

# **EQUIPMENT HIRE TERMS & CONDITIONS**

## **1 General**

- 1.1 Any terms or conditions sought to be imposed by either party shall not be incorporated into the Contract and shall have no effect unless agreed to in writing by the other party.
- 1.2 SMILE EVENTS LTD T/A S.E.A.V agrees to let, and the HIRER agrees to take on the hire of the Equipment described in the Schedule attached and subject to the Terms and Conditions set out below.

## **2 Prices**

- 2.1 The prices for the hire of equipment are set out in the Schedule. Our terms of payment are 20% non-refundable deposit upon booking, and full payment 7 days prior to the hire, unless other terms are agreed in writing. The HIRER shall, if required by Smile Events Ltd t/a S.E.A.V, pay a security deposit at the commencement of the hire period.
- 2.2 SMILE EVENTS LTD T/A S.E.A.V shall be entitled to make a reservation charge in respect of Equipment reserved by the HIRER.

## **3 Risk**

- 3.1 As soon as we have delivered the hire equipment (or it is collected from our premises), you will be responsible for it and we will not be liable for any loss or destruction. Therefore, you would need to take necessary steps to insure the items.

## **4 Commencement & Termination**

- 4.1 SMILE EVENTS LTD T/A S.E.A.V may terminate this Agreement forthwith by giving written notice to the HIRER and re-take possession of the Equipment in the event of:
  - 4.1.1 any material breach of this Agreement by the HIRER which has not been immediately remedied (if capable of remedy) following a written demand by SMILE EVENTS LTD T/A S.E.A.V.
  - 4.1.2 if any order is made, proceedings are commenced or a resolution is passed, for the liquidation or winding-up of the HIRER.
  - 4.1.3 if a distress or execution is levied against any property of the HIRER
  - 4.1.4 if a liquidator or receiver or administrator is appointed in respect of the undertaking or any property or assets of the HIRER.
  - 4.1.5 if the HIRER ceases or threatens to cease to carry on its business or is unable to pay its debts as they fall due or enters in any arrangements with creditors generally.
  - 4.1.6 if SMILE EVENTS LTD T/A S.E.A.V reasonably believes that its rights in the Equipment are in jeopardy.
- 4.2 If SMILE EVENTS LTD T/A S.E.A.V has supplied Equipment on negotiated terms for a Hire period, SMILE EVENTS LTD T/A S.E.A.V shall, unless otherwise agreed, be entitled to payment of all rentals due up to the end of the agreed hire period notwithstanding the earlier return of the Equipment to SMILE EVENTS LTD T/A S.E.A.V.

## **5 Ownership of the Equipment**

- 5.1 Title in the Equipment shall never pass to the HIRER and the HIRER'S interest in the Equipment shall only be and remain that of HIRER.
- 5.2 The Equipment shall remain personal moveable property and shall continue in the ownership of SMILE EVENTS LTD T/A S.E.A.V notwithstanding that the same may have been affixed to any land or building. The HIRER shall be responsible for any damage caused to any such land or building by the affixing to or removal there from of the Equipment (whether the same be effected by SMILE EVENTS LTD T/A S.E.A.V or the HIRER) and shall indemnify SMILE EVENTS LTD T/A S.E.A.V against any such claim made in respect of such damage.
- 5.3 The HIRER shall agree not to sell, offer for sale, assign, mortgage, charge or sublet the Equipment or this Agreement or the letting hereunder, nor hold itself out as the owner of the Equipment and shall not create or allow to be created, any lien or other encumbrance on the Equipment.
- 5.4 The HIRER shall affix to and maintain upon the Equipment such plates or identification marks, as SMILE EVENTS LTD T/A S.E.A.V shall require, showing that the Equipment is the property of SMILE EVENTS LTD T/A S.E.A.V.
- 5.5 The HIRER shall not cause or permit the Equipment to be removed from the HIRER'S possession without the prior written consent of SMILE EVENTS LTD T/A S.E.A.V.
- 5.6 The HIRER shall assume the entire risk of damage to or loss of the Equipment or any part thereof. Insurance of the equipment is the responsibility of the HIRER whilst on hire to the HIRER.
- 5.7 SMILE EVENTS LTD T/A S.E.A.V or its authorised representatives may enter at all times during normal business hours, at any premises to inspect the Equipment and, upon termination, to repossess the Equipment.
- 5.8 The HIRER agrees to indemnify and keep indemnified SMILE EVENTS LTD T/A S.E.A.V, against all liabilities, actions, claims, damages, costs and demands suffered or incurred by SMILE EVENTS LTD T/A S.E.A.V, as a result of a claim made by a third party arising out of the state, condition or use of the Equipment or in any way out of its hiring hereunder.
- 5.9 On termination of this Agreement for whatever reason, the HIRER shall immediately return the Equipment or make the same available for collection by SMILE EVENTS LTD T/A S.E.A.V and shall grant SMILE EVENTS LTD T/A S.E.A.V all necessary access to repossess the same.

## **6 Delivery**

- 6.1 The HIRER shall unless otherwise agreed with SMILE EVENTS LTD T/A S.E.A.V, be responsible for the collection and return of the Equipment from and to SMILE EVENTS LTD T/A S.E.A.V'S premises.
- 6.2 SMILE EVENTS LTD T/A S.E.A.V will at the request of the HIRER, procure delivery of the Equipment to the HIRER'S premises or venue, subject to payment by the HIRER of SMILE EVENTS LTD T/A S.E.A.V'S charges for delivery.
- 6.3 SMILE EVENTS LTD T/A S.E.A.V will use all reasonable endeavours to make the Equipment available on the date required by the HIRER but shall not be liable for any costs or claims arising as a result of delay.
- 6.4 SMILE EVENTS LTD T/A S.E.A.V will either repair or replace, in each case at no charge to the HIRER, any Equipment which is found by SMILE EVENTS LTD T/A S.E.A.V to be defective or not capable of obtaining any published specification as a result of faulty design, manufacture or workmanship. The HIRER shall give SMILE EVENTS LTD T/A S.E.A.V written notice of any claim made hereunder, as soon as reasonably practicable and in any event within twenty four hours after the alleged defect has come to the HIRER'S knowledge. It is expressly agreed between the parties that SMILE EVENTS LTD T/A S.E.A.V may be absolved from all liability under this condition if the Equipment has been modified in any way by the HIRER or if it has been used for any purpose or in any manner other than that for which it was designed or if it has in any way otherwise been misused.
- 6.5 SMILE EVENTS LTD T/A S.E.A.V does not accept responsibility for any consequential, indirect or economic loss or damage howsoever arising except to the extent that the same is attributable to negligence on the part of SMILE EVENTS LTD T/A S.E.A.V or its employees.

## **7 Payment Terms**

- 7.1 Unless the Agreement provides otherwise, the price for the hire of equipment shall be payable no later than 7 days ahead of the hire start date. The time stipulated for payment shall be of the essence of the Agreement. Failure to pay within the period specified shall entitle us to write to you upon the expiration of seven days notice, to charge you for costs and expenses incurred in recovering late payments, and to charge interest at the rate then in force pursuant to the Late Payment of Commercial Debts (Interest) Act 1998 as at the due date.
- 7.2 If paying by credit card the HIRER will be required to provide full card details at the time of order placement. Smile Events Ltd t/a S.E.A.V reserves the right to check the validity of the credit card by the appropriate organisation.
- 7.3 All invoices shall be paid without deduction. In the event of an error or query on the invoice, payments shall be made to SMILE EVENTS LTD T/A S.E.A.V for the whole amount claimed less the amount queried or in error.
- 7.4 We shall be entitled to charge interest on overdue invoices from the date when payment becomes due from day to day until the date of payment at a rate of 1.5% per annum above the base rate of the Bank of England.

## **8 Conditions of Use**

- 8.1 The HIRER shall ensure that the Equipment is operated in a skilful and proper manner by persons competent to operate the same and in all respects in accordance with all instructions and any operations manual provided by SMILE EVENTS LTD T/A S.E.A.V for the use of the Equipment and shall ensure that such directions and instructions are fully understood and will be observed by all persons operating the Equipment.
- 8.2 The HIRER shall not make or permit to be made any alterations, modifications or additions to the Equipment and shall not carry out any repairs or authorise the carrying out of any repairs to the Equipment by a third party without SMILE EVENTS LTD T/A S.E.A.V'S prior written consent.
- 8.3 The HIRER shall take all reasonable proper care of the Equipment and keep the same in good and serviceable condition (reasonable fair wear and tear excepted) and shall indemnify SMILE EVENTS LTD T/A S.E.A.V against loss of or damage to the Equipment howsoever caused and shall give SMILE EVENTS LTD T/A S.E.A.V immediate notice of any such damage.

## **9 Right to Cancel**

- 9.1 We will permit you to cancel this Agreement by sending written notice no later than 7 days after the date on which this Agreement has been signed. If you request cancellation at a later date, then unless we are in breach of contract, we have the right to refuse [or] retain all or part of your deposit as a contribution towards any losses or costs we suffer as a result of the cancellation.
- 9.2 Upon the termination of this Agreement before the end of the Hire period, the HIRER shall pay to SMILE EVENTS LTD T/A S.E.A.V on demand the aggregate of:
  - 9.2.1 all rentals and other sums due or in arrears at the date of termination under this Agreement.
  - 9.2.2 all costs (including legal costs) incurred as a result of a breach of this Agreement including repossessing and restoring the Equipment to its proper condition.
  - 9.2.3 as agreed damages, a sum equal to the aggregate rentals that would have become due hereunder during the Minimum Period had this Agreement not been terminated, less a discount for accelerated payment of 3% per annum compounded on (and at the frequency of) each rental payment outstanding.
- 9.3 We reserve the right to cancel this Agreement if your location is outside our service area.

## **10 Performance**

The performance of the equipment provided by SMILE EVENTS LTD T/A S.E.A.V will be supplied in accordance with manufacturer's published performance details or within performance acceptance criteria.

## **11 Force Majeure**

11.1 If either party to this Agreement is prevented or delayed in the performance of any of its respective obligations under this Agreement by "force majeure", then such party shall be excused the performance for so long as such cause of prevention or delay shall continue;

11.2 For the purpose of this Agreement 'force majeure' shall be deemed to be any cause affecting the performance of this Agreement arising from or attributable to acts, events, omissions or accidents beyond the reasonable control of such party and inter alia including, but not limited to the following:

- 11.2.1 strikes, lockouts or other industrial action;
- 11.2.2 civil commotion, riot, invasion, war threat or preparation for war;
- 11.2.3 fire, explosion, storm, flood, earthquake, subsidence, epidemic, bad weather or other natural physical disaster;
- 11.2.4 impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport; and
- 11.2.5 political interference with the normal operations.

## **12 Invalidity**

If any part of these terms and conditions is unenforceable (including any provision in which we exclude our liability to you) the enforceability of any other part of these conditions will not be affected.

## **13 Liability**

- 13.1. Except for death or personal injury caused by our negligent acts or omissions we shall only be liable for any loss or damage which is a reasonably foreseeable consequence of a breach of this Agreement.
- 13.2. You will be responsible for all claims, liabilities, damages, costs and expenses suffered or incurred by us as a result of your breach or default in the discharge of your obligations.
- 13.3. Where we need to carry out work on your premises (or those hired for the event) and/or install equipment, we will not accept liability for the cost of repairing or replacing parts of your existing system (or those of the venue) which occur due to faults in your system unless we have been negligent in not realising that such damage may occur or in the way we did the work.
- 13.4. Nothing in this Agreement shall exclude or limit Smile Events Ltd t/a S.E.A.V'S liability for death or personal injury resulting from Smile Events Ltd t/a S.E.A.V'S negligence or that of its employees, agents or sub-contractors.

## **14 Governing Law**

All Hire of equipment shall be governed by and interpreted in accordance with the laws of England and the parties submitted to the jurisdiction of the English Courts, but SMILE EVENTS LTD T/A S.E.A.V may enforce any such Hire of equipment in any court of competent jurisdiction.

In the event of a dispute or difference arising from these conditions or the interpretation thereof or otherwise arising from the Hire of the equipment under these conditions, such dispute or differences shall be referred to arbitration by a single arbitrator mutually agreed between the parties or failing such agreement, by an arbitrator nominated by the President of the Institute of Arbitrators. Any such arbitration shall be conducted in accordance with the Arbitration Act 1950, and by application of the law of England.

## **15 Entire Agreement**

- 15.1. This Agreement contains the entire agreement between the parties relating to the subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written.
- 15.2. Nothing in this Agreement is intended to, nor shall it confer any rights on a third party.
- 15.3. We reserve the right to make minor changes to this Agreement from time to time. Any major changes will only be made with your agreement.

## **16 Customer Services**

- 16.1. To protect your own interests please read the conditions carefully before signing them. If you are uncertain as to your rights under them or you want any explanation about them please write or telephone using the address and telephone number set out above.
- 16.2. If you are unhappy with any aspect of our service, please contact our office. Any complaints will be dealt with sympathetically and we will work with you to reach a satisfactory conclusion.

## **17 Data Protection**

You consent to the computer storage and processing of your personal data by us in connection with this Agreement and to the transmission of this data across Smile Events Ltd t/a S.E.A.V and its business partners for the purposes of our legitimate interests including statistical analysis, marketing of our services and credit control. If you breach this Agreement, your personal data may be disclosed or passed to third parties to the extent necessary to assist recovery procedures.