

Terms & Conditions

Equipment Rental Agreement

This EQUIPMENT RENTAL AGREEMENT (this "Agreement") is entered into effective as of this purchase date by and between Cabana Magic, LLC (the "Company") and the purchaser (the "Renter") (collectively referred to as the "Parties").

WHEREAS, the Company is the owner of certain Equipment described in Section 1 of this Agreement; and

WHEREAS, Renter desires to lease the Equipment from the Company and the Company agrees to lease the Equipment to Renter under the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants contained in this Agreement, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

Equipment. The Company hereby leases to Renter and Renter hereby leases from the Company certain equipment (the "Equipment"), as fully listed and described in the online order transaction on www.Cabanamagic.vip.

Delivery. The Company agrees to deliver to Renter the agreed upon equipment at the selected location, date, and time.

Services. Upon Renter's election, the Company hereby agrees to perform and provide Renter with certain services. All services will be performed to Renter by the Company at the agreed upon location and time, weather permitting.

Rental Term. This Agreement shall be for the designated rental term of this purchase, which shall commence on the Effective Date and shall, unless terminated earlier as provided in this Agreement, terminate on the agreed upon return date and time.

Rental Rate. As rent for the Equipment and/or Services, Renter shall pay to the Company, the designated rental rate of this purchase as set forth by the Parties.

Return of Equipment. Upon termination of this Agreement, Renter, shall promptly deliver the Equipment to the Company at the agreed upon time on the end date of this contract.

Late Charges: If Renter does not return the Equipment to Company upon the termination of the agreed upon Term, Renter agrees to pay Company a late fee of \$100 per day.

Use of Equipment. Renter shall exercise due care in its operation, use and maintenance of the Equipment. Renter shall not use, and shall not permit others to use, the Equipment in any manner that would contravene applicable laws, rules, regulations, would violate the terms of any manufacturer's or like warranty, or would contravene the manufacturer's reasonable operational standards for the Equipment. Further, pursuant to Lee County and the Cities of Fort Myers, Bonita Springs, and Sanibel Island, Renter shall not use the Equipment below the water line. If the Company notifies Renter of any additional operational standards, Renter shall adhere, and shall cause others using the Equipment under this Agreement to adhere, to such standards in the operation of the Equipment. Renter shall not alter or modify the Equipment without the prior written consent of the Company.

Condition of Equipment and Repair. Renter has inspected the Equipment and acknowledges that the Equipment is in good and acceptable condition.

Insurance. Company offers NO insurance coverage for equipment damages incurred during Renter rental period.

Damages. Renter assumes full responsibility for any damages, abandonment, or loss of the Equipment from the time of Renter first possession of the same and until it is returned to, and properly secured at, the designated location approved by Company. Renter agrees to compensate the Company for all damages to and/or loss of the Equipment, whether caused by theft, negligence, intentional misuse, or otherwise, excluding normal wear and tear damages. If Renter has placed a credit card on file with Company, the Company may charge the card to cover these expenses.

Equipment Damage Schedule. The Equipment Damage Schedule outlines the minimum charges for damages to each rented item in case of damage beyond

normal wear and tear. (This does not apply to disappearance or theft. Disappearance or theft losses are subject to a fee of 100% of the replacement cost plus a \$50 fee):

- Cabana: \$250 to replace
- Table: \$50 to replace
- Chair: \$100 to replace
- Towel: \$50 to replace
- Blanket: \$75 to replace
- Cooler: \$50 to replace
- Lockbox: \$100 to replace
- Umbrella: \$125 to replace
- Beach Game: \$100 to replace

Renter's Limitation of Damages. In no event shall Company be liable for any indirect damages, incidental damages, consequential damages, general damages, special damages, or any damages for loss of profits, product, revenue or loss incurred by Renter or any third party. The Renter's responsibility for damages related to this agreement will not exceed the replacement value of the items included in the rental package price paid to the Company.

