

# Hire Agreement

Unit 12/35-39 Higginbotham Road, Gladesville, NSW 2111  
 Ph: 0459 918 840  
 ABN No: 69 506 905 759



Survival Instinct Pty Ltd  
 www.survivalinstinct.com.au

Name of Hirer:			
Drivers License:			
ABN: (if applicable)			
Phone Number:			
Email Address:			
Address:			
	Suburb	State	Postcode
Pick Up Date:			
Return Date:			
Package to be Hired:	2 Person Kit	4 Person Kit	

You agree with Survival Instinct Pty Ltd (ABN: 69 506 905 759) to be bound by the Hire Agreement Terms & Conditions as set out on the following pages.

Signed for by Hirer:

Print Name:



Date:  /  /

# Hire Agreement Terms & Conditions



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## 1. HIRE AGREEMENT

1.1 These Terms of Hire, set out the terms of the hire agreement (the "Hire Agreement") between You and Us.

## 2. DEFINITIONS

2.1 Key terms used in this agreement are defined below:

"Booking Confirmation" means the confirmation of a booking made through our website, which includes the hire dates, hire fees, and camping package selected.

"Environmental Laws" means any statute, regulations or other laws made or issued by a regulatory body or government regulating or otherwise relating to the environment including without limitation to the use or protection of the environment.

"Equipment" means any equipment provided by Us to You under the Hire Agreement, including any associated or attached tools, accessories and parts available for hire.

"Minimum Hire Period" means two nights from the date of pickup.

"Hire Fees" means the amount set out on the Confirmation Page.

"Hire Period" means the period described in clause 4

"We/Us/Our" means Survival Instinct Pty Ltd (ABN 69 506 905 759)

"You/Your" refers to the person, firm, organization, partnership, corporation, trust or other entity hiring Equipment from Us. The reference to "You/Your" includes any of your employees, agents and contractors.

## 3. OUR HIRE COMMITMENT TO YOU

We agree to hire the Equipment to You and will:

- 1) provide the Equipment to You in good working order; and
- 2) allow You to exclusively use the Equipment during the Hire Period.

## 4. THE HIRE PERIOD

- 4.1 The Hire Period commences at the earlier of the time You booked the equipment for pickup, or the time You take possession of the equipment.
- 4.2 The Hire Period is for an agreed term which is set during the booking process, but ends when the Equipment is back in our control or possession.
- 4.3 The Hire Period includes weekends and public holidays.
- 4.4 A minimum Hire Period applies. If You return the Equipment to Us before the expiration of the Minimum Hire Period, You are required to pay all charges for the Minimum Hire Period.

## 5. HOW WE CALCULATE YOUR HIRE CHARGES

- 5.1 You will pay Us for the hire of the Equipment at the Hire Charge set out in the booking confirmation
- 5.2 Additional costs will apply if the Equipment is used for more nights than specified on the booking confirmation.
- 5.3 You will be charged for the hire of Equipment for the full Hire Period. This obligation survives termination of the Hire Agreement.
- 5.4 Hire Charges will commence from the start of the Hire Period and continue until the date You return it to US.

## 6. OTHER CHARGES

In addition to the Hire Charges, You agree to pay:

- 6.1 if You do not return the Equipment in good working condition we will charge You for the repair or replacement of the equipment;
- 6.2 any other applicable levies, fines, penalties and any other government charges arising out of Your use of the Equipment;

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## 7. PAYMENT

- 7.1 You must pay all Hire Charges and other fees outlined in the booking confirmation at time of booking. In addition to this, a security deposit will be taken at the time of hire, to the value of \$1,000.00. Once the equipment has been returned it will be checked and once We confirm the equipment was returned undamaged, the security deposit refunded within 7 days.
- 7.2 Any charges incurred due to lost or damaged equipment will be deducted from your security deposit, charged to your PayPal account or credit card.
- 7.3 Bookings are not confirmed until paid for in full

## 8. CANCELLATION FEES

- 8.1 We provide the following cancellation policy for all hires
  - a) Up to 90 days prior to the Hire Period the hirer will receive a full refund.
  - b) Between 89 Days and 30 days to the Hire Period the hirer will receive a 50% refund.
  - c) Less than 30 Days, but more than 14 days from the Hire Period the hirer will receive a 25% refund.
  - d) 14 days or less from the hire period, the hirer will receive no refund.

## 9. YOUR OBLIGATIONS TO US

- 9.1 This Hire Agreement is personal to You and You must not allow nor authorise any other person or entity to use, re-hire or have possession of the Equipment at any time, unless expressly agreed by Us in writing.
- 9.2 You agree that before taking possession of the Equipment, You have satisfied Yourself as to the suitability and condition of the Equipment and You will ensure that the Equipment is used only for the purpose for which it was designed by the manufacturer. We make no representations and give no guarantee or warranty that the Equipment is suitable for Your intended purpose.
- 9.3 You must: operate the Equipment safely, strictly in accordance with all laws, only for its intended use and in accordance with the manufacturer's instructions;
- 9.4 You must:
  - a) not in any way alter, modify, tamper with, damage or repair the Equipment without Our prior written consent;
  - b) not deface, remove, vary or erase any identifying marks, plate, number, notices or safety information, on the Equipment
- 9.5 At all times during the Hire Period, You must store the Equipment safely and securely.
- 9.6 Whenever You are moving the Equipment, You must ensure the safe loading and transporting of all Equipment in accordance with all laws and manufacturer's guidelines. You must observe any safety directions advised by Us and/or the manufacturer of the Equipment to ensure its safe use.
- 9.7 You must not remove the Equipment from Australia without Our written consent.
- 9.8 You warrant that You will comply with all Environmental Laws from time to time and immediately rectify any breach of an Environmental Law caused by the use of the Equipment.

