

Conditions of Hire

CONDITIONS OF HIRE – AirBC PTY LTD

The conditions of Hire state:

- 1) The **Owner** and proprietor of this hiring equipment is AirBC Pty Ltd;
- 2) The **Hirer** is the person or company with whom the contract of hiring equipment is made out to.
- 3) The **Equipment of Hire** includes all goods, articles, air conditioning and equipment, supplied by the Owner to the Hirer for a fee pursuant to this contract
- 4) The **Order Number** is the number given to the Hirer when an order for air conditioning rentals is made.
- 5) The Period of Hire:
 - **commences** from the commencement date of the equipment delivery or the time of pickup of the equipment
- 6) **ceases** at the date when AirBC is notified that the equipment is ready for returnal or
- 7) at least 24 hours after delivery of the equipment and the date of commencement of the Period of Hire or
- 8) upon termination of the contract and repossession of the equipment

Use of Equipment

- 9) The equipment hired out by AirBC is expected to be returned in the same condition as it was at first handed over for hire.
- 10) The Hirer shall at all times use the Equipment in a skilful, proper and respectable manner.
- 11) It shall be at the Hirer's own expense to service and clean the Equipment whilst maintaining the Equipment is in good working condition.
- 12) Reasonable wear and tear is excepted to the above condition as long as the unit has no major impact or functional damage caused during hire which will impact future use.
- 13) The whole or any part of the cost incurred by the AirBC arising out of any failure by the Hirer to properly clean and maintain the Equipment will be added to the invoice total.
- 14) Before using the Equipment the Hirer shall examine the Equipment whether it is to his own satisfaction in terms of quality and fitness for the purpose of the hire. If in any way the Equipment is defective or unsuitable for the purpose of the Hirer it shall be notified to and returned immediately to AirBC with mention of the defect
- 15) The Hirer acknowledges that he is not relying upon any prior representations made by or on behalf of AirBC in respect of the Equipment's appearance or its performance.

Freight & Delivery

- 16) The Hirer shall pay for all delivery & pick up charges provided by AirBC when delivering and shipping the equipment to its destination and returning it.
- 17) Should the equipment breakdown or fail during its hire and is not cause by the Hirer's negligence or misuse then the return and delivery of the new equipment will be free of charge.

Damage to Equipment and Loss of Equipment

- 18) During the Period of Hire, the Hirer is responsible for any loss or damage to the Equipment whether such loss is caused by the negligence of the Hirer, any person under his control or for any other reason whatsoever, except that caused by reasonable wear and tear.
- 19) Where the Hirer is responsible for the damage to or loss of the Equipment, the whole or any part of the cost of replacement or repair to the Equipment will be added to the invoice total and billed to the Hirer.

- 20) When Equipment is not returned to AirBC by the Hirer after the due date of return the police may be notified of the circumstances and at the cost and expense of the Hirer, the recovery and repossession of the Equipment. This may lead to any civil or criminal action as it deems necessary for the recovery of possession of the Equipment
- 21) Should the Equipment be lost, stolen, or damaged beyond repair by the Hirer, the current list price of new Equipment purchase will be billed to the Hirer.

Occupational Health & Safety

- 22) Upon installation AirBC will ensure that the OH&S of the working and public area around the equipment is up to standard and safe for everyone in the vicinity. The Hirer will also ensure at the time of installation that all aspects of OH&S are adhered to and understands that he too is responsible for maintaining a good OH&S ethic around the equipment's operation
- 23) The Owner shall not be responsible to the Hirer for any loss or damage, injury, fines or costs incurred or sustained by the Hirer in respect of any costs, losses or damages arising from such actions.
- 24) The Hirer indemnifies the Owner in respect of all actions, claims, suits, demands or expenses arising out of or in connection with the use of the Equipment by the Hirer or any person under the Hirer's control during the Period of Hire.

Hiring Charges

- 25) Hiring, delivery, pickup & installation charges are all agreed upon between the Hirer and AirBC and commence from the day of delivery until the day of their return.

