

# Terms and Conditions

## 1. INTERPRETATION

The following definitions and rules of interpretation shall apply in these Conditions.

- Definitions:

**“Conditions”**: the standard terms and conditions set out in this document including any special terms agreed in writing between us and you.

**“Consumer”**: an individual acting for purposes that are wholly or mainly outside that individual’s trade, business, craft or profession.

**“Contract”**: the contract concluded between us and you for the hire of the Equipment in accordance with these Conditions.

**“Equipment”**: the mobile toilets (including all fixtures and fittings contained therein and any other equipment) details of which are set out in the Hire Contract or otherwise confirmed in writing to be hired by you for the Hire Period.

**“Hire Charges”**: the charges for the hire of the Equipment during the Hire Period as set out in any quotation, price list, or otherwise confirmed in writing by us (including any additional transportation or other charges levied by us in respect of the delivery of the Equipment or the return or collection of the Equipment after the expiry of the Hire Period) excluding VAT.

**“Hire Contract”**: the document provided in writing by us to you setting out the Equipment, the Site, the Minimum Hire Period and the Hire Period (where applicable).

**“Hire Period”**: the period of hire of the Equipment as set out in the Hire Contract or otherwise confirmed in writing by us or, where no period is specified, the Hire Period shall commence on the date of delivery of the Equipment and shall continue until the

earlier of the date on which we collect the Equipment or the date the Hire Period is terminated in accordance with clause 3.3.

**“Minimum Hire Period”**: the minimum period for which the Hire Charges shall be payable as set out in the Hire Contract.

**“Order”**: your order to hire the Equipment as set out in your purchase order form, made verbally over the phone, via email or post, or in person, or your written acceptance of our Hire Contract (as the case may be).

**“Site”**: the place for the delivery and use of the Equipment as set out in any Hire Contract or otherwise confirmed in writing by us.

**“We” / “us” / “our”**: Suffolk Hutmakers Ltd, Grange Farm, Dennington, Woodbridge, Suffolk, IP13 8BT

**“Working Day”**: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

**“You” / “your”**: the person or party who agrees to hire the Equipment.

- A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 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 all subordinate legislation made under that statute or statutory provision.
- Any words following the terms **including, include, in particular, for example** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- A reference to **writing** or **written** includes email but not fax.

#### 1. CONDITIONS APPLICABLE AND PERIOD OF HIRE

- We will let and you will hire the Equipment for the Hire Period and any extensions agreed in writing subject to these Conditions which will govern the Contract to the exclusion of any other terms and conditions.
- No variation to these Conditions shall be binding unless agreed in writing.
- Any representations, advertising, marketing material or descriptive matter contained in our brochures or on our website are issued solely

for giving an approximate idea of the Equipment and shall not be incorporated into the Contract and shall have no contractual force. In entering into the Contract you acknowledge that you do not rely on and waive any claim for breach of such representations.

- Any typographical clerical or other error or omission in any sales literature, quotation, price list, Hire Contract, invoice or other documentation or information issued by us shall be subject to correction without any liability on our part.
- Any quotation given by us may be withdrawn at any time and in any event shall be subject to availability of the Equipment.
- You acknowledge that it is not intended that the Contract will be subject to the Consumer Credit Act 1974. If you are a Consumer the Hire Period shall not in any event exceed 3 months.
- We reserve the right to make changes in the specification of the Equipment or to supply suitable alternative equipment.
- You shall not be entitled to sub-let the Equipment unless we have provided our prior written consent for you to do so. Where we have provided such consent, any sub-letting of the Equipment shall be subject to the provisions contained herein and subject to you fully indemnifying us in accordance with the provisions set out in clause 5.
- You shall inspect the Equipment (or ensure that the Equipment is inspected) on delivery and record any damage to or defect with the Equipment on the delivery note. Within 2 Working Days of delivery you shall notify us of any defect or damage. If you fail to comply with the provisions of this clause 9 the Equipment shall be deemed to have been delivered free from any defect or damage which would be apparent on a reasonable examination of the Equipment.

## 2. ORDERS AND CANCELLATION

- The Order constitutes an offer by you to hire the Equipment in accordance with these Conditions.
- No Order shall be deemed to be accepted by us until we issue a Hire Contract (or other written acceptance of the Order) or we deliver the Equipment (whichever is the earlier) at which point and on which date the Contract shall come into existence.
- Except where otherwise confirmed in writing, either party shall be entitled to terminate the Hire Period by notifying the other by telephone by no later than 16.00 on a Working Day. In such circumstances the Hire Period shall be deemed to terminate at the end of that day, or an

agreed date in the future (save that you shall remain responsible for the safekeeping of the Equipment until it has been collected by us).

