



p. 1300 325 173

e. contact@thehappychristmasco.com.au

Terms and Conditions – 5th June 2023

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. 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.

Start Date means the date from which the items are available for hire. It is stipulated by The Happy Christmas Company and can be agreed to by the Hirer.

Terms means the Terms and Conditions

Terms and Conditions means the terms specifically relating to Goods that are hired, sold or supplied 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 <https://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.

1. General

1. You will be bound by these Terms when you submit an Order. Each Order you place will be a separate contract between you and The Happy Christmas Co. for the supply of Goods, under these Terms.
 - 1.1. The Price quoted for Goods includes one instance of:
 - 1.1.1. Delivery on the date scheduled by The Happy Christmas Co. and
 - 1.1.2. Collection, on one occasion on one of the pre-set days after Christmas
 - 1.2. The Happy Christmas Co. agrees to hire the Goods to the Hirer on these Terms and the terms of the Order. If there is any inconsistency, these Terms prevail.
 - 1.3. Upon termination of hire, The Happy Christmas Co. is entitled to take possession of the Goods immediately and for this purpose the Hirer irrevocably appoints the Owner as the Hirer's agent and authorises The Happy Christmas Co. to:
 - 1.4. enter upon any land or premises upon which the Goods is situated or where The Happy Christmas Co. has any reason to believe that the Goods may be situated; and
 - 1.5. remove the Goods whether or not it is affixed to the land or premises connected to property or Goods not owned by The Happy Christmas Co., in use by the Hirer or any other person or containing property not owned by The Happy Christmas Co., in Use by the Hirer or any other person or containing property not owned by The Happy Christmas Co.
 - 1.6. If the Goods are not ready for pick-up on the date The Happy Christmas Co. has agreed beforehand to collect, the Hirer shall pay an additional charge of \$59 for each unsuccessful attempt that that the Owner makes to collect.
 - 1.7. To pack up Goods we require a minimum of 3m2 of clear floor space where the Goods is located.

2. Placing Orders for Goods

- 1.1. 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.
- 1.2. In submitting an Order, 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.
- 1.3. 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.
- 1.4. You also agree to obtain consent to provide The Happy Christmas Co. with personal details of recipients of gifts Ordered by You.
- 1.5. 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.
- 1.6. 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.
- 1.7. Where you place consecutive or separate Orders, and We cannot consolidate the Orders into one, a separate Delivery Fee will apply to each Order – subject to our delivery policy.
- 1.8. You will be provided with an Order number when you submit your Order. The Order number is required when contacting us about Your Order.

2. Acceptance and rejection of Orders

- 2.1. We reserve the right to accept or reject Your Order for any reason at any time.
- 2.2. When we accept an Order, it constitutes an agreement by The Happy Christmas Co. to supply the Goods under these Terms.
- 2.3. If we reject an Order, We will notify you of the reason for rejection via email within 5 Business Days.
- 2.4. 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.
- 2.5. 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 5.
- 2.6. 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.

3. Availability of Goods

- 3.1. 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:
 - 3.1.1. source the Goods; or
 - 3.1.2. contact You within 5 Business Days to either: or
 - 3.1.3. arrange a full or partial refund; or
 - 3.1.4. change Your Order to replace the Goods with a comparable product in a similar price range (where available) as agreed with You; or
 - 3.1.5. come to an alternative arrangement.
- 3.2. Where a comparable product or alternative arrangement cannot be agreed, we will refund you the Price paid for the Goods under Clause.
- 3.3. 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.
- 3.4. 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 3.3.
- 3.5. 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 5, 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.
- 3.6. You acknowledge and agree that:
- 3.7. 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;
- 3.8. You have read any written description of the Goods on the Website before submitting Your Order;
- 3.9. the colour of Goods as shown on the Website may vary slightly in real life; and
- 3.10. 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);

