

TERMS AND CONDITIONS OF HIRE

Background:

These Terms and Conditions are the standard terms for the hire of Equipment and, where applicable, associated Services, from The Cheshire Cat Company Limited, a company incorporated in New Zealand under company number 6053550 with a registered office at 7 Dannys Lane, Cashmere, Christchurch, 8022.

Preliminary Note:

In order to assist understanding of these terms and conditions, we have provided “In English” summaries of important terms. They appear in bold at the end of each section. To make them easier to identify, the paragraphs commence with the words “In English:” Whilst these paragraphs are designed to aid readers understanding, such summaries do not constitute legally binding obligations on the part of either party. They are designed solely to improve reader experience and aid understanding of the underlying contract. The contract between the parties consists of the non-italicised parts of this document.

1. Definitions and Interpretation

1.1. In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

“Booking” means Your booking for the Equipment and, where applicable, associated Services;

“Booking Confirmation” means Our acceptance and confirmation of Your Booking as described in Clause 2;

“Business Day” means, any day other than a Saturday, Sunday or Public Holiday;

“Calendar Day” means any day of the year;

“Contract” means the contract for the hire of the Equipment (and where applicable Services) by You from Us, as explained in Clause 2;

“Deposit” means the sum payable at the time of Your Booking that is required to secure your Booking, in the event We do not require full payment of the Price at the time of making your Booking;

“Equipment” means any equipment, as specifically detailed in the Booking Confirmation, supplied by Us and hired by You subject to these Terms and Conditions;

“Hire Period” means the period for which You will hire the Equipment;

“Month” means a calendar month;

“Price” means the total price payable for the hire of the Equipment (and where applicable, associated Services);

“Security Deposit” means the sum payable under sub-Clause 6 to cover the non-return, loss, theft or damage of the Equipment;

“Services” means the services provided with some Equipment (for instance the delivery, set up, pack away or collection of Equipment);

“We/Us/Our” means The Cheshire Cat Company Limited and includes all employees and agents of The Cheshire Cat Company Limited;

"Website" means www.thecheshirecat.co.nz and any other websites owned and maintained by Us that may be notified to You from time to time;

“You/Your/Yourself” means you, the hirer of the Equipment and/or the purchaser of our Services.

- 1.2. Each reference in these Terms and Conditions to “writing” and any similar expression includes electronic communications whether sent by e-mail, text message, fax or other means.
- 1.3. Each reference to the singular number shall include the plural and vice versa where appropriate.

In English: We use these terms throughout this contract. They are the important things we have to refer back to a lot. Rather than having to write something akin to “War and Peace” every time, this keeps things a bit shorter. There’s also some ground rules on the use of language set out here, again generally to keep things shorter.

2. The Contract

- 2.1. These Terms and Conditions govern the hire of Equipment from Us and, where applicable, the engagement of our Services and will form the basis of the Contract between Us and You. If You are unsure about any part of these Terms and Conditions, please ask Us for clarification.
- 2.2. Nothing provided by Us including, but not limited to the Website, any sales and marketing literature, price lists and other documents constitutes a contractual offer capable of acceptance. Your Booking constitutes a contractual offer that We may, at our discretion, accept.
- 2.3. A legally binding contract between Us and You will be created upon Our acceptance of Your Booking, indicated by Our Booking Confirmation and the payment of the Deposit by You. Upon receipt of Our Booking Confirmation, Your payment of the Deposit will become due. Booking Confirmations will be provided in writing upon acceptance of Your Booking and generally sent to you by email, unless we agree to send Booking Confirmations to you by different means.
- 2.4. No signature is required in order for this contract to be deemed accepted and binding upon both of the parties.
- 2.5. All prices listed are subject to change without notice.

In English: This document sets out the basis of our contract. Nothing we have said to each other before (or afterwards), nothing on our website, marketing or anything else forms part of the contract. It keeps things simple and avoids confusion. A legally binding contract is formed when we accept your order by sending you a booking confirmation, and not, for example, when you place your order with us – the logic behind this is you (very rarely) may ask us for something that we can’t deliver so we need to control what we accept and what we can’t. You don’t need to sign the confirmation for it to be binding.

