

# SCF GROUP - LEASE TERMS AND CONDITIONS

## 1. **GENERAL**

- 1.1. The lease of Equipment by SCF Group Pty Ltd ACN 065 732 078 (**SCF Group**) to the Customer is exclusively comprised of and subject to these Lease Terms and Conditions (**Terms**) and the Schedule of Supply. To the extent of any inconsistency between them, the following order of precedence applies:
  - 1.1.1. the relevant Schedule of Supply; then
  - 1.1.2. the Terms.
- 1.2. Providing the Customer complies in all respects with the Agreement, SCF Group agrees to lease Equipment to the Customer for the duration of the Hiring Period at the Rental Charges, set in the Schedule of Supply.
- 1.3. By signing a Schedule of Supply, the Customer agrees that the Terms will apply to any lease of Equipment by SCF Group, unless another contract has been negotiated and entered by the parties. The Customer's terms and conditions, whether electronic or in printed form, attached to any purchase order, any invoice or any other documentation will be of no force and effect and will not be accepted by SCF Group.

## 2. **HIRING PERIOD**

- 2.1. The Hiring Period for each Equipment is the period specified in the relevant Schedule of Supply commencing on the Commencement Date or the date on which the Equipment leaves the SCF Group depot, whichever is earlier, and ending on the day the Equipment is returned to the Return Depot
- 2.2. If the Customer is not in breach of its obligations under the Agreement and upon giving SCF Group notice prior to the expiration of the Hiring Period, the Customer may extend the Hiring Period on the same terms and conditions in the Agreement.
- 2.3. If the Customer does not extend the Hiring Period, the Customer may, if SCF Group agrees, continue to lease the Equipment on a casual daily basis and subject to the Terms until either party gives one month's notice in writing of its intention to either amend or terminate the Agreement.
- 2.4. Subject to clause 11.2, if the Customer terminates the Agreement before the end of the Hiring Period the Customer will be liable for the Rental Charges due for the balance of the Hiring Period.

## 3. **RENTAL**

- 3.1. The Customer will pay SCF Group the Rental Charges and all other charges specified in the Schedule of Supply and any associated GST, and any other government taxes applicable to this Agreement.
- 3.2. Payment of the Rental Charges and all other charges will be made electronically to SCF Group's nominated bank account.

## 4. **PAYMENTS**

- 4.1. Any monies payable by the Customer to SCF Group under this Agreement including the Rental Charges must be paid without any set off or counterclaim and free of any deduction or abatement whatsoever.
- 4.2. The Customer will pay SCF Group upon demand the reasonable costs and expenses (including fees associated with the recovery of Equipment, debt collection fees and commission and legal costs on a solicitor client basis) incurred or payable by SCF Group in respect of the recovery and any attempted recovery of any monies payable by the Customer to SCF Group as a result of a breach of the Agreement by the Customer.
- 4.3. Unless specified otherwise in the Schedule of Supply, the payment by the Customer of the Rental Charges and any other moneys payable by the Customer under the Agreement must be paid within 30 days of the date of the Invoice. This is an essential term of the Agreement.
- 4.4. If any monies payable by the Customer to SCF Group under this Agreement are not paid on or by the due date for payment, the Customer will be liable for interest on any outstanding amount up to the date of payment at the rate of 1.2% per month, compounding and calculated daily.

## 5. **USE OF EQUIPMENT**

- 5.1. When using the Equipment the Customer will:
  - 5.1.1. comply with any handling and operating standards provided by SCF Group;

- 5.1.2. ensure that the Equipment is not used for any purpose for which it is not designed;
- 5.1.3. ensure that any person handling, operating or using the Equipment has had any required training (as relevant) and ensure that they will use reasonable care, skill and diligence at all times in doing so;
- 5.1.4. not load the Equipment beyond the load capacity limit specified or recommended for the Equipment, and
- 5.1.5. comply with all applicable laws, statutes and regulations (including by-laws notice and direction by any government authority), all rules and practices of ports, storage and transport companies regulating or affecting the use of Equipment and any goods or substances that can be stored or carried in the Equipment.

