

# TERMS AND CONDITIONS OF HIRE

The following Terms and Conditions must be accepted by the "Hirer" prior to "Harts" making the goods or services available to the "Hirer"

## 1. Definitions

"goods" means all goods, equipment, consumables, accessories and packing containers of whatever nature supplied by Harts to the Hirer and "hire of goods" includes any services provided by Harts in delivery, unpacking, installing and collection of goods; "GST" means GST within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999* or any amending legislation; "Harts" means Harts Corporation (Aust) Pty Ltd atf Dobson Family Trust ABN 64 806 563 989 trading as Harts Party Hire and or Harts Premier Hire Service; "Hire Period" means,  
(a) For Customer or courier pick up, from when the goods leave Harts store until they return to Harts store; or  
(b) For Harts Delivery, between arrival at delivery address to departure from same.  
"Hirer" means the person, firm or company, jointly and severally if more than one, hiring goods from Harts;  
"The Owner" means Harts, its employees and agents;  
"Site" means the geographical location at which the hired goods are used.  
"Terms" means these Terms and Conditions of Hire.

## 2. Basis of Contract

2.1 Unless otherwise agreed in writing by Harts and the Hirer, these terms and conditions shall be the only terms and conditions on which Harts will provide the goods and or services to the Hirer  
2.2 These Terms are deemed to be accepted by the Hirer on payment of a booking deposit, on receipt by Harts of a signed Booking Confirmation or a signed Purchase Order  
2.3 The Terms apply exclusively to every contract for the hire of goods and supply of services by the Hirer from Harts and cannot be varied or supplanted by any other terms without the prior written consent of Harts.  
2.4 A written quote provided by Harts to the Hirer regarding the proposed hire of goods is valid for 30 days and is an invitation only to the Customer to place an order based upon that quote. Any terms in Harts' quote form part of the Terms of the Contract and if inconsistent will prevail.  
2.5 If an order placed by the Customer is accepted by Harts, Harts agrees to hire the goods to the Hirer for the Hire Period for use at the Site on these Terms.  
2.6 Goods hired shall at all times remain the property of the Owner

## 3. Hire Charges and variation

3.1 A minimum hire charge of \$100.00 applies for any order.  
3.2 Amount quoted is for use of the goods for the period of time stated in the contract. Each additional day's use incurs an additional charge of 25% of daily rate.  
3.3 Unless otherwise specified, any quotation assumes:  
(a) delivery, installation, removal and return of goods being provided during ordinary working hours;  
(b) delivery being made to street level;  
(c) grounds or floors being level and clear;  
(d) the Customer unpacking, setting out, repacking and cleaning of goods.  
3.4 Any variation to the assumptions in clause 3.2 and 3.3 will incur further charges payable by the Hirer for additional equipment used, time spent or overtime rates by Harts.  
3.5 Prices for the hire of goods and services include GST.

## 4. Invoicing, Payment and Bonds

4.1 Payment for hire of goods and services must be made by:  
(a) 50% of the total quoted fee on ordering; and balance on delivery, or  
(b) if order placed less than 7 days from delivery, then payment in full is required to confirm the booking.  
(c) for approved account customers, orders must be supported by a signed purchase order and payment in full is due within 30 days of invoice or earlier as determined by Harts  
4.2 Payment must be made by Cash, EFT, Credit card or EFTPOS.  
4.3 Harts requires a Security Bond for all hires. The Hirer agrees to provide Harts with the Hirer's current credit card, expiry date and any other information which may be necessary to debit the Hirer's credit card. Subsequent charges for loss, damage, repairs, extra time or other expenses will be debited from the Hirer's credit card and an invoice with receipt issued. Cash Security Bonds may be accepted subject to Harts approval. Customer collections from the warehouse require a current Australian Drivers Licence  
4.4 The Hirer agrees to pay any expenses incurred or loss suffered by the Owner as a result of breach by the Hirer of its obligations pursuant to these Terms (including legal and debt recovery costs)  
4.5 The Hirer acknowledges and agrees that the Owner may pay a commission or other financial benefit to event organizers or like suppliers in connection with the hiring of the equipment by the Hirer.

## 5. Variation and Cancellation

5.1 If through circumstances beyond the control of Harts, Harts is unable to provide goods, then Harts may:  
(a) make changes to the goods provided that the end performance is not materially prejudiced; or  
(b) cancel any order (even if it has already been accepted) by notice in writing.  
5.2 The Hirer may cancel an order but will forfeit all booking deposits. For orders cancelled less than seven days prior to the event, the balance of the invoiced fee is due in full.  
For orders placed on account and cancelled more than 7 days prior to the delivery a charge of 50% of the hire fee will be payable. For account orders cancelled less than 7 days prior to delivery the total invoiced fee is payable in full.

