

## HIRE AGREEMENT

between

ETA Omega Ltd, a company incorporated under the Companies Acts in Scotland having Company Number SC542343, and having its registered office at First Floor, 32 Ashgrove Road, Aberdeen. AB25 3AD ("the Business")

and

the hirer, full details of whom are set out in the Quote ("the Hirer")

Whereas the Business has agreed to hire the Equipment to the Hirer, the parties have agreed and do agree as follows: -

### 1. Definitions and Interpretation

- "Equipment"** means the event furniture, accessories and other items which are the subject of hire in terms of these Terms and Conditions of Hire all as set out in the Quote. The Business reserves the right to at any time replace the Equipment with an equivalent product.
- "Period"** means the period of hire from the Date of Commencement to the Date of Termination and any period beyond the Date of Termination when the Hirer retains possession of the Equipment.
- "Hire Charge"** means the charge set out in Quote to include a deposit to the value of 35% of the Quote. The refundable proportion of the hire charge is returned on Date of Termination so far as the Business are reasonably satisfied with the condition of the Equipment being returned.

**“Payment Date”**

means that date the Hire charge shall fall due being not later than 1 month prior to the Date of Commencement or alternatively if the Hire Agreement is formed less than 1 months prior to the Date of Commencement the date the Hire Agreement was signed.

**“Quote”**

means the Business’s quote a copy of which is annexed as relative hereto.

The singular number includes the plural and *vice versa*. The masculine gender includes the feminine gender. Reference to persons includes companies and other forms of legal entity. Headings are for reference only.

This Hire Agreement, together with any documents referred to herein, constitutes the entire agreement between the Business and the Hirer with respect to the hire of the Equipment, superseding all quotes (other than the Quote), negotiations and counter-quotes. The Business and the Hirer acknowledge and agree that in entering into this Hire Agreement, and any documents referred to herein, they do not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this Hire Agreement or not) other than as expressly set out in this Hire Agreement as a warranty. The only remedy available to the Business or the Hirer for breach of any of the warranties contained in this Hire Agreement shall be for breach of contract under the terms of this Hire Agreement. Nothing in this clause shall, however, operate to limit or exclude any liability for fraud or fraudulent misrepresentation.

The terms and conditions of this Hire Agreement shall override any terms and conditions of hire of the Hirer including, but not limited to, any included by the Hirer in its acceptance of this Hire Agreement or posted by the Hirer on an internet site. The Quote shall apply equally with this Hire Agreement, but in the event of any conflict the terms of this Hire Agreement shall prevail.

**2. Commencement and Termination of Hire**

The date of commencement of Hire (“Date of Commencement”) is the time at which the Equipment is unloaded at the venue. The date of termination of hire (“Date of Termination”) is the date on which the Equipment is due to be collected and returned to the Business’s premises or any other premises from which it was collected and an off-hire line is issued to the Hirer acknowledging the return of the Equipment.

The Hirer or representative of the Hirer must be available to sign for delivery and receipt. The individual providing the signature will be presumed to have authority to do so. The Equipment shall be delivered the day before the event and collected the day after. Definite times cannot be given; however, the Business's normal working hours are Monday – Friday 9am to 5pm. The Hirer will pay for delivery as per the Quote. Delivery does not include delivery into premises. An additional charge may be payable if the Hirer requires delivery to a specific area of the venue, and additional charges may be applicable for assembly on delivery. The Business does not take responsibility for ensuring that the Equipment fits through the doors of the venue, and additional charges will apply for delayed or aborted deliveries. An additional charge shall be applicable if delivery or collection is out with normal working hours or on a weekend or bank holiday.

The Business will prepare an Equipment packing List for each item of Equipment, which will specify the precise details of that Equipment. At the time of delivery or collection of the Equipment, the said Equipment packing List will be presented to the Hirer or to a person authorised on its behalf. Delivery will constitute acceptance of the Equipment as being in satisfactory condition.

Equipment will only be counted on site if the Hirer specifically so requests in advance in writing. A representative must be present to check the Equipment with the Business's driver and must countersign the delivery or collection note. The Business will count and check the Equipment to be counted on return to the Business Premises and on doing so any losses or damages noted by the Business will be deemed to be correct.

All Equipment will be deemed to have been delivered to the Hirer at the Date of Commencement in satisfactory condition and to the Hirer's satisfaction. Unless the Hirer advises the Business in writing of any defects or complaints on receipt. The Business reserve the right to refuse investigation into queries raised thereafter. The cost of returning the Equipment will be borne by the Hirer.

Deliveries will be left unattended at the venue on the instructions of the Hirer and at the Hirer's own risk.

### **3. Care and Maintenance**

The Business requires the Hirer to keep the Equipment in a secure, indoor dry place and to pack it for its return as it was supplied. Additional charges apply if dismantling, assembling, stacking or packing is required on collection. If the Equipment is not returned in the original packaging or if the packaging is damaged there shall be additional charges.

