

WAIKATO CABINS LTD - TERMS AND CONDITIONS OF CABIN RENTAL AGREEMENT 01.08.2021

1. Term and Acknowledgements

- 1.1 This Agreement comes into force when signed by the Hirer and accepted by Waikato Cabins and continues until it expires or is terminated in accordance with its terms.
- 1.2 The Hirer acknowledges and agrees:
- Subject to obligations at law that cannot be contracted out of, the Hirer enters into this Agreement in reliance upon the description of the Cabin on Waikato Cabin's website at www.waikatocabins.co.nz and upon the Hirer's own judgement as to the quality of the Cabin and the fitness of the Cabin for the Hirer's purposes;
 - That Waikato Cabins, and the manufacturer of the Cabin are separate, independent entities, and neither the manufacturer or any other person is the agent of Waikato Cabins and further acknowledges that no representation, guarantee or warranty by the manufacturer or any other person is binding upon Waikato Cabins and that no breach by the manufacturer or any other person will excuse the Hirer's obligations to Waikato Cabins under this Agreement;
 - That Waikato Cabins has not provided the Hirer with any advice on the taxation or accounting treatment of this Agreement or of any payment to be made pursuant to this Agreement; if the Cabin is being leased from Waikato Cabins wholly or mainly for use in the Hirer's business, the provisions of the CGA do not apply;
 - All information provided by the Hirer in connection with the application for the Cabin and this Agreement is true, correct and complete and not misleading in any way;
 - That Waikato Cabins reserves the right to carry out a credit check on any new customer.

2. Rights to the Cabin

- 2.1 The Hirer acknowledges and agrees that:
- The Hirer's rights to the Cabin granted under this Agreement are limited to the right of exclusive possession of the Cabin during the Term only on the terms and conditions set out in this Agreement;
 - Neither title in, nor ownership of, the Cabin pass to the Hirer at any time; and
 - This Agreement does not give the Hirer any option or right to purchase the Cabin at any time.
- 2.2 Any additions, or improvements which shall be effected, to the Cabin, and any accessories which shall be affixed to the Cabin, shall become part of the Cabin for the purposes of this Agreement.

3. Bond

- 3.1 Upon execution of this Agreement by the Hirer and acceptance of this Agreement by Waikato Cabins, the Hirer shall pay Waikato Cabins:
- The Bond;
 - The Delivery Charge; and
 - The Advance Rent.
- 3.2 A receipt will be given to the Hirer for payments of the Bond and Advance Rent. The Bond is a performance bond against any default by the Hirer of payment of any Rental Payments, any loss of or damage caused to the Cabin or incurred by Cabins to Rent, and any other amount payable by the Hirer to Cabins to Rent whether under this Agreement. If the Hirer fails to make any Rental Payments on the dates for such payments under this Agreement, causes any loss or damage to the Cabin (in whole or in part) or Cabins to Rent, or otherwise owes any other amount to Cabins to Rent, Cabins to Rent shall (acting reasonably) be entitled to apply the Bond against such default, loss, damage or amount due. The Hirer shall pay to Cabins to Rent any sums deducted from the Bond within ten (10) Business Days of a demand for the same. Subject to the foregoing, the Bond (or balance thereof) shall be refundable to the Hirer within five (5) Business Days of the end of the Term. Any interest earned on the Bond shall be the property of Cabins to Rent.

4. Insurance

- 4.1 Cabins to Rent may obtain any insurance it requires (and for the benefit of Cabins to Rent only) for the Cabin during the Term but will not insure any contents. The Hirer shall be solely responsible for obtaining any insurance cover including for any contents of the Cabin.
- 4.2 The Hirer will not knowingly, recklessly or negligently do, or permit or suffer to be done, anything which might, or could, prejudice any insurance as aforesaid or permit any insurer to deny any claim.

