

Full Terms of Hire Agreement with Knee Walker Hire Pty Ltd

Agreement

1. a) These terms of hire constitute the entire Agreement between You and Us. Any promotional brochures, marketing material or information provided to You by Us is for information purposes only and does not form part of this Agreement.
- b) No Salesperson or agent of Knee Walker Hire Pty Ltd is authorised to change any term of this hire agreement or to make any warranties or representations about it oral or otherwise.

Definitions

The following definitions apply to this Agreement:-

- a) "Agreement" means this Agreement;
- b) "Application Form" means the Application Form and shall be paid by You to Us in accordance with the terms of this Agreement;
- c) "Equipment" means a Drive Medical Knee Walker
- d) "Hire Charge" is set out in the Application Form and shall be paid by You to Us in accordance with the terms of this Agreement;
- e) "Hire Period" means the period described in clause 4 below;
- f) "PPSA" means the Personal Property Securities Act 2009 (Cth);
- g) "Us/We/Our" means Knee Walker Hire Pty Ltd ABN 48 161 368 181
- h) (i) "You/Your/Yourself" means the person or entity who accepted the terms and enters into this Agreement or
(ii) "You/Your/Yourself" means any minor who will use the equipment and the person or entity who accepted the terms and enters into this Agreement on behalf of any minor who will use the equipment

The Hire Period

The Hire Period commences when either:-

- a) You take possession of the Equipment; or
- b) If You request delivery and collection of the equipment, the time that we deliver the Equipment to the address provided by You in the Application Form, or the time when we make the Equipment available for collection by You; whichever occurs first.

The Hire period is for an indefinite term of not less than two (2) weeks from the date that the Hire Period commences.

The Hire Period ends when the Equipment is back in Our custody and possession.

Payment of Hire Charge

You agree to pay the Hire Charge for the minimum term of two (2) weeks in advance before the Hire Period commences and to then continue to pay the Hire Charge on a weekly or daily basis as agreed until the Hire Period ends.

Your Obligations to Us Under this Agreement

You must:-

- a) pay the Hire charge for every day or part thereof of the Hire Period; use the Equipment only in accordance with its intended purpose and in accordance with any written directions regarding its use;
- b) not allow or authorize any other person or entity to use, re-hire, possess, or operate the Equipment and to take all reasonably necessary steps to prevent same;
- c) satisfy Yourself that the Equipment is suitable and fit for the purpose for which You intend to use it;
- d) been in consultation with a medical professional to confirm that the equipment is necessary and/or suitable for use by You;
- e) immediately notify Us in the event that the Equipment becomes in any way defective or unfit for purpose and not further use the equipment in that event;
- f) inspect the Equipment when You take delivery of it and satisfy, Yourself that it is in good order and condition and immediately notify Us if you believe this is not the case;
- g) return the Equipment to Us in the same clean condition and good working order that it was when you received it, subject to any fair and reasonable wear and tear.

Ownership of and Responsibility for the equipment

You acknowledge that We own the Equipment and in all circumstances We retain the title to the Equipment. Your rights to use the Equipment are as a bailee only. You are not entitled to offer, sell, assign, sub-lease, charge, pledge or create any form of security interest over, or otherwise deal with the Equipment, in any way. You consent to Us affecting and maintaining a registration on the PPSA register in relation to any security interest that We may have either under this Agreement or otherwise in the Equipment and You waive the right to receive any notice of any registration in respect of the Equipment.

You are responsible for the Equipment for the Hire Period and You must take all reasonably appropriate steps to secure the Equipment and protect it from damage, theft and/or misuse. If the Equipment is damaged or stolen or subject to unauthorized use, YOU will immediately notify US at which point the Hire Period shall be deemed at an end and You will be responsible for payment to Use of the replacement cost of the Equipment. Provided that your pay the replacement cost, We will, if you so request, replace the Equipment and the Hire Period shall resume subject to the terms of this Agreement.

Indemnities and Exclusion of Liabilities

7. a) subject to clause 7c below and except as expressly provided to the contrary in this 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;
- b) nothing in this Agreement excludes, restricts or modifies any right or remedy, or any guarantee, term, conditions, warranty, undertaking, inducement or representation, implied or imposed by any legislation which cannot lawfully be excluded or limited. This may include the Australian Consumer Law, which contains guarantees that protect the purchasers of goods and services in certain circumstances;
- c) where any legislation implies or imposes a guarantee term, condition, warranty, undertaking, inducement or representation in relation to this Hire Agreement and We are not able to exclude that guarantee, terms, conditions, warranty, undertaking, inducement or representation and We are able to limit Your remedy for a breach of such provision, then Our liability for breach of such provision is limited to (at Our election):-
 - (i) 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
 - (ii) In the case of services, the supplying of the services again or the payment of the costs or having the services supplied again;
 - (d) 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 or tort (including without limitation negligence), in equity, under statute, under indemnity based or fundamental breach or breach of a fundamental term or on any other basis, is limited to an amount equal to the fees paid by You under this Hire Agreement.
 - (e) to the maximum extent permitted by law, we exclude and will not be liable for any claims, suits or actions of any nature that arise as a result of:-
 - (i) Your negligent act or omission;
 - (ii) Your breach of any clause of this Agreement including the use of the Equipment other than in accordance with the directions We give You;
 - (iii) The use of the Equipment by anyone other than You;
 - (f) You are liable for and indemnify Us against all liability, claims, damage, loss, costs and expense (including without limitation legal fees, costs and disbursements on a fully indemnity basis) in respect of personal injury, damage to property or damage to any third party, in respect of Your hire or use of the Equipment and/or Your breach of this Agreement.

Termination of this Agreement

Either party may terminate this Agreement and the Hire Period immediately by giving notice to the other party in writing. This Agreement otherwise terminates if any party breaches any term of the Agreement or either party becomes bankrupt or insolvent or enters into liquidation, administration or receivership. In the event of termination, You shall be liable for the payment of the Hire-Charge for the Hire Period.

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 unaffected by the severance of any other parts.

Acceptance

You indicate your acceptance of the terms of this Hire agreement

- By a) signing this Hire Agreement or
 b) offering payment of the Hire Fee or
 c) taking delivery of the Equipment

Governing Law

This Hire Agreement is governed by the laws of the State New South Wales