
TERMS AND CONDITIONS

1. ACCEPTANCE OF TERMS

- 1.1 These terms and conditions and the order page provided to you (**Order Page**), are referred to as the **Agreement**. This Agreement is between Gina Marie Haitidis trading as The Kids Korner Co ABN 21 344 228 157 (referred to as “we” or “us”), and you, the person described in the Order Page, referred to as “you” in this Agreement and collectively, the Parties.
- 1.2 The Order Page is used to set out commercial details relating to this Agreement, including the period of hire, prices and any delivery fees. We will provide you with the Order Page on request. Terms not defined in these terms and conditions take the meaning given to them in the Order Page.
- 1.3 You have requested to hire our products (**Products**) as set out in the Order Page or as otherwise agreed. Our products are offered via different packages (**Packages**) and our Packages are available to be customised. You agree and accept that our Products are provided to you pursuant to this Agreement.
- 1.4 You will be deemed to have accepted this Agreement if you:
 - (a) sign the Order Page in the place(s) marked and return the signed Order Page to us;
 - (b) make part or full payment for a Package you have selected;
 - (c) confirm your acceptance of this Agreement via email to us; and/or
 - (d) instruct us (whether in writing, including via email or orally) to proceed with providing our Products.

2. HIRING OUR PRODUCTS

- 2.1 The hire of the Products will commence from the rental period set out in the Order Page (**Rental Period**). You are entitled to use the Products for the Rental Period. We must agree to any extensions of the Rental Period.
- 2.2 If a Rental Period is not specified, then the Rental Period will be for a maximum of five (5) hours.
- 2.3 If you return the Products to us outside the Rental Period, we reserve the right to charge you a late return fee. You will be charged the Fee (Deposit and balance of Fee) you paid for the Rental Period for every day the Products have not been returned.
- 2.4 If you have not returned the Products within 48 hours of the end of the Rental Period, we will charge you the recommended retail value cost of the Products.
- 2.5 To pay any late return fees, we will be entitled to keep your Bond and for any remaining fees, to charge your PayPal account or demand that any outstanding amount be paid by you to us as a debt.
- 2.6 You acknowledge and agree that any late return fees are reasonable and a genuine pre-estimate of the loss suffered or incurred by us as a result of your delay in returning the Products to us.

3. DELIVERY AND PICK-UP

- 3.1 You may request our delivery services (**Delivery**) or you may pick up the Products at our premises. You must provide photo identification (driver’s licence, passport or other identification acceptable to us) in the name of the person who listed on the Order Page to take delivery of our Products.
- 3.2 If you request Delivery:
 - (a) we will deliver the Products to the address specified in the Order Page;
 - (b) we will charge you the Delivery Fees as specified in the Order Page; and
 - (c) you must provide us with safe access to your nominated delivery address.
- 3.3 Pick-up of the Products does not incur a charge.

- 3.4 The Products shall be returned in a clean state, otherwise a cleaning fee may apply.
- 3.5 If you choose to pick up the Products from our premises, you are responsible for considering all measurements of the Products to ensure the Products will fit your vehicle, using padded foam or other protective measures to ensure the Products are not damaged during transit and you must only pick up and drop off the Products at a time we agree.
- 3.6 Delivery Fees are for delivery to street level. Extra fees will be payable for delivery to higher or lower levels.

4. YOUR OBLIGATIONS

- 4.1 You agree not to use the Products at locations or for purposes different to the Products' designated purposes and specified suitability (such as indoor versus outdoor use).
- 4.2 You acknowledge that the operation and use of the Products and the safety of any person using the Products whilst they are in your possession, is your responsibility.
- 4.3 You acknowledge and agree that you are to use our Products in accordance with any safety instructions, installation instructions or safety provisions we provide to you.
- 4.4 You must:
- (a) return the Products to us in the condition in which they were provided to you;
 - (b) use the Products as they would be used by a careful and prudent owner;
 - (c) not use any of the Products for any illegal purpose; and
 - (d) report any damage to, or loss of, the Products to us immediately.
- 4.5 You acknowledge that you are responsible for ensuring that the Products are in good working order at the time of collection (if you have chosen Delivery) or drop-off of the Products to our premises. If you cause damage to the Products or if parts of the Products are lost, you are liable to pay the costs for repairs and/or replacement.
- 4.6 We have no obligation to await the outcome of any claim you may have against any third party or parties (including insurers) in assessing and claiming for the amount of any repairs or replacement.
- 4.7 No termination shall be valid or effective whilst the Products or any part thereof has unrepaired damage.

5. PARENTAL SUPERVISION

- 5.1 Our Products are not to be used without parental supervision. You agree to communicate to all parents or carers at any event at which the Products will be used; that they are not to leave their child or children playing alone on or with the Products and to exercise parental supervision at all times.

6. PAYMENT

- 6.1 You agree to pay us any Total Fee (including Deposit, balance of Fee and Delivery Fee) and the Bond and any applicable GST for the Package that you have requested, as set out in the Order Page. All amounts are stated in Australian dollars. You must pay the Deposit in order to confirm the Package and Products for your selected date and time. The Deposit is in no circumstances refundable.
- 6.2 You agree to pay our invoices within the Invoice Terms and by the Payment Method (as set out in the Order Page).
- 6.3 If you do not pay the balance of the fees by the date set out in the Invoice Terms, we may refuse to provide the Products to you and the Deposit will not be returned to you.
- 6.4 The Bond will be refunded to you upon return of the Products in a condition acceptable to us. We may retain the bond or part of it in the event of any of our Products being returned late, lost or stolen or any damage to our Products.
- 6.5 We may charge interest at the rate of 2% per month on any amounts unpaid after the expiry of 7 days after the payment date.