- 5.2. When transporting dangerous or hazardous goods or materials, the Customer will use the Equipment in accordance with the International Maritime Dangerous Goods Code requirements or any other relevant standard.
- 5.3. The Customer will ensure that its employees, agents and contractors comply with the provisions of this clause 5. The Customer will be responsible and liable to SCF Group for any failure to comply by its employees, agents and contractors.
- 5.4. The Customer must not and must not permit the Equipment to be moved outside Australia without SCF Group prior written consent.
- 5.5. Upon request by SCF Group, the Customer will provide in writing the location, current use and/or content of the Equipment.

## 6. **IDENTIFICATION**

The Customer will keep the Equipment's identification plate (which states that the Equipment is the property of SCF Group) in good condition and will not obliterate, deface or cover up the identification plate.

## 7. **COLLECTION & TRANSPORTATION**

- 7.1. The Customer will be solely responsible for all costs involved in the transport of the Equipment to the delivery site, and the return of the Equipment to the Return Depot.
- 7.2. Unless otherwise agreed in the Schedule of Supply, the Customer will be responsible for the collection of the Equipment from SCF Group. SCF Group will notify the Customer no later than seven days prior to the expiry of the Release Validity Period if the Equipment have not been collected by that date. Unless otherwise agreed between the parties, if the Customer does not collect the Equipment within the Release Validity Period, SCF Group may, in its absolute discretion:
  - 7.2.1. lease of Equipment to another party; or
  - 7.2.2. if the Equipment was custom built for the Customer, charge the Customer the Rental Charges from the day commencing on the expiry of the Release Validity Period until the end of the Hiring Period.
- 7.3. If the parties agree that SCF Group will organise the transport to deliver the Equipment to the Customer, the Customer will pay SCF Group the Transport Delivery Fee or, if no such fee is specified, then the cost invoiced by SCF Group (acting reasonably) to transport the Equipment to the Customer. The Equipment will be at the risk of the Customer at all times, including during transport.
- 7.4. SCF Group will not be liable in any event or circumstance to the Customer for any loss, damage, claims, costs or expenses of any kind suffered by the Customer arising out of any delay or inability on the part of SCF Group to supply the Equipment to the Customer on the Commencement Date.
- 7.5. Subject to clause 7.6, the Customer will return the Equipment to the Return Depot. If not returned, the Customer will pay SCF Group the total cost incurred by SCF Group in transporting the Equipment to the Return Depot (including lift fees), as may be invoiced by SCF Group to the Customer.
- 7.6. If the Schedule of Supply specifies any pre-paid de-hire and/or transport charges, SCF Group will arrange the return of the Equipment to the Return Depot and the Customer will pay these charges in accordance with the Terms.