5. Delivery & Removal of Cabin

- 5.1 The Hirer must render all reasonable assistance to Cabins to Rent and the delivery company to enable placement of the Cabin at the intended site. The intended site is the site specified in the Application Form, the Specific Terms or as otherwise approved in writing by Cabins to Rent.
- 5.2 The Hirer shall ensure that the intended site for the Cabin is accessible by a vehicle suitable for delivery and removal of the Cabin and is clear of any obstacles or conditions that may hinder placement or removal of the Cabin. In addition to the Delivery Charge payable to Cabins to Rent, the Hirer will pay (direct to the driver if required) any extra charges incurred as a result of delays or difficulties (except, where the CGA applies, those arising exclusively from the negligence of the delivery company) in getting the Cabin from kerb site to the position on site (including, but not limited to, additional costs if the Cabin needs to be lifted over a fence for example), or in removing the Cabin from any site where the Cabin is located. If the intended site proves to be inaccessible or unsuitable (in the driver's sole opinion), the Hirer will pay Cabins to Rent for costs incurred in returning the Cabin, and this Agreement shall immediately terminate.
- 5.3 The Hirer authorises Cabins to Rent (and the delivery company) to deliver the Cabin from the kerb side, onto and as close as physically possible, as adjudged by the driver, to the intended site of the Cabin. The Hirer accepts responsibility and liability for any Loss that may occur to the land access, culverts, buildings, fences, driveways, to any other property in the vicinity of the site, and to any person, during the course of transportation, delivery, placement or removal of the Cabin.
- 5.4 Except (where the CGA applies) where caused solely by the negligence of Cabins to Rent, the delivery company or Cabins to Rent's subcontractors:
- The Hirer accepts all responsibility and liability for any Loss which may occur to any of Cabins to Rent's vehicles (or those of the delivery company or any of Cabins to Rent's subcontractors) while on the Hirer's property;
 - The Hirer also agrees to be responsible and liable for the cost of any transport and/or towage costs in the event of any delivery vehicle becoming stuck on the property the Cabin is to be delivered to or removed from, in the course of delivering, placing or removing the Cabin.
- 5.5 Upon completion of delivery of the Cabin, the Hirer must:
- Provide a water supply with minimum pressure of 25psi, maximum pressure of 75psi;
 - Connect the water supply (using only black alkathene hose to connect the water supply and not a standard garden hose);
 - Not remove any pressure limiting valve(s);
 - If the Cabin has a hot water cylinder, ensure that water is connected to the Cabin and the hot water cylinder is full before the hot water cylinder is turned on at the main switch board, to prevent the element from burning out;

- Provide a power supply with caravan connection; and
- Provide waste water disposal.

- 5.6 Cabins to Rent shall have no responsibility or liability to the Hirer whatsoever if the Hirer is not able to complete any of the requirements in clause 5.5. The Hirer must, at the expiry or termination of this Agreement, remove all connections to the Cabin, including those referred to in clause 5.5, without causing damage to the Cabin.

- 5.7 To the extent permitted by law, Cabins to Rent will not be liable to the Hirer for any Loss arising out of or in connection with Cabins to Rent's failure to deliver and place the Cabin at the intended site by the relevant delivery date, or failure to remove the Cabin on expiry or termination of the Agreement, due to circumstances outside of Cabins to Rent's reasonable control.

6. Payments

- 6.1 The Hirer shall pay Cabins to Rent all amounts payable under this Agreement (including the Rental Payments) when they are due without delay, deduction or set-off.
- 6.2 Without limiting clause 6.3, unless other arrangements are required by Cabins to Rent from time to time, the Hirer will pay Cabins to Rent by automatic payment and will give Cabins to Rent an authority for direct debit if Cabins to Rent requires.
- 6.3 Upon execution of this Agreement, the Hirer must provide current credit card details to Cabins to Rent which will be held by Cabins to Rent. Unless agreed otherwise, the Hirer authorises a direct debit authority being established and maintained against the Hirer's credit card for any amounts owing by the Hirer under this Agreement (including Rental Payments). The Hirer also agrees to pay any credit card or bank fees which may arise from such charges. Unless notified or agreed otherwise by Cabins to Rent, each Rental Payment shall be charged on the Hirer's credit card on the 1st day of each week or month (as applicable).
- 6.4 If, during the Term, the Hirer changes their credit card or such credit card expires, the Hirer must immediately provide updated credit card details to Cabins to Rent. The Hirer shall ensure sufficient credit being made available to honour each payment under the Agreement on its due date. If any such payment is not made or honoured by direct debit when due for any reason, the Hirer must make alternative arrangements for the payment to be made on its due date in accordance with the Agreement.
- 6.5 If the Hirer fails to make payment of any Rental Payment, or any other sums payable under this Agreement, by the due date for payment then, without limiting Cabins to Rent's other rights and remedies, including under clause 11, Cabins to Rent may in its discretion require the Hirer to pay, upon demand by Cabins to Rent, interest on the amount unpaid from the due date for payment until payment is made, calculated at the default rate of 15% per annum, calculated daily.
- 6.6 The Hirer shall promptly pay all taxes, fines, duties of any nature whatsoever levied in connection with this Agreement or in connection with the Cabin (other than any income tax levied solely on Cabins to Rent's income) at the rate and in the manner from time to time prescribed by law. Goods and Services Tax payable in relation to any taxable supplies made under with this Agreement shall be passed on to and must be promptly paid by the Hirer.
- 6.7 In addition to and without limiting any other provision of this Agreement, and subject to obligations at law that cannot be contracted out of, the Hirer must pay to Cabins to Rent, on demand, all Losses incurred by Cabins to Rent as a result of any breach of this Agreement by the Hirer, or Cabins to Rent performing any obligations of the Hirer which the Hirer has not performed, or Cabins to Rent exercising or attempting to exercise its rights under this Agreement, including any legal costs (on a solicitor/own client basis) or any other types of Losses whatsoever incurred in:
- Collecting any amounts due but not paid to Cabins to Rent by the Hirer (including any collection agency or legal charges and costs);
 - Repossessing the Cabin and entering and removing the Cabin from the land on which the Cabin is situated for that purpose; and
 - Making good any damage caused to any land or to the property of any person by any entry or removal (except, where the CGA applies, where caused solely by the negligence of Cabins to Rent, the delivery company or Cabins to Rent's subcontractors).

