For the avoidance of doubt, the Hirer acknowledges and agrees that the LDW is not insurance.
- 7.2. If the Hirer purchases the LDW, the Hirer shall pay to the Company as a Charge and in consideration of the benefits granted under the LDW an amount equal to 10% of the monthly Hire Fee each month of the Hire Term, which will be payable at the same time as the Hire Fee.
- 7.3. If the Hirer purchases the LDW then the Company agrees to waive, to the extent specified in these Hire T&Cs and in the Hire Agreement, its right to claim damages from the Hirer, save for and conditional on the Hirer paying to the Company a fee of 15% of the cost of repair or replacement up to and including the full new replacement cost of the Equipment within fourteen (14) days of receiving a request for payment of that fee.
- 7.4. Notwithstanding the Hirer's payment of the LDW charge, the Hirer will be liable to the Company for all loss of or damage to the Equipment and related expenses incurred by the Company resulting from breach of any of the Hirer warranties, obligations and liabilities under the Hire Agreement, or in any of the following circumstances:
 - 7.4.1. the Hirer fails to notify the Company within 24 hours of an incident that has resulted in loss or damage to the Equipment;
 - 7.4.2. the Hirer fails to pay all invoices, including for the LDW, within the Company's payment terms;
or
 - 7.4.3. the Hirer fails to pay the fee referred to in clause 7.3 within the agreed time.

8. Refundable Deposit

- 8.1. A deposit consisting of three months' Hire Fees (including GST) is payable on or before the Hire Schedule is signed.
- 8.2. Subject to all Hire Fees and Charges being paid by the Hirer, the deposit will be refunded at the end of the Hire Term.
- 8.3. Retention of the deposit by the Company due to non-payment of any Hire Fees or Charges does not release the Hirer from the obligation to pay any Hire Fees or Charges still due and payable to the Company.
- 8.4. The Company may deduct from the deposit any amounts due and payable by the Hirer to the Company under the Hire Agreement or the LDW.



9. Default and Breach

- 9.1.** The Hirer shall be in default of the Hire Agreement if the Hirer fails to:
- 9.1.1.** pay any Hire Fees and Charges by the relevant Payment Date;
 - 9.1.2.** comply with any warranty, obligation or agreement specified in the Hire T&Cs or the Hire Agreement;
 - 9.1.3.** comply with a lawful request or demand from the Company or a statutory authority relating to the Equipment or Hire Agreement at any time during the Hire Term; or
 - 9.1.4.** return the Equipment by the end of the Hire Term.
- 9.2.** In the event of a default by the Hirer, in addition to all of their other rights at law and pursuant to these Hire T&Cs, the Company shall be entitled to:
- 9.2.1.** immediately terminate the Hire Agreement; and
 - 9.2.2.** charge the Hirer interest on all amounts not paid by the Hirer in accordance with the Hire Agreement at a rate of 1.5% per calendar month calculated from the Payment Date and accruing monthly until the date of payment;
 - 9.2.3.** collect the Equipment in the possession or control of the Hirer; and
 - 9.2.4.** charge the Hirer an Equipment collection fee at cost plus 10%.
- 9.3.** The Hirer must reimburse and indemnify the Company from and against all expenses, costs and disbursements incurred by the Company in pursuing any overdue debt owed by the Hirer including all reasonably-incurred legal costs on a “solicitor and own client” basis and the fees charged to the Company by any debt collection or mercantile agency.
- 9.4.** In the event the Hire Agreement is terminated by the Company prior to the end of the Initial Hire Term, an early termination charge equal to the Hire Fee for the remaining period of Initial Hire Term will be due and payable. The Hirer agrees that this early termination charge is a reasonable pre-estimate of the loss that is likely to be incurred by the Company as a result of the early termination of the Hire Agreement.

10. Transport Services

- 10.1.** Where the Company or its subcontractors provide delivery, carriage, collection or relocation services, it is agreed that neither the Company nor its subcontractors are common carriers and accept no liability as such. All delivery, carriage, collection or relocation services are performed at the Hirer’s risk and to the extent permitted by law the Hirer bears the risk of loss or damage arising out of the Equipment or its contents.
- 10.2.** The Hirer must not place or cause to be placed into the Equipment any material or items that are or are liable to be explosive, flammable, hazardous or damaging without presenting to the Company a full description of such material or items. This obligation must be part of any term of sub-hire, in favour of the Company.

