



## Terms of Business

### 1. Definitions

- 1.1. In these Terms of Business, the following words and expressions shall have the meanings set opposite them.
- 1.1.1. **“Booking”** means the arrangement of the hire of the Equipment including, but not limited to, setting the dates for the Period of Hire, agreeing the Hire Charge, specifying the nature of the Event and setting out any additional requirements the Client may have as detailed in the Quotation;
- 1.1.2. **“Business Day”** means, any day (other than Saturday or Sunday) on which ordinary banks are open for their full range of normal business in Edinburgh and London;
- 1.1.3. **“Client”** is the legal person/entity, including (without prejudice to the foregoing), company, partnership or unincorporated association hiring the equipment from the Company;
- 1.1.4. **“Company”** means Mark Paton trading as Stretch Tents Scotland, 11 Barnton Grove, Edinburgh EH4 6EQ;
- 1.1.5. **“Confidential Information”** means, in relation to either Party, information which is disclosed to that Party by the other Party pursuant to or in connection with these Terms and Conditions (whether orally or in writing or any other medium, and whether or not the information is expressly stated to be confidential or marked as such);
- 1.1.6. **“Contract”** means the contract for the provision of the Equipment at the Venue as detailed in a Quotation which contract comprises these Terms and Conditions and the Quotation and any agreement in writing between the Parties specifically stating that such writing is varying the terms of these Conditions and/or a Quotation;
- 1.1.7. **“Delivery Date”** means the date specified in the Quotation for the delivery and erection of the Equipment at the Venue;
- 1.1.8. **“Deposit”** means an advance payment made to the Company as stipulated in the Quotation;
- 1.1.9. **“Equipment”** means the tent(s), decor, flooring & light equipment, Public Address or other musical or sound reinforcement system and other materials specified on the Quotation and nothing else;
- 1.1.10. **“Event”** means the event or function which the Client intends to host using the Equipment as specified in a Quotation;

- 1.1.11. **“Hire Charge”** is the amount payable by the Client to the Company as specified in the Quotation;
- 1.1.12. **“Invoice”** is the invoice issued by the Company to the Client in relation to the Quotation;
- 1.1.13. **“Party”** means either the Company or the Client as the case may be and **“Parties”** shall mean both the Company and the Client;
- 1.1.14. **“Period of Hire”** means the period from the Delivery Date until the Equipment has been dismantled and removed from the Venue;
- 1.1.15. **“Quotation”** means the quotation sent by the Company to the Client for the hire of the Equipment for the Event at the Venue for the Hire Charge during the Period of Hire subject to these Terms and Conditions;
- 1.1.16. **“Venue”** means the location where the Equipment is being used for the Event;

## 2. **Conditions**

- 2.1. The Contract comprises the entire express contract between the Company and the Client.
- 2.2. The Contract shall not be varied other than expressly in writing between the Company and the Client.
- 2.3. Unless stated otherwise in writing, all Quotations are accepted subject to these Terms and Conditions; and the Client, by authorising or allowing work to proceed, is deemed to have accepted the Contract.

## 3. **The Company Undertakes**

- 3.1. To deliver the Equipment on the Delivery Date and to proceed to erect if for use during the Period of Hire except that if the Equipment is tables, chairs or other such goods, the Company's obligation is limited to delivery only.
- 3.2. To dismantle and remove the Equipment from the Venue as soon as reasonably practicable after the Period of Hire.

## 4. **The Client Undertakes**

- 4.1. To pay the Deposit and to pay the balance in accordance with the Invoice. The Company reserves the right not to provide the Equipment should payment not be received.
- 4.2. If payment of the Hire Charge is required before the Delivery Date in terms of the Quotation, please note that failure to make the payment by the due date may result in the Company not providing the Equipment. If this occurs, the Company will retain the Deposit in full and may still demand payment for any part of the Equipment that the Company has already provided.
- 4.3. To pay interest on all monies outstanding 14 days after the date for payment both before and after judgement at a rate of 4% per annum above the base rate of Clydesdale Bank PLC from time to time.
- 4.4. To provide the Company with either a plan showing the position in which the Equipment is to be erected and all underground services and any apparent obstacles or to make available a representative at the Venue for that purpose. In the absence of

both, the Company having erected the Equipment where it thinks fit shall be deemed to have complied with its obligations under the Contract. In any event, the Client and not the Company will be responsible for any damage to underground cables or pipes.

- 4.5. To obtain any necessary permission to erect the Equipment from the Venue owner.
- 4.6. To obtain any necessary licences from the local authority relating to the Event.
- 4.7. To obtain planning consent and or building control approval, should this be required.
- 4.8. If any part of the Equipment includes electrical apparatus to provide such power points or supply as may be reasonably required by the Company within 15 metres of the Equipment.
- 4.9. Not to enter the Equipment whilst it is being erected or dismantled by the Company.
- 4.10. To keep any part of the Equipment that is a framed structure or a Stretch Tent completely closed and secure when not in use.

## **5. Variations**

- 5.1. The Company will use reasonable endeavours to supply the Client with the Equipment but where this is not possible the Company will notify the Client as soon as possible with any alterations to the design and specifications of the Equipment and where alteration is fundamental, the Client may terminate the Contract and any Deposit paid will be refunded.
- 5.2. The Hire Charge is based on the assumption that the Client provides a firm and level site of turf (or some other material not impervious to stakes and able to absorb rainwater) and is served by a firm access road adjacent to the Venue with adequate hard-standing for commercial vehicles that is free from flooding, trees and overhead obstructions. If this is not the case or the Client wishes the Company to erect the Equipment in a different position on the Venue to the one indicated by the Client at the time of Quotation and in either event the costs to the Company are subsequently increased by reason of increase in labour costs or any other factor, the Company may increase the Hire Charge in accordance with the Company's published price list and hourly labour rate then in force.

## **6. Loss or Damage or Excessive Soiling**

- 6.1. The Client shall throughout the Period of Hire be responsible for the maintenance and safe custody of the Equipment.
- 6.2. The Client must be satisfied with the Equipment before use and should notify the Company of any miscounts, incorrect deliveries or unacceptable Equipment before use.
- 6.3. The Client must provide to the Company proof of having arranged insurance in their name for the hired Equipment at least seven days prior to the delivery date of the Equipment.
- 6.4. If a Damage Waiver fee is included in the Quotation, then upon payment of the Damage Waiver fee the above clause 6.3 will not apply but the Client will remain responsible for the first £500 of any loss and for any loss or damage resulting from their negligence or legal liability.

## **7. Understanding**

- 7.1. All sums payable under the Contract, unless otherwise stated, are exclusive of VAT and other duties or taxes. Any VAT, or other duties and taxes payable in respect of such sums shall be payable in addition to such sums.
- 7.2. The Hire Charge does not include making good any repairs to the Venue unless caused by the negligence of the Company's employees, agents or contractors.

## **8. Cancellation**

- 8.1. Either Party shall have the right to terminate the Contract, without penalty, within seven days from the date of the Contract, subject to written confirmation of such termination being given by one Party to the other within this period.
- 8.2. In the event of such termination by either Party, the Company shall refund to the Client all sums paid by the Client to the Company by way of Deposit or otherwise. The Client is therefore advised not to enter into any other contract that relies upon the hire of the Equipment until the seven day period has passed.
- 8.3. Once the period of seven days referred to in the preceding clause has passed, should the Client cancel the contract the Client shall compensate the Company to the extent of their reasonable costs incurred. As a guide, these would be no more than 20% of the Hire Charge if the Company is able to re-let the Equipment or 50% if it unable to do so. Cancellation less than seven days prior to the Period of Hire may result in higher costs, but the compensation due will not in any event exceed the Hire Charge.
- 8.4. Once the period of seven days referred to in the preceding clause has passed, should the Company cancel the contract the Company shall pay the Client compensation of 50% of the Hire Charge (100% if less than seven days prior to the Period of Hire).

## **9. The Booking**

- 9.1. the Client may change the Booking at any time up to 15 Working Days before the commencement of the Period of Hire. Please note that whilst the Company will use reasonable endeavours to accommodate any changes requested, the Company cannot guarantee the availability of the Equipment on any dates that the Client has not already booked as the Equipment may already have been reserved by another customer for that/those dates. If the Client changes the Booking less than 15 Working Days before the commencement of the Period of Hire and agrees to a new Booking (whether at the same or a different Hire Charge) before the commencement of the Period of Hire, the Client will forfeit the original Deposit and be required to pay a new Deposit, reflecting the Company's lost opportunity to hire the Equipment out to other customers. Requests to change Bookings must be confirmed in writing.
- 9.2. If the Booking is changed, the Company will inform the Client of any change to the Hire Charge in writing. If the change results in an increase in the Hire Charge, the Company will not proceed with the change without the Client's acknowledgement and agreement.
- 9.3. Once the Booking is made and the Deposit has been paid, the Equipment will be reserved for the Client for the Period of Hire subject to the terms of the Contract.
- 9.4. The Company shall have no liability to the Client if it is unable to accommodate a change

in Booking or if the Company can accommodate a change in booking, but the Client refuses to pay a reasonable increase in the Hire Charge. In either case, the Client will forfeit the Deposit and any other reasonable out of pocket expenses incurred by the Company and the Company will be entitled to compensation in terms of clauses 8.3 and 8.4 as a cancellation depending on whether the deemed cancellation took place 15 Working Days before the commencement of the Period of Hire or not as the case may be.

#### **10. Exclusion of Liability**

- 10.1. The Company shall use reasonable endeavours to complete the erection of the Equipment on or before the commencement of the Period of Hire shown on the Quotation provided that the Client has complied with the undertakings set out above. If the Equipment is not erected on or before the Commencement of the Period of Hire shown on the Quotation the Client shall have the right to terminate the Contract and the Company shall return all monies paid. If the Equipment is not erected because of delays due to weather or other circumstances beyond its reasonable control the Company shall not be liable to pay further compensation to the Client.
- 10.2. The Company will take all reasonable care to avoid damage to the Client's own equipment but cannot be responsible for any loss suffered by the Client in respect thereof other than as a result of the negligence of the Company's servants, agents or contractors.

#### **11. Use of the Equipment**

- 11.1. If the Client wishes to supply and use any additional equipment such as staging, lighting or similar for its Event, such equipment may only be used in such a way that does not require any destructive fixing to the Equipment. No fixings requiring glue, nails, tacks, screws or similar are permitted.
- 11.2. The Client may not, at any time, have gas cylinders in the Equipment nor any other containers of substances which are noxious, corrosive, toxic, explosive or hazardous without the Company's express written permission. Such permission should be sought no later than ten Working Days before the commencement of the Hire Period.
- 11.3. The Client may not, at any time, allow live animals into the Equipment without the Company's express written permission. Such permission should be sought no later than ten Working Days before the commencement of the Hire Period. This prohibition does not include guide dogs for the blind, which are permitted at all times.
- 11.4. The Client shall be responsible for and shall reimburse the Company for any loss of or damage to all Equipment whatsoever the cause unless the damage or loss is the fault of the Company.
- 11.5. The Client must provide to the Company proof of having arranged insurance in their name for Equipment at least seven days prior to the delivery date of the Equipment (Confirmation that the Client's household insurance policy covers the Equipment would be sufficient).
- 11.6. Upon payment of the 'Damage Waiver Fee' referred to on the quotation then the above clauses 12.4 and 12.5 will not apply. Please note that the Client will remain

responsible for and will reimburse the Company for any loss or damage to all Equipment resulting from their negligence or criminal act.

- 11.7. Not to use any lighting, heating, cooking or other gas or electrical appliances of any kind without the prior written consent of the Company.
- 11.8. Not to light, or allow to be lit, any fire, candle or any other naked flame within or close to the Equipment without the prior written consent of the Company.
- 11.9. Subject to the terms of Clause 12.1, not to tamper with the structure or any part of the Equipment and in particular not to affix or suspend from the Equipment any item whatsoever without the Company's prior written consent.

## **12. Health and Safety and Third Party Liability**

- 12.1. The Client shall indemnify the Company in respect of any loss, claim, action or liability incurred by the Company due to the Client's breach of the terms of the Contract or their use of the Equipment.
- 12.2. The Company shall have no liability to the Client or any third party for any damage or loss to/of property or for the injury to any person other than that caused by the fault or neglect of the Company or its employees, agents or independent contractors.
- 12.3. Other than during the process of erecting or dismantling the Equipment, the Company shall have no responsibility for any loss damage, or injury incurred due to the Client's use of the Equipment.
- 12.4. The Client shall be responsible for maintaining occupier's and third party liability insurance and for complying with all Health and Safety and other relevant legislation, laws and bye-laws in respect of their use of the Equipment during the Period of Hire and any continuation thereof.
- 12.5. The Company reserves the right to come to the Venue and dismantle the Equipment if severe weather such as (but not limited to) high winds may damage the Equipment and/or make it a threat to health and safety. As soon as it is reasonably safe to do so, and providing the Period of Hire has not expired, the Company shall re-erect the Equipment and be entitled to charge a proper and reasonable fee to the Client for so doing. The Company shall have no liability to the Client for the exercise of this right.

## **13. Removal following Event**

- 13.1. Unless otherwise agreed, the Client will be required to vacate the Equipment at the end of the Period of Hire. Where the nature of the Event necessitates additional time to remove any of your property an alternative leaving time should be agreed and detailed in the Quotation.

## **14. Problems with the Equipment**

- 14.1. The Company will always provide its services to the Client with reasonable skill and care, consistent with good industry practices and standards in the tent hire market, and in accordance with any information provided by the Company about its services and about the Company. The Company always aims to ensure that its Clients' experience is trouble-free. If, however, there is a problem with any aspect of the Equipment hire,

please inform the Company as soon as is reasonably possible.

- 14.2. The Company will use reasonable efforts to remedy any and all problems with the Equipment as quickly as is reasonably possible and practical.
- 14.3. The Company will not charge the Client for remedying problems under this Clause 15 where the problems have been caused by the Company (including the Company's employees, agents and sub-contractors) or where nobody is at fault. If the Company determines that the problem has been caused by any action or omission on the Client's part, the Company may charge the Client a reasonable sum for any remedial action required.

#### **15. the Company's Liability and Insurance**

- 15.1. The Company has in place insurance cover for the Equipment and all of its other property which is located at the Venue either permanently or only for the Period of Hire.
- 15.2. The Company will not be liable to the Client for any loss of profit, loss of business, interruption to business, or for any loss of business opportunity.
- 15.3. The entire limit of the Company's liability shall be the value of the Hire Charge.

#### **16. Events Outside of the Company's Control (Force Majeure)**

- 16.1. The Company will not be liable for any failure or delay in performing its obligations under the Contract where that failure or delay results from any cause that is beyond the Company's reasonable control. Such causes include, but are not limited to: unusually inclement weather, power failure, internet service provider failure, strikes, lock-outs or other industrial action by third parties, riots and other civil unrest, fire, explosion, flood, storms, earthquakes, subsidence, acts of terrorism (threatened or actual), acts of war (declared, undeclared, threatened, actual or preparations for war), Acts of God, epidemic or other natural disaster, or any other event that is beyond the Company's reasonable control.
- 16.2. If any event described under this Clause 17 occurs that is likely to adversely affect the Company's performance of any of its obligations under this Agreement:
  - 16.2.1. the Company will inform the Client as soon as is reasonably possible;
  - 16.2.2. the Company's obligations under this Agreement will be suspended and any time limits that the Company is bound by will be extended accordingly (where such extension is reasonably possible);
  - 16.2.3. the Company will inform the Client when the event outside of the Company's reasonable control is over and provide details of any new dates, times or availability as necessary;
- 16.3. If an event outside of the Company's control occurs and the Client wish to cancel this Agreement, the Client may do so in accordance with the terms of the Contract;
- 16.4. If an event outside of the Company's reasonable control continues for more than 20 Working Days or is likely to prevent the Company from making the Equipment available

and providing the Equipment in time for the start date of the Period of Hire, the Contract will be cancelled in accordance with the Company's right to do so under Clause 8 and the Client will be informed of the cancellation. Any refunds due to the Client as a result of that cancellation will be made as soon as is reasonably possible and in any event within 14 calendar days of the Company's cancellation notice.

#### **17. Other Important Terms**

- 17.1. The Company may transfer (assign) the Company's obligations and rights under this Contract to a third party.
- 17.2. The Client may not transfer (assign) its obligations and rights under this Contract without the Company's express written permission (such permission not to be unreasonably withheld).
- 17.3. This Agreement is between the Client and the Company. It is not intended to benefit any other person or third party in any way and no such person or party will be entitled to enforce any provision of this Agreement.
- 17.4. If any of the provisions of this Agreement are found to be unlawful, invalid or otherwise unenforceable by any court or other authority, that / those provision(s) shall be deemed severed from the remainder of this Agreement. The remainder of this Agreement shall be valid and enforceable.
- 17.5. No failure or delay by the Company in exercising any of its rights under this Contract means that such right has been waived, and no waiver by the Company of a breach of any provision of this Contract means that the Company will waive any subsequent breach of the same or any other provision.

#### **18. Governing Law and Jurisdiction**

- 18.1. This Contract shall be governed by, and construed in accordance with Scots Law.
- 18.2. Any dispute, controversy, proceedings or claim between the Client and the Company relating to this Contract shall be subject to the jurisdiction of the Scottish Courts.