- Where the Hire Period expires or is terminated in accordance with clause 3 above, we will use our reasonable endeavours to collect the Equipment within 3 Working Days of the end of the Hire Period.
- Any times and/or delivery or collection dates quoted or given by us are approximate only and time shall not be of the essence for the purposes of the Contract.
- We shall be entitled to increase the Hire Charges by giving you at least 10 days' written notice of such increase.
- If you are a Consumer you have a legal right to change your mind and cancel the Contract by notifying us in writing within 14 days of the Contract being entered into and receive a refund of any Hire Charges (subject to clause 8 below). We shall arrange for collection of the Equipment from you (if already supplied).
- In the event that you are a Consumer and you cancel the Contract pursuant to clause 7 we will deduct from any refund owed to you the cost of any hire that has already been provided to you and the direct costs to us of delivery and collection of the Equipment.
- Save as otherwise provided no Order which has been accepted by us may be cancelled by you except with our agreement in writing and on the terms that you shall at our discretion indemnify us in full against all loss (including loss of profit and the costs of all labour and materials used) and damages charges and expenses incurred by us as a result of such cancellation.
- Except in circumstances as set out in clause 9 or where it is beyond our reasonable control, in the event of any failure of the Equipment you shall be entitled to a rebate of the Hire Charges in respect of the affected Equipment pro-rated to the period in which use of the affected Equipment is suspended.

### 3. YOUR OBLIGATIONS AND RESPONSIBILITIES

- You shall ensure that the conditions at the Site are suitable for the Equipment and in particular (and without limitation) you shall ensure that:
  - the location at the Site where the Equipment is to be situated shall be level with sufficient solid standing to bear the load of the Equipment and the weight of any motor vehicles used by us in delivering servicing and collecting the Equipment;

- suitable access is available at the Site between the hours of 07.30-16.30 for the delivery, servicing and collection of the Equipment free from all obstructions (including, but not limited to, overhead trees or hedges, fences, walls materials or equipment);
  - there is suitable access to the location at the Site at which the Equipment is being used to allow our vehicle(s) to park within 15 metres of the Equipment in order to service the Equipment;
  - the location at the Site at which the Equipment is to be delivered to, serviced and collected from is at street level. If you move the Equipment so that it is not at street level, you shall be responsible for returning it to street level for servicing and or collection;
  - suitable arrangements are made at the Site to ensure that any buried pipes or other concealed services do not sustain damage as a result of the transport, use, erection, installation, servicing, dismantling, and/or removal of the Equipment; and
  - all necessary arrangements are made by you (at your expense) at the Site for the provisions and installation of any connections required to mains services.
- If, at our sole discretion, the Site is unsuitable for the use of the Equipment, or we are unable to deliver the Equipment or perform any of our other obligations under this agreement as a result of any default by you (including default under your obligations set out in clause 1) then, without prejudice to any other right or remedy available to us, we may:
    - rearrange delivery, collection or servicing of the Equipment and charge you the reasonable costs incurred by us as a result of our failed attempt to deliver, collect or service the Equipment;
    - store the Equipment until actual delivery and charge you the reasonable costs (including transportation and insurance) of storage; or
    - refuse to deliver the Equipment and cancel the Contract and/or suspend the provision of any further Equipment on hire to you and charge you for any additional costs incurred

by us insofar as such costs are not met by any cancellation fees payable hereunder.

- You shall not smoke inside the Equipment (or permit any person to do so), use the Equipment for storage purposes, use the Equipment for any purposes other than the provision of toilet facilities. Where you breach this clause 3, you shall indemnify us for any loss or damage caused to the Equipment as a result of such breach and we shall not be required to service the Equipment until such time as it is safely accessible.
- You shall be responsible for ensuring that the Equipment is adequately protected from damage resulting from cold weather (including, but not limited to, frost damage) and you shall indemnify us for any loss or damage caused to the Equipment as a result your failure to comply with this clause.
- You acknowledge that the Hire Charges are based on a maximum time for delivery, servicing and collection of 1 hour per unit of Equipment. In the event that additional time is required for delivery, servicing and collection arising from inadequate instructions provided by you or unsuitable Site conditions and/or soft ground due to inclement weather or any other conditions and/or restricted access then, without limitation to any other right or remedy available to us, we shall be entitled to charge you the additional rate of £60 per hour plus VAT (payable in increments of 15 minutes) and such charges shall be added to the Hire Charges.
- You acknowledge that we shall not be responsible for making good or repairing any damage to the Site howsoever caused.
- You shall comply with all instructions given by us in respect of the use of the Equipment by you or third parties and you shall not (nor permit others) to reposition, dismantle, adjust, modify or attempt to repair the Equipment without our prior written approval. You shall indemnify us for any loss or damage which we suffer as a result of your breach of this clause 7.
- You will obtain, maintain and make all necessary payments for, all permissions, consents, and licences required for the Equipment under any statute regulation or bye-law and comply with any relevant conditions and/or payment terms imposed.
- You shall be responsible for ensuring that the Equipment is available for collection as may be required by us and that on collection the Equipment is in the condition prevailing at the commencement of the

Hire Period. Failure to do so may result in additional charges being incurred.

