

## Terms And Conditions for Leasing from Australian Aesthetic Devices

### RECITALS

- A. Whereas the lessor desires to lease to the lessee, and lessee desires to lease from the lessor, certain tangible personal property which is described in the schedule.

### OPERATIVE PART

**IT IS AGREED** that in consideration of the mutual covenants and promises hereinafter set forth, the parties agree as follows:

#### 1. **Interpretation**

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This agreement is governed by the laws of Victoria and the parties submit to the non-exclusive jurisdiction of the courts of that state.

In the interpretation of this agreement:

- (a) References to legislation or provisions of legislation include changes or re-enactments of the legislation and statutory instruments and regulations issued under the legislation;
- (b) Words denoting the singular include the plural and vice versa, words denoting individuals or persons include bodies corporate and vice versa, references to documents or agreements also mean those documents or agreements as changed, novated or replaced, and words denoting one gender include all genders;
- (c) Grammatical forms of defined words or phrases have corresponding meanings;
- (d) Parties must perform their obligations on the dates and times fixed by reference to the capital city of Victoria;
- (e) Reference to an amount of money is a reference to the amount in the lawful currency of the Commonwealth of Australia;
- (f) If the day on or by which anything is to be done is a Saturday, a Sunday or a public holiday in the place in which it is to be done, then it must be done on the next business day;
- (g) References to a party are intended to bind their executors, administrators and permitted transferees; and
- (h) Obligations under this agreement affecting more than one party bind them jointly and each of them severally.

#### 2. **Lease**

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The lessor hereby leases to the lessee, and the lessee hereby leases from the lessor, the equipment described in the schedule.

#### 3. **Registration under the Personal Properties Securities Act 2009**

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In the event that this lease is a personal property securities lease under the Act then the lessee will do all things necessary to enable it to be registered and will comply with all requirements of the Act.

#### 4. **Term**

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The term of this lease and its date of commencement are set out in the schedule.

#### 5. **Rent and deposit**

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- (a) The rent for the equipment shall be paid in advance by equal consecutive monthly instalments the first on the date of commencement. Payment shall be paid to the lessor at the address or to the credit of the account details of which are in the schedule or at such other place or account as the lessor may designate from time to time.
- (b) The lessee shall pay a late payment charge equal to 1% per month on any amount that is ten days overdue.
- (c) The lessee shall pay to the lessor the deposit set out in the schedule prior to taking possession of the equipment. The deposit will be refunded to lessee promptly following the lessee's performance of all obligations of this lease.

#### 6. **Use**

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The lessee shall use the equipment in a safe and appropriate manner and shall comply with and conform to all national, state, municipal, and other laws, ordinances and regulations in any way relating to the possession, use or maintenance of the equipment.

#### 7. **No warranties**

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The lessor disclaims all and any warranties, not required by law, whether express or implied including but not limited to warranties as to merchantability and fitness for a particular purpose. Should the equipment prove unfit for the purpose for which it is leased and is returned undamaged within 48 hours of delivery then the lessee may terminate this lease and all money paid will be refunded but otherwise neither party will have any right of action against the other. If the equipment has been damaged then the lessee will bear the cost of its repair.

#### 8. **Repairs**

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The lessee, at its own cost and expense, shall keep the equipment in good repair, condition and working order and shall furnish any and all parts, mechanisms and devices required to keep the equipment in good mechanical working order.

#### 9. **Loss and damage**

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- (a) The lessee hereby assumes and shall bear the entire risk of loss and damage to the equipment from any and every cause whatsoever.
- (b) In the event of loss or damage of any kind whatever to the equipment, the lessee shall, at lessor's option:
  - (i) Place the same in good repair, condition and working order; or
  - (ii) Replace the same with like equipment in good repair, condition and working order; or
  - (iii) Pay to the lessor the replacement cost of the equipment.

## 10. Surrender

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Upon the expiration or earlier termination of this lease, the lessee shall return the equipment to the lessor in good repair, condition and working order, ordinary wear and tear resulting from proper use thereof excepted, by delivering the equipment at the lessee's cost to the lessor's place of business.

