

# JET SKI HIRE AGREEMENT

This agreement for the lease of jet ski equipment (Agreement) is between:

Amorio Group Pty Ltd t/a "Adelaide Jetski Hire" ABN 62 646 531 973 of 24 Ocean Boulevard, Seacliff Park, SA 5049 (We / Us / Our)

and		
Customer Name:( address) (You / Your / Customer)	(please print full name) of	(please print
(each a <b>Party</b> )		
EQUIPMENT AND HIRE DETAILS		
Your Boat Licence details (for Jet Ski hire) Licence number:	Trailer registration no: No. of life jackets provided: Note: One (1) life jacket is provi life jackets chargeable at \$10 pe	ded as part of the Hire Fee, with additional er unit.
Your Driver Licence details (for Trailer hire) You must hold an unrestricted Driver's Licence for Trailer h Licence number: Issuing state/territory: Expiry: Vehicle registration:	ire.	essories and associated costs (to be
		amage identified by You prior to the Period, as demonstrated on the 1:
Date of Hire: Hire Period: am/pm to am/pm Hire	Initialed by Y Security Bond (incl. GST): \$1 on Date of In	L,000.00
Hire Fee (incl. GST):		



Personal Details of any person who intends to operate the Jet Ski as a driver or to tow the Trailer (each, a "Co-Driver"), and any Passenger who intends to use the Jet Ski:

Full Name:	Full Name:	Full Name:	Full Name:
D.O.B:	D.O.B:	D.O.B:	D.O.B:
Email address:	Email address:	Email address:	Email address:
Phone number:	Phone number:	Phone number:	Phone number:
Co-Driver / Passenger (Please circle)			

Where more than four (4) Co-Drivers and/or Passengers, include additional Co-Driver and Passenger Details on a blank page at the end of this Agreement.

Has the Co-Driver and any Passenger intending to use the Jet Ski entered into a separate Jet Ski Hire Agreement?

(Please circle) YES / NO

**IMPORTANT NOTE:** Where there is one or more Co-Drivers, or Passengers who intend to use the Jet Ski, each such Co-Driver and Passenger must enter into a separate Jet Ski Hire Agreement. However, only one Hire Fee will be payable in respect of the use and operation of the Jet Ski by You, the Co-Driver(s and any Passenger intending to use the Jet Ski). You will be solely responsible for payment of that fee.

### PERSONAL DETAILS

NOTE: You and any Co-Driver must be aged 16 years or above to operate the Jet Ski.

Your Date of Birth (DD/MM/YYYY): \_\_\_\_

Your Emergency Contact (Full Name and Phone Number): \_\_\_\_\_\_

#### **Boating Experience and Medical Fitness:**

Question	Yes	No
Have You previously operated a personal watercraft of the type, size and propulsion power of the Jet Ski?		
Has the Co-Driver(s) previously operated a personal watercraft of the type, size and propulsion power of the Jet Ski?		
Have all Passenger(s) previously operated or been a passenger on a personal watercraft of the type, size and propulsion power of the Jet Ski?		
Have You previously operated a trailer for the purpose of transporting a Jet Ski?		
Has the Co-Driver(s) previously operated a trailer for the purpose of transporting a Jet Ski?		
Do You have any pre-existing medical conditions which could affect Your ability to operate the Jet Ski?		
If yes, please specify:		
Are You aware of any pre-existing medical conditions that the Co-Driver(s) or Passenger(s) may have which could affect their ability to operate the Jet Ski?		
If yes, please specify:		
Are You impaired by any illicit substances or alcohol?		
Do You know or have reason to believe that Your Co-Driver(s) or Passenger(s) are impaired by illicit substances or alcohol?		



### Recitals

- A. We operate the business trading as "Adelaide Jetski Hire" at 24 Ocean Boulevard, Seacliff Park, South Australia. In operating the business, we:
  - lease Jet Skis, Trailers and Accessories to
     Licence Holders (*Jet Ski Hire Services*); and
  - (ii) provide guided jet ski tours, and lease Jet
     Skis and Accessories to participants in
     such tours (*Jet Ski Tour Services*).
- B. You wish to procure Jet Ski Hire Services from Us on and subject to the terms of this Agreement.

