

## Conditions of Hire

Terms and conditions of hire referred to in Contract for Hire from BARRINGTON OUTDOOR ADVENTURE CENTRE and dated the date on the front of this form.

### OWNERSHIP AND CONDITION

1. The Hirer acknowledges that the equipment (which shall include all fittings accessories and ancillary equipment taken by the Hirer or part of them whether listed on the front of this form or not) is the property of the Owner and that the Hirer has received them in good order and condition.

### COLLECTION AND RETURN

2. Trading Hours are 9.00 am to 5.00 pm Monday to Friday. Weekends and Public Holidays by appointment. When possible and at the discretion of BARRINGTON OUTDOOR ADVENTURE CENTRE the period shall include at no charge a half day for pick-up and a half day for return. Trading Hours to and from 12.00 noon represent the half day. Hire goods collected before and returned after 12.00 noon will be charged for as a full day at the current appropriate rate.

### DETERMINATION OF HIRING BY HIRER

3. The hirer may determine the hiring at any time by giving notice in writing to the owner at its address for the time being and by returning the said equipment to the Owners at the hire's own risk and expense to such address and shall thereupon pay to the Owner all moneys then payable to it under this agreement.

### INDEMNITY AND LIABILITY

4. The Hirer's attention is drawn to the Trade Practices Act 1974 and to any other relevant State legislation which gives Hirer's certain rights against suppliers being those rights which cannot be excluded restricted or negative. Nothing in these terms condition shall be construed to exclude restrict or modify such rights.
  - (a) The Hirer shall be liable for and shall pay to the owner on demand the costs of repair and / or replacement for all damage to equipment howsoever caused or for the loss or destruction of equipment as herein set out.
  - (b) The Hirer shall be responsible for all risks of or in connection with the use of the equipment including risks to the third parties or their property and the Hirer hereby indemnifies the Owner against any claim action suit or charge or sums payable which maybe claimed incurred or paid by reason of the condition of the equipment and the possession and use of the equipment by the hirer or anyone claiming under him or using the equipment with or without the Hirer's permission and the Hirer hereby releases the owner of any loss claim action suits or damage by the Hirer or any other person pursuant to this agreement.
  - (c) The owner is hereby excluded from any liability or responsibility for the safety or suitability or the equipment for the purposes from which the Hirer intends to use it and any warranty express or implied as to the suitability of the equipment for intended use of the hirer is hereby expressly negative and the Owner shall not be liable to the Hirer for any loss or damage or delay caused through any defect or breakdown or accident or by reason of the equipment being unsuitable for the purpose of the Hirer.

### PAYMENT

5. (a) The Hirer agrees to pay all monies due to the Owner on demand or on return of the equipment whichever shall be the sooner in accordance with the Owner's schedule of current rates of hire and all other moneys payable by the Hirer under or by virtue of this agreement.
  - (b) In the event of the hirer failing on or before the expiration of the period to return the equipment in good and serviceable condition to the Owner at the place from which it was collected or other places nominated by the Owner, the Hirer hereby agrees to pay to the Owner on demand the costs incurred in retrieving the equipment and returning it to the place of hire.

- (c) Any payments due to the Owner may be deducted from the holding deposit paid on collection of the equipment.

#### LOSS AND DAMAGE

6. In the event of the Hirer failing to return the equipment on or before the expiration of the hire period to the Owner in good serviceable condition and repair the Hirer agrees as follows-
- (a) The Hirer shall pay to the owner such sums as are required to restore the equipment to a good and serviceable condition and the determination of the owner or its agents as to the sums required to effect such repairs and restoration shall be final provided that:
  - (b) Should the equipment be in such a condition that in the opinion of the Owner or its agent it is unable to be reasonably restored to a good and service able condition the equipment shall be deemed to be destroyed and the Hirer shall pay the cost of replacing the equipment with new equipment of a similar standard and use and the Hirer agrees to pay such sums for a new equipment as are listed on the owner's schedule of replacement costs a copy of which has been handed to the Hirer the receipt whereof he hereby acknowledges provided further that:
  - (c) If the equipment or any part thereof is not returned to the owner within fourteen (14) days of the date of return and if the Owner shall not have agreed in writing to the extension of such period the equipment shall be deemed to be lost and the Hirer shall pay to the Owner on demand the replacement cost of such equipment in accordance with the Owner's schedule of replacement costs as aforesaid and it is agreed.
  - (d) That in addition to the payments for repairs or replacement which may be required pursuant to sub-clauses (a), (b) or (c) hereof the Hirer shall pay to the Owner's schedule of the amount of hire which would have been recovered by the Owner for the equipment until the date of payment of such sums for repairs or replacement.
7. In the event of any dispute as to the costs of repair or replacement pursuant to this agreement the decision of the Owner shall be final.

#### POSSESSION AND USE

8. (a) The equipment may be used in any place in the Commonwealth of Australia without any condition or restriction (unless otherwise stated on the front of this form).
- (b) Possession of the equipment by the Hirer shall be that of a bailee only and the Hirer shall take reasonable and proper care thereof and precautions against the theft loss or damage to the equipment. The owner shall at all times have access to the equipment to inspect the condition thereof or for such other purpose as are necessary.
- (c) In the event of the Hirer committing any breach of or failing to fulfil the terms of this agreement or in the event of the Hirer acting or behaving in a manner which in the opinion of the Owner or its agent may prejudicially affect the rights of the Owner or damage the equipment the Owner or its agent may without notice determine the hiring and recovery possession of the equipment and retain all sums paid to the Owner but without prejudice to any subsisting or future rights of the Owner with respect to any breach or default.

#### ASSIGNMENT

9. The Hirer shall not without the written consent of the owner assign or purport to assign this agreement or any of his or hers rights hereunder to any other party

#### CONSTRUCTION

10. This agreement shall be construed according to the law of the state of New South Wales and any action by the Hirer arising there from shall be brought only in a court of the New South Wales.

#### INDULGENCE NOT TO AFFECT OWNER'S RIGHTS

11. No neglect delay or indulgence on the part of the Owner in enforcing any terms or conditions of this agreement shall prejudice the strict rights of the Owner hereunder.