7. Restrictions On Use of Cabin and Maintenance Obligations

- 7.1 The Hirer shall only use the Cabin for the purpose(s) specified in the Application Form or as otherwise agreed by Cabins to Rent in writing. The Hirer must not use the Cabin for any other purpose, except with the prior written consent of Cabins to Rent (which Cabins to Rent can withhold at its absolute discretion). Without limiting that the Hirer agrees and confirms that the Cabin shall not be used as a principal residence, being the primary location where an individual, couple, or family household lives most of the time.
- 7.2 The Hirer is responsible for keeping the Cabin in good working order and repair, and for protecting the Cabin from damage, except for ordinary wear and tear, and from any kind of Loss while the Hirer has (or is required to have) the Cabin in the Hirer's possession.
- 7.3 The Hirer shall not alter or modify the Cabin during the term of this Agreement without the prior written consent of Cabins to Rent, and shall not do anything which will or may have the effect of voiding any manufacturer's warranty for the Cabin. Any agreed alterations will belong to Cabins to Rent. The Hirer indemnifies Cabins to Rent for and against all Losses which Cabins to Rent may incur or suffer due to any act or damage to the Cabin arising from the actions (or inaction) of the Hirer or any person connected with the Hirer.
- 7.4 In addition to the Hirer other obligations under this Agreement, the Hirer shall ensure that:
- The Cabin is maintained and kept reasonably clean and tidy at all times;
 - All reasonable care is taken in handling and care of the Cabin and that it is left securely locked when not in use;
 - The Cabin is not used in careless, reckless or dangerous manner or in an unsafe condition;
 - The Cabin is not used in a manner which is illegal or to conduct illegal activities;
 - All necessary servicing including but not limited to supply and charging batteries, filling gas bottles at the Hirer's expense;
 - Any power interface box supplied by Cabins to Rent is kept dry and is not left out in the rain;
 - No animals (other than domestic cats) are allowed in the Cabin at any time;
 - There is no smoking or vaping in the Cabin;
 - No holes are made in the Cabin walls (blu tack may be used to put pictures on the walls but use of tacks or pins is prohibited);
 - Only the correct chemicals are added to "porta potties" (these chemicals can be purchased from Cabins to Rent);
 - Nothing other than minimum amount of toilet paper (such as excess toilet paper, wipes, tampons, sanitary pads, needles or any solid objects) are put in the toilet (as they will block the pump for the toilet). Any costs incurred through foreign objects in the toilet will be the responsibility of (and charged to) the Hirer; and
 - Cabins to Rent is notified immediately if there are any problems with the Cabin, including any damage to the Cabin, or if there is any breach of this Agreement.