# SCF GROUP - LEASE TERMS AND CONDITIONS

## 8. MAINTENANCE AND REPAIRS

- 8.1. All Equipment manufactured by SCF Group will be subject to the manufacturer's warranty up to the period described in the Schedule of Supply (if any).
- 8.2. SCF Group warrants that the Equipment is in good and serviceable condition and correspond with the description in the Schedule of Supply.
- 8.3. Within 5 Business Days of delivery of the Equipment to the Customer, the Customer must advise SCF Group in writing of any damage or structural defect to or in the Equipment and, if necessary, allow SCF Group to either repair or substitute the Equipment.
- 8.4. Subject to this clause 8, the Customer will at its cost take all reasonable steps to ensure that the Equipment is maintained and repaired to comply with the SCF Group's regular maintenance and repair standards specified in the Schedule of Supply.
- 8.5. The Customer will, at its own expense, comply with the Regular Maintenance Requirements and replace or repair (in accordance with SCF Group's repairs standard), any Equipment or component thereof that has been damaged, lost, stolen or destroyed (other than as a result of a defect).
- 8.6. The Customer will, at its own cost, transport the Equipment to the nearest practicable depot notified by SCF Group to allow for any repairs or maintenance on the Equipment to comply with this clause 8. The Customer will give SCF Group a reasonable period of time to complete the work.
- 8.7. For so long as any Equipment is in the possession of SCF Group for the purpose of carrying out repairs or maintenance on the Equipment, SCF Group will use all reasonable endeavours to provide the Customer with a replacement Equipment meeting the same or substantially the same specifications as the Equipment initially hired.
- 8.8. During the Hiring Period, the Customer will, at its own expense, be responsible for all repairs and maintenance on the Equipment with a SCF Group approved certified third party, so that at the end of the Hiring Period (including any extension thereof under this Agreement) the Equipment will be in a clean and serviceable condition, ready for re-hire. Any units returned in an uncleaned or serviceable condition will incur cost to the Customer, including without limitation the costs of cleaning and disposing of waste.
- 8.9. The Customer undertakes to deliver the Equipment to SCF Group for any periodic maintenance test required by statutory requirements. The cost of such required periodic inspection and testing will be to SCF Group's account. The Equipment will remain on hire during the testing. Any damage, cleaning and repairs to the Equipment performed at the time will be charged to the Customer.
- 8.10. At the termination or expiration of the Hiring Period, SCF Group may arrange for all or any repairs (including staining and pitting), maintenance, cleaning, removal of waste and/or dunnage, inspection, survey or any other requirement pursuant to this clause 8 to be carried out for and on behalf of the Customer and at the Customer's expense. The Customer will pay or reimburse SCF Group for the fees and charges for such work as set out in the relevant Schedule of Supply or SCF Group reasonable estimate (as applicable).
- 8.11. For the avoidance of doubt, if, at the time of collection, the Equipment is in use whether for storage or any other purpose, SCF Group may empty the Container. SCF Group will not be liable for alternative storage, safekeeping of the removed goods, costs, loss or damage resulting the collection or emptying of the Equipment.

## 9. LOSS OR DAMAGE

- 9.1. The Customer will be liable to SCF Group for any and all damage to, loss or destruction of any Equipment, arising out of the negligence or wilful acts of the Customer, its agents, contractors or employees.
- 9.2. If the Customer fails to repair any damage to any Equipment for which it is responsible within a reasonable time and to the reasonable satisfaction of SCF Group, SCF Group may repair the damage and the costs of repair will be paid by the Customer to SCF Group within 30 days of the notification of the costs. All

Equipment will be repaired to the standard set out in the relevant Schedule of Supply (as applicable) unless otherwise advised.

- 9.3. The Customer must notify SCF Group immediately if any Equipment is stolen, lost, destroyed or damaged in any way, fair wear and tear being excluded.
- 9.4. The Customer will pay SCF Group the Replacement Value and all other reasonable costs and expenses incurred by SCF Group for and incidental to the purchase of a new Equipment to replace that which is stolen, lost, destroyed or damaged beyond economic repair during the Hiring Period ("**Replacement Costs**"). The expression "damaged beyond economic repair" means damaged to the extent where the cost of repairing the damage exceeds "the replacement value" of the same type as the one damaged.
- 9.5. The Customer will pay SCF Group the Replacement Costs within 30 days of notification of the amount and, after such payment, SCF Group will provide the Customer with a replacement Equipment as soon as is reasonably possible.
- 9.6. The Customer will continue to pay the Rental Charges for any Equipment stolen, lost, destroyed or damaged beyond economic repair until the Customer has paid SCF Group the Replacement Costs.

## 10. OWNERSHIP AND POSSESSION

- 10.1. SCF Group retains full legal and beneficial ownership of the Equipment at all times.
- 10.2. For the duration of the Hiring Period, the Customer will not without the prior written consent of SCF Group, which may be granted at its sole discretion:
  - 10.2.1. part with the possession or relinquish the control of the Equipment, other than in the normal course of the Customer's business;
  - 10.2.2. assign this Agreement or any right or obligation under the Agreement;
  - 10.2.3. sub-lease or licence the Equipment or grant any interest (including a security interest) or right in relation to the Equipment;
  - 10.2.4. make or authorise any modifications or alterations to the Equipment.

