



Terms & Conditions of Business

These terms and conditions apply to all bookings regardless of whether they are pre-paid with a flat fee or pay as you go by climbers.

By making a booking you confirm that you have read, understood and agree to our terms and conditions.

1. Definitions

1.1 In these terms and conditions, unless the context otherwise requires, the following expressions shall have the following meanings:

1.1.1 Client: the individual, company or group for whom the Services are to be provided

1.1.2 Company: HighJinks Climbing including where applicable its employees, suppliers, agents or sub-contractors acting on behalf of the company

1.1.3 Patrons: children or adults participating in the use of the attraction

1.1.4 Conditions: the provisions set out below which shall be incorporated into the contract

1.1.5 Contract: the agreement between the Company and the Client incorporating the Conditions for supply of the Services

1.1.6 Event: the function at which the services are to be provided

1.1.7 Price: the fee due to the Company from the Client in payment for the Services

1.1.8 Services: the provision of equipment and personnel at the Event

1.2 A reference to (or to any specified provision of) these Conditions or any other document shall be construed as a reference to these Conditions that provision or that document as in force for the time being and as amended in accordance with the agreement of the relevant parties.

1.3 A reference to any one gender shall include the other

1.4 The singular shall include the plural and vice versa

1.5 References to persons shall include individuals, firms, companies, unincorporated associations, partnerships and government entities (whether or not having a separate legal personality)

1.6 A reference to any party shall include its successors in title and permitted assigns

1.7 Clause headings are for convenience only and shall not affect the contract of the Contract

2. The Price

The Price payable for the Service as detailed shall be payable as follows:

2.1 50% of the Price shall be payable as a non-refundable deposit

2.2 The 50% balance of the Price shall be payable within 7 days of the Event

2.3 If the Client fails to pay the Company any sum due under the Contract the Client will be liable to pay interest to the Company on such sum from the due date for payment at the annual rate of 15% accruing on a daily basis until payment is made

2.4 The price shall be exclusive of GST which the Client will pay in addition to the Price

3. Cancellation by the Client

- 3.1 The Client may cancel the Contract for provision of the Services, cancellation will be effective from the date that the Company acknowledges receipt of written notice of cancellation.
- 3.2 A cancellation fee will be payable by the Client as set out below. The cancellation fee has been calculated to represent a reasonable assessment by the Company of the loss it will suffer as a result of cancellation.

Number of days before the Event within which written notification is received by the Company (excluding the date of the Event but not including the date of receipt of the notice of cancellation):	Amount of cancellation fee (expressed as a percentage of the Price):	Cancellation amount for pay-as-you go events
On signing the agreement and before 45 days	Deposit only	None
45 - 30 days	50%	\$50
30 – 7 days	75%	\$200
1 – 7 days	100%	\$500
Day of the event	100%	\$1000

- 3.3 The Company reserves the right to work with the client to postpone an event under exceptional circumstances where a deposit has been paid. Changes/postponements of time and/or date must be made within a 6 month period from the date of the original Event

4. Cancellation and Changes by the Company

- 4.1 Whilst every effort is made by the Company to carry out the Services, the Company retains the right to change elements of the Services if it is necessary due to circumstances beyond its control due to adverse weather conditions:
- 4.1.1 The Company will talk to you about any potential inclement weather prior to the booking and will discuss problematic whether and if the booking should continue or if it is best to postpone. If you choose to go ahead despite potential inclement weather, the Company reserves the right to cease operation at any time safety becomes an issue. At this point, no refund will be granted.
- 4.1.2 If the Company needs to stop for safety due to unforeseen inclement weather the Event will be rescheduled at a mutually convenient time in which the remaining time (less 1 hour for additional pack up/down) will be available to you
- 4.1.3 Heat – If the temperature is forecast/reaches 36°C or above we reserve the right to change/postpone the time and/or date of the booking to another mutually convenient time.
- 4.1.4 Wind – If winds or wind gusts are forecast at or above 35m/hr we reserve the right to change/postpone the time and/or date of the booking to another mutually convenient time
- 4.1.5 Rain – If there is greater than 45% chance of 5mm of rain or it is more than sprinkling we reserve the right to change/postpone the time and/or date of the booking to another mutually convenient time.
- 4.1.6 Changes/postponements of time and/or date must be made within a 6 month period from the date of the original Event
- 4.1.7 Changes/postponements due to inclement weather mean the Client will not receive a refund for deposits made and they are expected to pay the full amount within 7 days of the original Event date. Any late payment will result in interest being accrued as per the rate outlined in 2.3
- 4.1.8 The Client is able to request inclement weather insurance at the cost of 5% of the total booking fee per day and must be paid with the deposit prior to the Event. This will ensure a full refund to the Client rather than postponement in the event of inclement weather.

4.2 The Company reserves the right to cancel provision of the Services:

- 4.2.1 If it is necessary due to circumstances beyond the Company's control including, but not limited to, availability of staff, mechanical issues, accessibility to the site where the Event is to be held and/or suitability of the terrain of the site where the Event is to be held:
 - 4.2.1.1 If the Client has booked for two staff members but only one is available, a deduction of \$15 per hour will be granted
 - 4.2.1.2 If the Company can not provide the service due to unavailability of staff and/or mechanical problems, the Company will notify the Client at the earliest opportunity. The Client will be given the option to reschedule or cancel the booking
 - 4.2.1.3 In the unlikely event of the Company being late, the we will ensure the number of hours you have booked for will not be jeopardised
- 4.2.2 If the Company deems the Client has not delivered on their obligations outlined in section 5 and is unable to access the Event and/or set up safely

5. Obligations of the Client

The client shall ensure that:

- 5.1 The site where the Event is to be held has land suitable for the provision of the Service as specified including but not limited to:
 - 5.1.1 Ground upon which the Company is to set up has a gradient of no more than 3%
 - 5.1.2 The surface upon which the Company is to set up is to be solid ground free from protrusions and/or divots including but not limited grass, concrete and bitumen
 - 5.1.3 The area available for the Company on which to set up is to be no less than 7m x 18m. This includes the vehicle, trailer and drop zones from the climbing wall. After the wall has been erected the area at the back of the climbing wall can be reduced to 15m by removing the vehicle. The climbing wall can not be moved once erected)
 - 5.1.4 The area in which the Company is to set up is to have no overhead obstructions below 10m including but not limited to tree limbs and power lines

Failure to provide suitable land for the service will result in the cancellation of the booking. In the event of a pre-paid booking, The Client is liable for the full fee of the booking. In the event of a pay-as-you-go booking, a fee will be charged up to \$250 per hour from the time the wall left the depot to the time it returned.
- 5.2 There is suitable access to the site. Gates/entrances must allow adequate width (no less than 3m) and height (no less than 4m clearance) and have a wide enough turning space into the access from the road.
 - 5.2.1 Failure to provide sufficient vehicle access where additional time is taken to get in and/or out of the premises, (where the time exceeds 15 additional minutes) will result in a fee of up to \$250/hour regardless of whether it is a pre paid or pay-as-you-go booking
- 5.3 There is sufficient room to manoeuvre the vehicle and the climbing wall whereby the climbing wall can get in and out of the venue with minimal manoeuvring.
 - 5.3.1 Failure to provide sufficient room to manoeuvre the vehicle and the climbing wall where additional time is taken to get in and/or out of the premises, (where the time exceeds 15 additional minutes) will result in a fee of up to \$250/hour regardless of whether it is a pre paid or pay-as-you-go booking
- 5.4 The Company is provided reasonable access to the venue at an agreed upon time prior to the commencement of the Event and shall be allowed adequate time and access to remove gear after the hours of agreed upon operation have ended. If this is not possible, an early and/or late bump out fee will be charged up to \$250 per hour for Adelaide metro areas and \$250 per hour + \$1/km for areas exceeding 50km from the Adelaide CBD. This amount will be capped at \$1000 after 4 hours.
- 5.5 Details including location, date and time on the invoice are correct prior to paying the deposit. We will take no responsibility if what you have booked is not what is on the invoice. Booking details will not be altered.
- 5.6 There are safe and workable conditions for the Company to operate in

6. The Company's Authority at the Event

- 6.1 The Client agrees on its own behalf and for each and every person attending the Event that in respect to provision of the Services:
- 6.1.1 that the opinion of the Company is final in regard to matters of safety
 - 6.1.2 to comply with any request or order made by the Company in the interest of safety howsoever expressed
 - 6.1.3 to comply with any reasonable instruction given by the Company for any other reason.
- 6.2 The Company reserves the right to request any person attending the Event to cease using the Service if in the opinion of the Company the person is behaving in a dangerous, unreasonable or disruptive manner and the Client agrees to procure that such request will be complied with by each and every person attending the Event. In such circumstances the Company will be under no liability to the Client or the person attending the Event in respect to any refund of the Price or compensation for any costs or damage which may be incurred by the Client or the person attending the Event.

7. Liability of the Client for Damage

The Client agrees that in the event of damage being caused to any, vehicles or equipment of whatsoever nature supplied by the Company for the purpose of providing the Services the Client will be liable for the each and every vehicle or piece of equipment so damaged as follows:

- 7.1 if the damage arises out of any act or omission of any person attending the Event the Client shall be liable for the first \$500 on each and every item
- 7.2 if the cause of the damage is determined to be deliberate the Client shall be liable for all the damage so caused or the full replacement value of each and every item, whichever is less
- 7.3 while the company will always take due caution to avoid damage to the climbing wall and towing vehicle, failure to provide sufficient access to the site, resulting in damage, the client will be held liable for the first \$500 on each and every item

8. Warranties and Liability of the Company

- 8.1 The Company agrees to exercise all reasonable skill and care in the provision of the Services
- 8.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 8.3 The Company shall not be liable to the Client for any indirect or consequential loss or damage (whether for loss of profit, loss of business, depletion of goodwill or otherwise), costs, expenses or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.
- 8.4 The Company has no liability to the Client or any person attending the Event (other than liability for death or personal injury resulting from the Company's negligence) for any loss or damage of any nature, howsoever caused, arising out of or in connection with provision of the Services or for the property of the Client or person attending the Event.
- 8.5 The Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the level of Public Liability Insurance carried by the Company at the date of the Event a copy of which is available on request.
- 8.6 The company shall not be liable to the Client for any direct or indirect damage or costs associated when damage is caused to property of the Client due to insufficient vehicle access as outlined in 5.3

9. General

- 9.1 Each right or remedy of the Company under these Conditions is without prejudice to any other right or remedy of the Company whether under the Contract or not.
- 9.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 9.3 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract will not be construed as a waiver of any of its rights under the Contract
- 9.4 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Client will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the Contract
- 9.5 The parties to this Contract do not intend that any term of this Contract will be enforceable by the virtue of Australian Consumer Law by any person that is not a party to it
- 9.6 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by Australian law and the parties submit to the exclusive jurisdiction of the Australian courts.
- 9.7 The Company reserves the right to make reasonable amendments to these Terms & Conditions without notice, the most up to date version of these Terms & Conditions shall be deemed those found on the company's Website unless the company send other direct written correspondence

10. Communication

Each notice shall be addressed to the address of the party concerned set out in this Document or to such other address as may be notified in writing for this purpose from time to time.