### 1. Term

This Agreement commences on the Date of Hire and continues for the Hire Period.

### 2. Definitions and interpretation

 In this Agreement, the following words and expressions shall, unless the context provides otherwise, have the following meanings:

*Accessories* includes personal flotation devices (e.g. life jackets), speakers, ropes, trailer plugs and such other equipment that We may permit customers to use from time to time.

*Activity* means all activity involved in the use, handling, transportation and operation of the Jet Ski.

Australian Consumer Law means Schedule 2 of the Competition and Consumer Act 2010 (Cth).

**Authority** means any government, government department, body or any other public authority or statutory body which has relevant jurisdiction over or in connection with the Activity, the Services or Your use of the Equipment.

**Base** means the location from which you pick up the Equipment at the commencement of the Hire Period.

*Claim* includes, in relation to a person, a demand, claim or action made or brought by or against the person, including in relation to personal injury or death, or for loss of or damage to property, in each case howsoever arising and whether present unascertained, immediate, future or contingent.

*Class 4 vessel* has the meaning given to that expression in MO 504.

**Co-Driver** means the individual identified in the Equipment and Hire Details provided that such person:

- (i) is a Licence Holder; and
- (ii) has signed an agreement with Us in the form of this Agreement.

**Date of Hire** means the "Date of Hire" as set out in the Equipment and Hire Details.

**Diagram** means the diagram set out in Schedule 1 depicting any pre-existing damage to the Equipment.

*Equipment* means the Jet Ski, the Trailer (if applicable) and any Accessories made available to You pursuant to this Agreement.

*Equipment and Hire Details* means the section titled Equipment and Hire Details on page 1 of the Agreement.

*GPS Navigation Device* means a global positioning system which uses satellite signals to locate the receiver's geographical position at any time.

**GST** has the meaning given to that term in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

*Guarantor* means a person who, in circumstances where You are not 18 years or older, takes responsibility for your compliance with the obligations set out in this Agreement.

*Hire Fee* means the fee payable by You to Us for the Services, as set out in the Equipment and Hire Details.

*Hire Period* means the "Hire Period" or the as set out in the Equipment and Hire Details.

*Licence Holder* means a holder of a current and unrestricted boating licence recognized by the relevant marine transport authority in South Australia for the operation of personal watercraft such as the Jet Ski.

*Jet Ski* means the personal watercraft owned by Us and identified by the registration number set out in the Equipment and Hire Details.

*Law* means any statute, regulation, by-law or subordinate legislation in force from time to time in any relevant jurisdiction, and any legally binding code, notice, order or guideline made under any statute, regulation, by-law or subordinate legislation in force from time to time in any relevant jurisdiction or by an Authority.

*Loss* includes any loss, damage, liability, cost or expense of any kind and howsoever arising (including as a result of any Claim), including penalties, fines and interest.

**MO 504** means Marine Order 504 (Certificates of operation and operation requirements – national law) 2018 made under the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012.* 

**Passenger** means any individual identified as a passenger (being a person who can use the Jet Ski



(c)

in their capacity as a passenger only, and not as a driver) in the Equipment and Hire Details.

**Personal Details** means the section titled Personal Details commencing on page 2 of the Agreement.

*Personal Information* has the meaning given to it in the Privacy Act.

*Privacy Laws* means all Laws relating to privacy, data protection or data security, including the *Privacy Act 1988* (Cth).

Privacy Act means the Privacy Act 1988 (Cth).

*Safety Sticker* means the sticker placed on the Jet Ski which identifies the Passenger number limit and weight limit for the particular Jet Ski.

*Security Bond* means the security bond provided by You to Us for the amount set out in the Equipment and Hire Details.

*Services* means the services We have agreed to provide to You on and subject to the terms of this Agreement, being the Jet Ski Hire Services as more fully described in the Equipment and Hire Details.

*Trailer* means the jet ski trailer owned by Us and identified by the registration number set out in the Equipment and Hire Details, if applicable.

