

Deakin Active Facility Hire Agreement | Terms and Conditions

Right to Hire

1. Deakin grants to the Hirer the right to have access to and use of the Facility for the Period of Hire, subject to these Terms and Conditions.

General Responsibilities of Hirer

2. The Hirer must:
 - (a) comply with these Terms and Conditions and any special conditions advised to the Hirer by Deakin;
 - (b) comply with all relevant Commonwealth, State and local laws;
 - (c) comply with all statutes, regulations, policies and procedures of Deakin advised to the Hirer by Deakin;
 - (d) hold all necessary licenses and permits and, where relevant, ensure the Hirer's Invitees hold all necessary licences and permits and, upon request, provide Deakin with evidence of all necessary licenses and permits;
 - (e) nominate a person who is over 18 years of age and whose contact details have been provided to Deakin, to attend the Facility for the duration of the Event and to take responsibility for compliance with the Hirer's obligations under this Agreement during the Event;
 - (f) take full responsibility for ensuring that the Hirer's Invitees are properly inducted to the Facility and, at all times, are properly supervised and under the control of a representative of the Hirer;
 - (g) take full responsibility for the supervision, safety, first aid requirements and control of all persons attending the Facility during the Period of Hire;
 - (h) ensure that the number of persons attending the Event does not exceed the Facility Capacity provided in the Application or as advised by Deakin;
 - (i) ensure that persons attending the Facility during the Period of Hire comply with all relevant provisions of these Terms and Conditions;
 - (j) advise Deakin as soon as practicable of any damage caused to the Facility or any furniture, materials or equipment in the Facility during the Period of Hire; and
 - (k) ensure all entrances, exits (including exit doors), passageways and aisles at or around the Facility are kept clear and available for public use, and all exit signs remain visible, at all times during the Event.
3. The Hirer and all persons attending the Facility during the Period of Hire must comply with:
 - (a) all reasonable instructions and directions of Deakin staff;
 - (b) Deakin's balloon-free policy which provides that no balloons may be brought to the Facility; and
 - (c) Deakin's Smoking, Vaping and Tobacco Free Policy which provides smoking, vaping and tobacco is not permitted in the Facility or on any Deakin property.
4. Unless otherwise approved by Deakin, the Hirer must only use the Facility in accordance with the details provided in the Application.
5. The Hirer must not, and must take all reasonable steps to ensure the Hirer's Invitees do not:
 - (a) use the Facility for any other purpose other than the Event;
 - (b) damage the Facility or damage or remove any furniture, equipment or materials in the Facility;
 - (c) bring any hazardous materials to the Facility;
 - (d) interfere with or alter Deakin's electrical systems, lighting or sound systems;
 - (e) disrupt the normal course of business of Deakin;
 - (f) interfere or engage with any officer, employee, agent or student of Deakin except in circumstances expressly permitted by this Agreement;
 - (g) solicit, entice or induce participation in the Event from any officer, employee, agent or student of Deakin;
 - (h) assign its rights under this Agreement;
 - (i) re-hire, sub-let or licence any part of the Facility; and
 - (j) use the Deakin logo unless authorised in writing by Deakin.
6. The Hirer is responsible for the maintenance and preservation of good order in and about the Facility throughout the Period of Hire.
7. If the Hirer requires any of the following, they must be arranged with and approved by Deakin prior to the start of the Period of Hire: :
 - (a) deliveries;
 - (b) decorations;
 - (c) signage;
 - (d) AV services;
 - (e) erection of any temporary structures;
 - (f) use of Hirer's Equipment;
 - (g) catering;
 - (h) service of alcohol;
 - (i) playing of music; or
 - (j) entertainment.
8. Where Deakin has requested and approved a work safety plan submitted by the Hirer, the Hirer must act in accordance with that plan.
9. Where Deakin has consented to the Hirer bringing Electrical Equipment for use at the Facility, such equipment must have RCD protection and be tagged in accordance with standard AS/NZS 3760.

10. The Hirer warrants that its use of the Facility will not infringe any third party's intellectual property rights and that it has obtained any necessary licences in relation to the use of any third party's intellectual property.
11. The Hirer must, before the Period of Hire has expired, remove all the Hirer's decorations, personal property and Hirer's Equipment.

Rights and Responsibilities of Deakin

12. Deakin will provide the Additional Services referred to in the Quote for the fees listed in the Quote.
13. Deakin may cancel a booking and terminate this Agreement at any time in its absolute discretion, including if in Deakin's reasonable view circumstances exist which:
 - (a) cause the Facility to be unsafe or unsuitable for the Event;
 - (b) the Event is likely to breach any statute, regulation, policy or procedure of Deakin or could be a nuisance to Deakin staff; or
 - (c) the Facility will be used for purposes inconsistent with the details provided in the Application.

Deakin will provide the Hirer with as much notice of cancellation as is reasonably possible and will, where reasonably possible, provide the Hirer with an alternative Facility.

14. In the event that Deakin exercises its right to terminate under **clause 13** Deakin may in its absolute discretion refund some or all of the fees paid by the Hirer if in Deakin's view the Hirer is not responsible for the termination.
15. Officers, employees and agents of Deakin having reasonable cause will at all times have free and uninterrupted access to any and every part of the Facility during the Period of Hire.
16. Deakin reserves the right to refuse entry to the Facility premises to any of the Hirer's Invitees.
17. Deakin may remove any person from Deakin's premises, including the Facility, if their behaviour is deemed to be disruptive to Deakin's business, offensive, illegal, immoral, disorderly or dangerous or in breach of any statute, regulation, policy or procedure of Deakin.
18. Deakin may terminate any Event which in Deakin's reasonable view:
 - (a) if the Hirer fails to comply with the terms of this Agreement;
 - (b) is disorderly;
 - (c) is disruptive to Deakin's activities as a university;
 - (d) is dangerous or illegal; or
 - (e) is detrimental to the reputation of Deakin.