11. Termination

- 11.1.** The Company may terminate the Hire Agreement by written notice to the Hirer with immediate effect:
- 11.1.1.** if the Hirer breaches any provision of the Hire Agreement and does not remedy that breach within 14 days of receipt of a written notice from the Company requiring it to do so;
 - 11.1.2.** if the Hirer becomes subject to an insolvency event; or
 - 11.1.3.** on one month's written notice.
- 11.2.** The Hirer may terminate the Hire Agreement by written notice to the Company with immediate effect if:



- 11.2.1.** the Company breaches any provision of the Hire Agreement and does not remedy that breach within 14 days of receipt of a written notice from the Hirer requiring it to do so; or
- 11.2.2.** if the Company becomes subject to an insolvency event.
- 11.3.** On termination or expiry of the Hire Agreement, the Hirer must:
 - 11.3.1.** at its own expense, immediately return the Equipment to the Company at the Company's nominated premises in accordance with any directions given by the Company regarding the packaging, handling and transportation of the Equipment;
 - 11.3.2.** if the Hirer does not comply with clause 11.2.1 within a reasonable time, allow the Company such access to any premises at which the Equipment is located at Hirer's cost so as to allow Company to collect the Equipment;
 - 11.3.3.** pay to the Company any and all other charges owing under the Hire Agreement, and any fees or costs incurred by the Company to recover possession of the Equipment if not returned by the Hirer in accordance with these Hire T&Cs; and
 - 11.3.4.** the Company may by written notice to the Hirer elect to terminate any other Hire Agreement entered into between the Company and the Hirer.

12. Title and risk

- 12.1.** Legal and beneficial ownership, title and property in and to the Equipment shall at all times remain with the Company, and the Hire Agreement only provides the Hirer a right of use of the Equipment and possession as a bailee in accordance with the terms of the Hire Agreement.
- 12.2.** Risk in and responsibility for the Equipment passes to the Hirer on and from the Commencement Date and until the Equipment is returned into the Company's actual possession.
- 12.3.** The Hirer shall at no time be entitled to sell, assign, sublet, charge, mortgage or create any form of security interest over or in the Equipment.
- 12.4.** The Company or its representatives may enter any site or premises at which the Equipment may be stored by the Hirer and repossess the Equipment in the event that any payment under the Hire Agreement is overdue, and the Hirer must fully co-operate with the Company in doing so and indemnifies the Company for any loss or liability suffered or incurred in doing so (excluding any liability for injury, death or property damage caused directly by the Company or its representatives).

13. Personal Property Securities

- 13.1.** The Hirer acknowledges that the Company has a security interest for the purposes of the PPS Act in the Equipment.
- 13.2.** Each security interest under the Hire Agreement is a security interest under the PPS Act, and the security interests attach to the Equipment when the Hirer obtains possession of the Equipment.
- 13.3.** The Hirer agrees to do (and irrevocably appoints the Company as its attorney to do), at its cost in all things, anything (such as obtaining consents, signing and producing documents, having documents completed and signed and supplying information) which the Company asks for and considers is required for the purposes of ensuring that the security interest is enforceable, perfected and otherwise effective, including if applicable, as a purchase money security interest.
- 13.4.** The Hirer agrees to pay or reimburse the Company's reasonable costs in connection with anything required to be done under this clause.
- 13.5.** The Company need not give any notice under the PPS Act (including a notice of verification statement) unless the notice is required by the PPS Act and the requirement to give it cannot be excluded.



- 13.6.** The Hirer agrees that neither the Hirer nor the Company are required to disclose any information of the kind referred to in Section 275(1) of the PPS Act.
- 13.7.** If there is any inconsistency between the Company's rights under this clause and under Chapter 4 of the PPS Act, this clause prevails.