- (b) In this Agreement, except where the context otherwise requires:
  - (i) all references to currency are a reference to Australian dollars;
  - (ii) a word importing the singular includes the plural and vice versa;
  - (iii) the word "including" or any other form of that word is not a word of limitation;
  - (iv) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
  - a reference to a Party includes that Party's executors, administrators, successors and permitted assigns; and
  - (vi) this Agreement must not be construed adversely to a Party just because that Party prepared it or caused it to be prepared.

### 3. Important acknowledgements by You

Without limiting any other provision in this Agreement, You acknowledge the following:

- (a) this Agreement is a legally binding contract between You and Us;
- (b) You agree to be bound by the terms contained in this Agreement;

- by entering this Agreement, You are acquiring the Services from Us;
- You and the Co-Driver are the only persons (other than Us or persons authorised by Us) who are authorised to use or operate the Jet Ski as a driver;
- You, the Co-Driver and the Passenger are the only persons (other than Us or persons authorised by Us) who are authorised to use the Jet Ski as a passenger;
- (f) You have inspected the Equipment to be made available to You pursuant to this Agreement, and You agree that it is in suitable condition;
- (g) the Activity involves a significant risk of:
  - personal injury or death to You, the Co-Driver, the Passenger and third parties; and
  - damage to property, including to the Jet
     Ski, the Trailer, other vessels and motor vehicles.
- (h) You agree that We may retain any (or all) of the Security Bond to satisfy any payment which becomes due and payable by You in accordance with this Agreement, including but not limited to fuel charges, delay and damage; and
- (i) if the Jet Ski is fitted with a GPS Navigation Device, We may use the GPS Navigation Device to track or locate the Jet Ski at any time during the Hire Period.
- 4. Our provision of the Services and Equipment
- (a) We will provide You with the Services on and subject to the terms of this Agreement.
- (b) We must provide the Jet Ski and the Accessories to You in a clean and tidy condition.
- (c) We will provide You with one (1) life jacket, with additional life jackets to be paid for by You in addition to the Hire Fee.
- (d) Where Our Services to You include the provision of a Trailer, if a tyre becomes punctured while the Trailer is in Your possession, You must, in each case at Your own expense, repair or replace the tyre, or have the tyre repaired or replaced by a qualified professional, before the Trailer is returned to the Base and prior to the end of the Hire Period.
- (d) We will comply with all Laws applicable to Us as the provider of the Services, including the requirements of MO 504 in relation to the ownership and operation of a business involving the hiring of Class 4 vessels.
- 5. Fees and payment
- 5.1 Hire Fee
- (a) You acknowledge that the Hire Fee is set out in the Equipment and Hire Details.



- (b) You must pay Us the Hire Fee prior to the commencement of the Hire Period.
- (c) The Hire Fee will be reduced by any amount paid at the time of booking.

### 5.2 Security Bond

- (a) You acknowledge that the Security Bond is set out in the Equipment and Hire Details.
- (b) You must provide the Security Bond to Us prior to the commencement of the Hire Period.
- (c) Subject to Our exercise of Our right to apply all or part of the Security Bond towards satisfaction of any amounts payable by You under this Agreement including, without limitation, for fuel charges, delay and damage, We will return the Security Bond to You in full or in part, as applicable, within 14 days after the end of the Hire Period.

### 5.3 Fuel Charges and Re-fueling

- (a) When acquiring Our Jet Ski Hire Services:
  - You are responsible at Your own cost for ensuring there is a sufficient amount of fuel in the Jet Ski for the duration of the Hire Period, being a level not lower than 2 bars as indicated in the Jet Ski's fuel gauge;
  - (ii) You must use 98 octane fuel (Fuel) only when re-fueling the Jet Ski;
  - (iii) without limiting clause 5.3(a)(i), You must ensure the Jet Ski has a full tank of Fuel when You return the Jet Ski to the Base at the end of the Hire Period; and
  - (iv) You must provide Us with a copy of the receipt for the Fuel charges, which must clearly state the type of fuel used (Fuel Receipt) at the end of the Hire Period.
- (b) If You use a fuel type other than 98 octane or if You fail to provide the Fuel Receipt:
  - (i) We will empty, discharge and re-fuel the Jet Ski's fuel tank at Your expense; and
  - You must pay Our costs incurred in taking the steps set out in clause
     5.3(b)(i), including:
    - (1) the costs of re-fueling the Jet Ski at the fixed rate of \$2.50 per litre; and
    - (2) Our labour costs of \$100 (plus GST),

which costs will be deducted directly from the Security Bond before it is returned to You in accordance with clause 5.2(c).

