

## **Terms and Conditions For use of British Waterways Property To Hold an Event (“the Agreement”)**

### **1. Definitions**

- 1.1 “Application” means the completion and submission to British Waterways of the Event application form and related documentation.
- 1.2 “BW” means British Waterways and includes its successors in title.
- 1.3 “Competent Nominated Person” means the person described in Schedule 1.
- 1.4 “Due Date” means 3 months prior to the Event Commencement Date.
- 1.5 “Event” means the event described in Schedule 1.
- 1.6 “Event Commencement Date” means the date set out in Schedule 1.
- 1.7 “Further Conditions” means the additional conditions set out in Schedule 2.
- 1.8 “Hirer” means the person described in Schedule 1.
- 1.9 “Hire Charge” means the amount set out in Schedule 1.
- 1.10 “Hire Period” means the period stipulated in Schedule 1.
- 1.11 “Senior Management Contact” means the person stipulated in Schedule 1.
- 1.12 “Senior BW Management Contact” means the person stipulated in Schedule 1.
- 1.13 “Venue” means the location at which the Event will be held shown on the plan attached at Annex 1 to this Agreement.

### **2. Payment**

- 2.1 Payment of the Hire Charge and all other costs as appropriate must be made in full at least 14 days prior to the Event Date. If payment is not received British Waterways shall have the right to cancel the Event immediately.
- 2.2 In addition to the Hire Charge and other costs referred to in clause 2.1 above, the Hirer will be liable for the full cost of the provision of any services by British Waterways including but not limited to, electricity, water and marking of pitches.

### **3. Refusal of the Event or cancellation**

- 3.1 BW reserves the right to withdraw permission, once given, for the Event. In these circumstances BW will repay any deposit, fees or charges but shall be under no liability for any other expense or costs incurred or loss sustained by the Hirer as a result of the withdrawal of permission.

- 3.2 Cancellation by the Hirer of an Event must be in writing and shall be effective when BW receives such notice.
- 3.3 In the event of the Hirer cancelling the Event the Hirer shall be liable to BW for the following charges:
- 3.3.1 if the Event is cancelled within two months of the Event Commencement Date – any costs and expenses incurred by BW in preparing for the Event;
  - 3.3.2 if the Event is cancelled within one month of the Event Commencement Date – 50% of the Hire Charge including any costs and expenses incurred by BW in preparing for the Event;
  - 3.3.3 if the Event is cancelled within fourteen days of the Event Commencement Date – 100% of the Hire Charge including any costs and expenses incurred by BW in preparing for the Event.

In addition to the above in the event that this Agreement is terminated in accordance with this clause the Hirer will compensate BW for all and any losses or costs incurred (including but not limited to loss of revenue) as a result of the Hirer's failure to fulfil its obligations.

- 3.4 BW reserves the right either to cancel the Event or amend the Hire Charge, as it considers appropriate, in the event that the Hirer alters the nature of the Event as described in Schedule 1 and the Application. In the event of such cancellation the Hirer shall be liable as stated in clause 3.3 above.

#### **4. Hirer's Responsibilities**

- 4.1 The Hirer confirms that it has inspected the Venue and by now entering into this Agreement the Hirer confirms that the Venue is appropriate for the Event.
- 4.2 The Hirer undertakes that it will only use the Venue for the purposes as set out in the Application and Schedule 1 and that it will immediately notify BW of any changes to the Application.
- 4.3 The Hirer will ensure that any information it provides to BW with respect to the Application will be accurate and agrees that BW may place reliance on it.
- 4.4 It is the Hirer's obligation to ensure that:
- 4.4.1 all litter and refuse generated by the Event shall be removed from the Venue;
  - 4.4.2 the Venue is kept clean and tidy during the Hire Period;
  - 4.4.3 the property of the Hirer and/or the Hirer's agents are removed at the end of the Hire Period or by a time and date to be agreed with BW;
  - 4.4.4 there are appropriate numbers of stewards and officials for the size and nature of the Event;
  - 4.4.5 the Event participants, officials, visitors and spectators are well supervised and adequately controlled at all times;
  - 4.4.6 BW notices or placards displayed at the Venue are not removed or obscured without the prior written consent of BW;
  - 4.4.7 it does not excavate or drill pinning holes into the Venue except with the prior written consent of BW;

