

# Tarleton Management Pty Ltd T/A Gorakan Party Hire – Terms & Conditions of Trade

<p>2.1 <b>Definitions</b>                  "Supplier" means Tarleton Management Pty Ltd T/A Gorakan Party Hire, its successors and assigns or any person acting on behalf of and with the authority of Tarleton Management Pty Ltd T/A Gorakan Party Hire.</p>	<p>(i) shall keep the Supplier indemnified against all liability in respect of all claims, damages, costs and expenses in respect of any injury to persons, damage to property, or otherwise arising out of the use of the Goods during the hire period and not arising from any negligence, failure or omission of the Customer or any other persons.</p>	<p>can be proven that such reversal is found to be illegal, fraudulent or in breach of any applicable laws, regulations or conditions of trade. Without prejudice to the Supplier's other remedies at law the Supplier shall be entitled to cancel all or any part of any order of the Customer, which remains unfulfilled and amounts owing to the Supplier shall, whether or not due for payment, become immediately payable if:</p>	<p>17.4 The Supplier may licence and/or assign all or any part of its rights and obligations under this contract without the Customer's consent.                  17.5 The Customer cannot licence or assign without the written approval of the Supplier.                  17.6 The Supplier may elect to subcontract out any part of the Services but shall not be relieved from any liability or obligation under this contract by so doing. Furthermore, the Customer agrees and undertakes to give any necessary consents in the event of any of the Supplier's sub-contractors without the authority of the Supplier.</p>
<p>2.2 "Customer" means the person's hiring the Goods (and/or purchasing the Goods) that is acting on behalf of and with the authority of the Customer. Where the Customer is a company or Services as specified in any proposal, quotation, order, invoice or other documentation, and:                  (a) if there is more than one Customer, is a reference to each Customer jointly and severally and;                  (b) if the Customer is a part of a Trust, shall be bound in their capacity as a trustee; and                  (c) includes the Customer's executors, administrators, successors and permitted assigns.</p>	<p>2.4 Furthermore, the Customer will insure, or self-insure, the Supplier's interest in the Goods against all claims, damages, costs and expenses not limited to, the perils of accident, fire, theft and burglary and all other usual risks and will effect adequate Public Liability Insurance covering any injury, damage or injury to property arising out of the use of the Goods. Further the Customer will not use the Goods nor permit them to be used in such a manner as would permit an insurer to decline any claim.                  (a) the Customer is not authorised to pledge the Supplier's credit for repairs to the Goods or to create a lien over the Goods in respect of any repairs.</p>	<p>(a) any money payable to the Supplier becomes overdue, or in the Supplier's opinion the Customer will be unable to make a payment when it falls due;                  (b) the Customer has exceeded any applicable credit limit provided to the Supplier;                  (c) the Customer 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;                  (d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any part of the Customer.</p>	<p>17.7 The Customer agrees that the Supplier may amend these terms and conditions by notifying the Customer in writing. These changes shall be deemed to take effect from the date of which the Customer accepts such changes, or otherwise at such time as the Customer makes a further request for the Supplier to provide Goods to the Customer.                  17.8 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond their control. Both parties warrant that they have the power to enter into this contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this contract creates binding and valid legal obligations on them.</p>
<p>2.3 "Goods" means all Goods (including but not limited to, marquees, tables, chairs, lighting, linen, crockery, tableware, and all associated equipment) supplied to the Customer by the Supplier at the Customer's request from time to time, and:                  (a) includes any parts, accessories and/or consumables supplied by the Supplier to the Customer, either separately or supplied incidentally by the Supplier in the course of it conducting, or supplying to the Customer, the Services; and                  (b) where the context so permits the terms 'Goods' or 'Services' shall be interchangeable for the other.</p>	<p>2.5 Where is this a contract for the purchase of the Goods:                  (a) the Supplier and the Customer agree that ownership of the Goods shall not pass until:                  (i) the Customer has paid the Supplier all amounts owing to the Supplier; and                  (ii) the Customer has met all of its other obligations to the Supplier; and                  (b) it is further agreed that, until ownership of the Goods passes to the Customer in accordance with sub-clause (a):                  (i) the Customer is only a bailee of the Goods and must return the Goods to the Supplier on request;                  (ii) the Customer is not to use the Goods or the Customer's insurance of the Goods on trust for the Supplier and must pay to the Supplier the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed;                  (iii) the Customer must not use the Goods or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Customer sells, disposes or otherwise parts with possession of the Goods then the Customer must hold the proceeds of any such act on trust for the Supplier and must pay or deliver the proceeds to the Supplier on demand.</p>	<p>(e) minimum cancellation Charges of One Hundred dollars (\$100.00) or \$500.00 whatever is paid will apply                  (f) thirty (30) days' notice from the scheduled event, a cancellation fee of up to Fifty Percent (50%) of the Charges will apply                  (g) Fourteen (14) days' and under notice from the scheduled event, a cancellation fee of up to One Hundred percent (100%) of the Charges will apply.</p>	<p>17.9 <b>Terms Applicable to the Hire of Goods Only</b>                  The hire period shall commence from the time the Goods depart from the Supplier's premises and continue until the return of the Goods to the Supplier's premises, and/or until the expiry of the Minimum Hire Period, whichever last occurs.                  