

## YOUNG'S BUS SERVICE: Terms & Conditions of Hire/Charter

### 1. Definitions

- 1.1 "Bus" means and includes Buses, coaches or vehicles provided by Young's to the Hirer by virtue of the terms and conditions contained in this Agreement which may include a Wheelchair Accessible Vehicle;
- 1.2 "Customer" means the Hirer, the party, its successors and assigns and any person acting on behalf of and with the authority of the Hirer entering into the contractual relationship with Young's;
- 1.3 "Deposit" means a non-refundable 20% of the total Fees for the journey booked;
- 1.4 "Driver" means the driver provided by Young's;
- 1.5 "Guarantor" means that person (or persons), or entity, who agrees to be liable for the debts of the Hirer;
- 1.6 "Hire" means hire, charter or tour;
- 1.7 "Hirer" means the person responsible for the hire and/or charter of the bus being the Customer, charterer (or any person acting on behalf of or with the authority of the hirer, charterer, customer) as described on any Invoice, Quotation, Booking Request Form, or other form as provided by Young's to the hirer, charterer or customer and shall include executors, administrators, successors and permitted assigns;
- 1.8 "Interest" is calculated dependent on whether the Hirer is an Consumer as defined by the National Consumer Credit Protection Act 2009. If the Hirer falls within the definition of a Consumer the Interest charged will not exceed 24% per annum against the balance of the overdue account. If the Hirer does not fall within the definition of Consumer interest at 7% compounding per calendar month after the date by which the Fees should have been paid shall apply and such interest shall compound monthly at such a rate after as well as before any judgement.
- 1.9 "Passengers" means those persons authorised by the Hirer to be aboard the Bus for the duration of the hire of the Bus which may or may not include the Hirer;
- 1.10 "Wheelchair Accessible Vehicles" means buses that are suitably fitted for those patrons utilising wheelchairs requiring bus transportation;
- 1.11 "Young's" means DG, PJ & PJ Young trading as Young's Bus Service ABN 77 078 657 186, its successors and assigns or any person acting on behalf of and with the authority of Young's

### 2. Terms & Conditions , Acceptance & Changes

- 2.1 The following terms and conditions are the current terms and conditions of Young's.
- 2.2 Young's reserves the right to amend these terms and conditions by publishing the varied terms on Young's website. You, the Hirer, accept that, by virtue of the varied terms and conditions appearing on Young's website, Young's have provided you, the Hirer, with enough notice of the variation.
- 2.3 Any Quotation sent by Young's to the Hirer by any means or a Customer Order Form emailed, faxed or mailed by the Hirer and received by Young's from the Hirer for the supply of a Bus for Hire constitutes acceptance of these terms and conditions.
- 2.4 Any Quotation is only valid for seven (7) days and may vary after this time to cover any additional costs for fuel or government charges, or variation to the original Quotation.
- 2.5 A Quotation issued by Young's constitutes an offer made by Young's. Bookings will not be binding until accepted by Young's.
- 2.6 A Quotation provided to the Hirer that requires the outsourcing by Young's of a larger bus or unusual vehicle outside their usual fleet offering can only be held for 24 hours, after which time that size bus or unusual vehicle may no longer be available for Hire by Young's.
- 2.7 Young's reserves the right to outsource charter bus work when it is unable to undertake a booking because of vehicle unavailability. Young's reserves the right to charge the Hirer an extra fee and shall notify the Hirer at the time of entering into the Agreement.
- 2.8 Where more than one Hirer has entered into this Agreement, each Hirer is jointly and severally bound by these terms and conditions and is liable for all payments to Young's.
- 2.9 Upon acceptance of these terms and conditions by the Hirer, the terms and conditions are binding and can only be amended by agreement between the parties in writing. An Amendment Fee may apply.
- 2.10 Where the Hirer amends the description of the Bus it seeks to hire after the contract is formed, there will be an additional \$50 admin fee for the privilege. There will also be increased Fees to the Hirer if the vehicle that the Hirer seeks to hire is different to the one originally requested by the Hirer.

