

## RETAIL MARKETING OUTLET TERMS AND CONDITIONS

1. **SAMSUNG ELECTRONICS AUSTRALIA PTY LTD** ACN 002 915 648 of 3 Murray Rose Avenue, Sydney Olympic Park, NSW 2127 (**Samsung**); and
  2. THE HARVEY NORMAN FRANCHISEE SELECTED USING THE SAMSUNG PORTAL (**Retailer**).
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1. These terms and conditions (**Terms and Conditions**) are deemed to have commenced on the date accepted by the Retailer in accordance with clause 33 (**Commencement Date**) and continue until 22<sup>nd</sup> October 2020, unless terminated by either party in accordance with these Terms and Conditions (the **Term**).
2. Samsung will provide the Retailer with:
  - (a) the branding, point of sale and promotional material as notified by Samsung to the Retailer in writing from time to time (the **Artwork**);
  - (b) the fit-out assets, including the display units, shelving and racking, approved and supplied by Samsung (the **Branded Display Area**) in the retail showroom of the Retailer (the **Retail Premises**) for the display of the Artwork and the Samsung demonstration products to be displayed as notified by Samsung to the Retailer in writing from time to time in the Branded Display Area (**Display Product**);as set out in Schedule 1.
3. Samsung has no obligation to supply the Display Products under these Terms and Conditions. Display Products will be supplied under separate written agreement between Samsung and the Retailer.
4. If any of the Display Products become out-dated, the parties may by separate written agreement replace a Display Product with an updated model.
5. Unless otherwise agreed by the parties in writing, the Retailer must ensure that the Branded Display Area:
  - (a) is located in a highly visible and prominent area;
  - (b) does not contain any non-Samsung product or artwork; and
  - (c) contains a one and a half metre no fly zone (extending from the floor to the ceiling) around the Branded Display Area.
6. The Retailer will provide reasonable access to Samsung from time-to-time, including liaising with building management, for the installation or alteration of the Branded Display Area, Artwork and Display Products at the Retail Premises, including after-hours access during any Samsung launch periods.
7. The Artwork and Branded Display Area are to be supplied and funded by Samsung.
8. Samsung will deliver and install the Artwork, the Branded Display Area and Display Product at the Retail Premises at Samsung's reasonable cost and as agreed with Retailer. Subject to express provisions to the contrary, any replacement Artwork, Branded Display Area or Display Products that Samsung requires to be installed at the Retail Premises will also be installed by Samsung at Samsung's reasonable cost.
9. The Retailer must:
  - (a) in relation to the Display Products and any other Samsung products displayed on the Artwork:

- (i) switch on the Display Products every morning before the Retail Premises open for business;
  - (ii) ensure that the Display Products remain switched on during the Retail Premises trading hours; and
  - (iii) switch off the Display Products every evening at the close of trade of the Retail Premises.
- (b) only display the agreed Samsung products, Display Products, Samsung branded screen content and point of sale materials on the Artwork;
  - (c) ensure that the Retailer's sales employees, who are regularly engaged in the sale of Samsung products, participate in the agreed training provided by Samsung;
  - (d) share weekly store sell out data (at SKU level for all Samsung products) with Samsung;
  - (e) ensure that all Display Products and Artwork are connected to the Retailer's internet connection;
  - (f) keep the Artwork, the Branded Display Area, Display Products and physical aspects of the Artwork, the Branded Display Area and Display Products (including finishes, laminates and structure) clean, dust-free and clutter free and not place any unapproved items or collateral on the Artwork, the Branded Display Area and Display Products, without prior written approval from Samsung;
  - (g) regularly monitor and promptly attend to any Display Product that they are aware has frozen, is not functioning correctly, is damaged or has broken and must notify Samsung within 24 hours if it becomes aware that there is any problem or maintenance issue with the Artwork, the Branded Display Area or Display Products including any physical aspects of such Artwork, the Branded Display Area or Display Products; and
  - (h) regularly monitor the Artwork and Display Products and ensure that prospective customers are appropriately supervised by the Retailer and are not using a Samsung product inappropriately.

10. Samsung must:

- (a) maintain the physical aspects of the Branded Display Areas such as the finishes, laminates and structural issues;
- (b) provide technical staff to network all Samsung products together and provide in-store training for the Retailer's in respect of the Display Products;
- (c) provide the Artwork, merchandise, supply point of sale materials and screen content for the Display Products and the Samsung products situated on the Branded Display Area; and
- (d) provide updated Display Products and Artwork when new Samsung products are launched which are relevant to these Terms and Conditions.