- You acknowledge that should our drivers receive abuse from you, your employees or agents, or anybody on the Site (whether in person or over the phone), we reserve the right to refuse delivery / service / collection (as the case may be) and levy a charge equal to the costs of such failed delivery, service or collection. You also acknowledge that we will not return to the Site unless clause 1 is complied with.

#### 4. INSURANCE AND INDEMNITY

- You shall be responsible for and hereby indemnify us against any damage sustained to the Equipment during the Hire Period (and any extension thereof) and such period until the Equipment has been collected by us.
- You will indemnify us against any and every expense, liability, financial loss, claim or proceedings whatsoever and in respect of any death or personal injury whatsoever or damage to or loss of property whatsoever arising out of the delivery, use, non-use, repossession, servicing, collection or return of the Equipment or any part of it. This indemnity will be reduced in proportion to the extent that such expense, liability, financial loss, claim, proceedings, death, personal injury, damage to or loss of property is due to our negligence.
- You accept that it is your responsibility to safely secure the Equipment at the Site to prevent it from falling over or otherwise causing damage (including to third party property). We will not be liable for any damage caused by the Equipment to any property (whether such property belongs to a third party or otherwise) whilst it is at the Site.
- In the event of an accident involving the Equipment and in respect of any claim not within your agreement to indemnify us as set out in the Conditions you shall:
  - not make any admission of liability;
  - notify us as soon as reasonably practicable and in any event within 24 hours of the occurrence of the accident; and
  - supply such information and assistance in connection with the accidents as we may require.
- You will hold upon trust for us on demand all money you receive from any insurance company or from any other source in settlement of any claim relating to the loss, theft or damage of any of the Equipment.

- You will pay us all costs we incur and rectifying any Equipment returned damaged or unclean. Additionally you will pay for our financial loss until such rectification is complete.

#### 5. HIRE CHARGES AND PAYMENT

- In consideration of us providing the Equipment to you, you shall pay the Hire Charges for the Hire Period.
- In the event that the Hire Period is terminated in accordance with clause 3 within the Minimum Hire Period, the Hire Charges shall be payable for the Minimum Hire Period.
- Subject to any special terms agreed in writing between us and you, or where you pay the Hire Charges plus VAT in advance of the Hire Period, we will be entitled to invoice you for the Hire Charges and VAT at the rate prevailing on the date of our invoice before on or at any time after the commencement of the Hire Period.
- Subject to any special terms agreed in writing between us and you and where the Hire Charges plus VAT are not paid in advance of the Hire Period, you shall pay the Hire Charges and VAT within 28 days of the date of our invoice (the “**Due Date**”) unless we have made written demand for immediate payment following your failure to pay any sum due to us whether under this Contract or otherwise by its Due Date in which case payment will be due immediately on receipt of that demand.
- If the Hire Contract (or any other document provided in writing by us) specifies that any proportion of the Hire Charges is to be paid prior to the delivery of the Equipment, we shall not be obliged to deliver the Equipment until such payment has been received by us in full, cleared and immediately available funds.
- Time of payment of the Hire Charges and VAT shall be of the essence of the Contract.
- In the event that you do not allow us to collect, or otherwise prevent us from collecting, the Equipment upon termination of the Hire Period, we shall be permitted to invoice for the Hire Charges to cover the period until we are able to collect the Equipment. If we are unable to collect the Equipment within a reasonable period of time, we shall be permitted to invoice for the cost of obtaining replacement Equipment.
- If you fail to make payment on the Due Date then without prejudice to any other right or remedy available to us we shall be entitled to:



- cancel the Contract and/or suspend the provision of any further servicing of the Equipment on hire to you and/or collect the Equipment (at our sole discretion); and
- charge interest on the overdue sum from the Due Date until payment of the overdue sum, whether before or after judgment, such interest to accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%; and
- demand immediate payment of all sums due or to fall due to us from you whether under this Contract or otherwise.
- Without prejudice to any other right or remedy available to us, we shall be entitled to levy an administration charge representing our estimate (decided at our sole discretion) of our reasonable administrative costs incurred if at any time a cheque paid to us is dishonoured or you default on a payment owing to us. Furthermore in the event that proceedings are issued as a result of any default by you we shall be entitled to recovery of such reasonable administrative sum along with any costs as have been incurred by us in issuing such proceedings.