3. Your Obligations

- 3.1. When making Your Booking, You will be required to supply information for Us to complete Your Booking and a failure by You to supply Us with the necessary information may delay or impede us in accepting Your Booking.
- 3.2. The following conditions apply to Your hire and use of the Equipment:
 - 3.2.1. The area where the Equipment is to be set up is clean and clear from anything that may cause injury or damage to the Equipment or participants;
 - 3.2.2. Equipment must be set up (and where applicable fully secured to the ground) and operated as per the instructions provided;
 - 3.2.3. No person(s) who are visibly intoxicated through alcohol, drugs or any other intoxicating substance shall be permitted to use any Equipment;
 - 3.2.4. You agree that You will, during the Hire Period, be responsible for the Equipment (unless it is expressly agreed that We will staff the Equipment as part of the Services), its care, safety from damage however slight, and the behaviour of all persons of all ages using the Equipment whatever their capacity;
 - 3.2.5. You will not use the Equipment for any purpose other than that described in the hiring agreement, and shall not sub-hire (without Our express prior written consent, not to be unreasonably withheld) or use the Equipment or allow the Equipment to be used for any unlawful purpose or in any unlawful way;
 - 3.2.6. We expressly exclude any liability for injury, loss or damage caused to You or any person using the Equipment contrary to the terms and conditions of this Contract;
 - 3.2.7. We will not be held responsible for any obstruction, nuisance or interference;
 - 3.2.8. You will be responsible for protecting the Equipment against loss or damage during the Hire Period. This includes arranging any insurance against theft, fire, flooding, earthquakes, vandalism, confiscation or any other event resulting in loss or damage.
- 3.3. Where You have requested that We deliver or collect the Equipment:
 - 3.3.1. The venue must have the required access, loading area and car parking necessary to allow the Equipment to be unloaded, set-up, operated, vehicles parked and Equipment loaded at the end of the event safely. We would advise that You check with Your venue if you are unsure and inform Us of any potential issues including stairs, lifts, distance, specific timings, etc. Car parking costs will be chargeable to You in any event. Parking fines will be chargeable to You if incurred by Us where You have informed Us it is permissible to park in a specific location.
- 3.4. Where We set up the Equipment at Your venue:
 - 3.4.1. We reserve the right to refuse to set up the Equipment if We believe the venue is unsuitable or unsafe;
 - 3.4.2. Where applicable, You must ensure that a 10amp mains power supply is available unless a generator has been specified on Your contract as required and being provided. If a 10amp power supply is to be used You must ensure that it is within 30 meters from

the main power source. Should it transpire that no power supply is available, or the power supply not be adequate to fulfil this contract, then the full Price shall still be payable by You;

- 3.4.3. You must notify Us if there are any underground services, cables or pipes where equipment is going to be sited.

In English: This clause sets out your obligations when hiring equipment from us and/or engaging our services. First up, we may have lots of questions to make sure your hire is perfect for you. You agree to give us all the information we need. The clause also covers the ground rules to ensure that any equipment can be set up and operated (e.g. access, a suitably sized area being available with a power supply if required). It also covers the ground rules for the safe use of the Equipment. We want everyone who takes part to have lots of fun but to stay safe.

4. Hire Period

- 4.1. The Hire Period shall be chosen in Your Booking and confirmed in Our Booking Confirmation. Our standard Hire Period is for 72 hours starting at 12:00 noon.
- 4.2. You may be able to extend the Hire Period (subject to the Equipment not being required for another customer) by contacting Us, however, this will not be possible where the Equipment has been booked by a third party. The cost of any extended Hire Period shall be confirmed by Us as at the time we confirm that the Equipment is available for the extended Hire Period You have requested.

In English: We hire out our games for 72 hours, with the hire period starting and ending at midday. The booking confirmation we send you will set out the precise hire period – check this when you get it to be sure it's right. Occasionally, you may wish to extend the hire period. We will try to accommodate this wherever possible, but we may not always be able to do this if someone else has booked the equipment straight after you. Contact us and we'll confirm if you can extend the hire period. If we can help you we'll confirm this in writing with a new booking confirmation, which will also set out the additional charges.