In the event of the Equipment or any part thereof being lost or damaged during the period of Hire, the Hirer will pay to the Business the full reinstatement value of the Equipment lost or damaged and/or the cost of repairs to the Equipment, together with a sum equivalent to the a hire charge to the date which is the later of (i) the Date of Termination, and (ii) the date at which the full replacement value of the Equipment or part thereof and the cost of repairs is paid to the Business [and all mandate costs of the Business (including legal fees).]

The Hirer will not allow the Equipment to be used for any purpose beyond its capacity or in a manner likely to result in undue deterioration. The Equipment is not to be used, and the Hirer will not permit the Equipment to be used, for any purposes for which it is not expressly designed. The Hirer must ensure that all Equipment is suitable for the purpose for which it is required and that it remains so during the period of Hire.

The Hirer agrees that it will not:

- (1) without the prior consent of the Business, make any alterations or additions to the Equipment, and any such additions alterations or modified parts (whether with or without consent) shall become part of the Equipment and shall belong to the Business;
- (2) remove or interfere with any identification marks or plates affixed to the Equipment nor attempt or purport to do so nor permit the same; and/or
- (3) deface the Equipment nor add or erect any painting, sign-writing or lettering to or on the Equipment.

#### **4. Duties of the Hirer**

The Hirer shall during the Period:

- 4.1. ensure that the Equipment is assembled and used properly and safely.
- 4.2. bear the cost of the repair or rectification of any damage or soiling of the Equipment during the period of hire or any time in which the Equipment is still in the possession of the Hirer.;

#### **5. Sub-Letting**

The Hirer shall not sub-let the Equipment or any part of it without the Business's prior consent in writing. The Hirer shall not sell, assign, mortgage, or otherwise dispose of or part with possession of the Equipment or part thereof or charge the benefit of this Hire Agreement nor attempt or purport to do so

#### **6. Breakdown**

The Hirer must immediately advise the Business of any breakdown or unsatisfactory working of any part of the Equipment. The Business will not be liable for any claim for loss in respect of any period prior to its receipt of such notice.

#### **7. Repairs and Adjustments**

The Hirer shall not repair or attempt to repair the Equipment unless authorised in writing to do so by the Business.

#### **8. Completion of Hire**

Where the Hire is for a fixed period, it shall terminate on the Date of Termination. In the event that the Hire is continued after the Date of Termination without any new period being determined, until such time as the Equipment shall have been returned the Hirer will pay by way of recompense for the continued use of the Equipment on demand a daily sum (payable in arrears) at the same rate as the Hire Charge due in respect thereof, provided that the foregoing shall not confer upon the Hirer any right to the continued use or possession of the Equipment.

#### **9. Non-payment of Hire Charge**

In the event of the Hirer failing to pay the recompense, it shall pay (i) interest compounded quarterly on the outstanding Hire Charge at the rate of 4 per cent above the base rate from time to time fixed by the Royal Bank of Scotland plc from the due date for payment until receipt of cleared funds and (ii) all legal fees and expenses reasonably incurred by the Business in recovery of all sums outstanding.

#### **10. Limitation of Liability**

The Business will not accept liability for any claims for breach of contract beyond the value of the Quote.

## **11. Notice of Accident**

If the Equipment is involved in any accident resulting in injury to persons or damage to property, the Hirer must immediately notify the Business by telephone and confirm the details in writing. The Hirer must not make any admission, offer, promise of payment or indemnity without the Business's consent in writing.

## **12. Ownership**

During the Period the Equipment shall at all times remain the property of the Business and the Hirer shall have no rights to the Equipment other than as hirer and the Hirer shall not do or permit or cause to be done any matter or thing whereby the rights of the Business in respect of the Equipment are or may be prejudicially affected.

## **13. Licences, Approvals etc.**

The Hirer must obtain and comply with all licences, approvals, permits and authorisations, of whatever nature, which are necessary to enable the Equipment to be used for the purpose for which it is hired and will indemnify the Business against any failure to do so.

## **14. Termination for Breach**

If the Hirer shall fail to pay any Hire Charge or other sum payable under the foregoing agreement (or under any other agreement between the Business, any subsidiary of the Business, any holding company of the Business, or any other subsidiary of any such holding company, and the Hirer) on the Payment Date (whether demanded or not) he or she shall commit a breach of the other terms and conditions whether express or implied of the foregoing agreement (or of the terms and conditions of any such agreement as aforesaid) or shall do or allow to be done any act or thing which in the opinion of the Business may jeopardise the Business's rights in the Equipment or any part thereof, then in each and every such case the Hirer shall be deemed to have repudiated the foregoing agreement and the Business may thereupon or at any time thereafter by notice in writing to the Hirer for all purposes forthwith terminate the Hire constituted by this Hire Agreement. In light of a breach by the Hirer they shall waive their right to a refund of their Hire Charge.