### 3. Fees

- 3.1 The Hirer is responsible to pay the Fees for the Hire of the Bus in accordance with the Quotation.
- 3.2 Young's reserve the right to change the Fees in the event of a variation to Young's Quotation either by Young's or the Hirer by Agreement in writing. The Fees are also subject to change dependent upon the itinerary which itinerary may be received by Young's after the formation of the contract Fees are subject to change based on the final itinerary as provided for in clause 5 below being received by Young's not later than one (1) week prior to departure. Does this perhaps relate to 3.3?
- 3.3 The Hirer is required to pay a 20% Deposit as a condition of acceptance of the Quotation.
- 3.4 Any failure by the Hirer to pay the Deposit may result in a cancellation of the booking to hire the Bus.
- 3.5 Fee payment arrangements for the Bus Hire shall be stated on the invoice or any other forms as agreed between Young's and the Hirer. If no payment arrangement details are stated then payment is due fourteen (14) days following the issue of the Tax Invoice as agreed between the parties in writing.
- 3.6 Payment may be made by cash, cheque, bank cheque, direct credit or credit card, or by any other method agreed in writing from time to time by the Hirer and Young's.
- 3.7 If payment is made by credit card then Young's reserves the right to pass the credit card fee on to the Hirer.
- 3.8 GST and other taxes and duties that may be applicable shall be added to the Fee as outlined in the Quotation.
- 3.9 Any additional costs incurred by Young's as a result of the Hirer's failure to pay its Fees, will be borne by the Hirer which will include costs of debt recovery and referral to lawyers. These costs will be pursued until paid.

### 4. General Hire/Charter

- 4.1 The Hirer is responsible for ensuring that the delivery time is correct for the Hire of the Bus.
- 4.2 Overtime rates may apply if the Bus is returned after the return time as noted on the Quotation through no fault of Young's.
- 4.3 Overtime is charged after 15 minutes grace time at an hourly rate or part thereof applicable to the vehicle type.
- 4.4 Buses will be hired by Young's to the Hirer for barbeque parties, pub crawls, hens nights, bucks nights, film shoots, school runs, sporting , social and corporate events, as a shuttle service and other activities as agreed between the parties.
- 4.5 For specific school trips, the school that is the Hirer is responsible for ensuring that its students abide by the Queensland Transport Code of Conduct as published by the Department of Transport & Main Roads which can be located on Young's website [www.youngsbusservice.com.au](http://www.youngsbusservice.com.au).
- 4.6 Young's does not charter or Hire any of its vehicles travelling to Mt Archer in Rockhampton as Young's deem it to be unsuitable for its vehicles.

### 5. Overnight & Extended Day Trips

- 5.1 The Hirer is responsible for reserving and paying for a separate room and meals for each Driver for any overnight tour or charter.
- 5.2 A thorough itinerary is required for all trips including extended overnight trips at least two (2) weeks prior to departure and the final itinerary must be received at least one (1) week prior to departure.
- 5.3 Notwithstanding clause 9.4 below for all camping and overnight trips food may be transported and consumed on the Bus with the written permission of Young's. If this type of charter is requested then the Bond pursuant to clause 9.5(b) and (c) shall be applicable.
- 5.4 For all overnight trips, excluding camping equipment and food supplies, there is a maximum luggage capacity per person of 15kg, equivalent to a small suitcase and one small carry on item.
- 5.5 If the Hirer is aware there may be excess baggage or oversized/odd shaped luggage the Hirer must advise Young's at the time of booking so an appropriate vehicle or trailer may be delivered to the Hirer. Excess baggage may be left behind due to limited luggage space and transported at the Hirer's own expense.

### 6. Delivery Of Bus

- 6.1 Unless otherwise agreed in writing delivery of the Bus is at Young's premises and any cost of transportation of the Bus to an agreed location by the Hirer must be paid for by the Hirer and which may be included in the Quotation.
- 6.2 Notwithstanding clause 6.1, if Young's and the Hirer agree to an alternative pick up point, the Hirer is responsible for allocating a safe and legal pick up point. The Hirer shall be liable for all fines and penalties resulting from inappropriate or illegal pick up locations in clearways, no stopping zones, no parking zones and no standing zones.
- 6.3 The Customer must make all arrangements necessary to take delivery of the Bus whenever a Bus is delivered. In the event that the Hirer is unable to take delivery of the Bus as arranged then Young's is entitled to charge a reasonable fee for redelivery.
- 6.4 Delivery of the Bus to a third party nominated by the Hirer is deemed to be delivery to the Hirer for the purposes of this Agreement. In that event extra charges may apply to the Hirer's account.
- 6.5 If the Hirer refuses to accept delivery of a Bus and the Bus is returned to Young's the Hirer shall forfeit the Fees paid for the Bus and the terms of clause 7 apply.
- 6.6 Young's may deliver a Bus/Buses by separate deliveries. Each Bus delivered will be invoiced and paid for in accordance with the provisions of these terms and conditions.

