

ELITE MARQUEES LIMITED TERMS & CONDITIONS OF BUSINESS

PLEASE READ CAREFULLY: THESE TERMS AND CONDITIONS CONTAIN EXCLUSION CLAUSES, IN PARTICULAR, YOUR ATTENTION IS DRAWN TO CLAUSE 7.5 AND CLAUSE 9

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IF YOU ARE CONTRACTING AS A CONSUMER, SECTIONS MARKED "**CONSUMER AND NON-CONSUMER**" AND "**CONSUMER**" APPLY.

IF YOU ARE CONTRACTING OTHER THAN AS A CONSUMER THE SECTIONS MARKED "**CONSUMER AND NON-CONSUMER**" AND "**NON-CONSUMER**" APPLY.

1.

DEFINITIONS

CONSUMER AND NON-CONSUMER

1.1

In these Terms & Conditions the following words have the following meanings:

"Booking Confirmation"

Confirmation from you that you wish us to provide the Goods and/or Services in accordance with our Quotation;

"Business Day"

A day other than a Saturday, Sunday or a public holiday in England and Wales;

"Contract"

The contract made between us and you for the supply and hire of the Marquee, purchase of Goods (if applicable) and purchase of the Services formed in accordance with these Terms & Conditions;

"Deposit"

The deposit sum specified in a Quotation, set out in these terms or as otherwise specified by us;

"Event Period"

The period of hire within the Hire Period for which you require an erected Marquee;

"Goods"

Those items detailed on the Quotation which you will purchase;

"Hire Period"

The entire period of hire of the Marquee, starting with the first delivery of equipment and ending with the completion of the deconstruction and removal of the Marquee;

"Marquee"

The marquee and all other items as identified in the Quotation other than the Goods;

"Normal Working Hours"

8AM - 4.30PM on a business day;

"Quotation"

The document produced by us setting out the details and price of the marquee, goods and services;

"Services"

The services in relation to the delivery, installation, maintenance and removal of the Marquee;

"Site"

The location where the Marquee is to be situated or is situated;

"Terms & Conditions"

These terms and conditions; **"us" "we" and "our"**

Elite Marquees Limited.

We are registered in England, our registered office address is 1 Ganton Close, Southport, Merseyside, PR8 6JN and our registered number is 8496716.

Our VAT number is 191422714;

"You" and "Your"

You or the firm or company who is hiring the Marquee(s), purchasing the Services and/or purchasing the Goods identified in the Quotation;

2. FORMATION OF CONTRACT AND APPLICATION OF TERMS & CONDITIONS**CONSUMER AND NON-CONSUMER**

2.1 We will issue you with a written Quotation in respect of the marquee, goods (if applicable) and services. You are required to pay the deposit and sign and return the quotation which shall be deemed to be an offer by you to hire the marquee and purchase the Services and Goods (if applicable) on these terms & conditions. All quotations are subject to change if we have not conducted a site visit and/or if your requirements change. If we have not conducted a site visit and, if following a site visit the quotation value increases you may cancel the contract within a period of 14 days of the date of the new quotation. If a quotation changes for any reason, we will issue an updated quotation under the same quotation number with a different issue date and the current quotation will form part of the Contract.

2.2 Once we receive the signed and dated booking confirmation and your deposit in cleared funds, we will confirm acceptance of your offer and the contract between you and us will be formed at that point. If we do not confirm acceptance of your offer no contract will be formed between you and us.

2.3

By making an offer to us you confirm that:

- (a) All the information provided by you to us is correct;
- (b) That you, if a natural person, are at least 18 years old;
- (c) That you are legally capable of entering into binding contracts;
- (d) You will ensure that all users of the marquee follow and comply with all health and safety and maintenance information we provide to you.

2.4 If you require any more information in respect of these Terms & Conditions or would like to discuss any aspect of them please contact us on 01704 509933 or admin@elite-marquees.co.uk

CONSUMER

2.5 If we accept your offer in accordance with clause 2.2 the contract will be governed by these terms & conditions.

NON-CONSUMER

2.6 Subject to our acceptance of your offer in accordance with Clause 2.2 the contract is subject to these terms & conditions to the exclusion of all other terms and conditions (including any terms or conditions which you purport to apply under any purchase order, confirmation of quotation or other document).

2.7 Any variation to these terms & conditions shall have no effect unless expressly agreed in writing and signed by an authorised representative of us.