Without prejudice to the foregoing generality, if any of the following events shall occur, namely:

- (1) if any diligence, distress, execution, or other legal process shall be levied on or against the Equipment or any part thereof or against any premises where the same may be or

against any of the Hirer's goods or other property or the Hirer shall permit any judgment against it to remain unsatisfied for seven days; or

- (2) If the Hirer, being a business, ceases to trade during the currency of this Hire Agreement; or
- (3) if the Hirer (being an individual, or in the case of the Hirer being a partnership or a limited liability partnership incorporated under the Limited Liability Partnerships Act 2000, then any individual partner, individual member or individual designated member) commits any act of bankruptcy or compounds or makes any arrangements with its creditors or a trustee in sequestration is appointed or the Hirer signs a trust deed for behoof of his creditors or the Hirer becomes apparently insolvent; or
- (4) if the Hirer, being a body corporate, becomes apparently insolvent, convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver or manager, administrator or administrative receiver appointed in respect of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Hirer or notice of intention to appoint an administrator is given by the Hirer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Hirer or for the granting of an administration order in respect of the Hirer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Hirer,

then in each and every such case the hire constituted by this Hire Agreement shall *ipso facto* and without notice terminate and no payment subsequently accepted by the Business without knowledge of such termination shall in any way prejudice or affect the operation of this clause.

The Hirer shall upon any termination in terms of this Clause 16 pay to the Business:

- (1) all arrears of Hire Charge then due and all other sums accrued due and unpaid at such date of termination, together with interest thereon payable under clause 10 hereof; and
- (2) the cost of all repairs or reinstatement costs required to the Equipment as at such date of termination (other than those for which the Business has assumed responsibility under this Hire Agreement); and

The termination of the hire constituted by the foregoing agreement shall not affect any rights of the Business or liabilities of the Hirer subsisting at such date of termination.

On termination of the Hire howsoever or whenever occasioned or on expiry of the Period, the Hirer shall no longer be in possession of the Equipment with the Business's consent and shall (unless otherwise agreed with the Business), at the Hirer's expense and risk, forthwith return the Equipment (including any tools, handbook and service vouchers and accessories) in good order and in good working condition to the Business at such address as the Business may direct. Without prejudice to the foregoing or to the Business's claim for any arrears of Hire Charges or damages for any breach by the Hirer of this Hire Agreement or any other rights hereunder, the Business or its authorised representatives may at any time after such termination or expiry of the period of Hire referred to in this Hire Agreement without notice retake possession of the Equipment and for such purpose enter upon any premises belonging to or in the occupation or control of the Hirer and the Hirer shall be responsible for all costs, charges and expenses by the Business incurred in retaking possession of the Equipment as aforesaid. The Hirer shall also bear the reasonable costs incurred by the Business at any time in ascertaining the whereabouts of the Equipment and/or the Hirer.

#### **15. Force Majeure**

Although the Business will use all reasonable endeavours to discharge its obligations under this Hire Agreement in a prompt and efficient manner, it does not accept responsibility for any failure or delay caused by circumstances beyond its control. This shall include staff availability due to any public health issue including but not restricted to Coronavirus, unexpected breakdown of vehicles outwith a reasonable timeframe to arrange for substitutes or unexpected nonavailability of staff, subcontractors or equipment for any reason.

#### **16. Notices or Communication**

All communications between the Hirer and the Business in connection with this Hire Agreement must be in writing and delivered by hand or sent by pre-paid first class post or email:

- (1) (in case of communications to the Hirer) to the address above or its registered office (if a limited liability business) or such changed address as shall be notified to the Business by the Hirer; or
- (2) (in the case of the communications to the Business) to the registered office of the addressee (if it is a Business) or such changed address as shall be notified to the Hirer by the Business.

Communications shall be deemed to have been received:

- (1) if sent by pre-paid first class post, 2 days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting)
- (2) if delivered by hand, on the day of delivery;

Communications addressed to the Hirer shall be marked for the attention of [*specify*] and those addressed to the Business.

## **17. Miscellaneous**

Any waiver by the Business of any breach of, or any default under, any provision of this Hire Agreement by the Hirer shall not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of this Hire Agreement.

Each right or remedy of the Business under this Hire Agreement is without prejudice to any other right or remedy of the Business whether under this Hire Agreement or not.

If any provision of this Hire Agreement is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of this Hire Agreement and the remainder of such provision shall continue in full force and effect. If any provision of this Hire Agreement is so found to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted, the provision in question shall apply with such modification(s) as may be necessary to make it valid and enforceable.

Failure or delay by the Business in enforcing or partially enforcing any provision of this Hire Agreement will not be construed as a waiver of any of its rights under this Hire Agreement.

Personal data held by the Business is held in accordance with the Business's Privacy Policy and the Hirer's acceptance of these terms and conditions acknowledges its acceptance of these policies.

**18. Governing Law**

Any contract entered into by the Business and the Hirer in terms of this Hire Agreement shall be governed by and construed in accordance with the Law of Scotland and shall be subject to the exclusive jurisdiction of the Scottish Courts.

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Authorised Signatory on behalf of ETA Omega Ltd

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Print name of Authorised Signatory

.....  
Date of signature

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Authorised Signatory for the Hirer

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Company or Trading Name of Hirer (print)

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Name of Authorised Signatory (print name)

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Date of signature