## 10. OWNERSHIP OF THE EQUIPMENT

- 10.1 You acknowledge that We own the Equipment and in all circumstances We retain title to the Equipment (even if You go into liquidation or become bankrupt during the Hire Period). Your rights to use the Equipment are as a bailee only.
- 10.2 You are not entitled to offer, sell, assign, sub-let, charge, or create any form of security interest over, or otherwise deal with the Equipment in any way.

## 11. RESPONSIBILITY FOR THE EQUIPMENT

- 11.1 You are responsible for any loss, theft or damage to the Equipment from any and every event whatsoever and howsoever and by whosoever caused during the Hire Period except where any such loss, theft or damage was caused by Our actions.

## 12. RETURN OF EQUIPMENT

- 12.1 You must return the Equipment to Us in the same condition and good working order it was in when You received it, ordinary fair wear and tear excluded.
- 12.2 It is Your responsibility to return the Equipment to Survival Instinct. If the equipment is not returned to Survival Instinct by the end date and time set out in the booking, you will be charged further hire fees until the equipment is returned to us.

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## 13. WHAT TO DO IF EQUIPMENT BREAKS

- 13.1 In the event that the Equipment breaks down or becomes unsafe to use during the Hire Period You must:
- immediately stop using the Equipment and notify Us;
  - take all steps necessary to prevent injury occurring to persons or property as a result of the condition of the Equipment;
  - take all steps necessary to prevent any further damage to the Equipment itself;
  - take all steps necessary to notify us of the damaged Equipment; and
  - only repair the Equipment when no other reasonable alternative is available
- 13.2 Except if clause 12.1 applies, upon receiving notice from You under clause 12.1, We will:
- take all reasonable steps to repair the Equipment or provide suitable substitute Equipment as soon as reasonably possible after being notified by You; and
  - not impose a Hire Charge for that portion of the Hire Period for which the Equipment was broken down or unsafe, nor the costs associated with any repair or replacement of the Equipment.

## 14. WHAT TO DO IF EQUIPMENT IS LOST, STOLEN OR DAMAGED

- 14.1 If the Equipment has broken or become unsafe to use as a result of Your acts or omissions, (or the acts or omissions of Your members of your camping group) or if the Equipment is lost, stolen or damaged beyond fair wear and tear during the Hire Period, You will be liable for:
- any costs incurred by Us to recover and repair or replace the Equipment; and
  - the Hire Charges for the period the Equipment is being recovered and repaired or replaced.

## 15. INDEMNITIES AND EXCLUSION OF LIABILITIES

- 15.1 Except as expressly provided to the contrary in this Hire Agreement, all guarantees, terms, conditions, warranties, undertakings, inducements or representations whether express or implied, statutory or otherwise, relating to this Hire Agreement or its subject matter are excluded to the maximum extent permitted by law.
- 15.2 Nothing in this Hire Agreement excludes, restricts or modifies any right or remedy, or any guarantee, term, condition, warranty, undertaking, inducement or representation, implied or imposed by any legislation which cannot lawfully be excluded or limited. This may include the Consumer Guarantees.
- 15.3 Where We are not able to exclude a guarantee, term, condition, warranty, undertaking, inducement or representation imposed by legislation in relation to this Hire Agreement, ('Non-Excludable Provision'), and We are able to limit Your remedy for a breach of the Non-Excludable Provision, then Our liability for breach of the Non-Excludable Provision is limited to (at Our election):
- in the case of goods, the repair or replacement of the goods or the supply of substitute goods (or the cost of doing so); or
  - in the case of services, the supplying of the services again, or the payment of the cost of having the services supplied again.
- 15.4 Subject to Our obligations under the Non-Excludable Provisions and to the maximum extent permitted by law, Our maximum aggregate liability for all claims under or relating to this Hire Agreement or its subject matter, whether in contract, tort (including without limitation negligence), in equity, under statute, under an indemnity, is limited to an amount equal to the fees paid by You under this Hire Agreement. In calculating Our aggregate liability under this clause, the parties must include any amounts paid or the value of any goods or services replaced, repaired or supplied by Us for a breach of any Non-Excludable Provisions.
- 15.5 We will not be liable to You for any consequential, indirect or special loss or damage, loss of actual or anticipated profits or revenue, loss of business, business interruption, wasted costs You have incurred, amounts that you are liable to Your customers for or any loss suffered by third parties under or relating to this Hire Agreement or its subject matter, whether in contract, tort (including without limitation negligence), in equity, under statute, under an indemnity, whether or not such loss or damage was foreseeable and even if advised of the possibility of the loss or damage.
- 15.6 You are liable for and indemnify Us against all liability, claims, damage, loss, costs and expenses (including, without limitation, legal fees, costs and disbursements on a full indemnity basis, whether incurred or awarded against Us and any environmental loss, cost, damage or expense) in respect of:
- personal injury;
  - damage to property; or
  - a claim by a third party, in respect of Your hire or use of the Equipment or Your breach of the Hire Agreement. Your liability under this indemnity is diminished to the extent that Our breach of the Hire Agreement or Our negligence causes the liability, claims, damage, loss, costs or expenses.
- 15.7 Each indemnity in this Hire Agreement is a continuing obligation, separate and independent from the other obligations of the parties and survives termination, completion and expiration of this Hire Agreement. It is not necessary for a party to incur expense or make any payment before enforcing a right of indemnity conferred by this Hire Agreement.
- 15.8 We will not be liable to You for any acts or omissions of any person supplied by Us where that person is acting under Your direction and control during the Hire Period and you indemnify Us against all liability, claims, damage, loss, costs and expenses (including, without limitation, legal fees, costs and disbursements on a full indemnity basis, whether incurred or awarded against Us and any environmental loss, cost, damage or expense) arising from or incurred in connection with such acts or omissions.