5. Payment

- 5.1. The Price for the Equipment and Services (where applicable) will be that advised to you by Us in Our Booking Confirmation.
- 5.2. To secure Your Booking, You are required to pay a 50% deposit of the Price upon receipt of Our Booking Confirmation. Until this is received Your Booking remains unsecured.
- 5.3. The balance of money due for Your Booking is required to be paid in full 14 days before Your Hire Period.
- 5.4. If Your Booking is made less than 14 days before Your Hire Period, You are required to pay the Price in full upon receipt of Our Booking Confirmation.
- 5.5. If any payment is outstanding after 7 days of becoming due Your Booking will be cancelled and any deposit paid is non-refundable.

In English: When you make a booking with us, you will normally be required to pay a 50% deposit at that point and 50% 14 days before your event. Until we receive your deposit your booking is not

secured and we can hire the equipment to someone else. If you book the equipment less than 14 days before your event you will need to pay us in full to secure the booking. If you don't pay us the remaining 50% owed we will cancel your booking and you will lose your deposit.

6. Refundable Bond

- 6.1. A refundable Bond of \$25 for each piece of equipment is payable at the time the balance of money due for Your Booking is required to be paid 14 days before Your Hire Period.
- 6.2. The Bond will be retained by Us in full or in part if any Equipment is not returned, lost, stolen or damaged in any way. You will remain liable for any additional charges, fees and the balance of the value of the Equipment, or the cost of its repair, over and above the amount of the Bond.
- 6.3. Any unused Bond will be returned to You by Us via bank transfer within 7 days of the end of Your Hire Period.

In English: If you are collecting an item from us we ask for a bond before we release equipment. If it gets damaged or lost or stolen then we'll use the bond towards the cost of replacement or repair, but that may not always be enough to cover the loss so we may require more to cover the balance.

7. Cancellation

- 7.1. You may cancel Your Booking at any time before the start of the Hire Period subject to the following:
 - 7.1.1. For Bookings cancelled more than 30 days before the start of the Hire Period, there will be a cancellation charge of 33% of the Price and the balance will be refunded to You;
 - 7.1.2. For Bookings cancelled less than 30 days but more than 14 days before the start of the Hire Period, there will be a cancellation charge of 66% of the Price and the balance will be refunded to You;
 - 7.1.3. For Bookings cancelled 14 days or less before the start of the Hire Period, there will be a cancellation charge of 100% of the Price and all sums will be retained by Us;
 - 7.1.4. In situations where you have only paid a Deposit and You cancel a Booking in circumstances detailed above that cause a sum greater than the amount of the Deposit to be payable to Us, the balance of such sums shall be paid to Us by You within 7 days of You cancelling the Booking;
 - 7.1.5. In cases where sub-contractors are being used in respect of Your event, their own cancellation charges may apply in addition to the above terms.
- 7.2. Cancellations must be communicated to Us by You in writing and will not be deemed accepted by Us until We have issued you with a cancellation reference. Cancellation references confirming acceptance of Your cancellation shall be issued by Us as soon as reasonably practicable and the effective date of cancellation shall be provided with the cancellation reference together with details of any refund due or alternatively additional sums due to Us by You.

In English: When you make a booking with us, we allocate both equipment and resources. Sometimes, we'll get enquiries about events that we can't fulfil because someone else has already made a booking for that equipment at the same time. We therefore sometimes have to turn people down. We're telling you all of this to explain our cancellation policy. If you cancel an event even with over a month's notice, we've still incurred costs and charges in setting up the event, getting things ready and allocating resources. We may also have turned down other business because of your booking. Therefore we still have to make charges on a sliding scale if you cancel your booking. If it's over 30 days before the event, it's just a third of the price, and that's mainly to cover the admin set up fees together with the fact we may have turned business down. The closer you get to your event before booking, the cancellation charge is larger as the chances of re-hiring the equipment at such short notice are much lower. We try to be fair about this and trust you understand why this policy is necessary.