4. Price and payment

- 4.1. The Price in respect of a Good is specified on the Website.
- 4.2. 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.
- 4.3. 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 3.5 will apply).
- 4.4. For each Order, We will charge you and you agree to pay:
 - 4.4.1. the Price (which is the Price at the time the Order is submitted); and
 - 4.4.2. the Delivery Fee (where applicable).
- 4.5. We accept payment via Credit Card, PayPal and Direct Deposit. All payments must be received in full prior to scheduled delivery. 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.
- 4.6. In paying or attempting to pay for Goods, You agree that you have not engaged in any fraudulent conduct or contravened any Law.
 - 4.7. If you are paying via www.thehappychristmasco.com.au you will receive an Order confirmation by email once payment has been processed.
 - 4.8. A Deposit may be required for special orders. This deposit must be paid by the specified timeframe to secure the order.
 - 4.9. Costs of Recovery
 - 4.9.1. The client will be solely liable for and shall pay all reasonable costs and disbursements by Minny & Max trading as "Meredith Lee" in relation to the recovery of any outstanding accounts.
 - 4.9.2. Costs and disbursements incurred in recovery of costs are in addition to the payment of any outstanding accounts and interest on any such outstanding accounts.
 - 4.10. Interest on Overdue Accounts
 - 4.10.1. The client acknowledges that any Account not paid in full by the due date incurs interest on any outstanding amount from the due date until payment in full at 2% above the Cash Rate Target, as set by the Reserve Bank of Australia, at the date the account is rendered. All accounts are due to be paid within fourteen (14) days of the date of the account
 - 4.11. Acceptance of Agreement. The Client may accept this quote in any one of the following ways:
 - 4.11.1. by the Client By signing and returning a copy of this quote, or
 - 4.11.2. By confirming orally or in writing that the client accepts the terms of this Costs Agreement; or
 - 4.11.3. By continuing to instruct Minny & Max trading as "Meredith Lee" to undertake work on the client's behalf, after receiving this Costs Agreement, even if the client does not sign it or otherwise confirm that it is accepted.
 - 4.12. If the client accepts this quote, the client will be bound by the terms and conditions herein.

5. Refunds

- 5.1. 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.
- 5.2. 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.

6. Delivery

- 6.1. The Happy Christmas may Use 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.
- 6.2. We are unable to deliver to PO Box addresses.
- 6.3. Subject to clauses 6.4 and 6.5, delivery is available within the Melbourne metropolitan areas, the Mornington Peninsula and Geelong suburbs for all Goods that require On-Site Service.
- 6.4. Where the Delivery Address is outside of the supply areas 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 supply area, 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 5.
- 6.5. The Delivery Fees for The Happy Christmas Co. Orders are:
 - 6.5.1. **Standard Delivery Fee:** \$55 per Orders with a total purchase price under \$200, FREE Standard delivery Monday to Friday business hours for Orders with a total purchase price \$200 and over;
 - 6.5.2. **Saturday daytime delivery** with On-site Service: can be arranged for applicable Goods for a fee of \$99.
- 6.5.3 Any On-site service requested outside these hours will be quoted based on requirements.
- 6.6. 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 5.
- 6.7. Subject to clause 6. The Happy Christmas Co. aims to achieve the delivery time frames set out below:
 - 6.7.1. 3-7 Business Days to Melbourne metropolitan areas; and
 - 6.7.2. 5-7 Business Days to Geelong and Mornington Peninsula areas.
 - 6.7.3. The Happy Christmas Co. cannot guarantee that delivery will occur in the delivery time frames.
- 6.8. 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.
- 6.9. 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.
- 6.10. 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.
- 6.11. If you are not personally available to accept delivery, you may appoint a representative to accept delivery in your place. Subject to clause 6, 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.
- 6.12. 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.
- 6.13. 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 3 Business Days 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:

- 6.13.1. restricted access or parking for our truck;
- 6.13.2. restricted or limited access to the premises;
- 6.13.3. if you have narrow doors, spiral staircase or tight corners (for Big and Bulky Goods);
- 6.13.4. if you have restrictions on the amount of space and time available for On-site Service.
- 6.14. 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, we will attempt to contact you to organise alternative arrangements. You may be required to pay additional Change or Cancellation Fees.
- 6.15. 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.
- 6.16. 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 8. 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.
- 6.17. Insurance is not available.
- 6.18. 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 \$99 for decorated trees that have not yet been decorated. Delivery will be re-scheduled at our convenience.

7. Risk and title

- 7.1. 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.