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## 16. TERMINATION OF HIRE AGREEMENT

- 16.1 Either party may terminate this Hire Agreement and any Hire Period immediately by giving notice to the other party, if:
- that other party breaches any term of the Hire Agreement and fails to remedy the breach within 7 days of written notification of the breach; or
  - that other party becomes bankrupt or insolvent, executes a personal insolvency agreement, enters into liquidation, administration, receivership or ceases to carry on business.
- 16.2 We may terminate the Hire Agreement and any Hire Period for any other reason on 24 hours' notice.
- 16.3 We may terminate the Hire Agreement immediately if You or any third party has made a false statement in, or breached any provision of this agreement.
- 16.4 These rights of termination are in addition to any other rights either party has under the Hire Agreement and does not exclude any right or remedy under law or equity.

## 17. RECOVERY OF THE EQUIPMENT

If You are in breach of the Hire Agreement or if the Hire Agreement or a Hire Period has been terminated under clause 16, We may, at Your cost, take all steps necessary (including legal action) to recover the Equipment, including entering Your premises to do so and You expressly consent to Us entering Your premises for the purposes of recovering Our Equipment.

## 18. SECURITY

As security for Your obligations and liabilities under this Hire Agreement, You hereby charge for the due and punctual payment and performance of those obligations and liabilities, all of Your legal and equitable interest (both present and future) of whatsoever nature held in any and all real property.

## 19. FORCE MAJEURE

- 19.1 Neither party will be responsible for any delays in delivery or return of equipment due to causes beyond their control including but not limited to acts of God, war, terrorism, mobilisation, civil commotion, riots, embargoes, orders or regulations of governments of any relevant jurisdiction, fires, floods, strikes, lockouts or other labour difficulties, shortages of or inability to obtain shipping space or land transportation.
- 19.2 Nothing will limit or exclude Your responsibility and liability under the Hire Agreement for Equipment that is lost, stolen or damaged beyond fair wear and tear during the Hire Period, or has broken down or become unsafe to use as a result of Your conduct or negligence.

## 20. SEVERABILITY

If any part of this Hire Agreement becomes void or unenforceable for any reason then that part will be severed with the intent that all remaining parts will continue to be in full force and effect and be unaffected by the severance of any other parts.

## 21. GOVERNING LAW

The Hire Agreement is governed by the laws of New South Wales and each party submits to the non-exclusive jurisdiction of the courts of that State in respect of any proceedings arising in connection with the Hire Agreement. Each party waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

## 22. ENTIRE AGREEMENT

The Hire Agreement comprises the entire agreement between the parties. No additional terms and conditions (including any terms contained in any purchase order supplied by You) apply to the hire of the Equipment.

## 23. NO RELIANCE

You acknowledge that neither We nor any person acting on Our behalf have made any representation or other inducement to You to enter into the Hire Agreement and You have not entered into the Hire Agreement in reliance on any representations or inducements (including in relation to the use of the Equipment) except for those representations contained in this Hire Agreement.

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## 24. NO WAIVER OF RIGHTS

No delay or omission by a party to exercise any right, power or remedy available to that party as a result of a continuing breach or default under the Hire Agreement will impair any such right, power or remedy, nor will it be construed to be a waiver of that party's rights to take action or make a claim in respect of a continuing breach or default.

## 25. AGREEING TO THE HIRE AGREEMENT

25.1 The person agreeing to the Hire Agreement or Relevant Documents for and on behalf of You hereby warrants that he or she has the authority to enter into the Hire.

25.2 The person agreeing to this Hire Agreement indemnifies Us against all losses, costs and claims incurred by Us arising out of the person so signing this Hire Agreement not in fact having such power and/or authority.



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