### Delay and damage

You must pay the following charges relating to any delay in returning, or any damage to, the Equipment:

- In circumstances where the Equipment is not returned in full to the Base:
  - (i) within 15 minutes after the end of the Hire Period, You must pay \$80.00 (plus GST) per hour for each hour or part thereof (rounded up to the next hour) You delay in returning the Equipment in full; or
  - (ii) within 3 hours after the end of the Hire Period, You must pay \$500 per day (plus GST) for each day (rounded up) You delay in returning the Equipment in full,

and such amounts will be deducted directly from the Security Bond before it is returned to You in accordance with clause 5.2(c).

- (b) In circumstances where the Equipment is not returned in the same state of repair and condition that it was in at the start of the Hire Period, We will obtain a quote for repairs by Our chosen repairer and the cost of such repairs will be payable by You on demand.
- (c) In circumstances where the Equipment is not returned within 24 hours after the end of the Hire Period:
  - We will take all reasonable steps to recover the Equipment, including search and travel;
  - (ii) any costs We incur under clause 5.4(c)(i) will be deducted directly from the Security Bond before it is returned to you in accordance with clause 5.2(c); and
  - (iii) if our costs exceed the amount of the Security Bond, We will issue You with an invoice for any such costs, which will be payable by You on demand.

### 6. Your Obligations

### 6.1 Condition of Equipment

You agree and acknowledge that You inspected the Equipment prior to the commencement of the Hire Period and that You have noted any visible signs of pre-existing damage in the Diagram.

### 6.2 Damage to the Equipment

You must:

 return the Equipment to the Base in the same state of repair and condition that it was in at the start of the Hire Period;



- (b) without limiting Your obligations under clause6.2(a) or clause 5.4(b):
  - (i) let Us and the relevant Authorities

     (including police, ambulance, fire or marine authority, as applicable) know immediately if any Damage to the Equipment occurs or if You witness or are involved in any incident involving personal injury to or death of any person or loss of or damage to any property (*Incident*); and
  - (ii) provide Us and any relevant third parties
     (including any Authorities) with all such assistance as We or they may require in investigating the Incident;
- (c) pay for any damage to the Equipment incurred during the Hire Period in accordance with clause 5.4(a) (ii) which, in the case of the following specific Accessories will comprise the following fixed amounts:
  - (i) Jet Ski Key \$150.00;
  - (ii) Life Jacket \$220.00; and
  - (iii) Wear Ring \$350.00; and
- (d) remove all personal belongings and rubbish from the Jet Ski prior to the end of each Hire Period.

### 6.3 Compliance with Laws

You must:

- (a) comply with all applicable Laws relevant to the Activity or to Your use of the Equipment, including all Laws relating to:
  - (i) restrictions on navigational speed and direction;
  - (ii) managing navigation hazards;
  - safety equipment (e.g. wearing an approved form of life jacket whilst operating or using the Jet Ski);
  - (iv) maintaining a blood alcohol level below the prescribed limits;
  - (v) the prohibition on using, or being under the influence of, banned or illicit substances;
  - (vi) the designated cruising areas in which the Jet Ski may be used which, for the avoidance of doubt, is limited to use within South Australia;
  - (vii) the times of day in which the Jet Ski may be used;
  - (viii) if You are involved in or witness a boating incident, assisting at, or reporting, any such incident; and

if You are using a Trailer:

- transporting, securing, loading and unloading the Jet Ski; and
- (2) driving whilst towing the Trailer;
- (b) comply with any lawful direction provided by an Authority in relation to the Activity or to Your use of the Equipment, including in relation to the matters identified in sub-clause (a) above; and
- (c) not remove or deliberately obstruct adhesive markings affixed to the Jet Ski, including any registration sticker, Safety Sticker and any code of practice ("Ride Smart").