18.1 No allowance whatsoever can be made for time during which the Goods are not in use for any reason, unless the Supplier confirms in writing that the Customer has provided evidence of termination shall in cases be treated as a full day's hire.                  18.2 No allowance whatsoever can be made for time during which the Goods are not in use for any reason, unless the Supplier confirms in writing that the Customer has provided evidence of termination shall in cases be treated as a full day's hire.                  18.3 If the Customer cancels the booking for which the Supplier is providing its Services then the Customer shall be liable to the Supplier for any loss or damage whatsoever arising from such cancellation, notwithstanding that at the Supplier's sole discretion:                  (a) minimum cancellation Charges of One Hundred dollars (\$100.00) or \$500.00 whatever is paid will apply                  (b) thirty (30) days' notice from the scheduled event, a cancellation fee of up to Fifty Percent (50%) of the Charges will apply                  (c) Fourteen (14) days' and under notice from the scheduled event, a cancellation fee of up to One Hundred percent (100%) of the Charges will apply.</p>
<p>2.4 "Minimum Hire Period" means the Minimum Hire Period as described on the Supplier's invoice, or any other terms and conditions as provided by the Supplier to the Customer.                  2.5 "Charges" means the Charges payable for the hire or purchase of the Goods as agreed between the Supplier and the Customer in accordance with the Supplier's invoice or any other terms and conditions of trade.                  2.6 "GST" means Goods and Services Tax (GST) as defined within the A New Tax System (Goods and Services Tax) Act 1999 ("Cth").</p>	<p>2.7 Upon agreement to these terms and conditions in writing the Customer acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Goods and/or collateral (account) being provided to the Supplier for Services – that have previously been supplied and that will be supplied in the future by the Supplier to the Customer.                  (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which the Supplier may reasonably require to:                  (i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Act 2009 ("PPSA");                  (ii) register any other document required to be registered by the PPSA; or                  (iii) correct a defect in a statement referred to in clause 9.3(a)(i);                  (b) indemnify, and upon demand reimburse, the Supplier for all expenses incurred in registering a financing statement or correcting a defect in a statement referred to in clause 9.3(a)(i);                  (c) register a financing statement in respect of a security interest without the prior written consent of the Supplier;                  (d) not register, or permit to be registered, a financing statement or financing change statement in relation to a security interest in collateral (account) in favour of a third party without the prior written consent of the Supplier;                  (e) immediately advise the Supplier of any material change in its business practices in relation to the Goods which may result in a change in the nature of proceeds derived from such sales.                  2.8 The Supplier and the Customer agree that sections 95, 115 and 125 of the PPSA shall apply to the security agreement created by these terms and conditions.                  2.9 The Customer waives their rights to receive notices under sections 95, 115, 121(4), 130, 132(3)(c) and 132(4) of the PPSA. Subject to any express provisions to the contrary (including those contained in this clause 9), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.                  2.10 The Customer must unconditionally ratify any actions taken by the Supplier under clauses 9.3 to 9.5.                  2.11 Subject to any express provisions to the contrary (including those contained in this clause 9), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.                  2.12 <b>Security and Charge</b>                  In consideration of the Supplier agreeing to supply the Goods, the Customer charges all of its rights, title and interest (whether joint or several) in any real or personal assets capable of being charged, owned by the Customer either now or in the future, to secure the performance by the Customer of its obligations under these terms and conditions (including, but not limited to, the payment of any money).                  2.13 The Customer indemnifies the Supplier from and against all 15.1 Supplier's costs and disbursements including legal costs on a solicitor and ownert's basis incurred in exercising the Supplier's rights under this clause.                  2.14 The Customer irrevocably appoints the Supplier and each director of the Supplier as its agent and assigns to the Supplier to perform all necessary acts to give effect to the provisions of this clause 9.</p>	<p>18.4 <b>Cancellation</b>                  Without prejudice to any other remedies the Supplier may have, if at any time the Customer is in breach of any obligation (including those relating to payment under these terms and conditions) the Supplier may suspend or terminate the supply of Goods to the Customer. The Supplier will not be liable to the Customer for any loss or damage the Customer suffers because the Supplier has exercised its rights under this clause.                  18.5 The Supplier may cancel any contract to which these terms and conditions apply or cancel delivery of Goods at any time before the Goods are delivered to the Customer. If the Customer gives such notice the Supplier shall repay to the Customer any money paid by the Customer for the Goods. The Supplier shall not be liable for any loss or damage whatsoever arising from such cancellation, notwithstanding that at the Supplier's sole discretion:                  (a) minimum cancellation Charges of One Hundred dollars (\$100.00) or \$500.00 whatever is paid will apply                  (b) thirty (30) days' notice from the scheduled event, a cancellation fee of up to Fifty Percent (50%) of the Charges will apply                  (c) Fourteen (14) days' and under notice from the scheduled event, a cancellation fee of up to One Hundred percent (100%) of the Charges will apply.</p>	<p>18.6 <b>Privacy Act 1988</b>                  The Customer agrees for the Supplier to obtain from a credit reference agency information (e.g. name, address, D.O.B, occupation, previous credit applications, credit history) about the Customer in relation to credit provided by the Supplier.                  