



## MOBILE COOLROOM HIRE

### General Terms & Conditions – Please initial each page

Registration No TK-99-VD Booking Ref#

#### 1. General

- These terms of business apply to all dealings between the Customer and Salamander Hotel (ABN 92 322 966 732) (“**Salamander Hotel**”, “**us**”, “**we**” or “**our**”). These General Terms and Conditions (“**Terms**”) are important, and you should ensure that you read them carefully.
- For the purposes of these Terms, the word:
  - “**ACL**” means Australian Consumer Laws set out at Schedule 2 of the *Competition and Consumer Act 2010 (Cth)*.
  - “**Booking**” means an application or request by the Customer to Hire the Mobile Coolroom.
  - “**Booking Fee**” means the fee paid in relation to the Booking.
  - “**Cancellation Fee**” means 50% of the Booking Fee to be withheld if the Customer cancels the Hire of the Mobile Coolroom within 7 days of the scheduled Booking.
  - “**Customer**” means the person(s) or company who engage **Salamander Hotel** to Hire the Mobile Coolroom including but not limited to browsers, vendors, customers, merchants and/or contributors of content.
  - “**Hire**” means to obtain the temporary use of the Mobile Coolroom for an agreed payment in conjunction with these General Terms and Conditions.
  - “**Mobile Coolroom**” means the equipment that the Customer hires from us.
  - “**Term**” means the duration of the Booking.
  - “**Terms**” meaning the terms of service as contained herein as well as within our privacy statement and/or available at the Website and which are applicable to all Customers to which they are acknowledge and warrant that they are bound by when engaging our services.
  - “**Optional Tools**” meaning tools that **Salamander Hotel** may provide the Customer with either through their own firm or through a third-party provider.
  - “**Website**” meaning **Salamander Hotel** website with URL <http://www.salamanderhotel.com.au/salamander-cellars/>
- If a provision of these Terms is invalid or unenforceable it is to be read down or severed to the extent necessary without affecting the validity or enforceability of the remaining provisions.
- These Terms and any contract to which they apply shall be governed by the laws of New South Wales and are subject to the jurisdiction of the courts of New South Wales.
- We will not be responsible for any loss or liability incurred by you arising or in any way connected with any dealing or transaction with us, contemplated or actual, except to the extent of liability imposed by the ACL.



- Our failure to enforce any provision of these Terms shall not be treated as a waiver of that provision, nor shall it affect our right to subsequently enforce that provision.
- We are not liable whatsoever to you for any direct or indirect losses and/or expense suffered by you arising out of a breach by us of these Terms.
- We may sub-contract all or any part of our rights and obligations without the consent of the Customer.
- 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 the reasonable control of either party.
- The Customer warrants that it has the power to enter into this agreement and has obtained all necessary authorisations to allow it to do so, it is not insolvent, and that this agreement creates binding and valid legal obligations on it.
- If the Customer is a corporation, the directors of the Customer agree that they are signing these Terms, or they are accepting these Terms on the Website on behalf of the Customer and in their personal capacity for the purposes of the personal guaranteed provision at clause 13.
- We may provide any notice required under these Terms by publishing the notice on our website ("**Notice**").
- If a customer provides us with a purchase order, any terms within the purchase order do not apply to these Terms and in any case the Terms would take precedence.
- These Terms, together with the Privacy Policy, constitute the entire agreement between you and us and supersede any prior versions of these Terms and all other communications whether oral or written, express or implied.
- The Customer will not sell or offer for sale the Mobile Coolroom nor will the Customer otherwise deal with the Mobile Coolroom or any part or parts of the Mobile Coolroom or any interest maintained during the Term of Hire and will keep the Mobile Coolroom in their possession at all times.
- The Customer will not keep the Mobile Coolroom stored in a garage or any other enclosed storage facility unless they have obtained the prior written consent of **Salamander Hotel** to do so.
- The Customer will allow **Salamander Hotel** to access and inspect the Mobile Coolroom at any time during the Term.
- The Customer will be responsible for the safety and security of the Mobile Coolroom from the time of handover and up until **Salamander Hotel** once again obtains possession of the Mobile Coolroom.
- The Customer shall not do or cause or permit to be done any act that will prejudice or that may prejudice the right held by **Salamander Hotel** to be indemnified in relation to any matter which arises out of the use of the Mobile Coolroom and the Customer continues to keep **Salamander Hotel** indemnified in this regard.
- The Customer is not permitted to affix any parts thereof including signage or other marks to falsely indicate that the Mobile Coolroom is the property of the Customer.