## 6. Delivery and collection

6.1 Goods will be delivered in a clean, but not necessarily sterile, state. The Hirer is responsible to ensure any goods from which food or drinks are to be served are fit for use.  
6.2 The Hirer must allow Harts' servants, agents and insurers access to the goods at all reasonable times to deliver, install, remove, inspect, test, adjust, maintain, repair or replace them. The Hirer is responsible for providing safe and proper access to and at the Site. The Hirer is liable for all injury, loss or damage suffered by Harts, its employees or agents while at the Site.  
6.3 The Hirer must make the goods available for collection by Harts at the end of the Hire Period packed in their respective containers and crates in a complete, clean and dry state, otherwise additional charges will apply.  
6.4 Harts' count and decision as to condition of goods prior to despatch and on return shall be final.

## 7. Responsibility of Hirer

7.1 The Hirer bears all risk in the goods for the Hire Period, including the Hirer's ability or competence to use the equipment hired.  
7.2 During the Hire Period, the Hirer is responsible for:  
(a) safekeeping of the goods during the Hire Period;  
(b) using of the goods in strict conformity with the goods' instructions or specifications;  
(c) not using pigmented streamers or decorations within or near any marquee hired;  
(d) ensuring that the goods are not moved from the Site, unless in an emergency and Harts is advised immediately afterwards;  
(e) complying with all relevant laws, by-laws and regulations applicable to the installation, use and operation of the goods;  
(f) protecting the goods against soilage, damage, fire, tempest, flood, theft, distress or seizure;  
(g) using only fuel, power and consumables specified by Harts; and  
(h) ensuring that the goods are not operated for any purpose beyond their rated capacity or in a manner likely to result in undue wear; and  
(i) in the event equipment breaks down or becomes unsafe, ensuring appropriate steps are taken to prevent injuries to persons and to prevent the equipment sustaining further damage.  
7.3 Hire of mobile coolrooms and trailers requires signed agreement to additional Terms of hire.

Signature \_\_\_\_\_

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## 8. Damage Waiver

8.1 Subject to clause 7, if the Hirer pays the Damage Waiver fee, Harts agrees to waive its rights for costs incurred due the normal wear and tear or accidental damage to the equipment hired.  
8.2 Damage waiver will not apply and the Hirer remains liable where:  
(a) the Hirer has not promptly submitted a written report relating to the damaged goods;  
(b) the Hirer has not taken reasonable precautions to safeguard the goods;  
(c) the Hirer has not complied with clause 7 of the Terms;  
(d) accessories or packaging are lost or damaged;  
(e) goods have been carried or used over water;  
(f) damage to marquees, tarpaulins, walling or other hired goods has been caused by pigmented colours, heaters, catering equipment, candle wax, or catering odours and fats.  
(g) damage to goods has been caused by graffiti or vandalism.  
(h) damage resulting from overloading, misuse, abuse or improper servicing of the equipment  
8.3 Damaged items must be returned to Harts for Damage Waiver to apply.

## 9. Insurance

9.1 The Hirer will maintain at its own expense all appropriate policies of insurance  
(a) for loss of or theft of the equipment hired in an amount not less than the replacement cost  
(b) for loss of business or perishable goods as a result of damage to or breakdown of equipment hired  
(c) for liability, property and casualty insurance coverage in amounts necessary to protect the Owner and its staff and agents and its equipment against all claims or loss whatsoever

## 10. Breakdown or Defect

10.1 The Hirer must inspect all goods on receipt and notify Harts of any shortages or damages within 24 hours of delivery. Any shortages not notified within this time will be charged for in full.  
10.2 Breakdowns or defects in the goods resulting from:  
(a) proper and ordinary use; or  
(b) the development of an inherent fault or a fault not ascertainable prior to start of the Hire Period; may, at Harts' option, either be repaired or the goods replaced at Harts' expense.  
10.3 If repair is impracticable and if replacement goods are not available, the proportional charge for broken or defective goods will be credited to the Hirer and Harts will not have any other liability whatever to the Hirer.  
10.4 No relief from hire charges nor any claims will be allowed by Harts:  
(a) for stoppages or damages due to causes out of Harts' control including, without limitation, breakdowns, bad weather or site conditions; or  
(b) the Hirer not informing Harts of the defect or breakdown immediately it occurs.  
10.5 The Hirer must not try to effect any repairs on the goods without the prior approval of Harts..