3. THE MARQUEE AND THE SERVICES

CONSUMER AND NON-CONSUMER

3.1 We will provide you with the use of the marquee, the services and the goods (if applicable) in accordance with the quotation.

3.2 After the deconstruction and removal of the marquee we will use reasonable endeavours to make good damage caused to the site by the installation, deconstruction and/or removal of the marquee which we view as serious and unusual. For the avoidance of doubt we are not responsible for making good damage caused by ordinary wear and tear and/or for damage caused by the use of the Marquee.

4. YOUR RESPONSIBILITIES

CONSUMER AND NON-CONSUMER

4.1 You are responsible for:

- (a) The proper use and care of the marquee for the hire period;
- (b) Fire and safety procedures in relation to the hire period;
- (c) The health and safety of your guests;
- (d) Checking the site, and confirming the results to us in respect of:
 - (i) Underground services (e.g. gas, water, sewerage, electricity) less than 1 metre below the surface. If any doubt exists then the advice of the appropriate service company must be sought. It may be necessary to perform an underground scan of the site area where penetration is planned. If we or a sub contractor carry out this scan then we will charge an appropriate fee;
 - (ii) Overhead power lines which may pose a threat; and
 - (iii) Any other hazards that may pose a threat;
- (e) Providing us with access to the Site;
- (f) Obtaining all permissions, consents and licences necessary for us to legally install the marquee at the site for the hire period.

4.2 It is your responsibility to also ensure that:

- (a) No dangerous or combustible or toxic gases or other allied product such as aerosols, explosives or pyrotechnics are stored within the marquee;
- (b) If snow is a possibility the structure is heated in order to maintain a minimum temperature of 12°C inside the Marquee to prevent build-up of snow on the roof;
- (c) Persons other than our staff or those under our supervision are not admitted to the marquee during erection or dismantle operations until it is deemed structurally complete and safe by us;
- (d) Areas underneath stages, platforms etc. are not used for storage and rubbish does not accumulate underneath these areas;
- (e) Exit routes are kept free from obstruction at all times;
- (f) When any person is in the marquee, the exit doors are not locked;
- (g) Continual reference is made to weather forecasting services, particularly with regard to a marquee erected during the winter months and/or those erected on an exposed Site;
- (h) Contingency plans are in place to evacuate the marquee when wind speeds approach 60mph or when measures to remove snow have been unsuccessful; and
- (i) No modifications are made to the marquee, in particular structural components (such as cross bracing) or the number and positioning of exits.

5. DELIVERY, INSTALLATION AND MAINTENANCE

CONSUMER AND NON-CONSUMER

5.1 We will deliver the marquee, our installation equipment and goods (if applicable) at a time and date agreed with you. Any specific site access requirements will be notified to you at the appropriate time.

5.2 Once we have completed the construction and installation of the marquee and installation we will conduct a handover meeting with you where you will be asked to confirm the marquee and goods (if applicable) are in accordance with the latest quotation.

5.3 If during the course of the hire period the marquee falls below the standard accepted under clause 5.2 if you request us to we will use reasonable endeavours to return the marquee to that standard. If the standard falls below that standard due to the action or inaction by you, a guest or factors beyond our control you will be charged the full cost of the work. If the standard falls below that standard not due to action or inaction by you or a guest you will not be charged for the cost of the work.

6. CHARGES

CONSUMER AND NON-CONSUMER

6.1 The price for the marquee, services and goods (if applicable) is detailed in the quotation. Prices quoted by us will be valid for a period of 30 days. After such time we reserve the right to amend the prices.

6.2 The price payable by you is that set out in the latest quotation.

6.3 All quotations are made on the assumption that we will not be required to work outside our normal working hours. If we are required to work outside our normal working hours due to changes to your requirements or site quality not disclosed to us or other reasons attributable to you we reserve the right to make additional charges notified to you in advance.

6.4

All prices given are exclusive of VAT unless otherwise stated

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We will show the VAT payable at the applicable rate on all our quotations and invoices.

6.5 All quotations are subject to change if we have not conducted a site visit and/or if your requirements change. If a quotation changes for any reason, we will issue an updated quotation under the same quotation number with a different issue date and the latest quotation will form part of the Contract.

7. PAYMENT

CONSUMER AND NON-CONSUMER

7.1 We require payment to be made as follows:

(a) 20% of the price set out in the quotation to secure the hire/sale of the marquee, the purchase of the services and the purchase of the Goods (if applicable) for the event period which is non refundable;

(b) The final 80% of the price set out in the quotation and all additional sums incurred during the hire period is due 14 days prior to event starting date.