8. Order cancellations and Returns

- 8.1. Returns, changes and cancellations are covered under the Returns, Changes and Cancellations Policy document.
- 8.2. Delivery Fees will not be refunded if you return Goods for change of mind or incorrect size.
- 8.3. Goods can only be returned under these Terms and under the Returns, Changes and Cancellations Policy. The Returns, Changes and Cancellations Policy forms a part of these Terms.

9. Gift Vouchers

- 9.1. 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.
- 9.2. 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.
- 9.3. Gift Vouchers may only be used for the purchase of Goods and services at The Happy Christmas Co.

10. Privacy

- 10.1. 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.

11. Warranties you make to The Happy Christmas Company

- 11.1. 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.
- 11.2. 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.
- 11.3. 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.

12. Termination

- 12.1. 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:
 - 12.1.1. for convenience, at any time, upon provision of notice to you;
 - 12.1.2. immediately if The Happy Christmas Co. reasonably believes that you have breached these Terms and;
 - 12.1.3. that breach is not capable of remedy; or
 - 12.1.4. 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).

13. Miscellaneous

- 13.1. 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.
- 13.2. 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.
- 13.3. 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.

- 13.4. 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.
- 13.5. A reference to a clause is a reference to a clause of these Terms.
- 13.6. The laws of Victoria, Australia govern this agreement. Your transaction is deemed to have taken place in Melbourne, Victoria.

14. The Hirer's Obligations

- 14.1. The Hirer will:
 - 14.1.1. hire the Goods at its own risk, and bear responsibility for the Goods hired from the time of its delivery into the possession of the Hirer until collection by or return to the Owner;
 - 14.1.2. where necessary be responsible to obtaining the necessary permission needed to install and use the Goods;
 - 14.1.3. upon installation or delivery of the Goods, immediately examine the Goods to satisfy itself as to its condition and suitability and fitness for the purpose to which it requires the Goods. In accepting the Goods, the Hirer acknowledges that it has duly examined the Goods and has satisfied itself as required. The Hirer acknowledges that it has not in any way relied upon the skill or judgment or any representation made by or on behalf of The Happy Christmas Co. Owner in respect of the Goods, its purpose, suitability or performance. Should the Hirer alter its installation or delivery requirements prior to, during, or after installation or delivery, the Hirer is liable for all extra costs of The Happy Christmas Co.'s employees, agents and cartage;
 - 14.1.4. keep the Goods safe until collection;
 - 14.1.5. without the written consent of The Happy Christmas Co., not move, replace, alter, adjust or tamper with Goods once installed; not sub-hire, part with possession or part with control of, the Goods, without the Owner's written permission;
 - 14.1.6. assume the risk of and indemnify and hold the Owner harmless from and against any and all property damage and personal injury resulting from the Use of the Goods;
 - 14.1.7. use the Goods in a proper, safe and prudent manner and only for the purpose and capacity for which it was designed;
 - 14.1.8. turn off any lights or other electrical Goods which have been installed on the Goods when unsupervised;
 - 14.1.9. comply with any written instructions given to the Hirer or accompanying the Goods; and
 - 14.1.10. ensure all Goods is ready for collection by The Happy Christmas Co., and is readily accessible.

15. Property

- 15.1. The Hirer acknowledges that The Happy Christmas Co. may inspect the Goods at any time during the period of hire, whether notice of such inspection is given to the Hirer or not, and the Hirer shall provide all assistance and co-operation necessary to facilitate such inspection of the Goods. The Hirer shall indemnify the Owner in relation to any action of trespass or any other action or claim against the Owner in the course of the Owner exercising its right to inspect the Goods.
- 15.2. The Hirer acknowledges that all property in and title to the Goods at all times remains with the Owner, the Hirer does not acquire any property in or title to the Goods and the Hirer's interest in the Goods is as bailee of the Owner only.