Breakdown and Damage to Property and Injury to Third Parties

- 26) In the event of a breakdown or failure of Equipment or defect in the Equipment becoming apparent during the Period of Hire, the Hirer shall return it immediately or notify AirBC.
- 27) The Hirer shall not repair or attempt to repair or cause any repair to be made to the Equipment without the prior consent of the Owner.
- 28) If the breakdown or failure is caused by reasonable wear and tear or a defect in the Equipment at the commencement of Hire, and was not caused or contributed to by misuse or negligence of the Hirer or any person under his control, the Period of Hire shall cease on return or notification to the AirBC.
- 29) In no event shall the AirBC be responsible for any expenditure, damage, sum for delay inconvenience or loss incurred by the Hirer. AirBC will not be held liable for any consequential losses arising out of any breakdown, failure or any defect in the Equipment whether caused by wear and tear, lack of repair, negligence or any other reason whatsoever.
- 30) No conditions or warranties as to fitness for purpose, merchantable quality, correspondence with the description or otherwise shall be implied in these Conditions of Hire except to the extent that any condition or warranty may be included or be implied by statute and may not be excluded by agreement. Any condition or provision inconsistent with such implied condition or warranty shall be of no force and effect to the extent of that inconsistency. The liability of the Owner for a breach of a condition or warranty implied in this Agreement by the Trade Practices Act, 1974 (other than pursuant to s.69 thereof) shall be limited to the replacement of the Equipment or the supply of equivalent Equipment.

Termination by the Owner

- 31) The Owner may terminate the Hire agreement and repossess the Equipment whilst notwithstanding the specified Period of Hire if:
 - 32) the Hirer shall fail to pay hiring charges within an agreed due date or
 - 33) the Hirer does or permits any act or thing to be done to the Equipment by way of which AirBC's right in the Equipment may be prejudiced
 - 34) if the Hirer should become or is made insolvent or bankrupt or makes any arrangement or composition with his creditor
 - 35) the Hirer commits any breach of these Conditions of Hire.
 - 36) the Hirer uses the Equipment inappropriately not for its designed use or in a way that impacts the OH&S of its workers or public nearby.

- 37) For the purposes of repossessing the Equipment, the AirBC's employees may enter into or upon any premises where the Equipment may be to recover the Equipment from the Hirer, without prejudice to the rights of AirBC and recover from the Hirer in respect of any claims, damages or expenses arising out of any action taken under this Clause.
- 38) Should AirBC repossess the Equipment then the Hirer is required to pay for the hiring charges arising from its rental up the time of its repossession or the total Period of Hire agreed upon between the two parties earlier on, even if this period surpasses the repossession date. This is to the discretion of AirBC

Assignment

- 39) The Hirer shall not sell, transfer, assign, part with possession, mortgage, charge, encumber or deal in any other way with the Equipment or any right under these Conditions of Hire without the prior consent of AirBC.

Damage Waiver

- 40) Any insurance applied to Equipment will be made void in the following circumstances and the Hirer shall be responsible for and indemnify AirBC for any loss or damage of equipment:
- resulting from overloading, exceeding rated capacity, misuse, abuse or improper servicing of Equipment;
 - caused by misappropriation or wrongful conversion by the Hirer or its employees, servants, independent contractors or agent or by any other person to whom the Equipment is entrusted by the Hirer;
 - caused by the use or operation of Equipment in contravention of any of these Conditions of Hire;
 - damage caused by the use or operation of equipment in violation of any statute Commonwealth or State regulation or by-law
 - damage to accessories;
 - the Equipment is used for a purpose for which it was not designed.

Payment of Charges

- 41) The Hirer shall pay AirBC on determination of the Hiring Period the following:-
- the hiring charge of all Equipment rented;
 - the amount of any loss, damage or repair to the Equipment as outlined above
 - any charges paid or payable by the AirBC during the transportation, installation or hiring periods
 - the cost of freight and other charges incurred by the Owner or the Hirer in respect of delivery or return of the Equipment; and
 - any costs incurred by the AirBC in repossessing the Equipment in accordance with these Conditions of Hire.

Whole Contract

- 42) Any previous negotiations, understandings, written or oral representation, warranties, memorandum or commitments in relation to the Equipment are superseded by these conditions and no amendment to these Conditions shall bind the parties unless in writing and executed by or on behalf of the AirBC. Any duplicate or replacement of the Invoice and Conditions of Hire issued to the Hirer after 14 days from the date of this invoice in respect of the hire of Equipment shall be deemed to be signed by the Hirer.

New South Wales Law & Australian Law

- 43) This Agreement should be governed by and construed in accordance with the laws in force in Australia & its states including New South Wales and the parties submit to the jurisdiction of the Courts of that State.