7.2 If other payment terms have been arranged prior to the order these payment terms must be met as agreed and invoiced.

7.3 No payments shall be deemed to have been received until we have received payment in cleared funds.

7.4 Payment must be in pounds sterling and may be made by cheque, BACS or credit or debit card. Credit card payments shall be subject to a 3.5% surcharge.

7.5 IF WE DO NOT RECEIVE CLEARED FUNDS IN ACCORDANCE WITH THIS CLAUSE WE RESERVE THE RIGHT TO CANCEL THE CONTRACT, REMOVE ANY DISCOUNT APPLIED AND INCREASE THE SUM DUE ACCORDINGLY, NOT COMMENCE INSTALLATION OF THE MARQUEE OR, AS APPROPRIATE, DECONSTRUCT AND REMOVE THE MARQUEE.

7.6 All payments due should be made to Elite Marquees Limited.

CONSUMER

7.7 If you do not pay any sum due pursuant to this clause you will be liable to pay the full amount due together with interest from the due date for payment at an annual rate of 2% above the base lending rate of Lloyds TSB plc, accruing on a daily basis until payment is made, whether before or after judgment.

NON-CONSUMER

7.8 If you do not pay any sum due pursuant to this clause you will be liable to pay the full amount due together with interest from the due date for payment at an annual rate of 5% above the base lending rate of Lloyds TSB plc, accruing on a daily basis until payment is made, whether before or after judgment.

7.9 All payments payable to us under the contract shall become due immediately upon termination of the Contract for whatever reason despite any other provision in the contract. Version 1 May 2010

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7.9 You shall make all payments due under the contract without any deduction whether by way of set off, counterclaim, discount, abatement or otherwise.

8. CANCELLATION AND TERMINATION

CONSUMER AND NON-CONSUMER

8.1 If you need to cancel the contract for any reason, the following charges will apply:

(a) If cancellation is made more than 14 business days before the first day of the hire period the deposit shall be retained and a further 25% of the full price set out in the current quotation shall be charged;

(b) If cancellation is made 14 or less business days before the first day of the hire period the deposit shall be retained and the full balance of the price in the current quotation shall be charged.

8.2 If you do need to cancel the contract for any reason, please do so by writing to us at the address set out above.

8.3 In the unlikely event that we need to cancel the contract and it is our fault we will give you as much notice as possible and will give you a refund for all sums paid to us by you including the deposit.

8.4 You and/or we shall be entitled to terminate the contract immediately by giving written notice to the other if:

(a) The other fails to pay any sum due within 30 days of written notification that payment is due;

(b) The other commits a material breach of any of the provisions of the contract and in the case of a breach which is capable of remedy fails to remedy the same within 30 days after receipt of written notice giving particulars of the breach and requiring it to be remedied;

(c) The other persistently breaches the provisions of the contract;

(d) An interim order is applied for or made, or a voluntary arrangement approved, or a petition for a bankruptcy order is presented or

A bankruptcy order is made against the other, or a receiver or trustee in bankruptcy is appointed over the other's estate or a voluntary arrangement is proposed or approved or an administration order is made, or a receiver or administrative receiver is appointed over any of the other's assets or undertakings, or a winding-up resolution or petition is passed or presented (otherwise than for the purposes of solvent reconstruction or amalgamation) or any circumstances arise which entitle the court or a creditor or the company (where the other is a company) or its directors to appoint a receiver, administrative receiver or administrator or to present a winding-up petition or make a winding-up order, or other similar or equivalent action is taken against or by the other party by reason of its insolvency or in consequence of debt.

9. LIMITATION OF LIABILITY

YOUR ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

CONSUMER

9.1 We will provide the services to you with reasonable care and skill. The marquee and goods (if applicable) will be in accordance with any description or sample previously given by us. The marquee and goods (if applicable) will be of satisfactory quality and if required for a particular purpose which you have disclosed to us will be reasonably fit for that disclosed purpose.

9.2 If you are contracting as a consumer, we do not accept responsibility for business losses.

9.3 We accept full liability and responsibility for death and personal injury to the extent that it is caused by our negligence, for liability under section 2(3) of the Consumer Protection Act 1987, and for fraud or fraudulent misrepresentation or for any matter for which it would be illegal for us to exclude, or attempt to exclude.

