



## BEDOUIN FREEFORM TENTS -TERMS AND CONDITIONS OF HIRE

1. **DEFINITIONS:** "Agreement" means these terms and conditions and the Quote. "Charges" means the hire charges in respect of the Goods and the Services as specified in the Quote. "Décor" means any décor specified in the Quote which is hired by The Hirer. "Deposit" means the deposit (if any) required by the Lessor in relation to the Goods as specified in the Quote. "Force Majeure" means any event outside of a party's reasonable control, and includes but is not limited to floods, drought, fire, high winds, extreme heat or cold, heavy rain, hail, lightning, strike, civil disturbance, state action, terrorism and any other similar events. "Goods" mean any goods, tools, articles and/or devices together with any accessories specified in the Quote which are hired by The Hirer (including Décor if applicable). "The Hirer" means the person, firm, company or organisation hiring the Goods as set out in the Quote. "Lessor" means Bedouin Freeform Tents and Canopies of 71 Kenneth Road, Balgownie, Sydney, NSW 2093. "Obstructions" include but are not limited to pipes, wires, fencing, walls, paving, buildings, water, plants and trees. "Period" means the hire period as specified in the Quote. "Quote" means the quote to which these conditions are attached, setting out inter alia the Period, the Goods and the Services hired and the Charges and Deposit in respect thereof, and any amendments thereto agreed to in writing by the Lessor. "Services" means the services and/or work (if any) to be performed by the Lessor for The Hirer in conjunction with the hire of the Goods, including but not limited to any delivery and/or collection services. "Site" means the place at which the Goods are to be delivered and/or collected and/or at which Services are to be performed as specified in the Quote.

2. **HIRE:** The Lessor hereby lets to The Hirer who hereby hires the Goods and Services on the terms and subject to the conditions set out in this Agreement.

3. **DEPOSIT:** The Hirer shall pay the Deposit to the Lessor on the signature of the Quote in order to secure the hire of the Goods and the Services. In the event of a cancellation of the hire of the Goods and Services by The Hirer, the Deposit shall be forfeited to the Lessor as follows; 100% (one hundred percent) of the Rental Charges shall be forfeited if the hire of the Goods and Services is cancelled less than 30 (thirty) days before the commencement of the Period; and 50% (fifty percent) of the Deposit shall be forfeited if the hire of the Goods and Services is cancelled more than 30 (thirty) days before the commencement of the Period; unless otherwise agreed in writing by the Lessor. The Lessor shall not be bound by any count of the Goods carried out by The Hirer unless such count is carried out in the presence of a duly authorised representative of the Lessor and the result of such count is approved of in writing by such duly authorised representative. Should the Goods be returned to the Lessor not so counted, any count of the Goods that the Lessor carries out after their return or collection shall be final and binding on The Hirer.

4. **PAYMENT:** The Hirer shall pay the balance of Charges to the Lessor via electronic transfer or cheque at least 10 days before the delivery of the Goods by the Lessor or the collection of the Goods by The Hirer at the commencement of the Period, unless otherwise agreed by the Lessor in writing. The Charges are, unless otherwise stated, exclusive of any applicable GST for which The Hirer shall additionally be liable. The Hirer shall pay all sums due to the Lessor in terms of this Agreement without any set-off, deduction, counterclaim and/or any other withholding of monies. If any amount due by The Hirer to the Lessor is not paid on due date, then without prejudice to any other remedy to which the Lessor may be entitled, all such overdue amounts shall bear interest at 2% (two percent) above the Lessor's bank's published minimum lending rate of interest per annum, compounded monthly in arrears.

5. **SITE:** The Hirer warrants that the Site is: easily accessible to standard vehicles; firm and level; clear and free of underground, surface or aerial Obstructions. Should the Site not comply with the warranty in terms of clause 4 above, the Lessor shall be entitled, without prejudice to any other remedy to which the Lessor may be entitled, to: re-determine the Charges payable by The Hirer; or cancel the Agreement, in which event The Hirer shall have no claim whatsoever against the Lessor in respect of such cancellation. The Hirer shall at its cost restore the Site to the condition it was in prior to the delivery of the Goods and/or performance of the Services, it being specifically acknowledged and agreed that the Charges do not include any repairs or making good that may be required to the Site.

6. **APPROVALS:** The Hirer warrants that it has obtained all necessary governmental, municipal, regulatory, engineering and other approvals and/or consents and/or licences which may be required for access to and use of the Site, installation of the Goods, and/or performance of the Services. The Hirer indemnifies and holds the Lessor harmless from and against any and all loss, damage or liability (whether criminal or civil) suffered (and legal fees and costs incurred) by the Lessor as a result of such approvals and/or consents and/or licences not having been obtained.

