



## Clinicians Equipment Loan Deed Terms and Conditions

### 1. Interpretation of Words in this Deed

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

**Clinician** – means the person(s) detailed in Item 1 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** – means the equipment detailed in columns 1 and 2 of Item 2 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 Clinician in writing.

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

**Premises** – means the address of the Clinician detailed in Item 1 of the Schedule.

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

**Territory** – means the Australian Capital Territory, 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.

### 2. Territory's Obligations

The Territory will:

2.1 allow the Clinician to take and 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 Clinician in a clean and in good repair and in working order;

2.3 repair and/or replace Equipment (subject to the terms of this Deed);

2.4 at its absolute discretion, determine when the Equipment must be repaired or replaced;

2.5 maintain appropriate public liability and other insurance as required by the ACT Insurance Authority.

### 3. Clinician's Obligations

The Clinician will:

#### **Insurance**

3.1 obtain and maintain insurance coverage for the Equipment and upon Commencement as soon as possible notify the Territory that the Clinician has obtained insurance coverage for the Equipment;

#### **Equipment Faults**

3.2 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**

3.3 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 or posted on the Equipment.

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

3.5 ensure that any third party uses the Equipment in the manner, direction and advice by the Clinician and in accordance with any ... direction or instructions;

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

## **Indemnify the Territory**

3.7 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

3.8 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.

### **4. Restriction on Clinician**

The Clinician will not:

4.1 tamper with, damage, modify or repair the Equipment or allow a third party to do the same;

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

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

### **Third Party Use of Equipment**

5.1 The Clinician may allow a third party to use the Equipment for assessment and/or trial from the date of this Deed until this Deed Expires or is Terminated.

5.2 For the purpose of clause 4.1, the Clinician:

(1) will only allow the Equipment to be used by third parties only in accordance with this Deed;

(2) must adjust, fit and demonstrate the use of the Equipment to the third party and ensure the Equipment is suitable and the third party is fully competent to use the Equipment prior to the third party using the Equipment; and

(3) must ensure the Equipment is safe, clean and in good working order prior to the third party using the Equipment.

#### **a. Issuing and Returning Equipment**

The Clinician will:

6.1 subject to clause 6.4, collect the Equipment from the Territory when the Territory advises the Clinician to collect the Equipment;

6.2 subject to clause 6.5, 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

6.3 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 Clinician completes the required details in Item 3 of the Schedule, the Territory may at the Territory's absolute discretion:

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

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

## **7 Other Obligations of Parties**

### **Release**

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

### **Debt**

7.2 The Clinician accepts any money it owes to the Territory, arising from clause 3.7 or 3.8, 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**

7.3 The Clinician gives the Territory 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 Clinician at least 5 days written notice of the Territory's intention.

## **8. Termination**

Without prejudice, either party may terminate this Deed without cause by giving 5 working days written notice to the other party.

## **9. Survival Clauses**

Clauses 3.7, 3.8, 7.1, 7.2, 7.3 and 10 will survive the Termination of this Deed.

## **10. Privacy Notice**

The personal information the Clinician 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 Clinician's suitability to participate in this Deed. The information may be disclosed to other government entities and its agents to assist with assessing the Clinician'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 Clinician would like to access its personal information, please contact the Territory contact officer or Nedra Playford on 02 6205 1242.

## **11. Clinician's Acknowledgement**

11.1 The Clinician confirms that the Equipment is suitable for any third party and is suitably fitted for the third party who uses the Equipment.

11.2 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 2 of the Schedule.

11.3 The Clinician agrees to be bound by the terms of this Deed and the Schedule. The Clinician has sought independent advice before executing this Deed if necessary.