

## HIRE TERMS AND CONDITIONS

1. In these Conditions, the following words will have the following meanings:
  - “**Contract**” means a Contract which incorporates these conditions made between the Hirer and the Owner for the hire of the Hire Goods.
  - “**Deposit**” means any advance payment required by the Owner in relation to the Hire Goods which is to be held as security by the Owner.
  - “**Force Majeure**” means any event outside a party’s reasonable control including but not limited to Acts of God, war, flood, fire, labour disputes, strikes, sub-contractors, lock-outs, riots, civil commotion, malicious damage, explosion, terrorism, governmental actions and any other similar events.
  - “**Hire Goods**” means the luxury portable bathroom identified by the ID plate placed on the drawbar (A-frame) of the portable bathroom unit and any other machine, article, tool, and/or device together with any accessories specified in a Contract which are hired to the Hirer.
  - “**Hire Period**” means the period commencing when the Hirer holds the Hire Goods on hire (including Saturdays, Sundays and bank holidays) and ending upon the happening of any of the following events:
    - (i) the physical return of the Hire Goods by the Hirer into the Owner’s possession; or
    - (ii) the physical repossession or collection of the Hire Goods by the Owner.
  - “**Hirer**” means the person, firm, company or other organisation hiring the Hire Goods.
  - “**Liability**” means liability for any and all damages, claims, proceedings, actions, awards, expenses, costs and any other losses and/or liabilities.
  - “**Owner**” mean Brisbane Bathroom Hire ABN 28 285 139 466 and will include its employees, servants, agents and/or duly authorised representatives.
  - “**Rental**” means the Owner’s charging rate for the hire of the Hire Goods which is current from time to time during the Hire Period.
  - “**Services**” means the services and/or work (if any) to be performed by the Owner for the Hirer in conjunction with the Hire Goods including any delivery, set up or collection service for the Hire Goods.
2. The Hire Goods are hired subject to them being available for hire to the Hirer at the time required by the Hirer. The Owner will not be liable for any loss suffered by the Hirer as a result of the Hire Goods being unavailable for hire.
3.
  - (a) The amount of any Deposit, Rental and/or charges for any Services shall be as quoted to the Hirer or otherwise as shown in the Owner’s current price list from time to time. Where a Deposit is required for the Hire Goods, it must be paid in advance of the Hirer hiring the Hire Goods. The Owner will require the Rental to be paid in advance of the Hirer hiring the Hire Goods. The Hirer shall pay the Rental, charges for any Services and any other sums payable under the Contract to the Owner at the time and in the manner agreed. The Owner’s prices are, unless otherwise stated, exclusive of any applicable GST for which the Hirer shall additionally be liable.
  - (b) Payment by the Hirer on time under the Contract is an essential condition of the Contract. Payment shall not be deemed to be made until the Owner has received in either cash or cleared funds in respect of the full amount outstanding.
  - (c)
    - (i) Risk in the Hire Goods will pass immediately to the Hirer when they leave the physical possession or control of the Owner;
    - (ii) Risk in the Hire Goods will not pass back to the Owner from the Hirer until the Hire Goods are back in the physical possession of the owner. This shall apply notwithstanding any agreement by the Owner to cease charging the Rental;
    - (iii) Ownership of the Hire Goods remains at all times with the Owner. The Hirer has no right, title or interest in the Hire Goods except that they are hired to the Hirer;
    - (iv) The Hirer must not deal with the ownership or any interest in the Hire Goods. This includes but is not limited to selling, assigning, mortgaging, pledging, charging, securing, hiring, withholding, possessing any right to withhold, disposing of and/or lending. The Hirer may re-hire the Hire Goods to a third party with the prior written consent of the Owner, such consent to be at the absolute discretion of the Owner.
    - (v) The Owner may provide insurance in respect of the Hire Goods at an additional cost to the Rental. Alternatively, the Owner may require the Hirer to insure the Hire Goods on such terms and for such risks as the Owner may reasonably specify. The proceeds of any such insurance that relate directly to the Hire Goods shall be held by the Hirer in trust for the Owner and be paid to the Owner on demand. The Hirer will not compromise any claim in respect of the Hire Goods or any associated insurance without the Owner’s written consent.
5.
  - (a) The Owner will deliver the Hire Goods to the Hirer at the start of the Hire Period and collect them from the Hirer at the end of the Hire Period.
  - (b) The Owner will install the Hire Goods so as to be in proper working order on delivery of the Hire Goods to the Hirer. The Owner will uninstall the Hire Goods at the end of the Hire Period. During the Hire Period, the Hirer will not adjust, alter or tamper with the connections, tubes, wires or other apparatus required to install the Hire Goods without the written consent of the Owner. Whilst the Owner will use all reasonable skill and care during the installation of the Hire Goods, the installation will be part of the Services and the persons performing the Services are servants of the Hirer and once the Hirer instructs such person, they are under the direction and control of the Hirer. The Hirer shall be solely responsible for any instruction, guidance or advice given by the Hirer to any such person and for any damage which occurs as a result of such persons following the Hirer’s instructions, guidance or advice except to the extent that the persons performing the Services are negligent.
  - (c) The Hirer will allow or procure sufficient access to and from the relevant site and procure sufficient unloading space, facilities, equipment and access to utilities for the Owners, employees, sub-contractors or agents to allow them to carry out the Services. The Hirer will ensure that the site where the Services are to be performed is, where necessary, cleared and prepared before the Services are due to commence.
  - (d) If any Services are delayed, postponed or cancelled due to the Hirer failing to comply in its obligations, the Hirer will be liable to pay the Owner the Rental (on the basis of the Rental Period being one day) for such delay, postponement or cancellation unless the delay is due to a Force Majeure event.
  - (e) The Owner will at its absolute discretion be entitled to terminate this Contract at any time prior to the Hirer being given possession of the Hire Goods by the Owner. The Owner will not be liable for any loss, costs, fees, expenses or other losses incurred by the Hirer resulting from such termination.
6.
  - (a) The Hirer will:
    - (i) not remove any labels from or interfere with the Hire Goods, their working mechanisms or any other parts of them and shall take reasonable care of the Hire Goods and only use them for their proper purpose in a safe and correct manner in accordance with any operating or safety instructions provided or supplied to the Hirer;
    - (ii) notify the Owner immediately after breakdown, loss or damage to the Hire Goods;
    - (iii) take adequate and proper measures to protect the Hire Goods from theft, damage and all other risks;
    - (iv) permit the Owner at all reasonable times and upon reasonable notice to inspect the Hire Goods including procuring access to any property where the Hire Goods are situated;
    - (v) keep the Hire Goods at all times in its possession and control and not remove the Hire Goods from the State where the Owner is located without the prior consent of the Owner;
    - (vi) be responsible for the conduct and cost of any testing, examinations, or checks in relation to the Hire Goods required by any legislation, best practice, or operating instructions except to the extent that the Owner has agreed to provide them as part of any Services;
    - (vii) not do or omit to do any thing which the Hirer has been notified will or may be deemed to invalidate any policy of insurance related to the Hire Goods;
    - (viii) not continue to use the Hire Goods where they have been damaged and will notify the Owner immediately if the Hire Goods are involved in any accident resulting in damage to the Hire Goods, other property or injury to any person.
  - (b) The Hire Goods must be returned to the Owner in good working order and condition (fair wear and tear excepted) and in a clean condition together with all insurance policies, licences, registration and other documents that may have been provided relating to the Hire Goods.