## 11. TERMINATION

- 11.1. SCF Group may terminate any Agreement or any individual hire of Equipment:
  - 11.1.1. if the Customer has failed to pay any amount owed to SCF Group under this Agreement after 14 days written notice; or
  - 11.1.2. if the Customer commits any other material or persistent breach in the performance of any of the Customer's obligations under the Agreement and fails to remedy such breach within 14 days of written notice to the Customer; or
  - 11.1.3. if permitted by law, immediately, without further notice if the Customer is presented with a petition for liquidation, appoints voluntary administrators, has a receiver appointed over any or all of its assets or makes an arrangement, composition or assignment for the benefit of its creditors.
- 11.2. The Customer may terminate this Agreement or any individual hire of Equipment if SCF Group commits any material or persistent breach of SCF Group's obligations under this Agreement and fails to remedy such breach or default within the notice period required under the Schedule of Supply or (if no such notice is noted) 60 days.
- 11.3. Upon termination of any Agreement or an individual hire of Equipment and without prejudice to any other right or remedy which SCF Group may have:
  - 11.3.1. SCF Group will be entitled to repossess the Equipment;
  - 11.3.2. the Customer will immediately cease using and return the Equipment to SCF Group as specified in clause 7;
  - 11.3.3. all amounts payable by the Customer under the Agreement and unpaid will immediately become due and payable without the necessity for any demand or notice to the Customer; and

# SCF GROUP - LEASE TERMS AND CONDITIONS

11.3.4. without limiting clause 11.3.3, the Customer will pay all amounts payable by the Customer to SCF Group under the Agreement in respect of transport of Equipment (clause 7.5) and repairs and maintenance (clause 8).

## 12. **LIMITATION OF LIABILITY AND INDEMNITY**

- 12.1. The aggregate liability of SCF Group to the Customer under the Agreement will not exceed the total amount paid by the Customer to SCF Group under the relevant Schedule of Supply up to a maximum 12 month period.
- 12.2. To the maximum extent permitted by law, neither party will be liable to the other for any indirect or consequential loss or damage (including loss of profit or opportunity).
- 12.3. The Customer will indemnify SCF Group and keep SCF Group indemnified against all claims, demands and actions and all losses, damages, costs and expenses incurred or suffered by the Customer in respect of any death, bodily injury, loss or damage to any person or property whatsoever caused by, arising out of or in connection with the use of the Equipment, other than those arising from the negligence or wilful acts of SCF Group, its agents, contractors or employees.

## 13. **INSURANCE**

- 13.1. For the duration of the Hiring Period and any extension to the Hiring Period under clause 3, the Customer:
  - 13.1.1. will insure for the loss and damage to the Equipment caused by fire, theft, flood, inundation, cyclone, high wind event, vandalism, accident and for any other risk as reasonably determined by SCF Gro
  - 13.1.2. The insurance policy will name SCF Group as an interested party;
  - 13.1.3. will insure for death and or bodily injury, loss and damage to any person or property caused by, arising out of or in connection with the use of the Equipment by the Customer and its employees, agents and contractors for not less than \$20,000,000; and
  - 13.1.4. acknowledges that SCF Group will not insure and will accept no liability for any damage to cargo sustained whilst carried or stored in the Equipment.
- 13.2. The Customer will comply strictly with the terms and conditions of the insurance policy (including paying all premiums by their due date) and will ensure that it does not do anything or fail to do anything which:
  - 13.2.1. may invalidate or breach the insurance policy; or
  - 13.2.2. will or may be likely to cause the insurer to refuse any claim or reduce the payable in respect of any claim under the insurance policy.
- 13.3. The Customer will not enforce, conduct, settle or compromise any claim against the insurer pursuant to the insurance policy without prior written consent of SCF Group.