CABINS TO RENT LTD - TERMS AND CONDITIONS OF CABIN RENTAL AGREEMENT 18.11.2020

- 7.5. The Hirer will allow Cabins to Rent (or its representatives) to access the Cabin at all reasonable times to:
- Inspect the Cabin and agrees Cabins To Rent will at a minimum inspect every 3 to 6 months (in Cabins to Rent's sole discretion);
 - Carry out maintenance or repairs (at Cabins to Rent's absolute discretion),
- Upon 2 Business Days' notice to the Hirer.
- 8. Restrictions on Dealing with the Cabin**
- 8.1. The Hirer will not without the prior written consent of Cabins to Rent (which shall be at Cabins to Rent's sole discretion) agree, attempt, offer or purport to:
- Move, relocate, sell, transfer or assign, or sublease, licence, hire or part with possession of the Cabin. This includes the removal of any fixtures or fittings supplied with the cabin, including califont, porta potti and toilet pump system.
 - Assign the Hirer's rights under this Agreement;
 - Mortgage, charge, pledge or grant any security interest or lien over the Cabin to anyone other than Cabins to Rent (or to a person with an ownership interest in the Cabin who Cabins to Rent represents);
 - Affix or attempt to affix the Cabin to any land other than by temporary connections of power, gas, water, or telephone services which can readily be severed with no damage to the Cabin;
 - Without limiting any other provision of this Agreement, the Hirer acknowledges that, as between Cabins to Rent and the Hirer, the Cabin shall retain its character as personal property notwithstanding that it may become affixed to any land.
- 9. Hirer to Notify Change of Details**
- 9.1. The Hirer will notify Cabins to Rent in writing at once of any change of the Hirer's name, address, contact details or credit card details.
- 9.2. If the Hirer becomes liable to be registered for the purpose of the Goods and Services Tax Act 1985, or ceases to be so registered, the Hirer will notify Cabins to Rent of any such change, and the Hirer's GST registration number, as appropriate.
- 10. Personal Property Securities Act 1999 ("PPSA")**
- 10.1. The Hirer agrees that this Agreement creates a security interest in the Cabin and its proceeds in favour of Cabins to Rent which may be registered under the PPSA.
- 10.2. The Hirer agrees and acknowledges that, where any other person(s) has an ownership interest in the Cabin and is represented by Cabins to Rent:
- A reference to Cabins to Rent in this clause 10 shall also include a reference to that person(s);
 - That person shall have the same status, rights, powers and authorities as Cabins to Rent under this Agreement;
 - Cabins to Rent is an authorised representative acting on behalf of that person(s) and the Hirer will not question or challenge the right of Cabins to Rent to exercise the rights, powers and authorities of any such person(s) under or in connection with this Agreement.
- 10.3. The Hirer undertakes to provide such information as in Cabins to Rent's opinion may be necessary to enable Cabins to Rent to perfect the security interest created in the Cabin as a purchase money security interest (PMSI) and, if not a PMSI, a first ranking security interest.
- 10.4. Despite anything else in this Agreement, Cabins to Rent may withhold possession of the Cabin from the Hirer until Cabins to Rent perfects its security interest in accordance with the PPSA.
- 10.5. The Hirer:
- Shall provide all information Cabins to Rent reasonably requires to complete a Financing Statement or Financing Change Statement as those terms are defined in the PPSA in relation to the Cabin; and
 - Waives the right to receive a verification statement confirming registration of a Financing Statement or a Financing Change Statement relating to the security interest created by this Agreement.
- 10.6. To the extent that Part 9 of the PPSA applies to this Agreement the Hirer agrees:
- That where Cabins to Rent has rights in addition to or exercisable separately from those in Part 9 of the PPSA, those rights will continue to apply and in particular will not be limited by section 109 of the PPSA;
 - That nothing in sections 114(1)(a), 117(1)(c), 133 and 134 of the PPSA will apply to this Agreement or the security interest created by this Agreement;
 - The Hirer will have none of the rights referred to in sections 116, 119, 120(2), 125, 129 and 131 of the PPSA, and the Hirer waives the Hirer's rights to object under section 121, and to redeem under section 132.