### 6.4 Safety

Without limiting clause 6.3, You must:

- (a) wear, and ensure that any Co-Driver or Passenger on the Jet Ski wears, a life safety jacket in a form approved by Law;
- (b) not permit anyone to use or operate the Jet Ski other than the Co-Driver (as driver or passenger), a Passenger (as passenger only), Us or any personnel authorised by Us;
- without limiting any other provision in this
   Agreement, not permit anyone aged below 12
   years of age to use the Jet Ski in any capacity;
- not carry any more than the permitted number of Passengers, or the permitted weight limit, whichever is less, on the Jet Ski, to be determined by the Safety Sticker on the relevant Jet Ski;
- (e) use the Jet Ski only in "smooth or partially smooth waters" as set out in Schedule 1 of the Harbors and Navigation Regulations 2009 (SA);
- (f) not use the Jet Ski for any illegal purpose, or for any race or contest;
- (g) keep safe and be able to produce the keys to the Jet Ski at all times;
- (h) not leave the Jet Ski unattended at any time during the Hire Period;
- (i) not take or permit any animal on the Jet Ski; and
- (j) not smoke onboard the Jet Ski.

### 6.5 Acknowledgment

You acknowledge that:

- We have provided You with a Safety Induction Handbook which sets out important information and guidance on speed and direction restrictions, navigational hazards, weather patterns and the use and operation of the Equipment;
- (b) We have provided You with a map clearly outlining the designated cruising areas during which You may use the Jet Ski, which for the



avoidance of doubt, is limited to use within South Australia;

- (c) We have provided you with a copy of Schedule 1 of the *Harbors and Navigation Regulations 2009* (SA) detailing the "smooth and partially smooth waters" in which you are permitted to use and operate the Jet Ski;
- You are responsible for ensuring the weather and swell conditions are suitable for use of the Equipment during the Hire Period, prior to the commencement of the Hire Period; and
- (e) You will not permit any person to operate the Jet Ski unless that person is:
  - (i) nominated in the Hire and Equipment Details as a Co-Driver; and
  - (ii) has signed a separate Jet Ski Hire Agreement.

### 7. Cancellation

### 7.1 Cancellation for cause

- In circumstances where We become aware that You, the Co-Driver or any Passenger has not complied with any of Your obligations as set out in this Agreement, including because You (or they) fail to use the Equipment properly, We may, in our sole discretion, cancel this Agreement with immediate effect by giving notice to You.
- (b) If We notify You of such cancellation, You must return the Equipment immediately.
- (c) For the purpose of this clause 7.1, the Hire Period will come to an end upon the provision of notice by Us to You.
- (d) Cancellation by Us in accordance with this clause 7.1 will not give rise to any refund, credit or other compensation.

### 7.2 Cancellation for weather

- (a) If, during the Hire Period, the swell exceeds 1 metre in height (High Swells), or it becomes otherwise unsafe due to poor weather conditions such as storms, or We notify You that High Swells are present or are likely to become present, You must return the Equipment to Us immediately.
- (b) If, during the Hire Period, the weather conditions deteriorate such that they become undesirable for the operation of personal watercraft, such as light rains or

winds, You may terminate the Agreement by returning the Equipment to Us.

- (c) If you terminate the Agreement pursuant to:
  - clause 7.2(a), then You may be provided an alternative hire period in which to rehire a jet ski from us, at no additional cost, subject to availability and for the portion of time unspent from your initial Hire Period; or
  - (ii) clause 7.2(b), then no refund of the Hire Fee will be provided.

## 8. Your Responsibility

Without limiting any other clause in this Agreement, You are wholly responsible and assume all liability for:

- (a) the supervision of all Passengers at all times during the Hire Period, and must ensure that You and all Passengers comply with all relevant Laws and behave in a safe and responsible manner at all times during the Hire Period; and
- (b) all personal effects brought onto the Jet
   Ski. We take no responsibility for any personal effects which:
  - suffer water or other damage, including but not limited to circumstances where personal effects are stored in the Jet Ski's storage container or dropped overboard; or
  - (ii) are not taken with You at the end of the Hire Period.

