



General Terms and Conditions

1. Definitions

Big and Bulky Goods means Christmas Trees and/or Christmas Decorations.

Business Day means a Week day in which trading banks are open for the transaction of banking business in Melbourne, Australia.

Delivery Address means the address to which the Goods are to be delivered as stated on Your Order.

Delivery Agent means a nominated third party delivery or shipping company for The Happy Christmas Co.

Delivery Fee means the fee charged by the Delivery Agent for the delivery of Goods under clause 8.

Gift Voucher means an online voucher which you or a recipient may make non-cash payments for Goods or services from The Happy Christmas Co.

Goods means the items offered for sale or hire described or displayed on the Website.

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

Hirer means any person who requests to hire Goods from The Happy Christmas Co.

Law means any written rule or collection of rules, including, but not limited to any statute, regulation, order or rule, any government ordinance or by-law, any governmental agency's rule, regulation or determination, and any form of custom or policy recognised and enforced by judicial decision.

On-site Service means that The Happy Christmas Co. needs to attend the place of delivery to provide a service in conjunction with the delivery of the Goods, e.g. gift wrapping, Christmas tree assembly, decoration of Christmas tree.

Order means a request by you to purchase or hire Goods from The Happy Christmas Co. under these Terms.

Personal Information has the meaning given in the *Privacy Act 1988* (Cth).

Price means the purchase or hire price of each Good as specified on the Website (including GST).

Privacy Policy means the Happy Christmas Co. Privacy Policy found on the Website. View The Happy Christmas Co. Privacy Policy here.

Purchaser means any person who purchases Goods from The Happy Christmas Co.

Returns and Cancellation Policy means the Happy Christmas Co. Returns and Cancellation Policy found on the Website. View The Happy Christmas Co. Returns and Cancellation Policy here.

Terms means the General Terms and Conditions.

Terms and Conditions of Hire means the terms specifically relating to Goods that are hired by us to you.

The Happy Christmas Co. means Minny and Max Pty Ltd trading as the Happy Christmas Company (Co.) ABN 19168371711.

We, us or our means The Happy Christmas Co.

Website means the sites available from <http://www.thehappychristmasco.com.au>

Website Terms means the terms governing your use of the Website, in addition to these Terms.

You, your means the Hirer and/or Purchaser.

2. Compliance with Terms and Conditions

- 2.1. You will be bound by these Terms when you submit an Order via the Website. Each Order you place will be a separate contract between you and The Happy Christmas Co. for the supply of Goods, under these Terms.

3. Placing Orders for Goods

- 3.1. An Order submitted by you is an offer by you to purchase or hire Goods for the Price (plus any Delivery Fee) as specified at the time you submit Your Order.
- 3.2. Any Order to hire Goods will also be subject to the Terms and Conditions of Hire clause
- 3.3. In completing the Order form, you agree to provide complete and accurate personal details (or those of the recipient of gifts) to enable the processing and delivery of Your Order. This information will also be used by the Delivery Agent to deliver Your Order.
- 3.4. The Happy Christmas Co. will not be liable to you for your loss or that of any third party for a delay or failure to process, fulfil or deliver Goods to You (or your nominated recipient) due to inaccurate or incomplete personal details provided in an Order by You.
- 3.5. You also agree to obtain consent to provide The Happy Christmas Co. with personal details of recipients of gifts Ordered by You.
- 3.6. You may Order from The Happy Christmas Co. if you are aged 16 years or over, have an active email account and a telephone number at which you can be contacted.
- 3.7. Once you submit Your Order, cancellations of Your Order or changes to the Goods in Your Order are subject to our Returns and Cancellations Policy. You should check Your Order carefully before submitting Your Order. For terms on cancellations or returns see our Returns, Changes and Cancellations Policy.
- 3.8. Where you place consecutive or separate Orders, We cannot consolidate the Orders into one. A separate Delivery Fee will apply to each Order – subject to our delivery policy.
- 3.9. You will be provided with an Order number when you submit your Order. The Order number is required when contacting us about Your Order.

4. Acceptance and rejection of Orders

- 4.1. We reserve the right to accept or reject Your Order for any reason at any time.
- 4.2. When we accept an Order, it constitutes an agreement by The Happy Christmas Co. to supply the Goods under these Terms.
- 4.3. If we reject an Order, We will notify you of the reason for rejection via email within 5 Business Days.
- 4.4. The Happy Christmas Co. will not be liable to you for your loss or that of any third party for the rejection of an Order.
- 4.5. If we reject an Order and your payment for the Goods has already been processed, we will refund any money paid to us in respect of that Order under clause 7.
- 4.6. If we cannot contact you about Your Order Using the contact details you provide in the Order, after having made reasonable attempts to contact You, We will reject the Order under clause 4.1 and notify you of that rejection via phone or email within 5 Business Days.