- 11. Termination**
- 11.1. Unless terminated earlier in accordance with clauses 11.2 or 11.3 below, this Agreement shall continue in effect after the end of the Minimum Rental Term and until terminated by either party upon at least 3 weeks prior written notice.
- 11.2. Either party may terminate this Agreement upon at least 3 weeks prior written notice, provided that such termination does not take effect before the Minimum Rental Term expiry date. If the Hirer wishes to terminate this Agreement with effect before the end of the Minimum Rental Term, Cabins to Rent may require the Hirer to pay an early-termination fee of up to 2 months of Rental Payments (as well as any GST).
- 11.3. Cabins to Rent may immediately terminate this Agreement and repossess the Cabin, if any of the following events occur:
- If, after this Agreement is signed, the Hirer refuses to obtain or take delivery of the Cabin or fails to do so within a reasonable time (in the sole opinion of Cabins to Rent) after delivery is available;
 - Any amount payable to Cabins to Rent under this Agreement is not paid within 2 weeks after its due date;
 - Cabins to Rent discovers that the Hirer made any material false or misleading statement in relation to the making of this Agreement;
 - The Hirer commits a material breach of this Agreement and such breach cannot be remedied, or in the event that such breach is capable of remedy, the Hirer fails to remedy the breach upon receiving notice from Cabins to Rent specifying the breach and requiring the breach to be remedied within seven Business Days of such notice;
 - The Hirer does or permits, fails to do, or acquiesces to, any act or thing likely to prejudice or put in jeopardy Cabins to Rent's rights or interest in the Cabin;
 - The Hirer uses the Cabin for any purpose other than specified in the Application Form or otherwise approved by Cabins to Rent in writing;
 - The Cabin is lost, destroyed, or damaged to such an extent as to make it unfit for use, for any reason;
 - The Cabin is used by the Hirer or any other person in a manner which is illegal or to conduct illegal activities;
 - Any execution or a warrant to seize is issued against, or a lien is claimed in respect of, the Cabin or the Cabin is otherwise at risk;
 - Any Court judgment against the Hirer remains unsatisfied for more than 7 Business Days;
 - Hirer becomes (or in the opinion of Cabins to Rent, is likely to become) bankrupt or enters the no asset procedure;
 - If the Hirer is a company:
 - There is a transfer of any of the shares in the Hirer which effectively alters the control of the Hirer, unless Cabins to Rent consents to the transfer in writing;
 - The Hirer becomes (or, in the opinion of Cabins to Rent, is likely to become) insolvent, is unable to pay or does not pay its debts as they become due and payable, has or is likely to have an administrator, receiver, liquidator, statutory manager, mortgagee's or chargee's agent appointed, becomes (or is likely to become subject to) any form of external administration;
 - The Hirer makes an arrangement for the benefit of its creditors.
- 11.4. Upon expiry or termination of this Agreement for any reason all amounts payable under the Hirer under this Agreement shall become immediately due and payable.
- 11.5. If Cabins to Rent terminates this Agreement and repossesses the Cabin in accordance with clauses 11.2 and 11.3:
- Cabins to Rent may, if the Cabin is attached to any other item or to any premises or land, disconnect and/or remove the Cabin (using reasonable care) without being liable to the Hirer or to any third party for any resulting Loss;
 - Cabins to Rent shall not be responsible for any Loss to any items or belongings which may be in the Cabin at the time of repossession.
- 11.6. Termination or expiry of this Agreement for any reason shall not affect any rights or liabilities that have accrued prior to termination.
- 11.7. Upon collection (including repossession) of the Cabin for any reason, the Hirer shall return any keys to the Cabin. Cabins to Rent may charge a reasonable fee for any keys not returned. If the Cabin is considered to require additional cleaning upon return, the Hirer shall be required to pay Cabins to Rent an additional cleaning fee to cover the actual cleaning costs.
- 12. Protection of Cabins to Rent's Interests**
