

Part C: Terms and Conditions Yehah Boat & Camper Hire

Hire of Equipment

- 1.1.1. The hire of the equipment will commence from the commencement date and will continue for the term specified in Part A of this agreement (hereinafter referred to as the "hire period").
- 1.2. The hire of equipment includes the equipment on board or attached thereto, for example in the case of boat hire the equipment includes the motor and safety equipment (hereinafter referred to collectively as "the equipment").
- 1.3. The hirer has carried out its own inspection and investigation of the equipment prior to the hiring and will hire the equipment as is from the commencement date of hire.
- 1.4. The hirer acknowledges that the relevant safety equipment has been provided to the hirer and the hirer warrants and agrees to use such safety equipment in a proper manner and as is lawfully required.
- 1.5. The hirer is entitled to use the equipment for the hire period and for any agreed extension of that period subject to the terms of use contained in this agreement.
- 1.6. The hirer agrees to return the equipment to 17 Cook Street, Bucasia, Qld or as directed by the owner on or before the end of the hire period.

Payment for Hire

- 2.1. In consideration of the owner hiring the equipment to the hirer, the hirer agrees to pay the owner the hire rate and extras (if any) as detailed in Part A of this agreement.
- 2.2. The hire rate and extras includes any GST amount payable.
- 2.3. The hire rate must be paid to the owner prior to or on the commencement date of the hire period.
- 2.4. The owner will not refund any of the hire rate if the hirer elects to return the equipment prior to the end of the hire period, regardless of reason.
- 2.5. The hirer agrees that any extras amount payable will be paid to the owner upon return of the equipment.
- 2.6. Upon collection of the equipment, a Credit Card pre-authorisation will be required to cover any extras charged. This may also include an amount to cover a security bond/deposit for damage to the equipment. Once a pre-authorisation has been made, the hirer acknowledges that it will not be released, removed or lowered, until the equipment is returned and an inspection of the equipment is carried out to the satisfaction of the owner.

Use, Operation and Maintenance

- 3.1. The hirer agrees that the use of the equipment carries with it danger and risk of injury and the hirer agrees to accept all danger and risk associated with the use of the equipment.
- 3.2. The equipment shall not be used by anyone other than the hirer without the written permission of the owner.
- 3.3. The hirer agrees to operate and maintain the equipment strictly in accordance with all due care and diligence and as instructed or directed by the owner.
- 3.4. The hirer agrees to only use the equipment for its intended use and in accordance with any manufacturer's instructions and recommendations whether supplied by the owner or posted on the equipment including but not limited to in respect of the operation, maintenance and storage of the equipment.
- 3.5. The hirer agrees to comply with all occupational health and safety laws relating to the use of the equipment by the hirer.
- 3.6. The hirer shall ensure the equipment is returned to the owner clean and free of any rubbish. If the hirer fails to do so, the hirer agrees and acknowledges that the owner will charge the cleaning fee detailed in Part A of this agreement.
- 3.7. The hirer shall ensure the fuel tank is filled with suitable fuel upon return of the equipment to the owner. If the hirer fails to do so, the hirer agrees and acknowledges that the owner will charge the refuelling fee as detailed in Part A of this agreement.
- 3.8. The hirer shall properly keep and maintain the equipment in good and serviceable condition and the owner shall have the right to inspect and test (if required) the equipment at any time during the hire period and for this purpose shall have access to any premises or building in which the equipment may for the time being housed.

Hirer's Warranties

The hirer warrants that:

- 4.1. the equipment will be used in accordance with the conditions outlined in this agreement;
- 4.2. the particulars provided in Part B are correct in every respect and are not misleading in any way including but not limited to omission;
- 4.3. the hirer holds a valid current driver's licence, equipment operating licence or permit valid for the type of equipment hired;
- 4.4. the equipment will not be used for any illegal purpose;
- 4.5. the hirer will ensure that any person who drives or operates the equipment will not do so in a careless, reckless or dangerous manner nor whilst under the influence of alcohol or any illegal drug of dependence;
- 4.6. the hirer's vehicle is suitable for towing the equipment;
- 4.7. the hirer will not, without prior written consent of the owner, modify, adapt or permit any modification of, the equipment in any way;
- 4.8. the hirer agrees that upon the hirer's own inspection the equipment complies with its description, is in merchantable condition and is fit for the hirer's purpose; and
- 4.9. the hirer will not remove or permit or suffer the equipment to be taken outside of an area of Mackay.

Indemnity

- 5.1. The hirer hereby indemnifies and agrees to keep indemnified the owner, its agents, servants and employees from and against all claims, loss, damage, liabilities, demands, causes of action, suits, penalties, insurance deductibles and all legal expenses:-
 - 5.1.1 arising out of the use or operation of the equipment during the hire period, its repair, maintenance or storage;
 - 5.1.2 incurred by the owner in respect of any loss associated with the equipment during the hire period;
 - 5.1.3 in respect of any refusal of an insurer to indemnify the owner in respect of the equipment in respect of an incident or event arising during the hire period.