7. **DELIVERY AND ACCESS:** Delivery and pick-up charges are extra. Quoted charges are for the delivery address and for standard level access of 20 meters to the delivery point from the delivery vehicle. The Lessor reserves the right to charge The Hirer extra for difficult access, which has not been advised, quoted or known of until on site. Difficult access is defined as time consuming factors such as long carry, many stairs, obstructions, uneven ground, narrow passage etc. Waiting time is also chargeable. These extra charges will be shown as "labour" @ the rate of \$40 per man-hour (excluding GST) and are based on the extra time spent in completing the delivery/Pick-up process. Specific timing requests for delivery/pick-up may incur extra charges.

8. **SUBSTITUTION OF GOODS:** If for reasons beyond the control of the Lessor any Goods hired are not available for the Period, the Lessor shall be entitled to erect and/or supply goods similar in size and/or specification to those referred to in the Quote to meet as near as possible The Hirer's requirements, provided however that such alternative goods shall not materially affect The Hirer's position in relation to the proposed actual use of the Goods by The Hirer. In the event that the Lessor is unable to substitute alternative goods the Lessor shall notify The Hirer of the cancellation of the Agreement in which event any Deposit or other monies paid by The Hirer shall be refunded immediately and The Hirer shall have no claim whatsoever against the Lessor in respect of the cancellation.

9. **EARLY AND LATE RETURN:** Any Goods returned prior to the expiry of the Period as well as any Services to have been provided in respect of those Goods for the remainder of the Period shall be charged for in full. Any Goods returned after the expiry of the Period shall be charged for as follows: the half day hire charge for the 1<sup>st</sup> (first) day (or part thereof) after the expiry of the Period; the full day hire charge for each further day (or part thereof) thereafter.

10. **CARE OF GOODS.** The Hirer shall procure that all Goods, with the exception of tents, furniture and tablecloths, are washed and dried prior to collection or return at the expiry of the Period. The Lessor's additional standard charge from time to time shall be charged for all Goods returned unwashed and/or undried, which additional charge shall be deducted from the Deposit. The Hirer shall procure that all general décor is dried prior to being returned to the Lessor and any decor returned to the Lessor in a damaged condition shall be charged for at full replacement value.

11. **THE HIRER'S DUTIES:** The Hirer undertakes; not to interfere with the Goods, their working mechanisms or any other parts of them and to take reasonable care of the Goods and only use them for their proper purpose in a safe and correct manner in accordance with any operating and/or safety instructions provided or supplied to The Hirer by the Lessor; to place all Décor under rain proof cover in rainy weather; to notify the Lessor immediately after any breakdown, loss and/or damage to the Goods; to take adequate and proper measures to protect the Goods from theft, damage and/or other risks; to timeously notify the Lessor of any change of the Site; to permit the Lessor at all reasonable times to inspect the Goods; to keep the Goods at all times in its possession and control and not to remove the Goods from the Site without the prior written consent of the Lessor; to be responsible for the conduct and cost of any testing, examinations and/or checks in relation to the Goods required by any applicable legislation, regulations, governmental or other directives, best practice and/or operating instructions except to the extent that the Lessor has agreed to provide them as part of the Services; not to do or omit to do any thing which will or may be deemed to invalidate any policy of insurance related to the Goods which is notified to The Hirer by the Lessor; not to continue to use the Goods where they have been damaged and shall notify the Lessor immediately if the Goods are involved in any accident resulting in damage to the Goods, other property and/or injury to any person; where the Goods require fuel, oil and/or electricity to ensure that the proper type and/or voltage is used and that, where appropriate, the Goods are properly installed by a qualified and competent person; not to repair the Goods without the prior written consent of the Lessor. If repairs are made to the Goods without the consent of the Lessor, The Hirer agrees that it shall be liable to the Lessor for the replacement cost thereof; not to purport to sell, let, lease, loan, pledge, transfer or otherwise encumber or dispose of the Goods or any part thereof without the prior written consent of the Lessor; to keep the Goods free from attachment, hypothec or other legal charge or process; and not to move or modify any Goods set up or erected by the Lessor.

12. **RISK OWNERSHIP AND INSURANCE:** Risk in the Goods shall pass immediately to The Hirer when they leave the physical possession or control of the Lessor. Risk in the Goods shall not pass back to the Lessor from The Hirer until such time as the Goods are back in the physical possession of the Lessor. This shall apply even if the Lessor has agreed to cease charging any Charges in respect of the Goods. Ownership of the Goods remains at all times with the Lessor. The Hirer has no right, title or interest in the Hire Goods except insofar as they are hired to The Hirer in terms of this Agreement.

