

AGILITY EQUIPMENT HIRE TERMS & CONDITIONS

These Hire Contract Conditions apply to the exclusion of any other conditions proposed by the Hirer, unless otherwise agreed by NSW Agility Committee and the Hirer in writing. NSW Agility Committee agrees to hire Equipment to the Hirer on terms set out in this document. If the Hirer wishes to hire Equipment the Hirer must complete and sign (or otherwise accept in the manner required by NSW Agility Committee) a Hire Schedule and such other documents as NSW Agility Committee may require. Each Hire Schedule is not a separate contract but forms a part of this hire agreement between NSW Agility Committee and the Hirer. The Hirer agrees to receive hire schedules and all associated documentation by electronic means. NSW Agility Committee may in its absolute discretion decline to hire Equipment to the Hirer at any time if it has reasonable cause to do so.

Amendment: These Hire Contract Conditions may be changed by NSW Agility Committee from time to time by NSW Agility Committee giving notice of the amendment to the Hirer. Notice is deemed given when NSW Agility Committee does any of the following: (a) sends notice of the amendment to the Hirer at any address (including an email address) supplied by the Hirer; (b) publishes the amended terms on its website; or (c) places the appropriate notices in appropriate publications or electronic mail distribution lists.

Changes to these hire Contract Conditions will only apply to Hire Schedules entered into after the change occurs.

1. Interpretation of Words in this Contract;

Commencement – The date when the Hirer takes possession of the Equipment.

Equipment – Means any kind of equipment and includes parts and accessories for any of the equipment.

Hire Charge – The amounts shown on the Hire Schedule payable by the Hirer to hire the Equipment.

Hire Period – Means from Commencement until the end of the period shown on the Hire Schedule. The Hire Period may only be extended for one or more definite periods and in each case this can only be done if the Hirer requests it and if NSW Agility Committee agrees. NSW Agility Committee may issue and require the Hirer to immediately pay for an amended Hire Schedule for any extension of the Hire Period.

Hire Schedule – Means a document which NSW Agility Committee may require the Hirer to sign (or accept in a way NSW Agility Committee requires) including particulars of the Equipment and the Hire Period and such other information as NSW Agility Committee may decide to require.

NSW Agility Committee – The owner or organisation listed on the Hire Schedule.

2. NSW Agility Committee Obligations NSW Agility Committee will:

- 2.1 Allow the Hirer to take and use the Equipment for the Hire Period;
- 2.2 Provide the Equipment to the Hirer clean and in good working order;
- 2.3 NOTE TO HIRER: You must return the Equipment at your expense when due back

3. Obligations of the Hirer - The Hirer must:

- 3.1 Deliver the Equipment to NSW Agility Committee when it is due back;
- 3.2 Return the Equipment to NSW Agility Committee clean and in good repair;
- 3.3 Satisfy itself at Commencement that the Equipment is suitable for its purposes;

- 3.4 Operate the Equipment safely, strictly in accordance with its intended use, and in accordance with any manufacturer's instructions whether supplied by NSW Agility Committee or posted on the Equipment;
- 3.5 Indemnify NSW Agility Committee for all injury and/or damage to the extent caused or contributed to by the Hirer to persons and property in relation to the Equipment and its operation and have adequate insurance to cover all liabilities incurred as a result of the use of the Equipment;
- 3.6 Ensure that any person collecting or taking delivery of Equipment on behalf of the Hirer is authorised by the Hirer to do so and the Hirer will not allege that any such person is not so authorised;
- 3.7 Ensure that all persons operating or erecting the Equipment are suitably instructed in its safe and proper use and where necessary;
- 3.8 Conduct a thorough hazard and risk assessment before using the Equipment and comply with all Occupational Health and Safety laws relating to the Equipment and its operation;
- 3.9 Safely secure all items loaded in or on the Equipment or in or on the Hirer's vehicle, and indemnify NSW Agility Committee in respect of any injury and/or damage caused by items falling from the equipment or from any vehicle or trailer operated by or on behalf of the Hirer;
- 3.10 Report and provide full details to NSW Agility Committee of any accident or damage to the Equipment within two (2) days of the accident or damage occurring.
- The Hirer must NOT;
- 3.11 Tamper with, damage or repair the Equipment;
- 3.12 Lose or part with possession of the Equipment;
- 3.13 Rely upon any representation relating to the Equipment or its operation other than those contained in this Contract;
- 3.14 Allow any person to drive a Motor Vehicle if the person:
- (a) does not hold a suitable licence to drive that class of Motor Vehicle; or
 - (b) is affected by drugs and/or alcohol.
- 3.15 Exceed the recommended or legal load and capacity limits of the Equipment;
- 3.16 Use or carry any illegal, prohibited or dangerous substance in or on the Equipment.
- 3.17 Exceed the recommended or legal speed limit for the Equipment.