- 4.4.8 any unwanted liquids are removed from the Venue and not disposed of into the sewage system or on the Venue unless otherwise agreed in advance with BW;
- 4.4.9 all vehicles associated with the Event only use the roadways and car parks designated for such vehicles and that no vehicles are parked or driven across any public footpath located within the Venue.
- 4.4.10 pedestrians are allowed unrestricted access along any public footpath located within the Venue.
- 4.4.11 there is no interference or any alteration to the layout or arrangement of the Venue without the prior written consent of BW.
- 4.4.12 no noise nuisance shall be caused to occupiers of properties surrounding the Venue or users of the immediate surrounding area of the Venue.
- 4.4.13 the Event ceases at [ ] hours and that all clearing up operations are completed by [ ] hours.
- 4.4.14 all users of the Venue have unrestricted access to the public toilet facilities located within the Venue
- 4.4.15 it liaises with the appropriate traffic authority and/or local police regarding the impact the Event may have on traffic arrangements in the vicinity of the Venue and to comply with the requirements of the relevant local authority and the police regarding traffic management;
- 4.4.16 where the Venue is to be used in the dark appropriate lighting to cover all areas to which the public are admitted or will have access is provided;
- 4.4.17 no article of an inflammable or explosive character or that produces an offensive smell, or that contains CFCs or any oil, or any electrical or gas operated apparatus is brought on to the Venue without the written approval of BW;
- 4.4.18 any generators permitted at the Event are operated in a safe manner and are segregated from the public or are protected by suitable covers or barriers, so as to prevent access by members of the public;
- 4.4.19 no sign, furniture, fitting or structure is placed or erected, nor additional or decorative lighting is placed or fixed in or on any parts of the Venue without the prior written consent of BW;
- 4.4.20 it complies with all reasonable instructions issued by BW during the Hire Period;
- 4.4.21 it complies with all relevant legislation, codes of practice and guidelines relevant to the Event;
- 4.4.22 it does not permit any news or any other media (including television companies) to report or film the Event without the prior written consent of BW.

## **5. Further Conditions**

BW reserves the right to add the Further Conditions to this Agreement as set out in Schedule 2 subject to written agreement between BW and the Hirer.

## **6. Right of Entry**

- 6.1 Authorised BW officers shall be permitted entry to the Venue at all times during the Hire Period.

6.2 BW reserves the right to refuse admission to or evict any person from the Venue.

## **7. Assignment**

The Hirer shall not assign, novate or otherwise transfer the whole or any part of this Agreement, or sublet any part of the Venue, without the prior written consent of BW.

## **8. Permits and Licences**

8.1 The Hirer shall ensure that any licence, permit or other consent which may be required is obtained, whether from the Council or otherwise, before the Event may take place and shall, where requested, produce to BW on demand copies of such licence, permit or consent. If any such licence, permit or consent has not been obtained, BW reserves the right to cancel the Event forthwith.

8.2 When promoting the Event, the Hirer will be responsible for exhibiting all necessary permits during the Event if required to do so.

8.3 The Hirer must comply with the terms and conditions of any licence, permit and/or consent issued in respect of the Venue.

## **9. Health and Safety & Environment**

9.1 The Hirer shall be responsible for all health, safety, welfare, environmental and security issues arising from or associated with the Event including without limitation improvement works, organisation, preparation for and staging of the Event and clean up and repair operations after the Event.

9.2 The Hirer shall comply with all relevant health, safety and environmental protection legislation, codes of practice, guidance and any BW policies and procedures BW has notified the Hirer as being in force at the time of the Event.

9.3 It is the Hirer's responsibility to carry out appropriate risk assessments and if necessary to provide the following:

9.3.1 a Competent Nominated Person who will be responsible for health, safety environmental and security issues (whose name and qualifications will be provided to BW on or before the Due Date) and who will ensure that a sufficient number of competent stewards and security staff are available and responsible for the health safety and welfare of all persons attending at the Event (in whatever capacity);

9.3.2 sufficient competent security staff who will be responsible for the securing of the Venue during the Period and to enable access to be provided to BW, the Hirer and its employees and other authorised third parties;

9.3.3 emergency services cover at the Event including as appropriate fully qualified first aid staff, trained fire officers, fire marshals, on-site doctors and ambulances;

9.3.4 a Senior Management Contact who will be available to liaise with the designated Senior BW Management Contact.

## **10. Indemnity and Insurance**

10.1 The Hirer will indemnify BW for any liability, loss, damage, costs, claims or proceedings arising as a result of the Hirer's breach of this Agreement or under statute or common law in respect of any injury to or the death of any person or the loss or damage to any part of the Venue (including both moveable and immovable parts) or the loss or damage to any third

party's property caused by or arising as a result of the Event, the Hirer's use of the Venue or the default of any third party for whom the Hirer is responsible.

- 10.2 The Hirer will obtain and keep in full force and effect at all times in respect of the use of the Venue or the Event public liability insurance and if appropriate products liability insurance, which shall not be, less than five million pounds per policy.
- 10.3 No later than the Due Date the Hirer shall provide to BW documentary proof that the policies described in clause 10.2 above have been put in place.
- 10.5 This clause 10 will survive the termination of this Agreement for whatever cause.

