



# TERMS AND CONDITIONS

## 1. Definitions:

In these Terms and Conditions of Business:

'Owner' or (as the case may be) 'Seller' means Peter Stuart trading under the name Event Supplies Group (ESG) or Christian Faversham Group (CFG) of Falkeners House, Rectory Lane, Bramshott, Hants. GU30 7QZ.

'Hirer' means the person, firm or company who places an order for hiring of Equipment which order is accepted by the Owner.

'Buyer' means the person, firm or company who places an order for Goods which order is accepted by the Seller.

'Application Form' means the Owner's standard form of application for the hiring of plant to be completed by the Hirer when applying to hire the Equipment.

'Commencement Date' means the date on which the Hire Period commences being the date on which the Equipment leaves the Owner's depot.

'Conditions' means these Terms and Conditions of Business.

'Contract' means the contract between the Owner and the Hirer or between the Seller and the Buyer consisting of the Application Form or order and/or acceptance made by the parties and these Conditions.

'Equipment' includes all plant, machinery and/or tools referred to in the Application Form and/or acceptance in question (if any) and/or all plant, machinery and/or tools delivered by the Owner to the Hirer under the Contract.

'Goods' includes all goods referred to in the order and/or acceptance in question (if any) and/or all goods delivered by the Seller to the Buyer under the Contract.

'Hire Charge' means the price agreed between the Owner and the Hirer for the hiring of the Equipment calculated on a daily basis and payable throughout the Hire Period.

'Hire Period' means the period from the Commencement Date to the Termination Date inclusive.

'Termination Date' means the date on which the Hire Period terminates being the date on which the Owner accepts return from

The Hirer of the Equipment to be evidenced by a signed and dated receipt issued by the Owner.

## 2. Applicable Conditions:

- Unless otherwise agreed in writing by the Owner these Conditions shall override and exclude any terms or conditions stipulated, incorporated or referred to by the Hirer or the Buyer whether in any order or in any correspondence or negotiations occurring prior to an order being placed.
- Despatch or delivery of the Equipment or of the Goods by the Owner to the Hirer or to the Buyer shall be deemed conclusive evidence of the Hirer's or the Buyer's acceptance of these Conditions.
- Should the Hirer or the Buyer wish to contract with the Owner otherwise than subject to these Conditions specific arrangements may be made and revised prices may be quoted by the Owner but so that such arrangements shall only apply if recorded in writing and signed by a duly authorised representative of the Owner.
- The Owner's employees and representatives are not entitled to commit the Owner to transactions on terms differing from the specific provisions of these Conditions unless they are able to produce to the Hirer or to the Buyer authority so to do signed by the Owner.
- These Conditions and any act or contract to which they apply shall be construed and applied in accordance with English law, and the English Courts shall have sole jurisdiction in any dispute relating thereto.

## 3. Quotations:

- All quotations by the Owner are an invitation to treat only and without obligation. No contract will come into effect until the Owner has accepted in writing an Application Form or other order from the Hirer or an order or other offer from the Buyer.
- The Hirer shall be responsible to the Owner for ensuring the accuracy of the details included on any Application Form (including any applicable specification) submitted by the Hirer, and for giving the Owner any necessary information relating to the Equipment within a sufficient time to enable the Owner to perform the Contract in accordance with its terms.
- The Buyer shall be responsible to the Seller for ensuring the accuracy of terms of any order (including any applicable specification) submitted by the Buyer, and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.

## 4. Price and Payment:

- Prices and/or discounts shown in any advertisements, price lists or catalogues of the Owner are binding on the Owner for a period of 30 days unless expressly agreed in a particular instance by the parties.
- Any price quoted or agreed for the sale of the Goods or for the hiring of the Equipment is exclusive of value added tax unless expressly stated to be inclusive of any value added tax.
- Unless expressly agreed to the contrary by the Seller the price quoted or agreed for the Goods is ex-works.
- Unless expressly agreed in writing by the Seller any alteration in the Goods requested by the Buyer will entitle the Seller to increase the price.
- Unless expressly agreed in writing by the Seller the price is payable in full upon submission by the Buyer of the order.
- Unless expressly agreed in writing by the Owner the Hire Charge is payable in full on or before the Commencement Date.
- Unless expressly agreed in writing by the Owner all Hire Charge rates including transport are automatically increased during the first calendar quarter by inflation or RPI whichever the greater.
- When a credit account is agreed, payment in full is required within 30 days of the date of the invoice. Credit accounts may only be applied for by completing and returning the owner/sellers "Application for Commercial Credit".
- If the Owner and the Hirer agree to extend the Hire Period beyond that expected when the Application Form was completed, the Hirer shall pay to the Owner an additional Hire Charge on or before the commencement of the extension to the Hire Period.
- If the Hirer or the Buyer fails to make any payment on the due date then without prejudice to any other rights or remedy available to the Owner the Owner shall be entitled to cancel the Contract and suspend any discounts and or further deliveries to the Hirer or to the Buyer.
- The Owner reserves the right to charge interest at the rate of 2.5% per calendar month above the Lloyds Bank plc base rate from time to time on all amounts remaining unpaid after the due date for payment and such interest will accrue on a daily basis from the due date for payment until the date when payment is made and shall accrue after as well as before any judgement.

## 5. Delivery:

- Unless otherwise specifically agreed in writing by the Seller any delivery date or dates quoted or agreed by the Seller are not of the essence, and the Seller shall not be liable for the consequence of any delay in delivery. The Goods may be delivered by the Seller in advance of any quoted delivery date upon giving reasonable notice to the Buyer.
- Unless specifically agreed in writing to the contrary by the Buyer the Seller may deliver the Goods in such separate amounts or parts as the Seller may choose.
- Unless otherwise specifically agreed in writing by the Owner the Hirer is responsible for collecting the Equipment from the Owner's depot and for returning the Equipment at the end of the Hire Period.

- If the Owner agrees to deliver the Equipment to and/or collect the Equipment from the Hirer's premises or some other site specified by the Hirer, the Hirer shall pay to the Owner in addition to the Hire Charge the cost of such delivery and/or collection at the Owner's standard rates applicable from time to time. Any delivery date or dates quoted or agreed by the Owner is not of the essence, and the Owner shall not be liable for the consequence of any delay in delivery.
- If the Owner agrees to supply to the Hirer Equipment operated by a member of the Owner's staff, the Owner will ensure that such member of staff is properly qualified and experienced in the operation of the Equipment.

#### **6. Care of the Hired Equipment:**

- The Hirer shall use the Equipment for the purposes for which it was intended only and shall so use and store the Equipment as to ensure that no damage or deterioration (fair wear and tear excepted) results from the hiring.
- The Hirer shall comply with all directions given by the Owner or in any accompanying instructions as to the use, lubrication and maintenance of the Equipment and the Hirer shall be liable for any damage or deterioration (fair wear and tear excepted) resulting from any failure so to comply.
- The Hirer shall notify the Owner forthwith in the event of any failure or want of repair of the Equipment and shall (subject to Clause 6 (b) under no circumstances repair or attempt to repair or maintain the Equipment without the consent of the Owner having first been obtained.
- The Equipment must not be removed from any site originally specified by the Hirer, or from any subsequently authorised site, without the authority of the Owner.
- The Hirer shall be liable for all loss, damage or deterioration (fair wear and tear excepted) of or to the Equipment occasioned during the Hire Period (howsoever occurring) and shall pay to the Owner on the Termination Date or upon demand at any time thereafter:
  - i. The cost of repair or replacement of any damage or deterioration sustained to the Equipment during the Hire Period.
  - ii. The cost of replacement of the Equipment or of any part of it Lost, not returned on the Termination Date or damaged beyond economic repair; and
  - iii. A sum equivalent to the Hire Charge for the period from the Termination Date to the date on which the Owner, acting Reasonably, has been able to repair or replace the Equipment.
- In the event of loss or theft of the equipment during the Hire Period the Hirer shall be liable to pay rental charges at a rate of 66% of the daily hire rate until the equipment is returned or replaced.
- Security and insurance cover for the equipment is the Hirer's responsibility and remains so until the equipment is collected from your site or returned to our premises.

#### **7. Sale of Goods – Title and Risk:**

- Risk of damage to or loss of the Goods shall pass to the Buyer on delivery to the Buyer's carrier at the Seller's premises.
- Notwithstanding delivery and the passing of risk, the property in the Goods shall not pass to the Buyer until the Seller has received payment in full of the price of the Goods and all other Goods ordered by the Buyer for which payment is then due.
- Until such time as the property in the Goods passes to the Buyer, the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller (or its agent) and if the Buyer fails to do so then the Seller may enter upon any premises where the Goods are stored and repossess the Goods.

#### **8. Warranty and Liability:**

- Save as expressly provided in these Conditions all warranties, conditions or other terms implied by statute or common law are hereby excluded.
- The Seller warrants that the Goods will correspond with their specification at the time of delivery and will be free from defects in material and workmanship for a period of 6 months from the date of delivery.
- Where any valid warranty claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods is notified to the Seller then the Seller shall be entitled to replace the Goods free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price) but the Seller shall have no further liability to the Buyer.
  - i. The owner shall have no limit on its liability for death or personal injury caused by the Owner's negligence or the negligence of its employees.
  - ii. Subject to Clause 7 (d)(i.), the Owner shall have no liability to the Hirer or the Buyer in contract, tort (including negligence or breach of statutory duty) or otherwise howsoever, and whatever the cause thereof, (A) for any increased costs or expenses, (B) for any loss of profits, business, contracts, revenues or anticipated savings, or (C) for any special, indirect or consequential loss or damage of any nature whatsoever.
  - iii. Subject to Clause 7 (d)(i.), and notwithstanding anything contained in these Conditions, the Owner's liability in contract, tort (including negligence or breach of statutory duty) or otherwise arising by reason of or in connection with the supply of Equipment or the sale of the Goods shall be limited to the sum of £5,000.

#### **9. Use of the Hirer Equipment**

- (a) The Hirer shall operate the Equipment safely and in full compliance with all relevant Government, Health and Safety at Work and Factory Inspectorate safety directions and shall cease to operate the Equipment forthwith at the first indication that any danger may result from its continued use.
- (b) The Hirer shall be responsible in respect of the Equipment during the Hire Period for compliance with all site testing and inspection requirements howsoever imposed on users and operators of such equipment.
- (c) The Hirer shall forthwith notify the Owner of any accident in which the Equipment is involved howsoever occurring and the Hirer shall be liable for any shall keep the Owner indemnified from and against or claims, demands, proceedings, costs and expenses of whatsoever nature resulting from any such accident or from the use of the Equipment during the Hire Period howsoever occurring and the Hirer shall be responsible for insuring against liability.

#### **10. Termination of the Hire Contract:**

- The Owner shall be entitled to terminate the Contract forthwith written notice to the Hirer if:  
The Hirer defaults in the performance of any of its obligations to the Owner under the Contract including ( without prejudice to the generality of the foregoing) failure to return the Equipment to the Owner at the end of the Hire Period;
  - (ii) An encumbrancer takes possession of or a receiver is appointed over any of the property or assets of the Hirer;
  - (iii) The Hirer makes any voluntary arrangement with its creditors or becomes subject to an administration order;
  - (iv) The Hirer goes into liquidation (except for the purposes of a solvent amalgamation or reconstruction and in such manner that the company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on the Hirer under the Contract) or becomes bankrupt or if a bankruptcy petition is issued against the Hirer;
  - (v) Anything analogous to any of the foregoing occurs in relation to the Hirer or
  - (vi) Or the Hirer ceases, or threatens to cease, to carry on business and the right to any other right or remedy of the Owner in respect of the breach concerned (if any) or any other breach.
- Any waiver by the Owner of any provision of the Contract shall not be considered as a waiver of any subsequent breach of the same or any other provision of the Contract.  
Upon termination of the Contract all amounts owing at the date shall immediately be paid by the Hirer to the Owner and the Owner shall be entitled to recover possession of the Equipment forthwith and the Hirer shall permit the Owner to have full access to the Hirer's premises for that purpose.

#### **11. Notices:**

Any notice which must be given under the Contract may either be delivered personally or posted.

Notice given by post must be pre-paid and correctly addresses:-

In the case of a limited company to its registered office and

In any other case to the recipients address as set out in the Contract (unless the recipient has notified another address to the other party to the Contract in accordance with this paragraph in which case to such other address.

A notice delivered personally is deemed served upon delivery

A posted notice which complies with Clause 12 (b) is deemed served on the 2<sup>nd</sup> business day after the date of posting.

#### **12. General:**

Neither party shall assign, subcontract, license or otherwise dispose of any part of its rights or obligations under the Contract without prior written consent of the other.

The headings are for convenience only and shall not be used to interpret these Conditions.

Neither the Buyer or the Hirer may withhold payment of any invoice or of any other amount due to the Owner by reason of any right of set-off or counterclaim which the Buyer or the Hirer may have or allege to have for any reason whatever.

The Owner will not be liable for any delay or failure to perform the Contract arising from circumstances outside the Owner's control including (without prejudice to the generality of the foregoing) lockout or strike, act of God, war, riots, explosions, abnormal weather conditions, fire, flood, government action, delay by the suppliers, accidents and shortages of materials, labour or manufacturing facilities.

Signed

Print Name

Date

Position