4. Payments by the Hirer to NSW Agility Committee

- 4.1 On or before Commencement (or as otherwise specifically agreed with NSW Agility Committee), the Hirer will pay the Hire Charge.
- 4.2 Immediately on request by NSW Agility Committee, the Hirer will pay:
1. The new list price of any Equipment which is for whatever reason not returned to NSW Agility Committee. (NOTE TO HIRER: Subject only to any express provision of this Contract to the contrary, the Hirer is responsible for loss or theft of the Equipment)
 2. all costs incurred in cleaning the Equipment;
 3. the full cost of repairing any damage to the Equipment caused or contributed to by the Hirer, unless expressly agreed otherwise in this Contract;
 4. stamp duties, GST, any other taxes or duties, and all tolls, fines, penalties, levies or charges payable in respect of this Contract or arising from the Hirer's use of the Equipment;

5. all costs incurred by NSW Agility Committee in delivering and recovering possession of the Equipment;
6. Interest for late payment of amounts owing by the Hirer, at the pre-judgement interest rate set by the Local Court of NSW from time to time;
7. any additional Hire Charges;
8. the cost equipment provided by NSW Agility Committee and not returned by the Hirer;
9. any expenses and legal costs (including commission payable to a commercial agent) incurred by NSW Agility Committee in enforcing this Contract due to the Hirers default.;
- 10.all costs of repairing or replacing tyres, including road service; and
- 11.if any damage and/or theft waiver applies, the amount for which the Hirer is liable as set out in this Contract.
- 12.Without limiting the ability of NSW Agility Committee to recover all amounts owing to it, the Hirer authorises NSW Agility Committee to charge any amounts owing by the Hirer to any credit card or account details of which are provided to NSW Agility Committee.
- 13.NSW Agility Committee may tokenise the Hirers Credit Card or Account details to facilitate credit card or online payments.

5. Exclusion of Warranties and Liabilities.

5.1 Where the Australian Consumer Law applies, the Hirer has the benefit of guarantees in relation to the hire of the Equipment which cannot be excluded.

5.2 Where the Australian Consumer Law applies and the goods are not of a kind ordinarily acquired for personal domestic or household use or consumption, NSW Agility Committee liability in respect of any guarantee is limited to the replacement or repair of the goods, or the cost of having the goods repaired or replaced.

5.3 To the extent that the Australian Consumer Law (or any other law which cannot be excluded) does not apply. NSW Agility Committee makes no representations and gives no warranties other than those set out in these Hire Contract Conditions, and will not be liable to the Hirer for any damages, costs or other liabilities whatsoever (including for consequential loss) in relation to the hiring of the Equipment by the Hirer.

6. Remote Hire

Where the Equipment is at any time hired by the Hirer to be located in the Remote Area, the following clauses will also apply, in addition to the obligations of the Hirer under Clause 3 and elsewhere in these Hire Contract Conditions;

(a) The Hirer will pay an additional charge for any delivery, servicing and repair of the Equipment, and for any other attendance at the Remote Area by NSW Agility Committee ('Remote Area Charges'). The Remote Area Charges will be calculated on a per kilometer rate travelled by NSW Agility Committee staff to and from the Remote Area, plus labour costs per staff member per hour (including travelling times) at scheduled rates, plus direct travelling cost including all airfares and accommodation charges incurred by NSW Agility Committee and its staff in connection with travel to and from the Remote Area;

(b) Multiple items of Equipment hire by a Hirer on the one site will only be charged for one call out fee;

(c) The Hirer is responsible at its cost for daily maintenance and care of all Equipment in its possession, including daily checking of tyre pressures and general tightening of any loose nuts, bolts, belts or fittings and lubrication of all grease points.

7. Breach of Hire Contract by Hirer

If the Hirer breaches any clause whatsoever of this Contract and does not remedy the breach within Seven (7) days' notice of the breach, or becomes bankrupt, insolvent or ceases business then;

7.1 NSW Agility Committee shall be entitled to:

- (a) terminate this Contract; and/or
- (b) sue for recovery of all monies owing by the Hirer; and/or
- (c) repossess the Equipment (and is authorised to enter any premises where the Equipment is located to do so)

7.2 The Hirer indemnifies NSW Agility Committee in respect of any damages, costs or loss, to the extent caused or contributed to by the Hirer resulting from a breach by the Hirer of any provision of this Contract.

8. Disputes

8.1 The Hirer must immediately check all Hire Charges, and any disputes in relation to those Hire Charges must be communicated to NSW Agility Committee in writing within 30 days of the Hire Contract date. In the event that no communication is received from the Hirer within that 30 day period, the Hire Charges are deemed to be accepted by the Hirer.

8.2 If a dispute arises relating to this Contract, the hiring or the use of the Equipment (except in regard to payments due to NSW Agility Committee), the parties agree to negotiate to settle the dispute with the assistance NSW Department of Fair Trading before litigation.

Effective – March 2019