- 12.1. If at any time Cabins to Rent has sufficient cause to exercise its rights under section 109 PPSA or to terminate this Agreement pursuant to clause 11 above, then the Hirer irrevocably grants Cabins to Rent the right and licence to enter upon the land where the Cabin is located for the purpose of removing the Cabin, without notice and without liability whatsoever to the Hirer, or to any person or entity claiming through the Hirer for the resulting Loss.
- 12.2. The Hirer warrants to Cabins to Rent that the Hirer has obtained and holds all rights and consents required from any owner of the land where the Cabin is to be located in order to ensure that Cabins to Rent shall be authorised to place (and in accordance with this Agreement, to remove) the Cabin without further consent from, or compensation to, the owner of that land, and that the owner shall not seek to prevent Cabins to Rent exercising its rights under this Agreement. The Hirer indemnifies Cabins to Rent against:
- Any claim against Cabins to Rent by any owner of the relevant land in relation to any removal of the Cabin by Cabins to Rent at any time and for any cause;
 - All Loss suffered or incurred by Cabins to Rent in exercising its rights in compliance with this Agreement (except, where the CGA applies, to the extent caused by the negligence of Cabins to Rent, the delivery company or Cabins to Rent's subcontractors).
- 12.3. If the land to which the Cabin is to be placed upon is or becomes subject to a mortgage or charge (regardless of who to), the Hirer shall, without any request from Cabins to Rent, obtain the written acknowledgement of the mortgagee or chargeholder (as the case may be) that:
- The Cabin is not a fixture for the purposes of the mortgage or charge;
 - The mortgagee or chargeholder will not make any claim in relation to the Cabin; and
 - The mortgagee or chargeholder will permit Cabins to Rent (whether or not there has been any default under the mortgage or charge) to enter upon the land and remove the Cabin.
- 12.4. In the event of default by the Hirer the Hirer irrevocably appoints Cabins to Rent and every director of Cabins to Rent, jointly and severally as the attorney of the Hirer to do on behalf of the Hirer anything that the Hirer ought to do under this Agreement.
- 13. Consents**
- 13.1. The Hirer is solely responsible for obtaining any building consents, resource consents or any/all other regulatory or legislatively required approvals/consents for the Cabin to be used as intended by the Hirer, at the Hirer's own cost and responsibility.
- 14. Offsets by Cabins to Rent**
- 14.1. If the Hirer does not make any payment when due, Cabins to Rent can debit the amount to any other account of the Hirer with Cabins to Rent, or deduct it from any amount Cabins to Rent owes the Hirer.
- 15. Collection, Use and Disclosure of Information**
- 15.1. The Hirer and each Guarantor authorise Cabins to Rent to collect such information from third parties, including credit reference agencies, as may be required either in connection with their application to hire the Cabin, or in connection with their relationship with Cabins to Rent. Cabins to Rent may also collect information via its website and any related service, through any contact with Cabins to Rent (e.g. consultations, telephone calls, emails), and from publicly available sources.
- 15.2. Withholding information means that Cabins to Rent may not be able to provide the Cabin or to continue to provide it.
- 15.3. The Hirer and each Guarantor acknowledge that:
- Any default by them under this Agreement may be disclosed to credit reference agencies by Cabins to Rent; and
 - Under the Privacy Act 1993, the Hirer and each Guarantor has the right of access to and correction of their personal information held by Cabins to Rent.
- 15.4. Cabins to Rent collects personal information to help to provide the Cabin under this Agreement and also:
- To respond to communications from the Hirer;
 - To bill the Hirer and to collect money that the Hirer owe, including authorising and processing credit card transactions;
 - To protect and/or enforce Cabins to Rent's legal rights and interests, including defending any claim;
 - For any other purpose authorised by the Hirer or the Privacy Act 1993.
- 15.5. Personal information will be shared with others involved in assisting Cabins to Rent to provide the Cabin under this Agreement including:

CABINS TO RENT LTD - TERMS AND CONDITIONS OF CABIN RENTAL AGREEMENT 18.11.2020

- a Service providers (including IT companies);
b Banks and other payment service providers;
c Credit reference agencies for the purpose of credit checking and debt collection agencies for the purpose of collecting debts;
d Related companies;
e Transport companies;
f Any other person authorised by the Hirer;
g Any other person authorised by the Privacy Act or another law.
- 15.6. Cabins to Rent will take all reasonable steps to keep personal information accurate and up to date. Cabins to Rent will take all reasonable steps to keep personal information safe from loss, unauthorised activity or other misuse.
- 16. Exclusion of Implied Terms and Limitation of Liability**
- 16.1. Subject to clause 1.2d, no provision in this Agreement is intended to have the effect of limiting or restricting the Hirer's rights under the CGA, except to the extent permitted by law.
- 16.2. All expressed and implied terms, conditions and warranties that otherwise might apply to this Agreement are excluded to the extent permitted by law but not otherwise.
- 16.3. Despite this Agreement, if Cabins to Rent is found liable for a breach of any condition or warranty implied by any legislation or otherwise by law, or for any breach of this Agreement, that liability is, to the extent permitted by law, limited to:
- a In the case of the Cabin:
i The replacement of the Cabin with a cabin that is in a condition reasonably similar to the Cabin, or
ii The repair of the Cabin; or
iii The payment of the cost of having the Cabin repaired; and
b In the case of services:
i The supply of the services again; or
ii The payment of the cost of having the services supplied again; whichever is determined by Cabins to Rent to be appropriate in the circumstances.
- 16.4. If one party to the Agreement breaches it, the other party must take reasonable steps to mitigate any Losses arising from the breach.
- 17. Indemnity**
- 17.1. Without limiting any other right or remedy of Cabins to Rent under this Agreement or at law, the Hirer indemnifies Cabins to Rent from and against all Losses incurred by Cabins to Rent (or for the value of insurance excess, if applicable) as a direct or indirect result of:
- a Against any loss of (including lawful confiscation), damage to or destruction of the Cabin, irrespective of how the loss, damage or destruction is caused;
b Any act or omission by the Hirer, including unauthorised use of the Cabin;
c A breach by the Hirer of this Agreement or the law;
d Any claims and/or proceedings in which Cabins to Rent is made a party or is otherwise involved arising directly or indirectly out of this Agreement (except where costs are awarded in favour of the Hirer against Cabins to Rent);
e Except, where the CGA applies, to the extent the Losses arise from Cabins to Rent's negligence.
- 18. Guarantors**
- 18.1. Each Guarantor:
- a Guarantees (jointly and severally if more than one) repayment to Cabins to Rent of all amounts payable by the Hirer pursuant to this Agreement, and the performance of all of the Hirer's obligations under this Agreement.
b Acknowledges that Cabins to Rent has entered into this Agreement with the Hirer at the request of the Guarantor, that Cabins to Rent might not have done so without the Guarantor's guarantee, and that Cabins to Rent doing so is a benefit to the Guarantor.
c Agrees that if the Hirer does not pay any amount, or perform any obligation, under this Agreement, the Guarantor will do so on demand.
d Agrees that the Guarantor is liable under this guarantee and this Agreement as if it were the sole principal debtor and not merely a surety.
e Agrees that, without limiting clause 18.1c, if for any reason any amounts payable by the Hirer under this Agreement or any collateral securities are not recoverable by Cabins to Rent, whether as a matter of law or as a matter of fact, the Guarantor will indemnify Cabins to Rent against any resulting Loss, and will pay the amount of any such Loss to Cabins to Rent as a principal debtor and on demand.
f Agrees that their obligations as a Guarantor are absolute and unconditional, and will not be released or in any way affected by:
i This Agreement being unenforceable or otherwise defective; or
ii Any variation or release of this Agreement, or any other Guarantor; or
iii Any concessions by Cabins to Rent to the Hirer or to any other Guarantor; or
iv The insolvency, bankruptcy or liquidation (as appropriate) of the Hirer or any other Guarantor; or
v Any other act, omission, or rule of law which would, were it not for this clause, release a guarantor or indemnifier, and irrevocably waives any rule of law to a different effect.
g Acknowledges that the Guarantor is not a "Debtor" for the purposes of the PPSA and, to the extent permissible by law, waives any notices or rights of a Debtor under PPSA to the extent inconsistent with these terms.
h Acknowledges that the Guarantor has either had independent legal advice prior to executing these terms or, if that has not occurred, that is solely the Guarantor's own choice freely made, and as a result the Guarantor irrevocably waives any rights which the lack of that independent advice might otherwise have given the Guarantor.
- 19. Miscellaneous Provisions**
- 19.1. **Definitions:** In this Agreement, unless the context requires otherwise:
"Advance Rent" means the rent paid in advance of the due date, being the amount specified in the Application Form, the Specific Terms or otherwise the lesser of the value of two times the Rental Payment;
"Agreement" means this agreement comprising the Application Form, the Specific Terms and these terms and conditions;
"Application Form" means any form (paper or electronic) completed by the Hirer in connection with renting the Cabin including the "Application Rental Form" at Cabins to Rent's website www.cabinstorent.co.nz;
"Bond" means the bond referred in clause 3.1a and for an amount specified in the Application Form or Specific Terms;
"Cabin" means a portable, self-contained, cabin described in this Agreement including the Application Form and the Specific Terms;