11. Damaged, faulty, lost, stolen or broken Artwork, Branded Display Area and Display Products will:

- (a) where reasonably possible, be repaired by Samsung at the Retail Premises or returned to Samsung and replaced by Samsung;
- (b) be notified to Samsung by the Retailer either via:
  - (i) the Retailer's territory manager or technical territory manager; or
  - (ii) via email at [samsunghelpdesk@samsungplus.com.au](mailto:samsunghelpdesk@samsungplus.com.au),
 within 24 hours of the Retailer becoming aware of the issue;
- (c) the costs of repair or replacement of Artwork and Branded Display Area will be:
  - (i) borne by the Retailer in the case of intentionally damaged or disposed of Artwork or Branded Display Area (which includes damage caused by the Retailer moving a Branded Display Area without Samsung's consent); or
  - (ii) borne by Samsung in the case of lost, stolen, accidentally damaged, faults or reasonable wear and tear.
- (d) the costs of repair or replacement of Display Products will be borne by the Retailer in all cases (excluding except for faults or reasonable wear and tear).

12. The Retailer must not remove or relocate the Artwork, Branded Display Area or Display Product before the expiration of the Term without the prior written consent of Samsung. Any removal or relocation of the Artwork, the Branded Display Area or Display Products without the prior written consent of Samsung will be at the Retailer's cost.
13. Following removal of the Artwork, the Branded Display Area and Display Products on the expiration of the Term, the Retailer will be responsible for any further action required to restore, make good, repair or reinstate the Retail Premises to their pre-installation state, and for all associated costs.
14. The Retailer acknowledges that Samsung is the owner of the Artwork and the Branded Display Area and the Retailer holds such Artwork and the Branded Display Area as mere bailee.
15. The Retailer shall bear all risks and liabilities for and in respect of personal injury to or death of persons and damage to property (excluding to the Artwork, Branded Display Area and Display Product which is dealt with in clause 10(c) of these Terms and Conditions) caused by the Retailer, its officers or employees, in connection with these Terms and Conditions, except to the extent that such liability is caused:
  - (a) directly by a negligent act or omission of Samsung, or the officers, employees or third party contractors of Samsung; or
  - (b) otherwise in connection with the supply or installation of the Artwork, the Branded Display Area and Display Products by Samsung or third party contractors of Samsung.
16. The parties must, from the Commencement Date, arrange and maintain at their own cost, until a date that is twelve (12) months after expiry or termination of these Terms and Conditions, the following insurance coverage with a reputable insurance company for the minimum level indicated:
  - (a) public liability: \$20 million
  - (b) worker's compensation: As required by law.
17. Without limiting clause 15, the Retailer shall insure and keep the Artwork, Branded Display Area and Display Products insured with a reputable insurance company for their full insurable value against loss or damage by fire, theft, accident and such other risks as are insured against by prudent persons engaged in a similar business to that of the Retailer.
18. These Terms and Conditions may be terminated on the following terms:
  - (a) Samsung may terminate these Terms and Conditions in whole or in part with immediate effect without cause by providing thirty (30) days' written notice to the Retailer;
  - (b) the Retailer may terminate these Terms and Conditions with immediate effect by providing written notice to Samsung if:
    - (i) Samsung is in material breach of these Terms and Conditions and fails to remedy the breach within thirty (30) days of its receipt of a notice requiring it to do so; and
    - (ii) there is a change of control of Samsung;
    - (iii) Samsung brings, or is likely to bring, the Retailer into public disrepute, contempt, scandal or ridicule, including through acts or omissions of moral turpitude;
  - (c) immediately without notice where the Retailer ceases to conduct the business of the Retailer in the normal course, including where the Franchise Agreement granted to the Retailer terminates;
  - (d) Samsung may terminate these Terms and Conditions in whole or in part with immediate effect if:
    - (i) there is a change of control of the Retailer;
    - (ii) the Retailer brings, or is likely to bring, Samsung or the Retailer into public disrepute, contempt, scandal or ridicule, including through acts or omissions of moral turpitude; or
    - (iii) the Retailer is in breach of these Terms and Conditions;

