

A program of



**ACT**  
Government

**Children and Young People Equipment Loan Service**

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## Client Equipment Loan Deed

### Terms and Conditions

#### 1. Interpretation

1.1 The following definitions apply in this Deed:

**Deed** – means the Client Equipment Loan Deed Terms and Conditions and the Client Equipment Loan Deed Schedule.

**Client** – means the person detailed in Item 1 of the Schedule.

**Clinician** – means the qualified clinician detailed in Item 3 of the Schedule.

**Commencement** – means the date of execution of this Deed.

**Due Date** – means in respect of an item of Equipment that date detailed in Column 5 of Item 4 of the Schedule.

**Equipment** – the equipment detailed in columns 1 and 2 of Item 4 of the Schedule.

**Expiry** – means the later of the latest Due Date for the Equipment and the revised Due Date for the latest Equipment as determined by the Territory and notified to the Hirer in writing.

**Hirer** – means the person detailed in Item 2 of the Schedule.

**Item** – a reference to an Item is a reference to that item in the Schedule.

**Premises** – means the address of the Hirer detailed in Item 2 of the Schedule (or such substituted address representing the principal residence of the Client).

**Schedule** – means the Client Equipment Loan Deed Schedule.

**Territory** – means:

(1) when used in a geographical sense, the Australian Capital Territory; and

(2) when used in any other sense, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cwlth) represented by the Department of Disability, Housing and Community Services.

**Termination** – means the termination of this Deed in accordance with clause 7 of this Deed.

**Working Day** – means a day other than a Saturday, Sunday or public holiday in the Territory.

#### 2. Territory's Obligations

The Territory will:

- 2.1 allow the Hirer to take and the Client to use the Equipment only in accordance with the terms of this Deed from Commencement until Expiry or termination;
- 2.2 provide the Equipment to the Hirer for use by the Client clean and in good repair and working order;
- 2.3 repair and/or replace Equipment (subject to the terms of this Deed); and
- 2.4 at its absolute discretion, determine when the Equipment must be repaired or replaced.

### **3. Hirer's Obligations**

The Hirer will:

#### ***Insurance***

- 3.1 unless Item 6 of the Schedule is marked "No", obtain and maintain insurance under the contents policy for the Premises for the loss or damage of the Equipment;
- 3.2 upon Commencement (or such later time agreed by the Territory) notify the Territory that the Client has obtained insurance coverage for the Equipment;

#### ***Equipment Faults***

- 3.3 immediately notify the Territory on each occasion the Equipment fails, is damaged, lost, or does not function as effectively as when first used;

#### ***Operating Equipment***

3.4 maintain and operate the Equipment:

- (1) safely;
- (2) strictly in accordance with the law;
- (3) only for its intended use;
- (4) in accordance with any instructions supplied by the Territory, Clinician or posted on the Equipment.

3.5 ensure that all persons operating or erecting the Equipment are suitably instructed in its safe and proper use;

3.6 ensure the Client uses the Equipment in the manner, direction and advice by the Clinician and in accordance with any manufacturers direction or instructions;

3.7 comply with all occupational health and safety laws relating to the Equipment and its operation;

#### ***Indemnify the Territory***

3.8 indemnify the Territory for its cost to clean and/or repair Equipment returned that is not clean and good repair (as determined by the Territory) and to replace Equipment that is lost, stolen or damaged beyond repair; and

3.9 indemnify the Territory in respect of all claims, costs, expenses and for all loss, damage, injury or death to persons or property caused by the Equipment or the use of the Equipment, in connection with this Deed, except to the extent directly caused by the Territory.

#### ***Temporary return of Equipment***

3.10 at the Territory's request, allow the Territory to collect and use the Equipment for trial or fitting of a prospective hirer. The Territory will return the Equipment to the Hirer within 7 days of the date the Equipment was collected from the Hirer.

### **4. Restriction on Hirer**

The Hirer will not:

- 4.1 allow any person and will prevent all persons, other than the Client, from using the Equipment;
- 4.2 tamper with, damage, modify or repair the Equipment or allow a third party to do the same;

4.3 rely upon any representation relating to the Equipment or its operation other than those contained in this Deed; and

4.4 exceed the recommended or legal load and capacity limits of the Equipment, if applicable.

## **5 Issuing and Returning Equipment**

The Hirer will:

5.1 subject to clause 5.4, collect the Equipment from the Territory when the Territory advises the Hirer to collect the Equipment;

5.2 subject to clause 5.5, return the Equipment to the Territory (at the address notified by the Territory in writing) within 5 working days of Expiry or Termination of this Deed; and

5.3 return each piece of Equipment to the Territory by the Due Date for each piece of Equipment clean and in good repair and working order having regard to normal wear and tear.

If the Hirer completes the required details in Item 5 of the Schedule, the Territory may at the Territory's absolute discretion:

5.4 deliver the Equipment to the Premises at a time suitable to the Territory; and

5.5 collect the Equipment from the Premises within 5 working days of Expiry or Termination of this Deed.

## **6 Other Obligations of Parties**

### **Release**

6.1 The Hirer accepts liability for and releases the Territory from all damages, liabilities, injuries and death arising directly or indirectly from the use of the Equipment, in connection with this Deed, except to the extent directly caused by the Territory.

### **Debt**

6.2 The Hirer accepts any money it owes to the Territory, arising from clause 3.8 or 3.9, is a debt immediately due and payable to the Territory and recoverable by the Territory in a court of competent jurisdiction.

### **Authorisation to Enter Premises**

6.3 The Hirer gives the Territory and/or its agents, authority to enter the Premises and any other location where the Equipment is believed to be located for inspection, repair, delivery and/or collection upon the Territory giving the Hirer at least 5 days written notice.

## **7 Termination**

7.1 The Hirer or the Territory may terminate this Deed without cause by giving 5 Working Days written notice to the other party. Neither party will have a claim against the other party for compensation in the event this Deed is terminated without cause.

7.2 This Deed is immediately terminated upon the Premises not being within the Territory.

7.3 The Territory may terminate this Deed where the Hirer fails to comply with one or more of the terms of this Deed.

## **8 Survival Clauses**

Clauses 3.8, 3.9, 6.1, 6.2, 6.3 and 9 will survive the Expiration or Termination of this Deed.

## **9 Privacy Notice**

The personal information the Client and Hirer provides in this Deed is protected by the *Privacy Act 1988* (Cwlth). The provision of personal information is voluntary, but is necessary to determine the Client's and Hirer's suitability to participate in this Deed. The information may be disclosed to other government entities and its agents to assist with assessing the Client's suitability for the Specialised Childrens & Young Peoples Equipment Loans Service and enforcing recovery of Equipment and/or debts arising from this Deed. If the

Client and/or Hirer would like to access their personal information, please contact the Territory contact officer or Nedra Playford on 02 6205 1242.

**10 Acknowledgement**

10.1 The Hirer acknowledges that the Equipment is suitable for the Client and the Equipment has been prescribed by the Client's Clinician and where applicable has been suitably fitted for the Client by the Clinician.

10.2 That the Equipment was in clean and good and working order at the date of initial hire, unless specified to the contrary in Column 4 of Item 4 of the Schedule.

10.3 The Hirer agrees to be bound by the terms of this Deed. The Hirer has sought independent advice before executing this Deed if necessary.

10.4 The Hirer acknowledges it has capacity to enter this Deed both in its own capacity for and on behalf of the Client.