## **11. Collections or Lotteries**

No collections, games of chance, sweep stakes, lotteries or betting of any kind may be conducted at the Venue without the prior written consent of BW, such consent not to be unreasonably withheld, and the appropriate licensing authority.

## **12. Property not Removed**

- 12.1 BW may remove and store any property that is left at the Venue by the Hirer. The Hirer shall repay to BW on demand the costs of such removal and storage. BW shall not be responsible for any damage to or theft of such property during its removal or storage.
- 12.2 Any property left at the Venue by the Hirer are subject to the provisions of the Torts (Interference with Goods) Act 1977, which confers on BW as bailee a right of sale exercisable in certain circumstances. BW will not exercise this right of sale until it has given notice to the Hirer or has taken reasonable steps to trace him in accordance with the Act.

## **13. Repairs**

- 13.1 Following the Event the Senior Management Contact and Senior BW Management Contact, or their designates, will tour the Venue to ascertain the condition of the Venue and identify any areas which are damaged and are required to be repaired. The Senior BW Management Contact, or his designate, will compile a schedule of repairs which will be provided to the Hirer. The Hirer will immediately start any works that are necessary to clean up and repair the Venue at its sole risk and expense and will ensure that such activities will meet the requirements stipulated by the Senior BW Management Contact set out in the repair schedule.
- 13.2 If the Senior BW Management Contact considers that the Hirer has failed to comply fully with the repair schedule within the time stipulated within the repair schedule or, otherwise, within a reasonable time, BW shall be at liberty to effect such repairs and the Hirer agrees to reimburse BW for any costs or losses BW incurs in doing so.

## **14. Variations to Agreement**

BW reserves the right to vary the terms of this Agreement at any time on [7] day's notice. The Hirer may, within 7 days of receipt of such notice, terminate this Agreement.

## **15. Termination**

- 15.1 BW may terminate this Agreement at any time upon written notice with immediate effect if the Hirer breaches any of the terms of this Agreement and, if:
- 15.1.1 such breach is not capable of remedy; or

15.1.2 such breach is capable of remedy, and the Hirer fails to remedy the breach within the time-scale stipulated in a written notice from BW specifying the breach and requiring its remedy.

15.2 Either party may terminate this Agreement forthwith in the event of the insolvency of the other party.

15.3 The rights to terminate this Agreement under this clause shall not prejudice any rights or liabilities, which have accrued prior to the date of termination.

## **16. Force Majeure**

Neither party shall be liable for any default due to any act of God, war, fire, flood, drought, tempest or other event beyond the reasonable control of either party.

## **17. Waiver**

Unless otherwise agreed in writing, the failure to exercise or delay in exercising any right or remedy provided by this Agreement does not constitute a waiver of that right or remedy or waiver of any other rights or remedies under this Agreement.

## **18. Severance**

If any part of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the validity and enforceability of the remainder of this Agreement shall not be affected.

## **19. Entire Agreement**

This Agreement and the Application supersedes any previous agreement(s) between the Hirer and BW in relation to the matters referred to in this Agreement.

## **20. Alternative Dispute Resolution**

20.1 If any dispute arises out of this Agreement, the parties will attempt to settle it by negotiation. If such negotiation fails, the parties may attempt to settle the dispute by mediation.

20.2 Nothing shall prevent either party from at any time commencing court proceedings in relation to any dispute arising under this Agreement or in relation to any application for emergency or injunctive relief.

## **21. Third Party Rights**

No person other than a contracting party may enforce any provision of this Agreement by virtue of the Contracts (Rights of Third Parties) Act 1999.

## **22. Notices**

Any notice given or invoice to be delivered in accordance with this Agreement shall be in writing and shall be sent by first class post or delivered by hand or by telex, electronic mail or facsimile transmission to the following representatives of each of the parties at the address stated in this Agreement:

For BW: [ ]

For Hirer: [ ]

Any such notice or invoice shall be deemed to have been received 48 hours after it has been posted or, if delivered by hand, at the time of delivery

**Governing Law**

This Agreement shall be governed and construed in accordance with the law of England.

**I have read and understood the terms and conditions of this Agreement and agree to be bound by them.**

Sign..... Date.....

Print Name.....

Name of organisation or company.....

Position with organisation or company.....

**Schedule 1**

Competent Nominated Person:

Event:

Event Commencement Date:

Hirer:

Hire Charge:

Hire Period:

Senior BW Management Contact:

Senior Management Contact:

**Schedule 2 – Further Conditions**