13. **LOSS OR DAMAGE TO THE GOODS** The Hirer shall be responsible for all expenses, loss (including Charges) and/or damage suffered and/or incurred by the Lessor arising from any breakdown of the Goods due to The Hirer's negligence, misdirection and/or misuse of the Goods. If the Goods are returned in a damaged, unclean and/or defective state except where due to fair wear and tear and/or an inherent fault in the Goods, The Hirer shall be liable to pay the Lessor for the cost of any repair and/or cleaning required to return the Goods to a condition fit for re-hire and to pay the Charges until such repairs and/or cleaning have been completed. However, The Hirer shall not be responsible to the Lessor for damage to the goods to the extent that such damage arises from the wilful default or negligence of the Lessor or its representatives, agents, employees, sub-contractors and /or servants. The Hirer shall pay to the Lessor the full replacement cost of any Goods which are lost, stolen or damaged beyond reasonable repair during the Period less the amount paid to the Lessor under any policy of insurance taken out in accordance with this Agreement. A certificate by the Lessor certifying such replacement cost shall be final and binding on the parties and shall be sufficient for the purposes of obtaining summary judgment against The Hirer. The Hirer shall pay the Charges for the Goods up to and including the date it notifies the Lessor that the Goods have been lost, stolen and/or damaged beyond reasonable repair. From that date until the Lessor has replaced such Goods The Hirer shall pay, as a genuine pre-

estimate of lost rental profit, a sum as liquidated damages being equal to two thirds of the Charges that would have applied for such Goods for that period.

**14. DAMAGE WAIVER:** Damage Waiver is payable by the Hirer to cover the cost associated with the normal wear and tear to the equipment. It does not apply to any other damage to Equipment including:

- a) damage resulting from misuse, abuse or improper servicing of Equipment
- b) damage due to the mysterious disappearance of the Equipment;
- c) damage caused by the use or operation of Equipment in contravention of any of the conditions of this agreement;
- d) damage to, or loss of, the Equipment from any unknown cause.

**15. NO REPRESENTATIONS OR WARRANTIES:** The Hirer acknowledges that, save as contained herein, the Lessor has not made any representations or given any warranties as to: the suitability of the Goods for their intended purpose; the condition and/or quality of the Goods and/or the Services; its expertise in advising the Lessor as to the appropriate Goods or Services to be hired; its expertise in performing the Services.

**16. EXCLUSION OF LIABILITY:** The Lessor and its representatives, agents, employees, sub-contractors and/or servants shall not be liable to The Hirer for: any direct, indirect, general, special or consequential damages as a result of: late or non-delivery of the Goods; shortages of Goods (unless notified within 24 (twenty four) hours of delivery); Force Majeure; or damage to the Site or to any underground, surface or overhead cables and installations on the Site (whether their location has been pointed out to the Lessor or not); any indirect, consequential or special damages arising from this Agreement; any negligent acts of The Hirer and its representatives, agents, employees, sub-contractors and /or servants. For the sake of clarity, the Lessor shall be responsible for death, personal injury or property damage caused during the period of hire caused by the wilful default or negligence of the Lessor or its representatives, agents, employees, sub-contractors and /or servants.

**17. INDEMNITY:** The Hirer hereby indemnifies and holds the Lessor and its representatives, agents, employees, sub-contractors and/or servants harmless from and against any and all loss, damage or liability (whether criminal or civil) suffered (and legal fees and costs incurred) by the Lessor and its representatives, agents, employees, sub-contractors and/or servants arising directly or indirectly from this Agreement, including but not limited to those arising from: The Hirer's possession and use of the Good except to the extent that any loss, damage or liability arises from or is contributed to by the wilful default or negligence of the Lessor or its representatives, agents, employees, sub-contractors and /or servants; damage to or a failure to restore the Site to the condition that it was in prior to delivery of the Goods; damage to underground, surface or overhead cables and installations (whether their location has been pointed out to the Lessor or not); the Lessor's late, defective and/or non-performance of its obligations to The Hirer; the Lessor's negligence; the failure of The Hirer to obtain any approvals and/or consents and/or licences in terms of clause 6 above; and Force Majeure.

**18. FORCE MAJEURE:** Notwithstanding anything to the contrary contained in this Agreement, the Lessor shall under no circumstances be liable to The Hirer for any delay, defective or non-performance under this Agreement as a result of Force Majeure. In the event of a Force Majeure event occurring, the Lessor shall in its sole discretion determine whether it is possible and/or safe and/or advisable to install the Goods and/or carry out the Services at the Site and/or allow the Goods to remain installed at the Site. In the event that the Lessor determines that it is not possible and/or safe and/or advisable for the Goods to be installed and/or the Services to be carried out at the Site and/or for the Goods to remain installed at the Site, this Agreement shall be cancelled and The Hirer shall have no claim whatsoever against the Lessor in respect of such cancellation, and the Lessor shall be entitled to recover its reasonable costs incurred in attempting to install the Goods and/or carry out the Services in terms of this Agreement. The Hirer shall be responsible for ensuring that it has arranged an alternative venue for the event for which it required the Goods and/or Services and/or has arranged sufficient event insurance in respect of the event and the Lessor shall have no liability whatsoever in respect thereof.