### 7. Defects

- 7.1 Young's shall inspect the Bus prior to delivery to the Hirer for any minor defects internally and externally to the Bus on delivery and shall disclose any anomalies to the Hirer if they will materially affect the Hire of the Bus. The Hirer must, upon return of the bus at the end of Hirer's trip, must notify Young's of any alleged damage, defect, or failure to comply with the description or Quotation contained in the Booking Request Form, which has materially affected the trip taken by the Hirer. Then if requested by Young's the Hirer shall write a statement outlining the claim within 48 hours after its return from the trip. If the Hirer fails to comply with this provision, the Bus will be deemed to be free from any defect or damage. Young's liability is limited in accordance with this clause.

### 8. Bus Returned by Hirer

- 8.1 Young's will not accept the return of a Bus due to the wrong type of Bus being dispatched to the Hirer such as a Wheelchair Accessible Vehicle if Young's were not informed in writing that this was the style of Bus required by the Hirer at the time of entering into the Agreement.
- 8.2 Young's may accept the return of a Bus on the following terms:
- 8.3 A Bus returned will only be accepted provided that:
  - (a) the Bus is returned to Young's at the Hirer's cost on the day of the original delivery date as directed by both parties to the Driver in the condition in which the Bus was delivered not damaged, defaced or marked; and

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(b) after inspection of the Bus returned under instruction from the Hirer, Young's has agreed in writing to accept the return of the Bus, however no refund will be provided to the Hirer.

### 9. On The Bus

- 9.1 All passengers must be seated at all times the Bus is in motion.
- 9.2 Seat belts must be worn in all Buses that have them fitted.
- 9.3 No Smoking is permitted by law on any of Young's Buses at any time.
- 9.4 No food is to be consumed on any Bus (unless there is a medical reason) unless written permission is given by Young's.
- 9.5 Alcohol:
  - (a) No alcohol is to be consumed on any Bus without a special request made by the Hirer in writing to Young's and approved in writing by Young's no later than three (3) days prior to departure.
  - (b) The consuming of alcohol will incur an additional Fee plus an additional Bond of \$500 paid in advance if the parties agree that alcohol shall be consumed during the trip (to pay for excess cleaning costs, vomit, mess and drinks) and any other damage caused to the Bus or employees, agents or contractors of Young's.
  - (c) The Bond shall be returned to the Hirer seven (7) days after the Bus is returned and there is no evidence of any detriment caused to the Bus or the employees, agents or contractors of Young's.
- 9.6 At no time at all should any passenger throw objects out of the windows or have any part of their body outside the Bus either whilst stationary or on route.
- 9.7 Young's reserves the right to terminate a charter if any actions are deemed threatening or dangerous to the Driver or other passengers.
- 9.8 The Driver is authorised, and has discretion to have an unruly passenger removed from the Bus during the journey, if the unruly person is threatening or placing the Driver or passengers in a dangerous situation. (The removal of a passenger will not occur if it places that passenger at some form of risk, but the matter may be reported to the Police if deemed necessary by the Driver or the management of Young's.)

### 10. Lost Property

- 10.1 All lost property will be returned to Young's offices at Rockhampton or Yeppoon or any other of its offices and registered in Young's Lost Property Registers at these premises.
- 10.2 All lost property can be collected from Young's offices between 8.30am and 5pm Monday to Friday.
- 10.3 All lost property shall be held for 6 months and then, if not collected by the owner, shall be donated to a local charity.

### 11. Risk

- 11.1 The Hirer is responsible for the cost of repairs resulting from any damage caused both directly and indirectly to the Bus and the employees, agents and contractors of Young's by any member of the hiring party during the charter or hiring of the Bus and is payable as soon as such cost is determined.
- 11.2 Young's reserves the right to charge the Hirer for all extra charges, cleaning and damage fees, fines and penalties caused to the Bus or the employees, agents and contractors of Young's including down time for the vehicle concerned.
- 11.3 Any additional payments required resulting from damage, cleaning, fines or penalties to the Bus or the employees, agents and contractors of Young's shall be paid by the Hirer including down time for the vehicle concerned.
- 11.4 If a Bus is damaged following delivery to the Hirer, and the Hirer utilises its own insurance premium to pay for the damage, Young's insurers are entitled by means of subrogation to receive any insurance proceeds payable for the damage. The production of these terms and conditions by Young's is sufficient evidence of Young's rights to receive the insurance proceeds without the need for any person dealing with Young's to make further enquiries.
- 11.5 The Hirer shall provide its Certificate of Currency to Young's upon request prior to the commencement of the Hire or for any damage caused by the Hirer and its authorised persons included in the journey the subject of this Agreement.
- 11.6 Young's takes no responsibility for any loss or damage caused to any luggage or equipment of the Hirer on the Bus as a result of the Hirer's negligence either directly or indirectly, prior to the journey commencing, during, or upon return from the journey. It is the Hirer's responsibility to hold insurance policies to cover such loss or damage and the Hirer shall provide to Young's its Certificate of Currency and other evidence as requested to ensure that these policies are held by the Hirer.