9.4 Our liability for all other loss or damage other loss or damage not covered by clause 9.3 but arising out of or in connection with the contract whether caused by our negligence, breach of contract, breach of statutory duty or otherwise is limited to the sum due under the contract in aggregate.

NON-CONSUMER

9.5 We will provide the services to you with reasonable care and skill and the marquee and goods (if applicable) will be of satisfactory quality.

9.6 Subject to clause 9.8, all conditions, warranties or other terms which might be implied or incorporated into the Contract or any collateral contract, whether by statute, common law or otherwise, are hereby excluded, including, without limitation, the implied conditions, warranties or other terms as to satisfactory quality, fitness for purpose and the use of reasonable skill and care.

9.7 Except as expressly stated in clause 9.8:

(a) Our liability, whether under the contract or any collateral contract, for loss of or damage to your tangible property caused by our negligence, the negligence of our officers, employees, contractors or agents, shall not exceed the sum due under the contract in aggregate; Version 1 May 2010 5

(b) we shall have no liability for any losses or damages which may be suffered by you (or any person claiming under or through you), whether the same are suffered directly or indirectly or are immediate or consequential, and whether the same arise in contract, tort (including negligence) or otherwise howsoever arising, which fall within any of the following categories:

(i) Loss of profits;

(ii) Loss of revenue;

(iii) Loss of anticipated savings;

(iv) Loss of business opportunity or contracts;

(v) Loss of goodwill;

(vi) Loss of production;

Provided that this clause 9.7(b) shall not prevent claims for loss of or damage to your tangible property that fall within the terms of clause 9.7(a) or any other claims for direct financial loss that are not excluded by any of categories (i) to (vi) inclusive of this clause 9.7(b);

(c) We shall have no liability for any indirect loss whether arising in contract tort (including negligence) or otherwise howsoever arising; and

(d) Save as set out in clauses 9.7(a) our total liability whether in contract, tort (including negligence) or otherwise howsoever arising and whether in connection with the contract or any collateral contract shall in no circumstances exceed a sum equal to the sum due under the contract in aggregate.

9.8 The exclusions in the contract shall apply to the fullest extent permissible at law, but we do not exclude liability for death or personal injury caused by our negligence of our officers, employees, contractors or agents, for fraud or fraudulent misrepresentation, for breach of the obligations implied by section 12 Sale of Goods Act 1979 or section 2 Supply of Goods and Services Act 1982, or for any other liability which may not be excluded by law.

10. GOODS

CONSUMER AND NON-CONSUMER

10.1 If you are purchasing goods from us the goods shall be at our risk until delivered to the site from which time they will be at your risk. Ownership to the goods will transfer from us to you when we have received full payment for the goods in cleared funds in accordance with clause 7.

11. DAMAGE CAUSED BY YOU

CONSUMER

11.1 You shall pay to us the full cost of making good any damage to our equipment on site and/or the marquee or if necessary the full cost of replacing our equipment and/or the marquee if such items are damaged or lost as result of your failure to take good care of our equipment and/or the marquee and/or by any breach by you of these terms & conditions.

NON-CONSUMER

11.2 You shall indemnify us in full and on demand and keep us fully and effectually indemnified from and against any and all costs, proceedings, actions, claims or demands, liabilities, losses, damages incurred by us as a result of your breach of any terms of the terms & conditions and any damage caused to the marquee and/or our equipment on the Site which is not caused by us, our agents or sub-contractors.

12. INSURANCE

CONSUMER AND NON-CONSUMER

12.1 We are responsible for insuring the marquee (as a modular building structure) for the hire period on an all risks basis but excluding theft, vandalism and malicious damage.

12.2 We can extend our insurance to cover theft, vandalism and malicious damage if you want us to and we will pass the cost of this extra insurance on to you at a cost of 2.5% of the sum due under the contract. If you do not ask us to obtain such extra insurance cover, you will be liable for all our losses which would have been insured losses and those which are not insured losses which arise from theft, vandalism and/or malicious damage during the hire period.

12.3 You are responsible for the first £350 of any claim we make on our insurance policy in respect of the hire period and we are insured up to a maximum of £500,000.00 for any single loss.

13. ASSIGNMENT

CONSUMER

13.1 You are not permitted to transfer the contract or any part of it unless you have express prior written consent (such consent not to be unreasonably withheld). We may transfer the contract if we need to for a business reason as long as you will not be disadvantaged by such a transfer.

NON-CONSUMER

13.2 We may assign, transfer, charge or deal with the contract or any part of it. You may not assign transfer, charge or deal with the contract or any part of it.