## 11. Insurance

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- (a) The lessee shall arrange and continuously maintain and keep current in the name of the lessee and lessor:
- (i) All risk insurance against loss and damage to the equipment for its full replacement value; and
  - (ii) Third party personal injury and property damage insurance with limits approved by the lessor.
- (b) The insurance shall be in such form and with such company or companies as shall be reasonably acceptable to the lessor. The lessee shall provide the lessor with an original policy or certificate evidencing such insurance.

## 12. Taxes

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The lessee shall pay as they fall due all license and registration fees or other imposts or fines or penalties arising from the use or operation of the equipment.

## 13. Indemnity

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The lessee hereby indemnifies and holds harmless the lessor against any and all claims, actions, suits, proceedings, costs, expenses, damages and liabilities, arising out of, connected with, or resulting from lessee's use of the equipment.

## 14. Default

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- (a) If the lessee fails to pay any rent or other amount herein provided within 14 days after the same is due and payable, or if lessee fails to observe or perform any other provision of this lease required to be observed, or performed by lessee, then the lessor shall have the right to exercise any one or more of the following remedies:
- (i) To declare the entire amount of rent hereunder immediately due and payable without notice or demand to lessee;
  - (ii) To sue for and recover all rents, and other payments, then accrued or thereafter accruing;
  - (iii) To take possession of the equipment, without demand or notice, wherever same may be located, without any court order or other process of law. The lessee hereby waives any and all damages occasioned by such taking of possession;
  - (iv) To terminate this lease; and
  - (v) To pursue any other remedy at law or in equity.

- (b) Notwithstanding any repossession or any other action which the lessor may take, the lessee shall be and remain liable for the full performance of all obligations on the part of the lessee to be performed under this lease. All of the lessor's remedies are cumulative, and may be exercised concurrently or separately.

**15. Insolvency**

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Neither this lease nor any interest herein is assignable or transferable by the lessee or by operation of law. If any proceeding under the Bankruptcy Act 1966, or in the event that the lessee is a company under the Corporations Act 2001, is commenced by or against the lessee, or if the lessee is adjudged insolvent, or if the lessee makes any assignment for the benefit of creditors, or if a writ of attachment or execution is levied on the equipment and is not released or satisfied within 14 days thereafter, or if a receiver is appointed in any proceeding or action to which the lessee is a party with authority to take possession or control of the equipment, the lessor shall have and may exercise the option without notice to immediately terminate the lease and take possession of the equipment.

**16. Ownership**

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The equipment is, and shall at all times be and remain, the sole and exclusive property of the lessor and the lessee shall have no right, title or interest therein or thereto except as expressly set forth in this lease.

**17. Additional documents.**

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If the lessor shall so require, the lessee shall execute and deliver to the lessor such documents as the lessor shall deem necessary or desirable for purposes of protecting the interest of the lessor in the equipment.

**18. Entire agreement**

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This agreement constitutes the entire agreement between the parties and it shall not be amended, altered or changed except in writing signed by the parties.

**19. Assignment**

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The lessee shall not assign this lease without the prior written consent of the lessor which may be given or withheld in the lessor's absolute discretion.

**20. Notices**

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A communication required by this agreement, by a party to another, must be in writing and may be given to them by being:

- (a) Delivered personally; or
- (b) Posted to their address specified in this agreement, or as later notified by them, in which case it will be treated as having been received on the second business day after posting; or
- (c) Faxed to the facsimile number of the party with acknowledgment of receipt received electronically by the sender, when it will be treated as received on the day of sending; or

(d) Sent by email to their email address, when it will be treated as received on that day.

**21. Counterparts**

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This agreement may be executed in any number of counterparts each of which will be an original but such counterparts together will constitute one and the same instrument and the date of the agreement will be the date on which it is executed by the last party.

**22. Costs**

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Each party will pay their own costs in relation to this agreement.