14. Liability

- 14.1.** Nothing in these Hire T&Cs operates to exclude, limit or otherwise modify the application of any statute where to do so would breach that statute or cause any part of the Hire Agreement to become void.
- 14.2.** Subject to clause 14.1 and to the extent permitted by law:
- 14.2.1.** the Company excludes all terms, conditions, guarantees, warranties and representations implied or imposed by statute, general law, custom, international convention or other source external to the Hire Agreement (including as to the description, merchantable quality or fitness for purpose of the Equipment);
- 14.2.2.** the Company excludes all liability to the Hirer for any Consequential Loss arising out of or in connection with the Hire Agreement;
- 14.2.3.** the Company excludes all liability to the Hirer in tort (including negligence) for acts or omissions of the Company and its personnel arising out of or in connection with the Hire Agreement;
- 14.2.4.** the Company's liability to the Hirer (including liability of a kind that cannot be excluded under this clause) is limited to, at the Company's option, the replacement or rectification of the Equipment or the supply of equivalent products or services, or the payment of the cost of replacing or rectifying the Equipment or acquiring equivalent products or services; and
- 14.2.5.** subject to clause 14.2.4, in no event will the Company be liable for greater than the total Hire Fees paid by the Hirer in relation to the Equipment.
- 14.3.** Unless expressly stated in the Hire Agreement, the Hirer acknowledges and agrees that the Company will bear no liability for the use of, or reliance on, the Equipment by the Hirer or its personnel, and the Hirer releases the Company from any liability arising directly or indirectly from any such use or reliance.
- 14.4.** The Hirer acknowledges and agrees that it has read and understood the information provided by the Company in relation to the Equipment (including without limitation all warnings, disclaimers and safety information) and agrees to them as if they were set out in the Hire Agreement.
- 14.5.** The Hirer acknowledges and agrees that other than where expressly set out in the Hire Agreement or a separate written warranty given by the Company, the Company makes no representation or guarantee of any particular outcome or benefit that the Hirer or its personnel will obtain from the Hirer's use of the Equipment, or that the Hirer's use of the Equipment will achieve any particular outcome.

15. Waiver

- 15.1.** Any failure or indulgence by a Party to exercise, or delay in exercising, any right, power or privilege available to it under the Hire Agreement will not operate as a waiver thereof or preclude any other or further exercise thereof or the exercise of any right or power, and a Party shall be entitled to require strict compliance at all times.

16. Proper Law



- 16.1.** The Hire Agreement is governed by and will be construed in accordance with the laws of the State of New South Wales, Australia.
- 16.2.** The Parties agree to submit to the exclusive jurisdiction of the Courts of the State of New South Wales and the Parties consent to the exclusive jurisdiction of the courts of New South Wales and the courts of appeal from them.

17. General provisions

- 17.1.** The Hire Agreement shall continue to have full force and effect until the Equipment is returned and all the Hirer's obligations have been complied with and payments have been made.
- 17.2.** The Company may serve any notice or Court document on the Hirer by hand or by forwarding it by post to the address of the Hirer last known to the Company, or where a fax number or an email address has been supplied by the Hirer, by sending it to that number or address. Such notices will be deemed to be given:
 - 17.2.1.** where delivered by hand, on the day of delivery;
 - 17.2.2.** where sent by post, five (5) business days after the day of posting; and
 - 17.2.3.** where sent by email on the day of dispatch, provided that the sender does not receive an automated notice generated by an email server indicating that the email was not delivered.
- 17.3.** The Hire Agreement represents the entire agreement and no agreement or understanding varying or extending the terms of the Hire Agreement will be legally binding upon either Party unless in writing and signed by both Parties or allowed by these Hire T&Cs. Nothing in this clause excludes, limits or otherwise modifies any non-excludable rights arising under the Australian Consumer Law.
- 17.4.** The Hirer will not be entitled to set off against or deduct from the Hire Fees or Charges any sums owed or claimed to be owed to the Hirer by the Company. The Company may deduct and set off from any amounts payable by the Company to the Hirer any amounts payable by the Hirer to the Company.
- 17.5.** No agreement or understanding varying or extending the terms of the Hire Agreement will be legally binding on either Party unless varied in writing and signed by both Parties or permitted by the Hire T&Cs.
- 17.6.** If any term of the Hire Agreement is invalid, void, illegal or unenforceable, it will be severed from the Hire Agreement and the remaining provisions will not be affected, prejudiced or impaired by such severance.
- 17.7.** Neither Party may assign or attempt to assign the Hire Agreement or any right under the Hire Agreement without the prior written consent of the other Party, which must not be unreasonably withheld.