## 14. **INSPECTION AND ACCESS TO EQUIPMENT**

- 14.1. Subject to complying with the Customer's reasonable directions, and policies including work, health and safety policies, the Customer grants to SCF Group and any person authorised by SCF Group the right upon reasonable notice to enter onto any premises or sites owned or occupied by the Customer on which any Equipment is located to:
  - 14.1.1. inspect the state and condition of any Equipment; and
  - 14.1.2. remove the Equipment or any of them if SCF Group is entitled to repossess the Equipment.
- 14.2. The Customer will execute all such documents and perform such acts or deeds as may be necessary to allow SCF Group to exercise its right of entry referred to in clause 14.1.

## 15. **FORCE MAJEURE**

No party is liable for any failure to perform its obligations under this Agreement if the failure or delay is due to anything beyond that party's reasonable control. If that failure exceeds 90 days, the other party may terminate this Agreement with immediate effect by giving notice to the other party. This clause 15 does not apply to any obligation to pay the Rental Charges due by the Customer in accordance with the Agreement.

## 16. **NOTICES**

- 16.1. Any notice or other communication in connection with the Agreement is taken to have been duly given when made in writing

and delivered or sent by post or email to the party to which such notice or communication is intended to be given at the address or email address set out in the Schedule of Supply or as may be notified in writing from one party to the other for the purpose of this clause 16.

- 16.2. Any notice or other communication sent by post will be taken to have been received at the expiration of two Business Days after the date of posting or on the same day if sent by email.

## 17. **BANK ACKNOWLEDGEMENT CLAUSE**

The Customer acknowledges that the Equipment are subject to a financing arrangement with the SCF Group's Bank or financier, whose rights, powers and remedies as security interest holder over the Equipment will not in any way be limited, abridged, affected or prejudiced by this Agreement.

## 18. **PERSONAL PROPERTY SECURITIES ACT 2009**

- 18.1. If this Agreement or any of the transactions contemplated by it create a security interest for the purposes of the *Personal Property Securities Act 2009 (PPSA)*, including but not limited to a Purchase Money Security Interest, SCF Group may register or give any notification or exercise any rights it may have in connection with the security interest. The Customer acknowledges and agrees that SCF Group is only required to make a single registration against the Customer with respect to the security interests granted by the Customer to the SCF Group pursuant to the Agreement.
- 18.2. The security interests include all proceeds from any dealings with the Equipment in accordance with the PPSA.
- 18.3. The Customer must do such acts and provide such information (which information the Customer warrants to be complete, accurate and up to date in all respects) as in the opinion of SCF Group may be required or desirable to enable SCF Group to perfect a security interest created under the PPSA. The Customer undertakes not to change its name in any form or other details on the Personal Property Securities Register without first notifying SCF Group.
- 18.4. The Customer irrevocably and unconditionally waives its right to receive from SCF Group any notice under the PPSA (including without limitation under s157 of the PPSA), unless required by the PPSA and if the notice cannot be excluded. SCF Group need not give any notice under the PPSA (including a verification statement or a financing change statement) unless the notice is required by the PPSA and cannot be excluded. The Customer agrees that, to the maximum extent permitted by law, it waives any rights it may have pursuant to, and the parties contract out of, sections 95, 118, 123, 125, 128, 129, 130, 132(1), 132(4), 135, 142 and 143 of the PPSA.
- 18.5. The Customer agrees to pay any costs incurred by SCF Group arising from any disputes or negotiations with third parties claiming an interest in goods supplied by SCF Group.
- 18.6. No party may disclose information of the kind referred to in section 275(1) of the PPSA (except where the parties may do so and where required due to the operation of section 275(7) of the PPSA) and the Customer must not authorise the disclosure of such information.
- 18.7. The Customer acknowledges that, unless otherwise defined in this Agreement, the terms and expressions used in this clause 18 have the meanings given to them in, or by virtue of, the PPSA.

## 19. **PRIVACY**

- 19.1. SCF Group is committed to respecting the Customer's right to privacy and protecting the Customer's personal and credit related information provided by the Customer in the Credit Application). SCF Group will comply with the Australian Privacy Principles in the *Privacy Act 1988 (Cth)* in all dealings with the Customer.
- 19.2. The Customer acknowledges that any personal information collected by SCF Group is subject to SCF Group's Privacy Policy, available on demand or by visiting <https://scf.com.au/privacy>.

## 20. **ELECTRONIC DOCUMENTS**

- 20.1. The Customer acknowledges Schedule of Supply may be signed electronically which will be deemed to be of the same effect as if the document had been issued or accepted as a signed hard copy.
- 20.2. SCF Group will not be liable to the Customer or to any other person for any loss or damage suffered in relation to any document

---

## SCF GROUP - LEASE TERMS AND CONDITIONS

transmitted electronically, including any loss or damage under, out of, or in connection with:

- 20.2.1. the transmission of any harmful code (such as viruses) to the Customer by email (including in any document attached to email); or
  - 20.2.2. any failure by SCF Group to notify the Customer that SCF Group may have received any harmful code (such as viruses) from the Customer in any email (including in any document attached to email).
- 20.3. The Customer consents to the execution of the Agreement wherever necessary by virtue of electronic communication permitted by the *Electronic Transaction Act 1997* (Cth) and any corresponding State legislation.

### 21. GENERAL

- 21.1. The Customer acknowledges that SCF Group may vary and update these Terms (including any daily rate) from time to time by providing the customer 7 days written notice. The Customer's continued lease of the Equipment under the Agreement will constitute the Customer's agreement to be bound by the Terms as amended.
- 21.2. This Agreement will be governed by and construed in accordance with the law of the State of South Australia and the parties to this Agreement agree to submit to the jurisdiction of the courts of South Australia.
- 21.3. The waiver of a breach of any condition of the Agreement will not operate as a general waiver of such condition or of any subsequent breach of that condition or any other condition of the Agreement.
- 21.4. Any condition of the Agreement held by a court to be invalid or unenforceable will be severed and the remaining provisions will continue to apply with full force and effect.

### 22. INTERPRETATION

In these Terms, unless the context otherwise requires:

- 22.1. words denoting the singular will include the plural and vice versa;
- 22.2. headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement;
- 22.3. **Agreement** means the agreement to lease Equipment under these Terms and the Schedule of Supply;
- 22.4. **Business Day** means a day which is not a Saturday or a Sunday or a public holiday in South Australia;
- 22.5. **Commencement Date** means the earlier of the commencement date specified in the Schedule of Supply or the date the Equipment leaves the SCF Group depot;
- 22.6. **Credit Application** means the credit application issued to the Customer by SCF Group;
- 22.7. **Customer** means the person, company, corporation or entity hiring the Equipment and their successors, agents and assigns;
- 22.8. **Equipment** refers to containers, equipment and accessories described in the relevant Schedule of Supply or any replacement Equipment provided in the circumstances specified in clause 8;
- 22.9. **Hiring Period** means period of hire of the Equipment described in clause 2.1.
- 22.10. **insurance policy** means an insurance policy effected by the Customer pursuant to clause 13 of this Agreement;
- 22.11. **Invoice** means the invoice issued by SCF Group to the Customer which sets out the Rental Charges;
- 22.12. **person** includes a body corporate;
- 22.13. **Regular Maintenance Requirements** means the regular maintenance requirements specified in the relevant Schedule of Supply;
- 22.14. **Release Validity Period** means the release validity period specified in the relevant Schedule of Supply;
- 22.15. **Rental Charges** means the charges for lease of the Equipment specified in the relevant Schedule of Supply;
- 22.16. **Replacement Value** means the replacement value as specified in, and calculated in accordance with, the relevant Schedule of Supply;
- 22.17. **Return Depot** means the SCF depot specified in the Schedule of Supply or otherwise notified by SCF Group (acting reasonably);
- 22.18. **Schedule of Supply** refers to the Schedule(s) of Supply which detail the Equipment hired by the Customer and the specific terms associated with the Equipment;

22.19. **Terms** means these Lease terms and conditions;

22.20. **Transport Delivery Fees** means the fees for transport of Equipment to and/or from the Customer's site specified in the relevant Schedule of Supply; and

22.21. **Use of the Equipment** includes loading, unloading, storing and transport of the Equipment.