6.6 If invoices are unpaid for 7 days after the payment date, we have the right to engage debt collection services for the collection of unpaid and undisputed debt, and the right to commence legal proceedings for any outstanding amounts owed to us.

7. TITLE

7.1 You agree to keep the Products in your custody and not to sublease, rent, sell, pledge, mortgage or remove the Products from the delivery address you nominate.

7.2 The Products will, at all times, remain our property and may be removed by us at any time after the termination of this Agreement. We own the Products and you take the Products as bailee only.

8. CANCELLATION

8.1 You may cancel your order and the Products at any time by written notice, however:

- (a) in all cases, the Deposit will not be returned to you; and
- (b) if the written notice is received:
 - (1) at least 7 days before the Rental Period commences, we will refund the balance of any fees paid by you (unless the Rental Period falls within a busy time, including within 3 days either side of any Victorian public holiday, in which case, we will only refund 50% of the balance of any fees paid by you);
 - (2) between 7 days and 24 hours of the commencement of the Rental Period, we will provide you with a credit note for the balance of any fees paid; and
 - (3) less than 24 hours before the commencement of the Rental Period, no refund of any fees will be paid.

9. TERMINATION

9.1 This Agreement automatically terminates at the later of:

- (a) collection of the Products; or
- (b) if you selected to pick-up the Products; you delivering the Products to us at the end of the Rental Period.

9.2 Either Party may terminate this Agreement, if there has been a material breach of this Agreement, subject to following the dispute resolution procedure.

9.3 We may terminate this Agreement immediately, in our sole discretion, if:

- (a) we consider that a request for Products is inappropriate, improper or unlawful;
- (b) for any other reason outside our control which has the effect of compromising our ability to provide the Products required within the required timeframe; or
- (c) you fail to pay an invoice within 7 days of the payment date.

10. LIMITATION OF LIABILITY AND DISCLAIMERS

10.1 **ACL:** Certain legislation including the Australian Consumer Law (**ACL**) in the *Consumer and Competition Act 2010 (Cth)*, and similar consumer protection laws and regulations may confer you with rights, warranties, guarantees and remedies relating to the provision of Products by us to you which cannot be excluded, restricted or modified (**Statutory Rights**).

10.2 Our liability is governed solely by the ACL and this Agreement. We exclude all conditions and warranties implied by custom, law or statute except for your Statutory Rights.

10.3 Except for your Statutory Rights, all of our Products are provided to you without warranties of any kind, either express or implied; and we expressly disclaim all warranties of any kind including but not limited to implied warranties of merchantability and fitness for a particular purpose. You acknowledge and agree that we are not liable for any loss, damage or injuries which occur, directly or indirectly, from the use of our Products.

10.4 Despite anything to the contract, to the maximum extent permitted by law, our maximum aggregate liability for any expense, cost, liability, loss, damage, claim, demand or proceeding (whether under

statute, contract, equity, tort, indemnity or otherwise), howsoever arising, whether direct or indirect and/or whether present, unascertained, future or contingent arising from or in connection with this Agreement will be limited to, and will not exceed, the portion of the Deposit and Fees paid by you to us for the Products the subject of the relevant claim.

- 10.5 We will have no liability, and you release and discharge us from all liability, arising from or in connection with any: (i) event or circumstance beyond our reasonable control; (ii) acts or omissions of you, your personnel, employees or contractors; (iii) defect, error, omission or lack of suitability or benefit (or the absence of, or reduction in, any anticipated result, outcome or benefit) with respect to the Products; and/or any loss of profit (including anticipated profit), loss of benefit (including anticipated benefit), loss of revenue, loss of business, loss of goodwill, loss of opportunity, loss of savings (including anticipated savings), loss of reputation, loss of use and/or loss or corruption of data.
- 10.6 This clause will survive termination of this Agreement.

11. INDEMNITY

- 11.1 You are liable for and agree to indemnify, defend and hold us harmless for and against any and all claims, liabilities, suits, actions and expenses, including costs of litigation and reasonable legal costs, or any economic loss resulting directly or indirectly from any breach of this Agreement; and any misuse of the Products; or any late return of the Products after the Rental Period; from or by you, your employees, contractors or agents.
- 11.2 You agree to co-operate with us (at your own expense) in the handling of disputes, complaints, investigations or litigation that arise as a result of your use of our Products including but not limited to disputes, complaints, investigations or litigation that arises out of or relates to incorrect information you have given us.
- 11.3 The obligations under this clause will survive termination of this Agreement.

12. GENERAL

- 12.1 **Privacy:** We agree to comply with the legal requirements of the Australian Privacy Principles as set out in the *Privacy Act 1988* (Cth) and any other applicable legislation or privacy guidelines.
- 12.2 **Publicity:** You consent to us using advertising or publically announcing that you have hired Products from us.
- 12.3 **GST:** If and when applicable, GST payable on our Products will be set out on our invoices.
- 12.4 **Relationship of Parties:** This Agreement is not intended to create a relationship between the Parties of partnership, joint venture, or employer-employee.
- 12.5 **Assignment:** This Agreement is personal to the Parties.
- 12.6 **Severance:** If any provision (or part of it) of this Agreement is held to be unenforceable or invalid in any jurisdiction, then it will be interpreted as narrowly as necessary to allow it to be enforceable or valid.
- 12.7 **Governing law and jurisdiction:** This Agreement is governed by the laws of Victoria and the Commonwealth of Australia. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts operating in Victoria.

For questions or notices, please contact us at:

Gina Marie Haitidis trading as The Kids Korner Co ABN 21 344 228 157

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