7.
  - (a) Allowance will be made in relation to the Rental to the Hirer for any non-use of the Hire Goods due to breakdown caused by the development of an inherent fault or fair wear and tear provided that the Hirer informs the Owner as soon as is reasonably practicable of the breakdown.
  - (b) The Hirer will be responsible for all expenses, loss (including loss of Rental) or damage suffered by the Owner arising from any breakdown of the Hire Goods due to the Hirer's negligence, misdirection or misuse of the Hire Goods.
  - (c) The Owner will at its own cost carry out all routine maintenance and repairs to the Hire Goods during the Hire Period and all repairs which are required due to fair wear and tear or an inherent fault in the Hire Goods. The Hirer will be responsible for the cost of all repairs necessary to the Hire Goods during the Hire Period which arise otherwise and as a result of fair wear and tear, an inherent fault, or the negligence of the Owner while carrying out routine maintenance or repairs.
  - (d) The Hirer will not repair or attempt to repair the Hire Goods or install, reinstall or uninstall the Hire Goods.
  
8.
  - (a) If the Hire Goods are returned in a damaged, unclean or defective state (fair wear and tear or inherent fault excepted) the Hirer will be liable to pay the Owner for the cost of any repair or cleaning required to return the Hire Goods to a condition fit for re-hire and pay the Rental in accordance with the provisions of clause 8(c) until such repairs or cleaning have been completed;
  - (b) The Hirer will pay to the Owner the replacement cost of any Hire Goods which are lost, stolen or damaged beyond economic repair during the Hire Period less the amount paid to the Owner under any policy of insurance taken out in accordance with the terms of this Contract;
  - (c) The Hirer will pay the Rental for the Hire Goods up to and including the date it notifies the Owner that the Hire Goods have been lost, stolen or damaged beyond economic repair. From that date until the Owner has replaced such Hire Goods the Hirer will pay, as a genuine pre-estimate of lost rental profit, a sum as liquidated damages being equal to [two-thirds] of the Rental that would have applied for such Hire Goods for that period. The Owner will use its reasonable endeavours to purchase replacements for such Hire Goods as quickly as possible using the monies paid under clause 8(b) above.
  