8. Collection / Delivery and Return

- 8.1. The Hire Period begins and ends at the times and dates stated in the Booking Confirmation.
 - 8.1.1. If You are collecting or returning the Equipment Yourself, this is the time from which the Equipment will either be ready for collection from Us or the time by which the Equipment must be returned to us.
 - 8.1.2. If We are delivering and setting up or packing away and collecting the equipment from You, this is the time by which we arrive to set up or to pack away the Equipment at your venue. You may arrange a different set up or pack away time with Us up to 7 days before your event. If you have done this, it will be stated in a revised Booking Confirmation.
- 8.2. You should check the Equipment at the time of collection or delivery. If there are any items missing or if there is any visible damage to the Equipment, You should inform Us immediately, before leaving our premises or, in the case of delivery, our operatives leaving the site. .
- 8.3. The Hire Period ends at the time and date stated in the Booking Confirmation. Any Equipment returned late will incur an excess charge equivalent to the Price of an additional standard Hire Period per item for each 72 hours, or part of, that the Equipment is not returned. Any Equipment not returned within 6 days of the end of the Hire Period will be considered stolen and details will be given to the Police. In the case of Equipment You are returning to Us, such Equipment may be returned early provided we are available, however We are unable to issue any refunds of any kind for early returns.

In English: This covers the length of the hire period (it's set out on your Booking confirmation) and each of our responsibilities. You have the choice about whether to transport the equipment yourself or ask us to arrange the set up and pack away for you. We ask you to check the equipment when you either collect it or when we deliver it so we both understand the condition of equipment at the point you first take possession of it. This helps in the case of damage in establishing who caused it. The booking confirmation covers when the equipment must be returned by – if we're collecting then that's fine, but if you are returning it, then make sure you return things on time, and when we're open, to avoid us having to make any additional charges. We can't offer any refunds for early return.

9. Insurance

- 9.1. We carry public liability insurance for two million dollars and it is subject to the terms and conditions of this contract being complied with. Public liability insurance is excluded in its entirety following any claim or injury to any third party or employee where such injury is directly or indirectly related to the use of drugs and/or alcohol.
- 9.2. We do not insure the Equipment against loss or damage during the Hire Period. This is Your responsibility.

In English: We carry public liability insurance of \$2 million for your protection. In order for it to remain valid you must abide by the rules set out in this contract (particularly in clause 3). You'll appreciate that the insurance won't cover injuries relating to drug use or alcohol. We cannot insure our equipment against loss or damage whilst it is away from our premises and not under our care.

10. Loss and Damage

- 10.1. You are responsible for, and will be required to compensate Us for, any loss or damage which may occur to Equipment, save for loss or damage that occurs solely as a consequence of fair wear and tear, as reasonably determined by Us.
- 10.2. For clarity, loss is where the item has not been returned, or broken. Damage is when an item is not suitable for re-hire or requires repair.
- 10.3. You will be charged the replacement cost (including shipping if applicable).
- 10.4. Any charges due under this Clause 10 will firstly be taken out of Your Bond. If the cost of repairing the damage or replacing the Equipment is, in Our opinion, higher than the sum of the Bond, You will be required to pay any excess sum.
- 10.5. You will not be responsible for any pre-existing damage to Equipment that has already been identified under sub-Clause 8.2 at the time of collection/ delivery.
- 10.6. All Equipment remains Our property, including any damaged items.

In English: If you damage the equipment then you're responsible for paying for any repairs or its replacement. This doesn't include damage caused by fair wear and tear or any pre-existing damage. We want to be sure the equipment is in good condition for everyone else.

11. Our Liability

- 11.1. We will be responsible for any foreseeable loss or damage that You may suffer only as a result of Our breach of these Terms and Conditions or as a result of Our negligence. Loss or damage is foreseeable only if it is an obvious consequence of Our breach or negligence or if it is contemplated by You and Us when the Contract is formed. We will not be responsible for any loss or damage that is not foreseeable.
- 11.2. In any event, Our total liability under these Terms and Conditions shall be limited to the value of the Contract between Us and You, that is, the total Price payable by You.

- 11.3. Nothing in these Terms and Conditions seeks to exclude or limit Our liability for death or personal injury caused by Our negligence (including that of Our employees, agents or sub-contractors); or for fraud or fraudulent misrepresentation.
- 11.4. Nothing in these Terms and Conditions seeks to exclude or limit Our liability with respect to Your rights as a consumer (if applicable).