Loss, Damage or Breakdown of Equipment

- 6.1. The hirer will be responsible for any loss or damage to the equipment irrespective of how the loss or damage occurred (fair wear and tear excepted) during the hire period.
- 6.2. If there is any damage suffered or incident in respect of the equipment, the hirer must contact the owner as soon as practicable after and comply with any direction given by the owner in regard to the return or delivery of the equipment.
- 6.3. The hirer acknowledges and accepts that it shall not be entitled to recover from the owner any sum for any delay, inconvenience or loss of any kind due to any accident, breakdown or defect in the equipment or from any other cause whatsoever.
- 6.4. If there is a breakdown or failure of the equipment then the hirer shall return the equipment to the owner at the hirer's expense and the hirer shall not attempt to repair the equipment.

Insurance

- 7.1. The owner will maintain current insurance policies in respect of the equipment to its full insurable value.

Liability

- 8.1. The hirer will use, operate and possess the equipment at its own risk and acknowledges that the owner will have no responsibility or liability for any loss or damage to any property of the hirer. To the extent permitted by law, the hirer hereby releases and discharges the owner, its agents, servants and employees from:-
 - 8.1.1 all claims, loss, damage, liabilities, demands, causes of action, suits, debts of any nature whatsoever;
 - 8.1.2 any loss or damage whatsoever by way of death or injury of any person or damage to any property or otherwise,
 - 8.2.3 arising directly or indirectly from or incidental to a breakdown of or defect in the equipment or accident involving the equipment or its use, operation, repair, maintenance or storage whether occasioned by the negligence of the owner or otherwise.

Disclaimer

- 9.1. To the extent permitted by law the owner disclaims all liability for and does not give any warranties to the hirer as to the condition of the equipment or fitness for use.

Title to Goods

- 10.1. The hirer acknowledges that the owner retains all right and title to the equipment and that the hirer has the right to use the equipment as a mere bailee only. The hirer does not have any right to pledge the owner's credit in connection with the equipment and agrees not to do so.
- 10.2. The hirer agrees not to agree, offer or purport to sell, assign, sub-let, lend, pledge, mortgage, let or hire or otherwise part with or attempt to part with personal possession or otherwise not to deal with the equipment and not to conceal or alter the equipment or make any addition or alteration to, or repair of, the equipment.

Repossession

- 11.1. The owner shall have the right at any time during the hire period if the Hirer is in breach of this agreement to repossess the equipment at its absolute discretion or at the end of the hire period and for those purposes to enter personally or by its agents at any time upon any building or premises where the equipment may for the time being be housed and to break open by force if necessary any such building or premises, and the hirer agrees to indemnify the owner or its agents against any loss or damage suffered by them or any of them whilst exercising or attempting to exercise the rights conferred by this clause and the owner shall not be liable for any damage caused whilst exercising the rights under this clause.

Completion of the Hire Period

The hire period is completed when the equipment has been returned to the owner:

- 12.1. In the same condition as when it was hired; and
- 12.2. On or by the date and time outlined in Part A of this agreement.

Damage to Equipment or Theft

- 13.1. The hirer is responsible for returning the equipment to the owner in the same condition as when hired with the exception of fair wear & tear. If the equipment is damaged or stolen the hirer is responsible for the repair or replacement and repair of the other persons property in the event of a collision up to the amount of the insurance excess detailed in Part A of this agreement.
- 13.2. Where it appears to the owner that the cost of repairing the damage (plus the cost of repairing damage to any other boat or property with which the equipment collided) may approach or exceed the amount of the insurance excess, the owner will charge the hirer's credit, charge or debit card with the full amount of the insurance excess and the hirer hereby irrevocably authorises the owner to impose the charge on the same credit card or debit card. If it later transpires that the actual cost of repairs or replacement is less than the insurance excess, the owner will promptly credit the difference to your card.

Non-Merger

- 14.1. The covenants, agreements and obligations contained in this agreement will not merge or terminate upon the termination of this agreement and to the extent that they have not been fulfilled or satisfied or are continuing obligations they will remain in force and effect.

Severance

- 15.1. If any provision of this agreement is wholly or partly invalid, unenforceable, illegal, void or voidable, this agreement must be construed as if that provision or part of a provision had been severed from this agreement and the parties remain bound by all of the provisions and part provisions remaining after severance.

Governing law

- 16.1. This agreement is governed by the laws of Queensland. Each party submits to the non-exclusive jurisdiction of the courts exercising jurisdiction there in connection with matters concerning this agreement.

Interpretation

- 17.1. In this agreement, unless the context otherwise requires:
 - 17.1.1. A reference to the singular includes the plural and vice versa;
 - 17.1.2. A reference to any party to this agreement includes the party's executors, administrators, successors or permitted assigns and where applicable, its servants and agents;
 - 17.1.3. A reference to an individual shall include corporations and vice versa; and
 - 17.1.4. If a word or expression is defined, its other grammatical forms have a corresponding meaning.
- 17.2. In this agreement, headings are for convenience only and do not affect interpretation.
- 17.3. Reference to 'this agreement' means collectively the documents headed Part A, Part B, Part C, Part D, Part E and Part F.