5. Availability of Goods

- 5.1. From time to time, some Goods on the Website may be out of stock or unavailable and we may not be able to fulfil all or part of Your Order. If this happens, The Happy Christmas Co. will Use reasonable endeavours to either:
 - 5.1.1. source the Goods; or
 - 5.1.2. contact You within 5 Business Days to either: or
 - 5.1.3. arrange a full or partial refund; or
 - 5.1.4. change Your Order to replace the Goods with a comparable product in a similar price range (where available) as agreed with You; or
 - 5.1.5. come to an alternative arrangement.

- 5.2. Where a comparable product or alternative arrangement cannot be agreed, we will refund you the Price paid for the Goods under Clause.
- 5.3. We may withdraw or suspend from sale or hire any Good displayed on the Website, either temporarily or permanently, at any time. The Happy Christmas Co. will not be liable to you for any loss you or any third party suffer as a result of a withdrawal or suspension of sale of a particular Good.
- 5.4. Where a Good which is the subject of an Order has been withdrawn or suspended from sale or hire and your payment for the Good has already been processed, we will refund any money paid to us under clause 5.3.
- 5.5. The Happy Christmas Co. reserves the right not to honour any incorrect offers represented on the Website made by genuine human or system error. Where Your Order is affected by an error on the Website (for example, in a description, an image, Price or otherwise), we will reject that part of the Order affected by the error. You will be refunded the value of that part of Your Order affected by the error, under clause 7, and The Happy Christmas Co. will fulfil the remainder of Your Order. If you are not satisfied with the partial fulfilment of Your Order, You can return Your Order to us under the Returns Policy.
- 5.6. You acknowledge and agree that:
- 5.7. all pictures and images of Goods displayed on the Website are for illustrative purposes only, and the colours and exact make-up of Goods may differ in real life;
- 5.8. You have read any written description of the Goods on the Website before submitting Your Order;
- 5.9. the colour of Goods as shown on the Website may vary slightly in real life; and
- 5.10. where We provide dimensions and measurements in the descriptions of a Good, it is Your responsibility to ensure that the actual size of each Good is suitable for Your purpose prior to submitting Your Order (including whether there is appropriate and safe access to Your Delivery Address for delivery of the Good);

6. Price and payment

- 6.1. The Price in respect of a Good is specified on the Website.
- 6.2. Unless otherwise stated, all Prices quoted are in Australian Dollars and where applicable, inclusive of Goods and services tax (GST). GST does not apply to the purchase of Gift Vouchers. Any fees and charges (e.g. Delivery Fees) imposed by these Terms also include GST where applicable.
- 6.3. The Happy Christmas Co. reserves the right to change or alter Prices of Goods on the Website without notice to you. If you have already submitted an Order at a particular Price, there will be no change or alteration to that Price (provided Your Order is not affected by a pricing error, in which case the procedure in clause 5.5 will apply).
- 6.4. For each Order, We will charge you and you agree to pay:
 - 6.4.1. the Price (which is the Price at the time the Order is submitted); and
 - 6.4.2. the Delivery Fee (where applicable).
- 6.5. We accept payment via PayPal and Direct Deposit. Funds received via Direct Deposit must be cleared a minimum of 3 working days prior to the scheduled delivery or appointment date. If payment is not received within this timeframe and the Order has not been rescheduled, Your Order will be cancelled. If a credit card payment cannot be processed you should contact your card issuer first to try to resolve the problem, or Use an alternative payment method in order to continue with Your Order.
- 6.6. In paying or attempting to pay for Goods, You agree that you have not engaged in any fraudulent conduct or contravened any Law.
- 6.7. You will receive an Order confirmation by email once payment has been processed.

7. Refunds

- 7.1. If The Happy Christmas Co. processes a refund under these Terms, it will Use reasonable endeavours to process the refund within 5 Business Days. Your receipt of your refund will depend on the period of time it takes your financial institution to finalise the refund. The Happy Christmas Co. is not liable for any loss,

damage, cost, expense or injury you or any third party incur as a result of any delay in processing your refund.

- 7.2. It is a condition of Visa and MasterCard that refunds be processed on the same card as the original payment was made in order to minimise the possibility of fraudulent activity on cards. The Happy Christmas Co. is required to comply with all card scheme rules in order to be able to accept these card types, and as such, all of your refunds will be credited to the card You Used for Your Order.