12. Events Outside of Our Control (Force Majeure)

- 12.1. We will not be liable for any failure or delay in performing Our obligations where that failure or delay results from any cause that is beyond Our reasonable control. Such causes include, but are not limited to: traffic and / or inclement weather affecting delivery of Equipment to a location by a specified time, inclement weather rendering the use of Equipment impossible, power failure, internet service provider failure, industrial action, civil unrest, fire, explosion, flood, storms, earthquakes, subsidence, acts of terrorism, acts of war, governmental action, epidemic or other natural disaster, or any other event that is beyond Our control. Time shall not be of the essence in this contract.

In English: Force Majeure is a legal term that roughly translates as “superior force”. These are where matters out of either of our control cause either us to fail to provide you with something or make us late. They include what some people call “Acts of God” e.g. floods, earthquakes, fire, or severe weather etc. Force Majeure also include more modern problems such as power cuts, the internet “going down”, “traffic jams” and other such issues. Basically we’re both agreeing that if something like this happens and causes us to fail to provide you with something or to be late, we won’t be liable for this.

13. Communication and Contact Details

- 13.1. If You wish to contact Us for any reason, You may contact Us in person at our premises, by telephone on 03 3322209 during office hours on a Business Day or on 022 1014422 out of office hours or on a non Business Day (but only in the case of emergency relating to an event taking place prior to Us next re-opening for business), by email at Ben@thecheshirecat.co.nz (only monitored during office hours on Business Days), or by post at The Cheshire Cat Company Limited, 7 Dannys Lane, Cashmere, Christchurch, 8022.

In English: This sets out all of our contact details. The emergency mobile number is for out-of-hours queries relating to an event taking place at that time.

14. How We Use Your Personal Information (Data Protection)

- 14.1. All personal information that We may collect (including, but not limited to, Your name and address) will be collected, used and held in accordance with the provisions of the Privacy Act 1993 and Your rights under that Act.
- 14.2. We may use Your personal information to:
- 14.2.1. Provide Our products and services to You;
 - 14.2.2. Process Your payments; and

14.2.3. Inform You of new or alternative products and services available from Us. You may request that We stop sending You this information at any time.

14.3. We will not pass on Your personal information to any other third parties without first obtaining Your express permission.

In English: This governs how we will use any information we collect from you. First and foremost we will comply with the Privacy Laws. We take this responsibility very seriously. We will use your information to help provide you with our products and services, process any payments, and to occasionally inform you of new or alternative products or services. You can opt out of this at any time. Finally, we won't pass your details on to anyone else without obtaining your permission first.

15. Other Important Terms

15.1. We may transfer (assign) Our obligations and rights under these Terms and Conditions (and under the Contract, as applicable) to a third party (this may happen, for example, if We sell Our business). If this occurs You will be informed by Us in writing. Your rights under these Terms and Conditions will not be affected and Our obligations under these Terms will be transferred to the third party who will remain bound by them.

15.2. You may not transfer (assign) Your obligations and rights under these Terms and Conditions (and under the Contract, as applicable) without Our express written permission.

15.3. The Contract is between You and Us. 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 these Terms and Conditions.

15.4. If any of the provisions of these Terms and Conditions 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 these Terms and Conditions. The remainder of these Terms and Conditions shall be valid and enforceable.

15.5. No failure or delay by Us in exercising any of Our rights under these Terms and Conditions means that We have waived that right, and no waiver by Us of a breach of any provision of these Terms and Conditions means that We will waive any subsequent breach of the same or any other provision.

16. Governing Law and Jurisdiction

16.1. These Terms and Conditions (and the Contract) (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of New Zealand.

16.2. Any dispute, controversy, proceedings or claim between Us and You relating to these Terms and Conditions (or the Contract) (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the exclusive jurisdiction of the courts of New Zealand.

In English: Here we're agreeing that this document is made under New Zealand Law and we agree that the New Zealand Courts will have jurisdiction (i.e. the power and the right) to decide any issues under this Agreement.