Fees and Invoices

19. Deakin will invoice the Hirer for:
 - (a) the fees for hire of the Facility and any Additional Services calculated in accordance with the Quote;
 - (b) any additional charges incurred by Deakin in connection with the use of the Facility by the

Hirer including costs of repairs and additional cleaning; and

- (c) any additional space(s) surrounding the Facility occupied by the Hirer or the Hirer's Invitees during the Period of Hire
20. The Hirer must pay invoices received from Deakin within 30 days of receipt.
21. Unless the amounts to be paid by the Hirer under **clause 19** are specifically described as being 'GST-inclusive' the Hirer will also pay any GST payable by Deakin in relation to those supplies.
22. If the Hirer cancels a booking the Hirer will, at Deakin's discretion, be liable for the following proportion of the fees and charges payable under **clause 19**:
 - (a) 0-7 days prior to Event date: 100%;
 - (b) 8-15 days prior to Event date: 50%; or
 - (c) 16-30 days prior to Event date: 25%.

Liability and Indemnity

23. Except for fair wear and tear, the Hirer will be liable for any damage to the Facility or any furniture or materials within the Facility, which occurs during the Period of Hire.
24. The Hirer indemnifies Deakin, its servants, agents, employees and students from and against any action, claim, demand, loss, damage and expense and liability for which Deakin may become liable or suffer in respect of:
 - (a) damage to Deakin's property arising out of or in the course of the Event or the Period of Hire;
 - (b) injury to or death of any persons arising out of or in the course of the Event or the Period of Hire;
 - (c) damage or injury caused or contributed to by the acts or omissions of the Hirer's Invitees;
 - (d) any infringement of:
 - (i) a person's intellectual property rights arising out of the Hirer's use of the Facility; and
 - (ii) rights under copyright in connection with the performance, display or transmission of musical, artistic or dramatic work, as a result of or in connection with the Hirer's use of the Facility;
 - (e) any breach of any law by the Hirer in connection with the Event; and
 - (f) any breach of this Agreement by the Hirer or the Hirer's Invitees.
25. The Hirer's indemnity given under **clause 24** shall be reduced to the extent that any loss or liability was directly caused by any unlawful or negligent act or omission, fraud or deliberate or wilful misconduct of Deakin or its officers, employees or agents. .
26. Deakin will not under any circumstances be liable for:
 - (a) any loss or damage to the Hirer's Equipment;
 - (b) any loss or damage to the personal property of the Hirer or of any persons attending the Facility during the Period of Hire;

- (c) any loss or damage to the Hirer or any third party as a result of Deakin exercising its rights under **clauses 13, 17, or 18**; or
- (d) any loss of indirect reFacility or profit, loss of anticipated savings, loss of opportunity, loss of reputation, or other indirect, consequential or special losses or damages howsoever arising.

Insurance

- 27. The Hirer must hold the following insurance policies in respect of the Period of Hire:
 - (a) subject to **clause 29**, public liability of at least \$10m per claim; and
 - (b) workers' compensation for its employees.
- 28. The Hirer must provide Deakin with certificates of currency for the above insurances prior to the start of the Period of Hire.
- 29. Where the Hirer does not have its own public liability insurance the Hirer will be covered by Deakin's public liability policy in respect of the Hirer's use of the Facility for the Period of Hire, to a maximum of \$10 million per claim, and the Hirer indemnifies Deakin for any excess or increased premium payable by Deakin as a result of a claim by the Hirer on Deakin's insurance.

Miscellaneous

- 30. The Hirer acknowledges that the Facility and its surrounds are fitted with closed circuit television (CCTV). The Hirer shall ensure that all invitees and notified that Deakin and its surrounds are monitored with CCTV and they may be photographed, filmed or videoed during the Event. In the event the Hirer's Invitees engage in any offensive, illegal, immoral, disorderly or dangerous act or conduct, Deakin may share CCTV footage with emergency services and the Hirer's authorised representative to the extent necessary to carry out an investigation or conduct a report.
- 31. This Agreement comes into operation when Deakin receives the signed Application from the Hirer.
- 32. The Parties must attempt to resolve any dispute regarding this Agreement or the hiring of the Facility by negotiation, and if this is unsuccessful, by referring the matter to mediation, before initiating any court action.
- 33. This Agreement is governed by the laws of the State of Victoria and the Parties submit to the jurisdiction of the courts of that State.

Interpretation

- 34. In these Terms and Conditions:

Additional Services means the services to be provided by Deakin in relation to the hire of the Facility;

Agreement means the Deakin University Facility Hire Agreement between Deakin and the Hirer which consists of the Quote, the Application and these Terms and Conditions;

Application means the Facility Hire Application completed and signed by the Hirer;

Deakin means Deakin University ABN 56 721 584 203 of 1 Gheringhap Street, Geelong, Victoria, 3220;

Electrical Equipment means any electrical equipment and includes leads and power tools.

Event, Period of Hire and Facility are specified in the Application;

Hirer means the entity named as such in the Application;

Hirer's Equipment means equipment brought to the Facility by the Hirer for use during the Period of Hire;

Hirer's Invitees means and includes all agents, contractors, employees, licensees, suppliers and invitees of the Hirer;

Parties mean Deakin and the Hirer; and

Quote means the letter from Deakin to the Hirer to which these Terms and Conditions are attached which sets out the cost of hire of the Facility, any Additional Services to be provided by Deakin and the fees for those services and any other relevant details in relation to the Hire and use of the Facility for the Event; and the words 'include' and 'including are to be interpreted without limitation.