18.7 The Customer agrees that the Supplier may exchange information about the Customer with those credit providers and with related body corporates for the following purposes:                  (a) to assess an application for credit by the Customer; and/or                  (b) to notify other credit providers of a default by the Customer; and/or                  (c) to exchange information with other credit providers as to the Customer's repayment history; and/or                  (d) to assess the creditworthiness of the Customer including the Customer's repayment history in the preceding two (2) years;                  18.8 The Customer consents to the Supplier being given a consumer credit report to collect overdue payment on commercial credit.                  18.9 The Customer agrees that personal credit information provided may be used to retain, or to assist in making, the following purposes (and for other agreed purposes requiring):                  (a) the provision of Goods; and/or                  (b) to assist in verifying the accuracy of the Customer's credit; and/or                  (c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Customer; and/or                  (d) enabling the collection of amounts outstanding in relation to the Goods.                  18.10 The Supplier may give information about the Customer to a CRB for the following purposes:                  (a) to obtain a consumer credit report;                  (b) allow the CRB to create or maintain a credit information file about the Customer for the purpose of direct marketing.                  18.11 The information given to the CRB may include:                  (a) personal information as outlined in 14.1 above;                  (b) whether the Customer is a current or former credit provider to the Customer;                  (c) whether the credit provider is a licensee;                  (d) type of consumer credit;                  (e) whether the Customer's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);                  (f) notices of default or arrears, overdraft accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced by the creditor; and                  (g) accounts and the Supplier has been paid or otherwise discharged and all details surrounding that discharge (e.g. date of payment).                  18.12 information that, in the opinion of the Supplier, the Customer has committed a serious credit infringement;                  (h) advice that the amount of the Customer's overdue payment is material to the credit risk of the Customer;                  18.13 The Customer shall have the right to request (by e-mail) from the Supplier:                  (a) copies of the information about the Customer related by the Supplier and the right to request that the Supplier correct any incorrect information; and                  (b) that the Supplier does not disclose any personal information about the Customer for the purpose of direct marketing.                  18.14 The Supplier will destroy personal information upon the Customer's request (by e-mail) or if it is no longer required unless it is required in relation to a credit or other financial product or required to be maintained and/or stored in accordance with the law.                  18.15 The Customer can make a privacy complaint by contacting the Supplier via e-mail. The Supplier will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Customer is not satisfied with the terms and conditions (including, but not limited to, the payment of any money).                  18.16 <b>Service of Notices</b>                  Any written notice given under this contract shall be deemed to have been given if:                  (a) by handing the notice to the other party, in person;                  (b) by leaving it at the address of the other party as stated in this contract or by registered post; or                  (c) by sending it by registered post to the address of the other party as stated in this contract;                  (d) if sent by facsimile transmission to the fax number of the other party as stated in this contract (if any), on receipt of confirmation of the transmission;                  (e) if sent by email to the other party's last known email address.                  18.17 Any notice so posted shall be deemed to have been given, unless the contract is shown, at the time when by the ordinary course of post, the notice would have been delivered.                  18.18 <b>TruSts</b>                  If the Customer at any time upon or subsequent to entering into the contract is acting in the capacity of trustee of any trust ("Trust") then whether or not the Supplier may have notice of the Trust, the Customer consents with the Supplier as follows:                  (a) the contract extends to the rights of indemnity which the Customer now or subsequently may have against the Trust and the trust fund;                  (b) the Supplier has full and complete power and authority under the Trust to enter into the contract and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Customer against the Trust or the trust fund;                  (c) the Customer consents to indemnify the Supplier in the event of any breach of trust or to be a party to any other action which might prejudice that right of indemnity.                  18.19 <b>General</b>                  The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall the failure to enforce any provision of these terms and conditions, if any provision of these terms and conditions shall be invalid, void, illegal or unenforceable for any reason, whether by operation of law, or otherwise, be deemed to affect the enforceability of any remaining provisions that are not affected, prejudiced or impaired.                  18.20 These terms and conditions and any contract to which they apply shall be governed by the laws of the state in which the Supplier has its principal place of business and are subject to the jurisdiction of the courts in that state.                  18.21 Subject to clause 11 the Supplier shall be under no liability whatsoever to the Customer for any loss or damage, whether by loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by the Supplier of these terms and conditions (alternatively the Supplier's liability shall be limited to the amount of the reversed transaction, in addition to any further costs incurred by the Supplier under this clause 12 where it</p>
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