19. To the extent permitted by law, neither party will be liable, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, under or in connection with these Terms and Conditions for any Consequential Loss. For the purposes of these Terms and Conditions, "**Consequential Loss**" means any loss not arising naturally (that is, according to the usual course of things) from the relevant breach, act or omission, whether or not such loss is reasonably supposed to have been in the contemplation of both parties at the time they made these Terms and Conditions as the probable result of the relevant breach, act or omission.
20. Subject to clauses 19 and 21, each party's maximum liability under or in connection with these Terms and Conditions, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited in aggregate for all claims, losses, damages, actions and proceedings to the total retail value of the Artwork, Branded Display Area and Display Products, except this limitation of liability does not apply to:
  - (a) a breach of a party's obligation of confidentiality;
  - (b) any property damage, personal injury or death caused by a party's negligent act or omission; or
  - (c) any breach of a third party's intellectual property right by a party.
21. Nothing in these Terms and Conditions is intended to exclude, restrict or modify any consumer rights under the *Competition and Consumer Act 2010* (Cth) or any other legislation which may not be excluded, restricted or modified by these Terms and Conditions.
22. The parties agree to meet on a quarterly basis, or such other period as mutually agreed by the parties, to review the obligations of each party that arise under these Terms and Conditions.
23. A party has no right of set-off against a payment due to another party.
24. A party cannot assign or otherwise transfer the benefit of these Terms and Conditions without the prior written consent of the other party.
25. Nothing in these Terms and Conditions affects the intellectual property rights of either party that existed prior to the commencement of these Terms and Conditions.
26. These Terms and Conditions contain the entire understanding between the parties concerning the subject matter of these Terms and Conditions and supersedes all prior communications between the parties concerning the subject matter.
27. The parties represent to each other party that each party has been given an opportunity to obtain independent legal advice in relation to these Terms and Conditions, and that a party has not relied upon any representation or warranty made by any other party in relation to these Terms and Conditions, which is not expressly set out in these Terms and Conditions.
28. Subject to clause 28, these Terms and Conditions cannot be amended or varied except in writing signed by the parties.
29. Samsung may vary the terms and conditions contained in these Terms and Conditions by providing at least fourteen (14) days' prior written notice to the Retailer through the Samsung Portal (**General Variation**). If Samsung provides written notice to the Retailer of a General Variation under this clause 28, the Retailer may, in its sole discretion, terminate these Terms and Conditions on providing written notice to Samsung no later than fourteen (14) days after receipt of such notice from Samsung. If the Retailer does not terminate these Terms and Conditions in accordance with this clause, the Retailer will be deemed to have accepted the General Variation; and the General Variation will take effect on the date set out in the notice provided by Samsung under this clause 28.
30. These Terms and Conditions are governed by the laws of New South Wales. The parties submit to the non-exclusive jurisdiction of the courts of New South Wales.

31. The Retailer may, from time to time, nominate another person or entity to exercise any one or more of the rights of the Retailer under these Terms and Conditions. The Retailer is not required to notify Samsung when the Retailer makes a nomination pursuant to this clause, however, Samsung is not required to accept the actions of another party which has been nominated unless Samsung has been notified of such nomination. The Retailer is liable in respect of all actions by a nominee exercising such rights.
32. The parties must keep these Terms and Conditions and the Confidential Information of another party confidential and must not disclose any Confidential Information to any person except (and only to the extent required):
- (a) to give effect to or enforce these Terms and Conditions;
  - (b) to obtain advice from, or make confidential disclosure to, accounting, financial, legal or other professional advisors or insurers;
  - (c) in the case of a company to its directors and managers;
  - (d) if required by law or legally binding order of any court, government, semi-government authority or judicial body; or
  - (e) with the prior written consent of the other party.

“Confidential Information” includes all information however recorded or retained and whether oral or written or electronically stored that is by its nature confidential or designated by a party as confidential, but does not include information made public (other than by breach of these Terms and Conditions) and/or information required to be disclosed by Law.”

33. The parties acknowledge that Samsung may appoint subcontractors for the installation and maintenance of the Artwork, Branded Display Area and Display Products (who may in turn appoint their own subcontractors for the performance of specified portions of the work). Any such contractors appointed must be notified by Samsung to the Retailer prior to the subcontractor’s entry onto the Retailer’s premises. Samsung must procure that the subcontractors comply with the lawful directions of the Retailer while on the Retailer’s premises. Any such appointment of subcontractors does not relieve Samsung from its obligations and liabilities pursuant to these Terms and Conditions and Samsung will be vicariously liable for the acts and omissions of its subcontractors.
34. The parties may enter into these Terms and Conditions by way of signed counterparts, which together constitute one agreement. Alternatively, the Retailer may agree to be bound by the terms of these Terms and Conditions by indicating its approval by way of “check-box” election on the online Samsung Portal (details of which will be notified by Samsung to the Retailer).
35. Samsung warrants that:
- (a) Samsung owns, or has the right to use, any intellectual property rights included in the Artwork, Branded Display Area, and Display Products; and
  - (b) at all times, Samsung will carry out or procure to be carried out any works in respect of the Artwork, Branded Display Area and Display Products, in compliance with all legislative requirements and applicable law, including without limitation, all Work Health and Safety Laws.

# Schedule 1

## Branded Display Area and Artwork

### Harvey Norman Wearables End Cap Pack

3D Render

Cheil 17 Top View

Cheil 18

• Isometric View  
(Without ending graphic)

• Detail View



• HHP Endcap



• Standard Plane (x1)



• Standard Plane with 3 holes (x1)



• FSB Ticket (x2)



Switch Board

Cheil 19

• Backup



• Price

No.	Type	Material
1.	SH	Polycarbonate
2.	SH	Polycarbonate

Wearables | Ticket - HHP + Wearables

Cheil 20

Print size: 302mm W x 105mm H



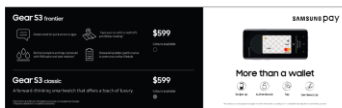
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Wearables | Ticket - Wearables 1 & 2

Cheil 21

Print size: 302mm W x 105mm H



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Wearables | Printing instructions

Cheil 22

Print size: 302mm W x 105mm H



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NOTE: PDP will be supplied as per paper size

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