9.
  - (a) If the Hire Period has a fixed duration, subject to the provisions of clause 10, neither the Hirer nor the Owner will be entitled to terminate the Contract before the expiry of that fixed period unless agreed with the other party.
  - (b) If the Hire Period does not have a fixed duration, either of the Hirer or the Owner is entitled to terminate the Contract upon giving to the other party any agreed period of notice.
  - (c) If no notice period has been agreed or specified, the Hirer may terminate the Hire Period by giving not less than fourteen (14) days written notice to the Owner.
  - (d) The Owner shall be entitled to terminate the hire of the Hire Goods by giving not less than seven (7) days written notice to the Hirer.
  
10.
  - (a) If the customer:
    - (i) fails to make any payment to the Owner when due without just cause;
    - (ii) breaches the terms of the Contract and, where the breach is capable of remedy, has not been so remedied within fourteen (14) days of receiving notice requiring the breach to be remedied;
    - (iii) persistently breaches the terms of the Contract;
    - (iv) provides incomplete, materially inaccurate or misleading facts or information in connection with the Contract;
    - (v) pledges, charges or creates any form of security over any Hire Goods;
    - (vi) being a company, ceases or threatens to cease to carry on business;
    - (vii) in the reasonable opinion of the Owner is not of sufficient financial standing to meet its obligations under the Contract;
    - (viii) appears reasonably to the Owner to be about to suffer any of the above events;
 then the Owner shall have the right, without prejudice to any other remedies, to exercise any or all of the rights set out in clause 10(b) below.
  - (b) If any of the events set out in clause 10(a) above occurs in relation to the Hirer, then:
    - (i) the Owner may enter without prior notice any premises of the Hirer (or premises of third parties with their consent) where the Hire Goods may be and repossess any Hire Goods;
    - (ii) the Owner may immediately cancel, terminate or suspend without liability to the Hirer the Contract or any other contract with the Hirer;
    - (iii) any repossession of the Hire Goods shall not affect the Owner's right to recover from the Hirer any monies due under the Contract or any damages in respect of any breach which occurred prior to repossession of the Hire Goods;
    - (iv) upon termination of the Contract, the Hirer will immediately:
      - i. make the Hire Goods available for collection by the Owner as requested by the Owner;
      - ii. pay to the Owner all arrears for Rentals and any other sums payable under the Contract;
  
11.
  - (a) All warranties, representations, terms, conditions and duties implied by law relating to fitness, quality or adequacy are excluded to the fullest extent permitted by law.
  - (b) If the Owner is found to be liable in respect of any loss or damage to the Hirer's property, the extent of the Owner's Liability will be limited to the retail cost of replacement of the damaged property.
  - (c) Any defective Hire Goods must be returned to the possession of the Owner for inspection if requested by the Owner before the Owner will have any Liability for defective Hire Goods.
  - (d) The Owner shall have no Liability for additional damage, loss, liability, claims, costs or expenses caused or contributed to by the Hirer's continued use of defective Hire Goods after the defect has become apparent or suspected or should recently have become apparent to the customer.
  - (e) The Hirer will give the Owner a reasonable opportunity to remedy any matter for which the Owner is liable before the Hirer incurs any costs or expenses in remedying the matter itself. If the Hirer does not do so, the Owner will have no liability to the Hirer.
  - (f) The Owner will have no liability to the Hirer to the extent that the Hirer is covered by any policy of insurance arranged as a result of the Contract.
  - (g) The Owner will have no Liability to the Hirer for any:
    - (i) economic or other similar losses;
    - (ii) special damages or indirect losses;
    - (iii) business interruption, loss of business, contracts or opportunity.
  - (h) The Owner's total Liability to the Hirer under or arising in relation to this Contract will not exceed [five] times the amount of the Rental under the Contract. To the extent that any Liability of the Owner to the Hirer would be met by any insurance of the Owner, then the Liability of the Owner shall be extended to the extent that such Liability is met by such insurance.
  - (i) Nothing in this Contract shall exclude or limit the Liability of the Owner which it is not permitted to exclude or limit as a matter of law.
  - (j)
    - (i) Each hire of an item of Hire Goods shall form a distinct Contract which shall be separate to any other Contract relating to other Hire Goods;
    - (ii) The Hirer will be liable for the acts or omissions of its employees, agents, servants or sub-contractors as though they were its own acts or omissions under this Contract;
    - (iii) The Hirer agrees to indemnify and keep indemnified the Owner against any and all losses, lost profits, damages, claims, costs (including legal costs on a full indemnity basis), actions and any other losses or liability suffered by the Owner and arising from or due to any breach of contract or any breach of statutory duty by the Hirer;
    - (iv) No waiver by the Owner of any breach of this Contract shall be considered as a waiver of any subsequent breach of the same provision or any other provision. If any provision is held by any competent authority to be unenforceable in whole or in part, the validity of the other provisions of this Contract and the remainder of the affected provision shall be unaffected and shall remain in full force and effect;
    - (v) The Owner shall have no Liability to the Hirer for any delay or non-performance of a Contract to the extent that such delay is due to any Force Majeure events. If the Owner is affected by any such event, then time for performance shall be extended for a period equal to the period that such event or events delayed such performance.