- The Customer will be responsible for any occurrence whereby the tyres of the Mobile Coolroom become flat during the Term of the Hire.
- The Customer agrees and acknowledges that they will notify **Salamander Hotel** of any issue arising with the Mobile Coolroom and that they will not attempt to affect or remedy any repairs to the Mobile Coolroom.
- The Customer agrees and acknowledges that updates and changes to the Website the Terms as well as our Privacy Policy are subject to change at any time and it is the responsibility of the Customer to check for any changes periodically.
- The Customer agrees and acknowledges that **Salamander Hotel** cannot guarantee that the images of the Mobile Coolroom provided by **Salamander Hotel** will be identical to the Mobile Coolroom provided during the Term of the Hire.
- The Customer agrees and acknowledges that **Salamander Hotel** does not provide any warranty as to the quality of the Mobile Coolroom, the Services and any other information provided to the Customer.
- The Customer hereby acknowledges and agrees that **Salamander Hotel** reserves their right to refuse and/or terminate any order to Hire the Mobile Coolroom at any time for any reason whether reasonable or not.
- Please note that **Salamander Hotel** and entities controlled by it are bound by the Australian Privacy Principles (or APP's) and the Privacy Act (1988) in relation to the treatment of the personal information of a customer.

## 2. Acceptance

1. The Customer is taken to have accepted and is immediately bound, jointly and severally, by these terms and conditions from the time it confirms the Booking online through the Website or by signing a copy of these Terms.
2. The Customer accepts that a \$500 pre-authorisation charge will be held for the term of the booking. This charge will be released once the Coolroom has been returned on time and in the same condition it left the Salamander Hotel premises.

## 3. Terms of payment

1. The Booking Fee must be paid prior to the commencement of the Term and upon making the Booking.
2. There shall be a minimum hire charge of \$250 which will be for 2 days hire, a charge of \$125 per additional day will apply. This charge will be waived if the Customer makes purchases in store as follows:  
\$1000 spend – free hire for 2 days  
\$2000 spend – free hire for 4 days
3. The booking fee will include cost for delivery of the Coolroom. This cost will be dependent on the radius from the Hotel as follows:
  - Free                                      Within 5km radius
  - \$75.00                                      5km – 25km radius
  - \$150.00                                      50km -25km – 50km radius
  - To be negotiated                      50km +



4. Interest shall be payable by the Customer on any invoice amount which is overdue for payment. Interest will be calculated at a rate of 15% per annum from the due date.
5. All costs associated with the recovery of an overdue account including agency Commission and solicitor's costs will be added to the debt and charged to the Customer.
6. We may suspend or terminate the Hire if payment is not received within these time frames.

#### 4. Possession

1. At the end of the Term the Customer shall give us access to the Mobile Coolroom and ensure that the Mobile Coolroom is returned in the same condition and state of repair that the Mobile Coolroom was in at the commencement of the Term.
2. If the commencement of the Term of Hire is delayed or interrupted due to the Customer or due to circumstances beyond our control, the Customer agrees that it shall pay **Salamander Hotel**, in addition to the Cancellation Fee, the amount for any reasonable additional costs incurred by reason of such delay or interruption including an allowance for profit.
3. The Customer is responsible for ensuring that the power source they use to power the Mobile Coolroom is adequate and not damage the Mobile Coolroom in anyway including but not limited to the damaging the electrical circuit and motor of the Mobile Coolroom.
4. The Customer is responsible for any damage occasioned to the Mobile Coolroom while in its possession. **Salamander Hotel** will provide an invoice relating to the cost of cleaning or rectification of damage which must be paid within 7 days of receiving the invoice from **Salamander Hotel**.
5. **Salamander Hotel** staff will clamp the wheels and lock the towball of the trailer once delivered to location stipulated by the Hirer

#### 5. Variation

1. If the Customer requests any variation in the Hire or Booking we shall, if we accept the variation, be entitled to increase or decrease the Contract Price by a reasonable amount. If any variation impacts the timeframe within which the Hire is to be completed, we shall be entitled to a reasonable extension of time to complete the Hire.



## 6. Handover

1. Upon the provision of the Mobile Coolroom from us to the Customer and at the commencement of the Term of the Hire, responsibility will transfer to the Customer for any materials and equipment that form part of the Hire when held in the Mobile Coolroom and the same shall thereafter be at the Customer's risk. Warranties on such sections shall commence to run from respective dates of handover.
2. Upon the Customer returning the Mobile Coolroom at the end of the Term of Hire, the Customer is required to ensure that the Mobile Coolroom has been cleaned and sanitised thoroughly ensuring to remove all materials and equipment belonging to the Customer.