### 12. Hirer's Warranty

- 12.1 The Hirer hereby warrants that the Hirer has not relied on any representation or promise made by Young's other than as expressly agreed in writing or as set out in these terms and conditions. The Hirer acknowledges that the Bus is suitable for the purpose upon which it was hired pursuant to these terms and conditions.

### 13. Warranty

- 13.1 Young's warrants that if any defect in any Bus becomes apparent and is reported to Young's within 24 hours of the date of delivery of the Bus (time being of the essence) then Young's will, provide compensation to the Hirer if it materially affected the journey of the Hirer.
- 13.2 The conditions applicable to the warranty provided by clause 13.1 are:
  - (a) The warranty will not cover any defect or damage which may be caused or contributed to or arise through:
    - (i) Failure on the part of the Hirer to properly select the appropriate Bus for the event it requires the Bus for in the first instance; or
    - (ii) Failure on the part of the Hirer to follow any instructions, information, advice or user guidelines provided by Young's; or
    - (iii) Any misuse, abuse, neglect in use of the Bus otherwise than for any application specified on a Quotation or Order Form; or
    - (iv) The continued use of any Bus after any defect becomes apparent or would have become apparent to a reasonably prudent user; or
    - (v) Any accident or force majeure event.
  - (b) The warranty will cease and Young's will thereafter in no circumstances be liable under the terms of the warranty if the Bus is repaired, altered or modified without Young's consent.
  - (c) In respect of all claims Young's will not be liable to compensate the Hirer for any delay in either remedying the defects or allowing a credit or in properly assessing the Hirer's claim.
- 13.3 Young's will be under no liability whatsoever to the Hirer for any indirect loss and/or expense (including loss of profit) suffered by the Hirer arising out of a breach by Young's of these terms and conditions or any breach by Young's of any term implied by legislation.
- 13.4 In the event that Young's breaches any term of this contract (whether express or implied by legislation or otherwise) the remedies of the Hirer will be limited to damages which, under no circumstances, shall exceed the Fees for hire of the Bus.
- 13.5 The Hirer will not be entitled to set off against or deduct from the Fees any sums owed or claimed to be owed to the Hirer by Young's.

### 14. Competition & Consumer Act 2010

- 14.1 Nothing in this agreement is intended to have the effect of contracting out of any applicable terms implied by the Competition & Consumer Act 2010, except to the extent permitted by law. If there is a breach of such an implied term the liability of Young's will be limited, at Young's option, to one or more of repairing or replacing the defective Bus or allowing the Hirer a credit for the cost of replacing the Bus.

### 15. Intellectual Property

- 15.1 The parties agree that no intellectual property rights attach by virtue of this Agreement and the Hirer is not entitled to use, licence or otherwise any intellectual property contained in the branding of Young's and that copyright in any designs, logos, trademarks remain vested in Young's, and will only be used by the Hirer with Young's written permission. Charges may apply if Young's agree to licence the use of any intellectual property to the Hirer.