Security Interests in the Equipment. Renter agrees they are renting the Equipment for a limited time as set forth in this Agreement. Renter has no ownership right in the Equipment and, in no event, shall Renter assert any ownership interest in or to the Equipment. Renter shall not sell the Equipment or permit any person or business entity to assert a security or other interest in the Equipment. At all times during the Term, Renter shall ensure that the Equipment is owned by the Company.

Disclaimer of Warranties. The Company disclaims and excludes all warranties, express and implied, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose, concerning the Equipment leased under this Agreement. The Parties acknowledge and agree the Equipment shall be leased and accepted "AS IS" with all defects.

Miscellaneous:

Entire Agreement. This Agreement (including all attached or referenced exhibits and the Release and Waiver of Claims; Assumption of the Risk; and Indemnification Agreement) is intended by the Parties as the final and binding

expression of their agreement and as the complete and exclusive statement of its terms. This Agreement cancels, supersedes, and revokes all prior negotiations, representations, and agreements between the Parties, whether written or oral, relating to the subject matter of this Agreement. The terms and conditions of any purchase order or similar document submitted by Renter in connection with this Agreement shall not be binding upon the Company. This Agreement may be amended only in writing duly executed by all parties involved, specifically referencing this Agreement. Any modifications or alterations to the terms herein shall be valid only if made in writing and signed by all parties involved in this Agreement.

Assignment. This Agreement may not be assigned by a Party without the prior written consent of the other Party. Any assignment attempted to be made in violation of this Agreement shall be void. In the event of any assignment, Renter shall remain responsible for its performance and liable for the assignee's adherence to the terms and conditions outlined in this Agreement.

Governing Law; Consent to Jurisdiction. The internal laws of the state of Florida shall govern the validity, construction, and enforceability of this Agreement, without giving effect to its conflict of laws principles.

Severability. If one or more provisions of this Agreement, or the application of any provision to any Party or circumstance, is held invalid, unenforceable, or illegal in any respect, the remainder of this Agreement and the application of the provision to other Parties or circumstances shall remain valid and in full force and effect to the fullest extent permitted by law. The Parties shall negotiate in good faith to replace any invalid or unenforceable provision with a valid and enforceable provision that achieves, to the extent possible, the original purposes and intent of the Agreement.

Non-Waiver of Defaults. Any failure of the Company at any time, or from time to time, to enforce or require the strict keeping and performance of any of the terms and conditions of this Agreement, or to exercise a right hereunder, shall not constitute a waiver of such terms, conditions or rights, and shall not affect or impair the same, or the right of the Company to avail itself of such remedies in the event of any subsequent default or breach by the Renter. Waiver of any term, condition, or right under this Agreement shall only be effective if provided in writing and duly executed by the Company.

Section Headings. The headings within this Agreement are solely for organizational purposes and do not serve to restrict, modify, or interpret the contents or scope of any provision within this document.

Execution. Execution of this Agreement in multiple counterparts, whether in original or electronic form, shall be regarded as individual yet unified documents, collectively forming a single and binding Agreement between the Parties.

BY SELECTING "I AGREE TO THE TERMS & CONDITIONS OF THIS TRANSACTION" AT CHECKOUT, I ACKNOWLEDGE THAT:

IN WITNESS WHEREOF, the Parties have entered into this Agreement, effective as of the Effective Date set forth by the purchase date of this transaction.

RELEASE AND WAIVER OF CLAIMS; ASSUMPTION OF THE RISK; AND
INDEMNIFICATION AGREEMENT

In consideration of the Renter's use of the Equipment and/or participation in the Services provided by Cabana Magic, LLC, the Renter and his/her parent(s) or legal guardian(s) if the Renter is a minor, do hereby agree to the fullest extent permitted by law, as follows:

Waiver of Claims. Renter waives all claims he/she has or may have against Cabana Magic, LLC, its owners, affiliates, operators, employees, agents, officers, Lee County, Lee County Parks and Recreation, and the Cities of Fort Myers, Sanibel Island, and Bonita Springs, arising out of the Renter's use of the Equipment and/or participation in the Services provided Cabana Magic, LLC.

Assumption of Risk. Renter assumes all risks from using the Equipment and/or participating in the Services provided by Cabana Magic, LLC, even those caused by the negligent acts or conduct of Cabana Magic, LLC, its owners, affiliates, operators, employees, officers, and Lee County, Lee County Parks and Recreation, and the Cities of Fort Myers, Sanibel Island, and Bonita Springs, and persons on his/her behalf, understand that there are inherent risks of using the Equipment and/or participating in the Services provided by Cabana Magic, LLC, which may be both foreseen and unforeseen and include serious physical injury and death.

Release of Liability. Renter agrees to release Cabana Magic, LLC, its owners, affiliates, operators, employees, agents, officers, and Lee County, Lee County Parks and Recreation, and the Cities of Fort Myers, Sanibel Island, and Bonita Springs from all liability for any loss, damage, injury, death or expense that the Renter or any other person (including Renter's heirs, assigns, and legal representatives) may suffer, arising out of the use of the Equipment and/or participation of the Services provided by Cabana Magic, LLC during the Term. Renter specifically understands that he/she is releasing any and all claims that arise or may arise from any negligence or conduct of Cabana Magic, LLC, its owners, affiliates, operators, employees, agents, officers, and Lee County, Lee County Parks and Recreation, and the Cities of Fort Myers, Sanibel Island, and Bonita Springs to the fullest extent permitted by law. However, nothing in this Agreement shall be construed as a release for conduct that is found to constitute gross negligence or intentional conduct.

Indemnification. TO THE FULLEST EXTENT PERMITTED BY LAW, Renter shall on his/her or on the behalf of his/her, and/or their, heirs, assigns, and legal representatives (each of the foregoing is a "Releasor") does hereby release, indemnify, discharge, and agree to hold harmless Cabana Magic, LLC, and Lee County, Lee County Parks and Recreation, and the Cities of Fort Myers, Sanibel Island, and Bonita Springs, (and their respective officers, directors, members, employees, agents, and contractors – collectively, "Releasees") from any and all claims, demands, cause of action, losses, and liability arising out of or related to any injury of any kind, property damage, of any kind, serious bodily injury, paralysis, or death, which may arise and/or result from the Renter's use of the Equipment and/or participation of the Services provided by Cabana Magic, LLC, including those injuries caused by Releasees' active or passive negligence. If any lawsuit or other claim is brought by Renter, or by anyone on behalf of Renter, which arises from or relates to injuries sustained to the person or property of Renter, or as a result of, his/her use of the Equipment, then Renter shall be responsible for all of the Releasees' defense costs, including, its reasonable legal fees, and in addition, Renter shall be obligated to pay in full the amount of any resulting judgment entered against Releasees, or anyone on or more of them, and /or the amount of any good faith settlement agreed upon by Releasees, or any one or more of them, to avoid a trial or other adverse disposition of such claim.

To the extent that any portion of this Agreement is deemed to be invalid under

the law of the applicable jurisdiction, the remaining portions of the Agreement shall remain binding and available for use Cabana Magic, LLC, and its counsel in any proceeding.

BY SELECTING “I AGREE TO THE TERMS & CONDITIONS OF THIS TRANSACTION” AT CHECKOUT, I ACKNOWLEDGE THAT: 1) I HAVE FULLY READ AND UNDERSTAND THE RELEASE AND WAIVER OF LIABILITY AND ASSUMPTION OF RISK; 2) I HAVE FULLY READ AND UNDERSTAND ALL RIGHTS BEING GIVEN UP BY AGREEING TO THE TERMS AND CONDITIONS AT CHECKOUT; AND 3) I AM AGREEING TO THESE TERMS AND CONDITIONS VOLUNTARILY OR ON MY OWN FREE WILL.

- I have read and agree to the terms above
- I have read and agree to the terms of our Weather and Cancellation Policies here: <https://cabanamagic.vip/weather-policy>
- I have read and agree to the following Credit Card Authorization: I authorize Cabana Magic, LLC to charge my credit card for agreed upon damages. I understand that my information will be saved to file for future transactions on my account.
- I understand the 3% payment processing fee is non-refundable, even for reservations canceled more than 48 hours in advance.

Please sign your full name below in agreement with all of the above terms.

X_____