## 11. Default and Termination

11.1 If the Hirer:  
(a) breaches any term of the Terms;  
(b) is an individual and becomes bankrupt or enters into any scheme of arrangement or composition for the benefit of his or her creditors;  
(c) is a corporation and becomes insolvent or enters into any scheme of arrangement, any assignment or composition with or for the benefit of its creditors, has as a liquidator, administrator, receiver or manager appointed, or any action is taken for winding up or dissolution; then Harts may, without prejudice to any other remedy available to it:  
(a) require immediate payment of all money which would become payable by the Hirer to Harts at a later date on any account, without further notice;  
(b) charge the Customer interest on any sum due at the prevailing rate pursuant to the *Penalty Interest Rates Act 1983 (Vic)* plus 4 per cent for the period from the due date until the date of payment in full;  
(c) charge the Hirer for, and the Hirer must indemnify Harts from, all costs and expenses (including without limitation all legal costs and expenses) incurred by it resulting from the default or in taking action to enforce compliance with the Terms or to recover the goods;  
(d) charge the Hirer for the cost of repairing or replacing any lost, damaged or destroyed goods;  
(e) charge the Hirer for subsequent lost hire charges as a result of the goods being lost, damaged or destroyed until the goods are repaired or replaced;  
(f) claim damages from Hirer for breach of the Hire Contract; and/or  
(g) cease or suspend for such period as Harts thinks fit, supply of any further goods to the Hirer.  
11.2 On termination, the Hirer must immediately make the goods available for collection. If the Hirer does not, Harts is entitled to enter any land and or premises of the Hirer where the goods are suspected to be to repossess the goods. Harts will not be liable for any damage caused and the Hirer must indemnify Harts from any liability to it or any third party in respect of any damage, demands, proceedings, costs and expenses howsoever arising.

## 12. Limitation and Exclusion

12.1 Except as specifically set out in the Terms, any term, condition or warranty in respect of the quality, fitness for purpose, condition, description, assembly, manufacture, design or performance of the goods, whether implied by statute, common law, trade usage, custom or otherwise, is hereby expressly excluded.  
12.2 Replacement or repair of the goods is the absolute limit of Harts' liability howsoever arising under the Terms or from the use of or any other dealings with the goods by the Hirer or any third party.  
12.3 Force Majeure - If Harts is unable at any time to perform any of its obligations whether wholly or partly by reason of any cause beyond its control (including without limitation, acts of God, inclement weather, strikes, lockouts, fires, riots, civil commotion or unrest, interference by civil or military authorities or act of war) Harts may give written notice to that effect to the Hirer, giving full particulars of such force majeure in which case the obligations of the Hirer under this contract shall, to the extent that they are affected by the force majeure, be suspended during the term of the Force Majeure. Harts shall not be liable for any indirect or consequential losses or expenses suffered by the Hirer or any third party, howsoever caused, including but not limited to loss of turnover, profits, business or goodwill or any liability to any other party for any loss or damage suffered by the Hirer as a result of any delays caused by such force majeure events.  
12.4 Harts will not be liable for any loss or damage suffered by the Hirer where Harts has failed to meet any delivery date or varies, cancels or suspends the supply of the goods.  
12.5 Nothing in the Terms is to be interpreted as excluding, restricting or modifying or having the effect of excluding, restricting or modifying the application of any State or Federal legislation applicable to the sale of goods or supply of services which cannot be excluded, restricted or modified.

## 13. Miscellaneous

13.1 The law of Victoria from time to time governs the Terms and the parties agree to the non-exclusive jurisdiction of the courts of Victoria, the Federal Court of Australia, and of courts entitled to hear appeals from those courts.  
13.2 Failure by Harts to enforce any of these Terms shall not be construed as a waiver of any of Harts' rights.  
13.3 If any term is unenforceable it shall be read down so as to be enforceable or, if it cannot be so read down, the term shall be severed from these Terms without affecting the enforceability of the remaining terms

## 14. Release and Indemnity

14.1 The Hirer hereby releases the Owner from, and agrees to indemnify the Owner in respect of any third party claims, actions, suits, demands, costs and expenses for damage or injury to person or property arising directly or indirectly out of the hire or use of the Equipment by the Hirer.

## 15. Hirer Bound

15.1 The Hirer shall be bound by these Terms and Conditions whether signed by the Hirer or his/her agents, employees, servants, representatives or contractors.

Print Name \_\_\_\_\_ Date: \_\_\_\_\_