### 16. Default & Consequences of Default

- 16.1 Young's is not a credit provider as defined under the *National Consumer Credit Protection Act 2009 (Cth)*. Young's do not engage in credit activity and therefore do not have an Australian Credit Licence. As a consequence Young's must be strict when it comes to the Fees paid by their Hirers, on the strict terms and conditions contained herein.
- 16.2 Interest will be applicable per calendar month after the date by which the Fees should have been paid shall apply if payment is not received on or before the due date for payment in accordance with the terms and conditions herein. Any payment will be applied first against any interest so accrued and the balance if any shall be applied in reduction of the outstanding balance of the contract Fee.
- 16.3 If the Hirer defaults in payment of any invoice when due, the Hirer will indemnify Young's from and against all costs and disbursements incurred by Young's in pursuing the debt including legal costs on a solicitor and own client basis and Young's collection agency costs.
- 16.4 Without prejudice to any other remedies Young's may have, if at any time the Hirer is in breach of any obligation (including those relating to payment) Young's may suspend or terminate the supply of the Bus to the Hirer and any of its other obligations under these terms and conditions. Young's will not be liable to the Hirer for any loss or damage the Hirer suffers because Young's have exercised its rights under this clause.
- 16.5 If the Hirer defaults in payment for more than 45 days from the due date as invoiced or more than 7 days in the case of a 7 day account the Hirer and any associated businesses will be placed on stop credit.
- 16.6 Without prejudice to Young's other remedies at law, Young's will be entitled to cancel all or any part of any Booking of the Hirer which remains unfulfilled and all amounts owing to Young's will, whether or not due for payment, become immediately payable in the event that:
  - (a) any money payable to Young's becomes overdue, or in Young's opinion the Hirer will be unable to meet its payment obligations as they fall due; or
  - (b) the Hirer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
  - (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Hirer or any asset of the Hirer.

### 17. Security And Charge

- 17.1 The Guarantor guarantees the performance of the Hirer's obligations. Despite anything to the contrary contained in these terms and conditions or any other rights which Young's may have:
  - (a) where the Hirer exceeds \$50,000 in hire Fees per month the Hirer must grant a fixed and floating charge or other security over its company, or land, realty or any other asset capable of being charged and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both the Hirer and/or the Guarantor agree to mortgage and/or charge all of their joint and/or several interest in the land, realty or any other asset to Young's or Young's nominee to secure all amounts and other monetary obligations payable under these terms and conditions. The Hirer and/or the Guarantor acknowledge and agree that Young's (or Young's nominee) will also be entitled to lodge where appropriate a caveat, which caveat will be withdrawn once all payments and other monetary obligations payable to Young's have been satisfied. The parties agree this clause creates the caveatable interest.

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- (b) should Young's elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Hirer and/or Guarantor will indemnify Young's from and against all Young's costs and disbursements including legal costs on a solicitor and own client basis.
- (c) the Hirer and/or the Guarantor (if any) agree to irrevocably nominate constitute and appoint Young's or Young's nominee as the Hirer's and/or Guarantor's true and lawful attorney to perform all necessary acts to give effect to the provisions of this clause 17.1.

### 18. Cancellation

- 18.1 Young's may cancel any contract or Agreement to which these terms and conditions apply or cancel delivery of any Bus at any time before the Bus is delivered by giving written notice to the Hirer. On giving such notice Young's will repay to the Hirer any fees paid in respect of the Agreement including the Deposit. Young's will not be liable for any loss or damage whatever arising from such cancellation.
- 18.2 In the event that the Hirer refuses acceptance of the Bus up to prior to delivery, upon delivery, or otherwise repudiates the contract the Hirer will be liable for any loss incurred by Young's (including, but not limited to, any loss of profits) up to the time of refusal or repudiation.
- 18.3 The Cancellation Fee for cancelling 24 hours prior to departure is \$75.00. For cancelling within 48 hours prior to departure the Fee is \$50.00

### 19. General

- 19.1 These Terms & Conditions of Hire will be deemed to be incorporated into any agreement between Young's and the Hirer. All representations, statements, terms and conditions and warranties (whether implied by statute or otherwise) not contained herein are expressly excluded to the fullest extent permitted by law.
- 19.2 If any provision of these terms and conditions is invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions will not be affected, prejudiced or impaired.
- 19.3 These terms and conditions and any contract to which they apply are governed by the laws of Queensland and the parties subject themselves to the jurisdiction of the courts of Queensland.
- 19.4 Young's may license, assign or sub-contract all or any part of its rights and obligations without the Hirer's consent.
- 19.5 The Hirer shall be liable to pay the cost of any trip booked and paid for however but for a force majeure event such as any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, drought, storm, cyclone or other event beyond the reasonable control of either party, the Bus was not required for the particular journey, the Hirer must rebook the Bus for that particular journey within 21 days of the force majeure event and if the event for that particular journey which the Hire of the Bus was required does not take place whatsoever, only then shall Young's reimburse the Hirer for the balance of the Fees not including the Deposit.
- 19.6 The failure by Young's to enforce any provision of these terms and conditions will not be treated as a waiver of that provision, nor will it affect Young's right to subsequently enforce that provision.