## 7. Acknowledgement, Acceptance, Disclaimer & Warranties

1. We shall not be liable for any damage to materials and equipment during the Term of the Hire caused by the Customer or by third parties. We shall not be liable for the spoiling of stock and produce stored within the Mobile Coolroom and for any direct or indirect consequence as a result of the consumption of that stock and produce.
2. We shall not become liable for any payment arising from the above unless we have failed to respond adequately, within a reasonable time, to the Customer's written request to replace or repair the Mobile Coolroom during the Term of the hire.
3. We shall not be liable for any harm that may be caused through the Customer's use of the Mobile Coolroom.
4. **Salamander Hotel** reserves the right to refuse its service and Booking Fees are subject to change at any time.
5. **Salamander Hotel** and those participating make no express or implied claims as a result of following our advice and/or engaging in the Hire of the Mobile Coolroom.

## 8. Limit of Liability

1. Our liability in contract or in tort or otherwise shall be limited to repayment in the amount of the Booking Fee.
2. The Customer acknowledges that **Salamander Hotel** will not be liable for any harm caused to any person whilst in possession of the Mobile Coolroom and hereby indemnifies **Salamander Hotel** from any liability or claim that may arise.
3. The Customer further releases **Salamander Hotel** from any claim and dispute arising out of the Hire of the Mobile Coolroom.
4. The Customer acknowledges and accepts full liability for the Optional Tools both during the time of Hire as well as the handover period prior to the commencement of the Term of Hire and handover period after the termination of the Term of Hire.



## 9. Safety

1. The Customer acknowledges that they are liable to abide by all road safety rules and procedures as well as any road safety legislation enforceable at the time that they are in possession of the Mobile Coolroom.
2. The Customer acknowledges and warrants that they will abide by any rule, regulation or legislation pertaining to the safety and standards at the time that they are in possession of the Mobile Coolroom.
3. The Customer acknowledges and warrants that they will abide by any relevant and applicable Workers' Compensation Insurance.
4. The Customer acknowledges and warrants that they will comply with all that is required by the Local Council and any requirements through any State or Federal Government Department or Statutory Body as well as any Act of Parliament as enforceable during the Term that the Customer engages in the Hire of the Mobile Coolroom and the Customer will at all times indemnify and keep indemnified **Salamander Hotel** in relation to any Default, breach, penalty or liability that arises out of these requirements.
5. The Customer warrants and acknowledges that they will use the Mobile Coolroom in a safe and reasonable way and agree to indemnify and meet all claims against **Salamander Hotel** in relation any person for damage or loss of personal property or personal injury or death as a result of any accident or neglect or deliberate act of the Customer, their employees, agents, contractors or invitees.
6. The Customer acknowledges that only the Customer and its approved employees will be able to access the Mobile Coolroom.

## 10. Notice, Permits and Fees

1. The Customer shall give all necessary notices, obtain all necessary permits, pay all necessary fees and comply with all provisions and requirements statutory or otherwise, relating to the Hire of the Mobile Coolroom.



#### 11. Disputes

1. Referring the matter to the Australian Dispute Centre, and, failing any agreement, then referring the matter to arbitration, should resolve any dispute in relation to the Contract.

#### 12. Indemnity

1. The Customer shall be solely liable for and shall indemnify and hold harmless the following but not limited to **Salamander Hotel**, its officers, employees, agents, parent, subsidiaries, affiliates, partners, officers, directors, contractors, subcontractors, licensors, service providers, suppliers and interns from and against all liability of any nature whatsoever and howsoever arising in or in connections with the Hire, and howsoever or whomsoever caused except to the extent that such liability is caused by negligence.

#### 13. Personal Guarantee

1. The Guarantor as defined at clause 1.11 in consideration of **Salamander Hotel** agreeing to accept the Booking at the request of the Customer's directors agree to jointly and severally personally guarantee the performance of all obligations and payment of all debt incurred by the Customer. This is a continuing and irrevocable guarantee for all monies which are now or may be from time to time owing or remain unpaid by the Customer.
2. The Guarantor agrees that this clause does not merge on completion or ending of Term and continues regardless of whether the Customer has been wound up or place in liquidation.
3. The Guarantor is not discharged by any variation to the Contract, any delay or claim by **Salamander Hotel** enforcing any right pursuant to this Contract against the Customer and any forbearance given to the Customer to perform its obligations.

#### 14. Governing Law & Jurisdiction

1. The Customer agrees that these Terms and Conditions will be construed according to the laws of the state of New South Wales as well as the Commonwealth of Australia.