"CGA" means the Consumer Guarantees Act 1993;
"Delivery Charge" means the delivery charge specified in the Specific Terms;
"Guarantor" means the person(s) named as guarantor(s) in the Application Form or the Specific Terms, if any;
"Loss" means any loss, damage, liability, claim, demand, cause of action, judgment, settlement, fine, penalty, charge, interest, cost and expense (including all legal and compliance costs);
"Minimum Rental Term" means the minimum term of this Agreement specified in the Application Form or Specific Terms;
"Specific Terms" means the key terms that form part of this Agreement, and not otherwise specified in the Application Form or these terms and conditions, and notified by Cabins to Rent to the Hirer, whether before or after the date of this Agreement including by email;
"Term" means the Minimum Rental Term and any extended term (whether or not approved by Cabins to Rent or permitted under this Agreement).
- 19.2. **Interpretation:** In this Agreement, unless the context requires otherwise:
a The headings in this Agreement are for convenience only and have no legal effect;
b References to a "person" include a body corporate, an association of persons (whether corporate or not), a trust, governmental or other regulatory body, authority or entity, in each case whether or not having a separate legal personality;
c Singular words include the plural and vice versa;
d References to "including" or similar words will include a reference to "without limitation";
e References to any law, legislation or legislative provisions include references to regulations, orders or notices made under or in connection with such law, legislation or legislative provisions and all amendments, replacements or other changes to any of them;
f References to "Cabins to Rent" shall include Cabins to Rent Limited, its nominees or assigns;
g References to "Hirer" shall include the Hirer and its permitted assigns and, in the case of a company, its successors and permitted assigns;
h When two or more persons are Hirers all covenants, agreements and conditions under this Agreement shall bind them jointly and each of them severally;
i References to "Business Day" mean a day (other than a Saturday, Sunday or public holiday) when banks in Auckland are open for business; and
j References to "Rental Payments" refer to the weekly or monthly rental payments specified in the Application Form or the Specific Terms, which the Hirer agrees to pay to Cabins to Rent for the hire of the Cabin.
- 19.3. **GST:** If the rate of GST alters then the amount of each payment under this Agreement shall be varied so that the net amount recovered by Cabins to Rent will be the same as it would have been had the GST rate not altered.
- 19.4. **Assignment:** Without limiting its rights at law or equity, Cabins to Rent may at law or in equity assign its rights, title and interest in the Cabin, or in or under this Agreement, and any of them at any time.
- 19.5. **Rights of Third Parties:** Where any provision of this Agreement is expressed to be for the benefit of any person other than (or in addition to) Cabins to Rent, that provision is intended to confer a benefit on the relevant person, enforceable at the suit of that person under Subpart 1 of Part 2 of the Contract and Commercial Law Act 2017.
- 19.6. **Notices:** Subject to specified methods of providing notice required by this Agreement, all notices and communications given under this Agreement must be in writing and will be delivered physically or sent by email or text (in the case of communications to the Hirer) to the recipient at the address or number set out in the Application Form or such alternative address as the recipient may from time to time specify.
- 19.7. **Waiver:** A delay in exercising, or failure to exercise, any right or remedy in connection with this Agreement shall not operate as a waiver of that right or remedy. The waiver of a right to require compliance with any provision of this Agreement in any instance shall not operate as a waiver of any further exercise or enforcement of that right and the waiver of any breach shall not operate as a waiver of any subsequent breach. No waiver in connection with this Agreement shall, in any event, be effective unless it is in writing.
- 19.8. **Variation:** No variation of this Agreement shall be effective unless it is in writing and is signed by or on behalf of each of the parties. Despite that, Cabins to Rent may amend this Agreement by notice in writing to the Hirer, where the amendments are necessary in relation to compliance with law.
- 19.9. **Severance:** If a provision of this Agreement is held to be illegal, invalid or unenforceable, in whole or in part, the parties intend that the offending provision shall be severed and the legality, validity and enforceability of the remainder of this Agreement shall not be affected.
- 19.10. **Entire Agreement:** This Agreement contains all of the terms and arrangements made between the Hirer and Cabins to Rent in respect of matters dealt with in the Agreement and supersedes all previous agreements, arrangements or understandings, whether written, oral, or both, relating to such matters.
- 19.11. **Clauses continue:** Provisions of this Agreement which, by their nature, are intended to survive termination or expiry of the Agreement, including clauses 3.2, 4.2, 6.6, 6.7, 8, 11.4, 12, 14, 16, 17, and 18 of this Agreement, continue in force.
- 19.12. **Signature:** A Hirer may enter into the Agreement by signing and sending (including by email) a counterpart copy to Cabins to Rent. Alternatively, the Hirer can agree to be bound by clicking "I agree" (or similar) checkbox on the website maintained by Cabins to Rent in relation to this Agreement. Cabins to Rent may execute this Agreement in a similar manner and may also confirm its agreement to be bound by providing written acknowledgement to the Hirer. The parties agree that any legal requirement may be met by using electronic means in accordance with the Contract and Commercial Law Act 2017. In this clause the term "legal requirement" has the meaning given to it by section 219(2) of the Contract and Commercial Law Act 2017