#### 6. WARRANTIES AND LIABILITIES

- We warrant that the Equipment shall be delivered to you in good condition.
- We shall be under no liability under any warranty condition or guarantee if the Hire Charges and VAT have not been paid by the Due Date.
- Nothing in the Contract shall limit or exclude our liability for:
  - death or personal injury caused by our negligence, or the negligence of our employees, subcontractors or agents;
  - fraud or fraudulent misrepresentation; or
  - any other liability which cannot be lawfully be limited or excluded.

#### **Limitation of liability – Consumers**

- If you are a Consumer, we are responsible to you for foreseeable loss and damage caused by us. If we fail to comply with these Conditions, we are responsible for loss or damage you suffer that is a foreseeable result of our breach or our failing to use reasonable care and skill, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if

either it is obvious that it will happen or if, on the Commencement Date, both we and you knew it might happen, for example, if you discussed it with us during the sales process.

- We are not liable for business losses. We will only hire the Equipment to end users. If you use the Equipment for any commercial, business or re-sale purpose we will have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.

### **Limitation of liability – non-Consumers**

- If you are not a Consumer, subject to clause 3, we shall not be liable to you, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for:
  - loss of profits;
  - loss of sales or business;
  - loss of agreements or contracts;
  - loss of anticipated savings;
  - loss of use or corruption of software, data or information;
  - loss of or damage to goodwill; and
  - any indirect or consequential loss.
- Subject to clause 3 and 7.6, our total liability to you, 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 Hire Charges paid by you to us under this Contract.
- This clause 7 shall survive termination of the Contract.

#### **1. TERMINATION**

- Without prejudice to any other right or remedy available to us, we shall be entitled to cancel the Contract or suspend any further performance under the Contract without any liability on our part to and if the Equipment has been provided on hire to you but not paid for then the Hire Charges and VAT shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary in the event that:
  - you make any voluntary arrangement with creditors or become subject to any administration order or (being a Consumer or a firm) become bankrupt or (being a company) go into liquidation (otherwise then for the purposes of amalgamation or reconstruction);

- an encumbrancer takes possession or a receiver is appointed over any of your property or assets;
  - you (not being a Consumer) cease or threaten to cease to carry on business;
  - you breach any of the Conditions; or
  - we reasonably apprehend that any of the events mentioned above is about to occur in relation to you and notify you accordingly.
- We would ask that you notify us in accordance with clause 10.1 of any problems with the Equipment as soon as possible and in any event within 2 Working Days so we can investigate and if required send replacement equipment. If you are a Consumer you have the right to reject the Equipment if it does not conform to the Contract within 30 days of the Equipment being delivered to you and you may be entitled to a refund.

## 2. FORCE MAJEURE

Save as otherwise provided herein neither party shall be liable for any default due to any act of God nor strike lock-out industrial action fire flood drought tempest or any other event beyond the reasonable control of either party.

## 1. CONTACTING US

- If you have any general queries about the Contract or the Equipment you can contact us at any time during standard office hours using our office number 07568135193 or via email [info@thefineloocompany.co.uk](mailto:info@thefineloocompany.co.uk). Please be aware that all calls made or received to or by us to our office number are recorded for training & administrative purposes.
- Where these Conditions specify that you must contact us in writing you must write to us at our registered office address, which is set out above.

## 2. GENERAL

- We may perform any of our obligations or exercise any of our rights hereunder ourselves or through our employees, agents, sub-contractors or suppliers.
- No waiver by us of any breach of the Contract by you shall be considered as a waiver of any subsequent breach of the same or any other provision.

- No failure by us to exercise any power given to it or to exist upon the strict compliance by you with any obligation hereunder and no custom or practice of the parties at variance with the terms hereof shall constitute any waiver of any of our rights under this Contract.
- If any provisions of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provisions in question shall not be affected thereby.
- If you are a Consumer your statutory rights are unaffected by these Conditions.
- Any notice given hereunder must be given in writing.
- Except as otherwise provided nothing in this Contract shall confer on any third party any benefit or the right to enforce any term of this Contract.
- The Contract shall be governed by the Laws of England and subject to the jurisdiction of the English Courts.
- We will process any personal data which we receive in the course of performing our obligations under this Contract in accordance with our Privacy Policy.