16. Loss of or Damage to Goods

- 16.1. If the Goods are lost, break or are damaged, the Hirer must immediately notify the Owner of the details. Notification shall not absolve the Hirer from its obligations under these Terms. In the event that the Goods breaks down or becomes unsafe to Use, the Hirer shall immediately stop using the Goods and take all steps necessary to prevent the Goods from sustaining any further damage. The Hirer must also take all steps necessary to prevent injuries from occurring to any person or property as a result of the condition of the Goods and must not repair or attempt to repair the Goods. If the Goods is lost or damaged and the loss of or damage to the Goods is caused by the negligence or willful act or omission of the Hirer or the breach of any of these Terms by the Hirer, the Hirer shall without limitation be liable for;
 - 16.2. any costs incurred by the Owner in repairing or replacing the Goods;
 - 16.3. hire charges for the Goods until the Goods is repaired or replaced; and
 - 16.4. any other costs whatsoever incurred or loss suffered by the Owner as a result of the damage to or loss of the Goods.

17. Period of Hire

- 17.1. The Hire Period commences on the Start Date and shall continue until the End Date which may be before or after the Estimated End Date.
- 17.2. The maximum Hire Period is 8 consecutive weeks.
- 17.3. The Hire Period can commence on any date during the Calendar Year but will not extend into the next Calendar Year beyond 15th January, or the prior business day if 15th January is a Saturday or Sunday. The maximum Hire Period will be reduced accordingly.
- 17.4. A Start Date and End Date will be agreed by the Owner and the Hirer. Where these cannot be agreed 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.

18. Release and Indemnity

- 18.1. The Hirer hereby releases the Owner from, and agrees to indemnify the Owner in respect of any third party claims, action, 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 Goods by the Hirer or the Hirer's breach of any of these terms.

19. Insurance

- 19.1. The Hirer will maintain at its own expense all appropriate policies of insurance:
 - 19.1.1. for theft and damage to the Goods hired in an amount not less than the full replacement cost of the Goods; and
 - 19.1.2. for liability, property and casualty insurance coverage in amounts necessary to fully protect the Owner and its Goods against all claims, loss or damage whatsoever.

20. Limitation of Liability

- 20.1. To the full extent permitted by law, all warranties, conditions and guarantees that may otherwise apply or be implied are excluded and the Owner's only obligation resulting from a breach by it or of any condition, warranty or guarantee that cannot be excluded is limited to replacing the Goods or supplying Goods similar to the Goods, repairing the Goods, paying the cost of replacing the Goods or paying the cost of repairing the Goods.

21. Security Interest

- 21.1. These Terms create a security interest in favour of the Owner in the Goods pursuant to the Personal Property Securities Act 2009 (Cth).
- 21.2. The Hirer undertakes to immediately do such acts and provide such information as in the Owner's opinion may be necessary or desirable to enable the Owner to perfect any security interest created or provided for by these Terms, as a perfected security interest with first priority.
- 21.3. To the fullest extent permitted by law, the Hirer waives any rights it may have now or in the future to receive a copy of any verification statement or other confirmation related to the interests created or provided for, or perfected in the manner contemplated by, these Terms.

22. Force Majeure

- 22.1. If the Owner 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) the Owner may give written notice to that effect to the Hirer, giving full particulars of such force majeure in which case the obligations of the Owner under these Terms shall, to the extent that they are affected by the force majeure, be suspended during the term of the force majeure. The Owner shall not be liable for any loss or damage suffered by the Hirer as a result of any delays caused by such force majeure events.

23. Charge

- 23.1. The Hirer charges in favour of the Owner all its estate and interest and in land and in any other assets whether tangible or intangible in which the Hirer now has any legal or beneficial interest or in which the Hirer may later acquire any such interest with payment of all monies owed by the Hirers and agree upon request in writing, to execute a registrable instrument transferring to the Owner, the Hirers estate and interest by way of security.

24. Miscellaneous

- 24.1. The Happy Christmas Co. reserves the right at all times to make changes to the Terms and Conditions and the Returns, Changes and Cancellation Policy. Any variations to the Terms and Conditions and the Cancellation and Returns Policy will take effect from posting on the Website. The Terms and Conditions 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.
- 24.2. 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.
- 24.3. 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.
- 24.4. 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.
- 24.5. A reference to a clause is a reference to a clause of these Terms.
- 24.6. The laws of Victoria, Australia govern this agreement. Your transaction is deemed to have taken place in Melbourne, Victoria.