

TERMS AND CONDITIONS OF HIRE

Recitals:

1. Baw Baw Shire Council ("owner") is the owner of the equipment ("equipment") listed in the Event Equipment Booking Form ("Hire Agreement").
2. The hirer ("hirer") will hire the equipment specified in the Hire Agreement from the owner upon the terms and conditions in the Hire Agreement.

Operative Part:

1. Hire of equipment
 - 1.1. The hiring of the equipment will commence from the commencement date and continue for the term specified in the Hire Agreement.
 - 1.2. The hirer is entitled to use the equipment for the hire period and for any agreed extension of the period.
 - 1.3. The hirer agrees to return the goods to the address of the owner on or before the end of the hire period as outlined in the Hire Agreement.
 - 1.4. The owner will not refund any hire fee if the hirer elects to return the equipment prior to the end of the hire period, regardless of the reason.
2. Bond payment
 - 2.1. The hirer agrees to pay the owner the bond specified in the Hire Agreement for the equipment for the hire period prior to the commencement of the hire period.
3. Use, operation and maintenance
 - 3.1. The hirer agrees that the use of the equipment carries with it dangers and risk of injury and the hirer agrees to accept all dangers and risks.
 - 3.2. The equipment shall not be used by anyone other than the hirer without the express permission of the owner.
 - 3.3. The hirer agrees to operate, maintain and store the equipment strictly in accordance with any instructions provided by the owner, with due care and diligence, only for its intended use and in accordance with any manufacturers' instructions and recommendations whether supplied by the owner or posted on the equipment as to the operations, maintenance and storage thereof.
 - 3.4. The hirer agrees to comply with all occupational health and safety laws relating to the use of the equipment and related operations.

- 3.5. The hirer shall ensure the equipment is returned to the owner clean of soil or any other foreign matter. In the event that these requirements are not complied with, the hirer shall pay the owner a nominal cleaning fee as set out in the Hire Agreement.

4. Hirers warranties

- 4.1. The hirer warrants that:
 - 4.1.1. the equipment will be used in accordance with the conditions outlined in the Hire Agreement;
 - 4.1.2. the particulars in the Hire Agreement are correct in every respect and are not misleading in any way including, without limitation, by omission;
 - 4.1.3. the hirer holds a valid current drivers licence;
 - 4.1.4. the equipment will not be used for any illegal purposes;
 - 4.1.5. the hirer's vehicle is suitable for towing the equipment;
 - 4.1.6. the hirer will not, without prior written consent of the owner, modify, or permit and modification of, the equipment in any way; and
 - 4.1.7. the hirer agrees that the equipment complies with its description, is in merchantable condition and is for the hirer's purpose.

5. Indemnity

- 5.1. To the full extent permitted by law, the hirer releases, discharges, and agrees to indemnify the owner from any and all claims and demands arising out of or consequent upon the use or misuse of the equipment during the hire period, including in relation to any and all claims for personal injury or property damage.
- 5.2. The hirer also agrees to indemnify the owner for any loss or damage to the equipment during the hire period.

6. Loss, damage or breakdown of equipment

- 6.1. The hirer will be responsible for any loss or damage to the equipment irrespective of how the loss or damage occurred (fair wear and tear excepted) during the hire period.
- 6.2. In the event of theft or damage to the equipment the owner has the right to withhold the bond and the hirer shall pay the owner any costs incurred as a result of the theft or damage upon receipt of a separate invoice by the owner.

- 6.3. If there is a breakdown or failure of the equipment then the hirer shall return the equipment to the owner at the hirers expense and the hirer shall not attempt to repair the equipment.

7. Insurance

- 7.1. The owner will maintain current insurance policies in respect of the equipment to its full insurable value.

8. Liability

- 8.1. The hirer will assume all risk 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 or storage of the equipment.

9. Disclaimer

- 9.1. 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.

10. Title to goods

- 10.1. 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 does not have any right to pledge the owners credit in connection with the goods and agrees not to do so.
- 10.2. 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 top 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, or repair of, the equipment.

11. Repossession

- 11.1. The owner may retake possession of the equipment if the hirer breaches any provision of this agreement, notwithstanding anything else herein contained.

12. Completion of the hire period

- 12.1. The hire period is completed when the equipment has been returned to the owner:
 - 12.1.1. in the same condition as when it was hired; and
 - 12.1.2. on or by the date and time outlined in the Hire Agreement

13. Non-merger

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

14. Severance

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

15. Governing law

15.1. This Hire Agreement is governed by the laws of Victoria. Each party submits to the non-exclusive jurisdiction of the courts exercising jurisdiction there in connection with matters concerning the Hire Agreement.