### 9. Indemnity

You indemnify Us and Our officers, directors, employees, contractors and agents from and against all Loss arising from or in any way in connection with the Activity, Your use of the Equipment or this Agreement including, without limitation, in relation to any third party Claim.

- 10. Insurance
- (a) Without limiting any clause in this Agreement, You must reimburse Us on demand for any insurance excess which may become payable by Us as a result of a claim made with Our insurer arising from a breach of this Agreement by You, or by any negligent act or omission by You or a Passenger.
- (b) In circumstances where Our insurance cover is not invoked by Us or the claimed amount is not recovered in full from Our insurer, You remain



liable for all Loss suffered by Us on a full indemnity basis in accordance with clause 9 above.

### 11. Limitation of Liability

- We exclude any and all liability to You, the Co-Driver, the Passenger and any third party for any Loss suffered or incurred by You or them arising out of or in any way in connection with the Activity, the performance of the Services, Your use of the Equipment, or this Agreement.
- (b) You agree not to make, and irrevocably waive all rights that You may have to make, any Claim against Us or any of Our officers, directors, employees, contractors or agents, under any applicable Law in connection with the Activity, the Services or this Agreement.
- (c) Nothing in this Agreement is intended to exclude either party's liability for Loss which cannot be excluded under any applicable Law (including but not limited to the Australian Consumer Law).
- (d) Notwithstanding any clause in this Agreement, Our liability for any Loss arising under this Agreement is limited to, and shall not exceed, the value of performing the Services again.

### 12. Title

You acknowledge that nothing in this Agreement is intended to pass title in any Equipment from Us to You and We shall retain all rights, title, and legal and beneficial ownership of any Equipment which is made available to You as part of the Services.

### 13. Privacy and Personal Information

We agree to use and disclose Personal Information provided by You only to the extent permitted under the Privacy Act or as outlined in Our Privacy Policy. A copy of Our Privacy Policy is available on Our website.

#### 14. Assignment and Subcontracting

- (a) You may not assign, transfer or subcontract any rights You may have under this Agreement.
- (b) We may assign, transfer or subcontract all or part of this Agreement without Your consent.

### 15. Governing Law

This Agreement is to be governed and construed by the laws of South Australia. The parties irrevocably submit to the non-exclusive jurisdiction of the courts of South Australia.

#### 16. Severance

If any provision of this Agreement is held to be prohibited, void, illegal or unenforceable in any jurisdiction, that provision is to be severed and the validity or enforceability of the remainder of this Agreement will not be affected.

### 17. Survival

Without limiting any other clause of the Agreement, clauses relating to indemnities, liability, and Personal Information will survive expiry of the Agreement.

### **18.** Entire Agreement

This Agreement contains the entire understanding of the parties in relation to its subject matter and supersedes any prior agreement by the parties in relation to the same subject matter.

### 19. Counterparts

This Agreement may be executed by any number of counterparts. Each counterpart is an original but the counterparts together are one and the same instrument.



Schedule 1 – Diagram of Equipment

## Front



- M Markings
- S Scratches
- D Damage
- A Missing
- 0 Other

Rear



Port Side (Left)



Starboard Side (Right)





Signed by the parties as an agreement on

Signed by **Amorio Group Pty Ltd** t/a "Adelaide Jetski Hire" ACN 646 531 973 by its authorised representative:

Name of authorised representative

Signature of authorised representative

The **Customer** consents to the provision of their signature by electronic means in accordance with clause 9 of the *Electronic Communications Act 2000* (SA).

Signed by Customer:

Name of Customer (*please print*)

Signature of Customer

Where the **Customer** is under the age of 18 years old, a parent or legal guardian must sign below and does so in the capacity of a Guarantor.

Signed by Guarantor:

Name of Guarantor (*please print*)

Signature of Guarantor

Relationship of Guarantor to Customer (please print)