8. Delivery

- 8.1. The Happy Christmas Uses Delivery Agents to deliver Your Goods. You agree that your details, including Your Delivery Address, will be supplied to the Delivery Agent for the purpose of delivering Your Goods.
- 8.2. We are unable to deliver to PO Box addresses.
- 8.3. Subject to clauses 8.4 and 8.5, delivery is available within the Melbourne metropolitan area for all Goods that require On-Site Service. Goods that do not require On-Site Service can be mailed anywhere in Australia that Australia Post delivers to.
- 8.4. Where the Delivery Address is outside of the Melbourne metropolitan area please contact us on contact@thehappychristmasco.com.au or 1300 325 173 to confirm delivery availability and to provide you with a quote before you submit Your Order. If an Order is submitted, but the Delivery Address is not within the Melbourne metropolitan region, we will contact you to provide you with delivery availability and a quote. Where you reject the delivery quote, we will refund any money paid to us under clause 7.
- 8.5. The Delivery Fees for The Happy Christmas Co. Orders are:
 - 8.5.1. **Standard Delivery Fee:** \$14.95 per Orders with a total purchase price under \$60, FREE Standard delivery Monday to Friday for Orders with a total purchase price \$60 and over;
 - 8.5.2. **Saturday delivery** with On-site Service: can be arranged for applicable Goods (such as Big and Bulky Goods) for a fee of \$59.
- 8.6. We will notify you of any change to the Delivery Fee for Your Order, and if you do not wish to continue with Your Order, You may cancel Your Order, and we will refund any payment made under clause 7.
- 8.7. Subject to clause 8. The Happy Christmas Co. aims to achieve the delivery time frames set out below:
 - 8.7.1. 4-7 Business Days to capitals cities and suburbs and regional areas; and
 - 8.7.2. Regional Western Australia, Queensland and Northern Territory: 7-10 Business Days; and
 - 8.7.3. The Happy Christmas Co. cannot guarantee that delivery will occur in the delivery time frames.
- 8.8. The Happy Christmas Co. is not liable for any loss, damage, cost, expense or injury you or any third party suffers as a result of a change in delivery times or a delay in delivery.
- 8.9. Deliveries may take longer the closer the time comes to Christmas. It is recommended that you place Your Order a minimum of 15 Business Days prior to Christmas to avoid disappointment.
- 8.10. Delivery of Goods will take place at the Delivery Address specified by you in the Order. If you wish to change the Delivery Address please notify us as soon as possible.
- 8.11. If you are not personally available to accept delivery, you may appoint a representative to accept delivery in your place. Subject to clause 8, the representative must be over 18 years of age and capable of receiving delivery on your behalf. You agree that we will be entitled to rely on your representative's instructions as if they were your own.
- 8.12. On delivery, the Delivery Agent may require you or your representative to provide them with proof of identity, such as photo ID or proof of age (for delivery of Restricted Goods). The Happy Christmas Co. may not make delivery of the Goods if the person receiving the Goods is unable or unwilling to provide satisfactory evidence of proof of identity or age.
- 8.13. To ensure delivery can take place, you agree to give us as much detail as possible about particular features of the Delivery

Address a minimum of 24hrs in advance by calling emailing us on contact@thehappychristmasco.com.au or calling us on 1300 325 173 after placing Your Order. This includes, without limitation:

- 8.13.1. restricted access or parking for our truck;
 - 8.13.2. restricted or limited access to the premises;
 - 8.13.3. if you have narrow doors, spiral staircase or tight corners (for Big and Bulky Goods);
 - 8.13.4. if you have restrictions on the amount of space and time available for On-site Service.
- 8.14. If there is no one available at the Delivery Address to accept delivery, or there is limited access to the Delivery Address or it is unsafe or impractical to make delivery or for any other reason delivery cannot take place, a calling card will be left for You to collect the Goods (except Big and Bulky Goods) from a local Australia Post office. It is your responsibility to follow the instructions stated on the calling card.
- 8.15. You or Your representative may be required to sign a delivery form to confirm that the delivery has taken place. If you refuse to sign the delivery document, this will be taken as a refusal to accept the delivery. Where redelivery is required because of refusal to accept delivery, you may be required to pay additional Change or Cancellation Fees.
- 8.16. Where you do not collect Your Goods (excluding Big and Bulky Goods) from the Australia Post office within 10 days of a failed delivery, you must email us at contact@thehappychristmasco.com.au or call The Happy Christmas Co. on 1300 325 173 for further information about claiming Your Order. If Goods are required to be redelivered, you may be required to pay additional Delivery Fees.
- 8.17. Once delivered, you must inspect and test the Goods and ensure the Goods delivered match Your Order. You must let us know about any damaged, missing and incorrect Goods as soon as possible by contacting us on contact@thehappychristmasco.com.au or 1300 325 173. You can otherwise return Goods under clause 10. Any Goods replaced under the Returns Policy due to being faulty, damaged, or incorrect will be delivered to you free of charge. Any returns due to you changing your mind about your purchase will attract another Delivery Fee.
- 8.18. Insurance is not available.
- 8.19. For Big and Bulky Goods, You must ensure you will be available to accept delivery at the Delivery Address on the delivery date as agreed between you and The Happy Christmas Co. or the Delivery Agent. If you are not available and redelivery is required, a Redelivery fee of \$59 will be charged for trees or decorations, and \$89 for decorated trees that have not yet been decorated. Delivery will be re-scheduled at our convenience.