14. EVENTS BEYOND REASONABLE CONTROL

CONSUMERS AND NON-CONSUMERS

14.1 Neither party shall be in breach of the contract, nor responsible for any failure or delay in performance of any of its obligations under the contract (other than a failure to pay any sum due) if it is prevented from or delayed in the carrying out of its obligations under the contract due to circumstances beyond its reasonable control, including, without limitation, acts of god, governmental actions, national emergency, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not in relation to either party's workforce) and the party affected by such force majeure event shall have a reasonable extension of time in which to fulfil its obligations under the contract, after which, either party shall be entitled to give notice in writing to terminate the contract.

15. COMMUNICATIONS

CONSUMER AND NON-CONSUMER

15.1 All formal communications between you and us about the contract must be in writing and delivered by hand or sent by pre-paid first class post, by e-mail or by fax transmission:

(a) In case of communications to our registered office above or, 01704 509933 or such other address as we notify to you in accordance with this clause; or

(b) In the case of communications to you to the address you have provided us with as shown on the current quotation or such other address as you notify to us in accordance with this clause.

15.2 Communications shall be deemed to have been received:

(a) If sent by pre-paid first class post, 2 Business Days after posting (excluding of the day of posting);

(b) If delivered by hand on a business day, on the day of delivery and if not delivered on a business day on the next business day;

(c) If sent by e-mail, when acknowledged by the recipient;

(d) If sent by fax transmission on a Business Day prior to 4.00 pm, at the time successful transmission notification is produced and otherwise on the next business day.

16. DATA PROTECTION

CONSUMER AND NON-CONSUMER

16.1 Any personal data (as defined in the Data Protection Act 1998) provided by you to us will be used solely and passed to our officers, agents and sub-contractors for the purpose of the provision of the marquee, goods and services by us, our officers, agents and sub-contractors (as applicable) and will be used and stored in accordance with the provisions of the Data Protection Act 1998 and all other relevant legislation.

16.2 If you are a person (rather than a company, firm etc.) you will have the right to request details of what personal data we hold about you. Any requests should be made in writing to the company secretary at our registered office above and should include details of the request, full name, contact details and telephone number.

17. COMPLAINTS

CONSUMER AND NON-CONSUMER

17.1 Any complaints about the marquee or services should be sent in writing to the registered office above, marked for the attention of the managing director.

18. GENERAL

CONSUMER AND NON-CONSUMER

18.1 Each right or remedy of you and us under the contract shall not affect any other right or remedy of the parties whether under the contract or not.

18.2 If any provision of the contract is found by any court, tribunal or administrative body to be completely or partly illegal, void, voidable, unenforceable or unreasonable it shall, to the extent of such illegality, voidness, voidability,

Unenforceability or unreasonableness not be a part of the contract and the remaining provisions shall continue in full force and effect.

18.3 You shall only use the marquee for lawful purposes and in accordance with all applicable laws.

18.4 A person who is not a party to the contract shall not have any rights under or in connection with it pursuant to the contract (Rights of Third Parties Act) 1999 save as set out in the contract.

CONSUMER

18.5 Failure or delay by you and/or us in enforcing or partially enforcing your and/or our rights under the contract will not be construed as a waiver of any of your or our rights under the contract.

18.6 Any waiver by you and/or us of any breach of, or any default under, any part of the contract by the other will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the contract unless it is expressly confirmed in writing by the party waiving rights.

18.7 The formation, existence, construction, performance, validity and all aspects of the contract shall be governed by English law and the parties submit to the non-exclusive jurisdiction of the English courts as far as possible. In some circumstances the laws where you are domiciled may apply and the courts where you are domiciled may have jurisdiction.

NON-CONSUMER

18.8 The contract constitutes the whole agreement between you and us and supersedes all previous agreements between you and us relating to its subject matter. We and you acknowledge that, in entering into the contract, neither you nor us have relied on, and, subject to clause 9.8, shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in the contract.

18.9 Failure or delay by us in enforcing or partially enforcing any provision of the contract will not be construed as a waiver of any of our rights under the contract.

18.10 Any waiver by us of any breach of, or any default under, any provision of the contract by you will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the contract unless it is expressly confirmed in writing by us.

18.11 The formation, existence, construction, performance, validity and all aspects of the contract shall be governed by English law and you and we submit to the non-exclusive jurisdiction of the English courts.

Name:

Date:

Signature: