

BEAUTIFUL BELLS – TERMS AND CONDITIONS OF HIRE (COMMERCIAL)

1. INTERPRETATION

1.1 Definitions:

Booking Form: a document supplied by the Company and completed by the Hirer that contains the details of the Hirer's Order and Specification of the Services to be provided by the Company and which forms part of the Contract between the Hirer and the Company.

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Charges: the charges payable by the Hirer for the supply of the Services in accordance with clause 5.

Commencement Date: has the meaning set out in clause 2.2.

Company: Katrina Willis – T/A Beautiful Bells, whose office is 249 Hayling Avenue, Portsmouth, Hampshire PO3 6DZ.

Company's Materials: has the meaning set out in clause 4.1(h).

Conditions: these terms and conditions as amended from time to time in accordance with clause 13.5.

Contract: the contract between the Company and the Hirer for the supply of Services in accordance with these Conditions and the Hirer's Booking Form.

Equipment: the bell tent/s and furnishings provided by the Company for the use of the Hirer and produced by the Company for the Hirer.

Hirer: the person or firm who purchases Services from the Company.

Hirer's Default: has the meaning set out in clause 4.2.

Hirer's Order: the Hirer's order for Services as set out in the Hirer's Booking Form.

Hire Period: the time commencing from the arrival of the Company's Equipment on Site and terminating when the Equipment is removed from Site by the Company.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority

from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Services: the services, including the Equipment, supplied by the Company to the Hirer as set out in the Hirer's Booking Form.

Site: the place, location or land where the Company's Equipment is to be erected, to include any form of campsite, event venue or private land.

Specification: the description or specification of the Services provided in writing by the Company to the Hirer in the Hirer's Booking Form.

1.2 **Interpretation:**

- (a) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- (b) Any phrase introduced by the terms **including, include, in particular** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- (c) A reference to **writing** or **written** includes email.

2. **BASIS OF CONTRACT**

- 2.1 The Hirer's Order constitutes an offer by the Hirer to purchase Services in accordance with these Conditions.
- 2.2 The Hirer's Order shall only be deemed to be accepted when the Company receives a signed Booking Form and any requisite deposit from the Hirer and issues written acceptance of the Hirer's Order (in the form of a booking confirmation) at which point and on which date the Contract shall come into existence (**Commencement Date**).
- 2.3 Any samples, drawings, descriptive matter or advertising issued by the Company, and any descriptions or illustrations contained in the Company's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.
- 2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Hirer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

3. SUPPLY OF SERVICES

- 3.1 The Company shall supply the Services to the Hirer in accordance with the Specification in all material respects.
- 3.2 The Company shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Company shall notify the Hirer in any such event.
- 3.3 The Company warrants to the Hirer that the Services will be provided using reasonable care and skill.
- 3.4 The Company will make reasonable endeavours to ensure that all Equipment is erected prior to the arrival on Site of the Hirer but no responsibility or liability will be accepted by the Company for delays due to road accidents or traffic problems or matters outside of the Company's control.
- 3.5 The Equipment provided by the Company remains the property of the Company at all times.
- 3.6 The Equipment or the Company's Materials do not include towels or personal items for use by the Hirer.

4. HIRER'S OBLIGATIONS

- 4.1 The Hirer shall:
- (a) ensure that the terms of the Hirer's Order, the Booking Form and any information it provides in the Specification are complete and accurate;
 - (b) co-operate with the Company in all matters relating to the Services;
 - (c) provide the Company, its employees, agents, consultants and subcontractors, with access to the Site or other facilities as reasonably required by the Company;
 - (d) provide the Company with such information and materials as the Company may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects;
 - (e) obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start;

- (f) confirm to the Company that they are satisfied with the condition of the Equipment and the Company's Materials before used by the Hirer and if the Hirer is not satisfied notify the Company of any unacceptable or incorrect Equipment or Company Materials prior to use by the Hirer;
- (g) adhere and follow all conditions in respect of health and safety matters, in accordance with clause 6;
- (h) keep and maintain all materials, equipment, documents and other property of the Company (**Company's Materials**) in safe custody at its own risk, maintain the Company's Materials in good condition until returned to the Company, and not dispose of or use the Company's Materials other than in accordance with the Company's written instructions or authorisation, for the entirety of the Hire Period. The Hirer's obligations in respect of the Company's Materials include (but are not limited to):
 - (i) keeping the tent or tents closed and secure whilst not in use during the Hire Period;
 - (ii) keeping the tent doors and windows zipped closed when the Hirer leaves the tent at the end of the hire period;
 - (iii) taking all reasonable and necessary precautions not to attract insects or animals to the tent or tents, keeping food containers sealed, removing litter and food wrappers and closing the door of the tent during the Hire Period;
 - (iv) not affixing, attaching, suspending or otherwise anything from the Equipment. This includes home-made bunting and signs to the outside of the tent or tents;
 - (v) not smoking in any tent;
 - (vi) by removing shoes before entering the tent or tents. Hirers must ensure that mud is not carried into the tent or tents and spread over groundsheets, rugs or coir carpet;
 - (vii) removing all rubbish at the end of the Hire Period;
 - (viii) not allowing animals or pets inside the tent or tents at any time (with the exception of dogs for assistance, such as guide dogs or hearing dogs only);
 - (ix) leave all Equipment and the Company's Materials in a clean and tidy state at the end of the Hire Period.

4.2 If the Company's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Hirer or failure by the Hirer to perform any relevant obligation (**Hirer Default**):

- (a) the Company shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Hirer remedies the Hirer Default, and to rely on the Hirer Default to relieve it from the performance of any of its obligations to the extent the Hirer Default prevents or delays the Company's performance of any of its obligations;
- (b) the Company shall not be liable for any costs or losses sustained or incurred by the Hirer arising directly or indirectly from the Company's failure or delay to perform any of its obligations as set out in this clause 4.2; and
- (c) the Hirer shall reimburse the Company on written demand for any costs or losses sustained or incurred by the Company arising directly or indirectly from the Hirer Default.

5. THE SITE

5.1 The Hirer shall:

- (a) select a Site that does not have poor drainage or that is prone to have boggy ground. Any flooding of the tent or tents is the responsibility of the Hirer;
- (b) provide the Company with plan of the Site showing the position in which the Equipment and the Company's Materials are to be erected;
- (c) if no plan is available, a representative on the Site to confirm the position in which the Equipment and the Company's Materials are to be erected;
- (d) provide full details of any relevant measurements, varying height levels of the Site or other Site complications in writing;
- (e) ensure that any obstructions to the Site are removed prior to the arrival of the Company to erect the Equipment. Obstructions include but are not limited to, plants, shrubs, trees, vehicles or other items that prevent the Company from carrying on the erection of the Equipment. If the Company is required to wait, whilst grass is mown, or obstructions removed, this will be charged at £50 + Vat per hour.
- (f) make suitable arrangements for access by people with disabilities or the emergency services;
- (g) ensure that there is sufficient provision for the Company to park in order to carry on the erection of the Equipment.

5.2 The Company shall erect the Equipment on the Site in accordance with the plan provided by the Hirer or upon the instructions of the Hirer's representative. If

no such plan or representative is provided the Company shall erect the Equipment where they deem appropriate.

6. HEALTH AND SAFETY

6.1 The following conditions apply and must be observed by the Hirer and all parties that use the Company's Equipment and Company Materials. The Hirer is responsible for making all such parties aware of the following conditions and ensuring that such parties adhere to them:

- (a) the Company operates a strict no smoking policy within the tents and no party is allowed to smoke within the tents;
- (b) no candles or other naked flames are permitted within the tents;
- (c) cooking of any sort, including the use of gas stoves, barbeques or fire pits is strictly prohibited within the tents.
- (d) any barbeques or fire pits used by the Hirer must be situated a minimum of 10 (ten) metres away from a tent or any tents and must not be left unattended at any time whilst in use.

7. CHARGES AND PAYMENT

7.1 Payment terms:

- (a) the Hirer must pay to the Company a non-refundable deposit of 25% of the total Charges at the time of completion and submission of the Booking Form;
- (b) upon receipt of the Booking Form by the Company, the Company shall provide the Hirer with an invoice in respect of the Charges;
- (c) payment shall be made by the Hirer upon receipt of the said invoice. Payments will be accepted by the Company by bank transfer. Payments must state the payment reference given on the said invoice;
- (d) the balance of the Charges shall be paid by the Hirer to the Company no less than 28 days before the agreed date for the delivery and erection of the Equipment and the Company's Materials on Site;
- (e) if a Booking Form is received by the Company less than 28 days before the agreed date for the delivery and erection of the Equipment and the Company's Materials on Site, payment in full of the Charges is required by the Company;
- (f) the Company will not deliver and erect the Equipment or the Company's Materials if payment in full of the Charges has not been received by the Company;

(g) time for payment shall be of the essence of the Contract.

7.2 Travel and Delivery charges:

- (a) the Charges include erection of, dismantling of and delivery of the Company's Equipment and the Company's Materials, within a 35 mile radius of the Company's address;
- (b) travel outside of the said 35 mile radius will be charged for by the Company at the rate of £1.20 (inclusive of VAT) per mile, unless otherwise agreed by the Company. The Hirer will be provided with details of additional costs for such travel prior to the commencement date of the Contract and the total cost will be added to the Charges and included in the invoice supplied to the Hirer for payment in accordance with clause 7.1;
- (c) the Charges are based on the assumption that the Site is a flat, level, firm ground with easy access for motor transport and that no drains, cables or other services are concealed or buried. The Company will not pay for and making good or repair of any damage to the Site;
- (d) if on arrival at the Site the Company finds that the point from parking on the Site to the point at which the Company's Equipment and the Company's Materials are to be delivered and erected is greater than 20 metres, the Company may apply a surcharge for the time taken to move such Equipment and the Company's Materials;
- (e) any or all parking costs must be paid for by the Hirer in advance of the Company arriving on Site for the delivery and erection of the Equipment and the Company's Materials;
- (f) the Hirer will be responsible for any additional costs incurred to the Company as a result of any booked Equipment not being erected due to incorrect measurements being provided by the Hirer, varying height levels of the Site or undisclosed Site complications of which the Company was not aware in writing;
- (g) the Hirer is responsible for any costs incurred by the Company due to changes being requested by either the Hirer or any person responsible for the Site, once the Company has begun to deliver and erect the Equipment and the Company's Materials.

7.3 All amounts payable by the Hirer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (VAT). Where any taxable supply for VAT purposes is made under the Contract by the Company to the Hirer, the Hirer shall, on receipt of a valid VAT invoice from the Company, pay to the Company such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.

7.4 The Hirer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Company may at any time, without limiting its other rights or remedies, set off any amount owing to it by the Hirer against any amount payable by the Company to the Hirer.

8. LOSS AND DAMAGE

8.1 The Hirer shall be responsible for any damage to the Company's Equipment and or the Company's Materials and shall reimburse the Company for the cost of any such damage, even if the Hirer was not directly responsible for causing such damage.

8.2 Damage to the Company's Equipment or the Company's Materials shall include damage, breakages and additional cleaning that may be required;

8.3 The Company cannot offer compensation for the presence of insects or other wildlife or animals in any part of or near the tents.

8.4 The Company advises the Hirer and any party connected to the Hirer to take out holiday/travel insurance to cover instances of illness, cancellation or losses as a result of cancellation.

9. INTELLECTUAL PROPERTY RIGHTS

9.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by the Company.

9.2 The Hirer acknowledges that, in respect of any third party Intellectual Property Rights, the Hirer's use of any such Intellectual Property Rights is conditional on the Company obtaining a written licence from the relevant licensor on such terms as will entitle the Company to license such rights to the Hirer.

9.3 All Company Materials are the exclusive property of the Company.

10. LIMITATION OF LIABILITY

10.1 Nothing in the Contract shall limit or exclude the Company's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- (b) fraud or fraudulent misrepresentation; or

- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.

10.2 Subject to clause 10.1, the Company shall not be liable to the Hirer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for:

- (a) loss of profits;
- (b) loss of sales or business;
- (c) loss of agreements or contracts;
- (d) loss of anticipated savings;
- (e) loss of damage to goodwill; and
- (f) any indirect or consequential loss.

10.3 Subject to clause 10.1, the Company's total liability to the Hirer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract shall be limited to the total Charges paid under the Contract.

10.4 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

10.5 This clause 10 shall survive termination of the Contract.

11. TERMINATION AND CANCELLATION

11.1 The Hirer may terminate the Contract by providing written notice of termination or cancellation in writing to the Company.

11.2 Should the Hirer terminate the Contract, they will pay to the following Charges to the Company:

- (a) 100% of the Charges if the notice of termination or cancellation provided by the Hirer is 28 days or less prior to the date on which the Hire Period commences;
- (b) 75% of the Charges if the notice of termination or cancellation provided by the Hirer is 8 weeks or less prior to the date on which the Hire Period commences;
- (c) 50% of the Charges if the notice of termination or cancellation provided by the Hirer is 20 weeks or less prior to the date on which the Hire Period commences;

- (d) 25% of the Charges if the notice of termination or cancellation provided by the Hirer is more than 20 weeks prior to the date on which the Hire Period commences.
- 11.3 The Company may terminate the Contract if they believe that weather conditions are such that they would result in an unsuitable or unsafe environment for the Equipment to be erected. If the Company terminates the Contract under these circumstances, a full refund will be given by the Company to the Hirer.
- 11.4 Without limiting its other rights or remedies, the Company may terminate the Contract with immediate effect by giving written notice to the Hirer if:
 - (a) the Hirer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach;
 - (b) the Hirer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;
 - (c) the Hirer suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
 - (d) the Hirer's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 11.5 Without limiting its other rights or remedies, the Company may terminate the Contract with immediate effect by giving written notice to the Hirer if the Hirer fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 7 days after being notified in writing to make such payment.
- 11.6 Without limiting its other rights or remedies, the Company may suspend provision of the Services under the Contract or any other contract between the Hirer and the Company if the Hirer becomes subject to any of the events listed in clause 11.4(b) to clause 11.4(d) or the Company reasonably believes that the Hirer is about to become subject to any of them, or if the Hirer fails to pay any amount due under this Contract on the due date for payment.

12. CONSEQUENCES OF TERMINATION OR CANCELLATION

On termination of the Contract for any reason:

- (a) the Hirer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and, in respect of Services supplied but for which no invoice has been submitted, the Company shall submit an invoice, which shall be payable by the Hirer immediately on receipt;
- (b) the Hirer shall return all of the Company Materials and any Equipment which has not been fully paid for. If the Hirer fails to do so, then the Company may enter the Hirer's premises and take possession of them. Until they have been returned, the Hirer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
- (c) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- (d) clauses which expressly or by implication survive termination shall continue in full force and effect.

13. GENERAL

13.1 **Force majeure.** Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. In the event that Equipment has been hired for an event that has been cancelled, the Company will not be liable for this and the Contract between the Hirer and the Company remains in force.

13.2 Assignment and other dealings.

- (a) The Company may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.
- (b) The Hirer shall not, without the prior written consent of the Company, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.

13.3 Confidentiality.

- (a) Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, Hirers, clients or Companys of the other party, except as permitted by clause 13.3(b).
- (b) Each party may disclose the other party's confidential information:
 - (i) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 13.3; and
 - (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- (c) Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

13.4 **Entire agreement.**

- (a) This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- (b) Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this agreement.

13.5 **Variation.** No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

13.6 **Waiver.** A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not:

- (a) waive that or any other right or remedy; or
- (b) prevent or restrict the further exercise of that or any other right or remedy.

13.7 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

13.8 **Notices.**

(a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or email.

(b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 13.8(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or email, one Business Day after transmission.

(c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

13.9 **Third parties.** No one other than a party to the Contract shall have any right to enforce any of its terms.

13.10 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of England and Wales.

13.11 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.