9. Risk and title

- 9.1. Risk, and where Goods are purchased the title in the Goods, passes to you on the date and time of delivery of the Goods to the Delivery Agent.

10. Order cancellations and Returns

- 10.1. Returns, changes and cancellations are covered under the Returns, Changes and Cancellations Policy.
- 10.2. Delivery Fees will not be refunded if you return Goods for change of mind or incorrect size.
- 10.3. Goods can only be returned under these Terms (in particular, this clause 10) and under the Returns, Changes and Cancellations Policy. The Returns, Changes and Cancellations Policy forms a part of these Terms.

11. Gift Vouchers

- 11.1. Gift Vouchers should be treated like cash. Lost or stolen vouchers will not be replaced or refunded. Gift Vouchers are not redeemable for cash and cannot be exchanged.
- 11.2. Gift Vouchers expire two years from the issue date. For the avoidance of doubt, this is the date in which The Happy Christmas Co. issued the Gift Voucher and not the date you received the Gift Voucher. Any unused amount after the expiry date of the Gift Voucher will not be refunded or credited.

- 11.3. Gift Vouchers may only be used for the purchase of Goods and services at The Happy Christmas Co.

12. Privacy

- 12.1. Personal Information, such as your contact details, that you provide to us during the Order process will be kept and Used by us for the purpose of processing your Order under The Happy Christmas Company's Privacy Policy. See The Happy Christmas Company Privacy Policy for further information on how to access or update any records of Personal Information.

13. Warranties you make to The Happy Christmas Company

- 13.1. You represent and warrant to The Happy Christmas Co. that we will not be liable for any expense or injury (including indirect loss such as loss of revenue, profits, anticipated savings, goodwill or business opportunity, injury to your reputation) in contract, tort, under statute or otherwise, howsoever caused including arising directly or indirectly from or in connection with these Terms.
- 13.2. Subject to any rights you have under any consumer protection law, The Happy Christmas Co. excludes to the fullest extent possible under Law, all implied terms and warranties whether statutory or otherwise, relating to the subject matter of these Terms. You are entitled to certain rights under consumer protection law that cannot be excluded.
- 13.3. Our liability to you for loss or damage of any kind arising out of these Terms and Conditions will be reduced or limited to the extent (if any) that you cause or contribute to the loss or damage.

14. Termination

- 14.1. The Happy Christmas Co. reserves the right to, at its discretion, terminate the agreement for the supply of Goods to You and Your Use of the Website:
 - 14.1.1. for convenience, at any time, upon provision of notice to you;
 - 14.1.2. immediately if The Happy Christmas Co. reasonably believes that you have breached these Terms and;
 - 14.1.3. that breach is not capable of remedy; or
 - 14.1.4. if you have been provided with notice of the breach, and you have failed to remedy that breach within 14 days (where the breach is able to be remedied).

15. Miscellaneous

- 15.1. The Happy Christmas Co. reserves the right at all times to make changes to the General Terms and Conditions, the Terms and Conditions of Hire and the Returns, Changes and Cancellation Policy. Any variations to the General Terms and Conditions, the Terms and Conditions of Hire and the Cancellation and Returns Policy will take effect from posting on the Website. The General Terms and Conditions, the Terms and Conditions of Hire and the Returns, Changes and Cancellation Policy which apply at the time of Order are those that govern your relationship with The Happy Christmas Co. with respect to that Order.
- 15.2. The Happy Christmas Co. may give notice to you by electronic mail. You may give notice to The Happy Christmas Co. by electronic mail to contact@thehappychristmasco.com.au.
- 15.3. Any provision of these Terms that is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does not invalidate the remaining provisions of these Terms or affect the validity or enforceability of that provision in any other jurisdiction.
- 15.4. A failure or delay by The Happy Christmas Co. to exercise a power or right under these Terms does not constitute as a waiver of that power or right, and the exercise of a power or right by The Happy Christmas Co. does not preclude its future exercise or the exercise of any power or right.
- 15.5. A reference to a clause is a reference to a clause of these Terms.
- 15.6. The laws of Victoria, Australia govern this agreement. Your transaction is deemed to have taken place in Melbourne, Victoria.