

## **Terms and Conditions of Hire**

### **Have Definitions and interpretation**

1.1 In this Agreement the following words or phrases have the following meanings:

<b>Applicable Laws</b>	relevant laws, regulations and statutes relating to the Venue and its use
<b>Booking Confirmation</b>	The written confirmation of the booking sent by Newquay Town Council to the Hirer
<b>Event</b>	the event provided taking place at the Venue provided in the Booking Confirmation
<b>Hirer</b>	The organisation or individual applicant (where applicable) named in the Booking Confirmation
<b>Licence Fee</b>	the fee inclusive of VAT payable to Newquay Town Council calculated in accordance with a daily rate payable for each daytime (8-hour period) of the Licence Period or part thereof
<b>Licence Period</b>	the period of use of the Venue commencing with the start time and ending with the finish time provided in the Booking Confirmation
<b>Licences</b>	licence for the sale of tobacco, alcohol and/ or gambling and all required licences from any competent authority relating to the staging of the Event at the Venue
<b>Regulations</b>	The regulations relating to the use of the Venue imposed by Newquay Town Council from time to time and notified to the Hire

## **Security Deposit**

the refundable sum payable by the Hirer to Newquay Town Council set out at Schedule 1 which will be retained to compensate for the Hirer's breach of this Agreement

## **Venue**

The location described in the Booking Confirmation and edged Red (excluding the areas hatched Green) on the plan together with the surrounding public concourses and walkways, car parks and other facilities

## **2 Commencement**

This agreement commences when Newquay Town Council confirm the booking in writing to the Hirer (**'Booking Confirmation'**), at which point both parties will be bound by these terms.

## **3 Fees and payment**

3.1 The Licence Fee plus VAT, Electrical Fee, Security Deposit and Administration Fee are payable at least 30 days prior to the commencement of the Licence Period.

3.2 Invoices validly raised are to be paid on presentation.

3.3 In the event the Hirer is in breach of clause 4 of this Agreement, this Agreement may be terminated by Newquay Town Council without further liability to the Hirer.

## **4 Licensor's obligations**

4.1 On the commencement of the Licence Period to give access to the Venue to the Hirer free from obstructions and in satisfactory condition.

4.2 To comply with the Applicable Laws and the rules and regulations of any local or other competent authority where a breach would restrict or prevent the staging of the Event.

## **5 Hirer's obligations**

5.1 To use the Venue only for the purpose of staging the Event.

- 5.2 Not to use the Venue or any part of it for any activities which are dangerous, offensive, noxious, illegal or immoral or which are or may become a nuisance to Newquay Town Council or the owner or occupier of any neighbouring property.
- 5.3 Not to do anything which might invalidate any insurance maintained by Newquay Town Council or the Hirer in respect of the Venue or Event of which Hirer is aware or which might increase the insurance premium payable for the Venue by Newquay Town Council for the Venue.
- 5.4 Not to bring on to the Venue or any part of it any animals without the prior consent of Newquay Town Council.
- 5.5 Under no circumstances are generators to be used by anyone on the site.
- 5.6 Every effort must be made by all event organisers to not duplicate the Retail offerings which are already on site.
- 5.7 Hot food and drink sales are only permitted by prior arrangement.
- 5.8 To observe applicable laws relating to the Event.
- 5.9 At its own cost to comply with the requirements of the Health and Safety Executive in relation to the Event.
- 5.10 To ensure the Event is conducted safely and to monitor the risk of injury or damage to property.
- 5.11 On becoming aware of the risk of or occurrence of injury or damage to property caused by the Event to take steps to control, suspend or cancel the Event and to notify Newquay Town Council immediately.
- 5.12 Pay to third parties the cost of making good damage caused by the Event.
- 5.13 At the end of the Licence Period to remove all the Hirer's goods, waste and other materials in the Venue and vacate and hand back the Venue cleared within 24 hours and to reinstate the Venue to good and clean condition within 48 hours. In default the Hirer shall pay to Newquay Town Council the applicable daily rate set for every day or part of a day during which the default exists and shall indemnify Newquay Town Council against any costs, damages or liability incurred by Newquay Town Council.
- 5.14 Not to park on or obstruct the access ways giving access to the Venue including the area designated for the Town Council's Exhibition Trailer.

- 5.15 No vehicles of any kind are permitted on the site. All unloading must take place on adjacent public roads. Only Emergency Vehicles required for the event may be permitted on the paved area at the top of the site but only by prior agreement and only if be essential to the event.
- 5.16 Access to the retail units and café must be maintained at all times.
- 5.17 To produce to Newquay Town Council not less than 90 days before the commencement of the Licence Period a site plan including details of all equipment and items to be suspended from or affixed to the roof, walls, floor or other structural parts of the Venue.
- 5.18 Not to make any alterations or attachments or additions to the Venue without prior written permission from Newquay Town Council and to ensure that anything erected at the Venue is properly constructed of sound materials, safe for its likely use and regularly supervised and inspected.
- 5.19 To ensure that the Event takes place during the Licence Period and to use its best endeavours to ensure that all persons have left the Venue not later than the time set out in the Booking Confirmation.
- 5.20 To ensure that the maximum number of persons in the Venue other than the participants, security staff, technicians and personnel of Newquay Town Council does not exceed the maximum permitted, such arrangements to be approved by Newquay Town Council not less than 90 days before the commencement of the Licence Period.
- 5.21 To obtain the prior written approval of Newquay Town Council to any publicity material proposed to be issued in relation to the Event.
- 5.22 Where applicable to the Venue, to ensure an area 8 foot wide is kept clear around the band stand which must not be used without prior permission of Newquay Town Council.
- 5.23 The Hirer will be liable for access and egress of Event personnel, equipment and/or vehicles on to the site at all times during the Licence period.
- 5.24 The site must be remain accessible to the public excluding where an area is sectioned off for the purpose of setting up any temporary event structures.
- 5.25 Access bollards must remain in place at all times to prevent unauthorised vehicular activity. The Hirer is only permitted to lower the bollards for

the purposes of setting up and taking down an event provided they are immediately re-instated when not required.

## **6 Newquay Town Councils' rights**

- 6.1 The rights provided to Newquay Town Council in this clause are without liability to the Hirer.
- 6.2 To prevent access to or to remove from the Venue any person acting in a way which may cause a breach of the peace or may be considered to be harmful, undesirable or offensive.
- 6.3 To prevent access to or to remove from the Venue any person who in the opinion of Newquay Town Council either unreasonably refuses to permit themselves or their possessions to be searched on entering the Venue or poses a security risk or who infringes the Regulations.
- 6.4 Where, in the reasonable opinion of Newquay Town Council, any situation or action or event which is likely to occur or does occur during the Licence Period is a breach of the Hirer's obligations under this Agreement or may constitute a danger to public safety including the safety of the persons present at the Event, the right to cancel, suspend or control the Event.
- 6.5 The right to inspect, repair and improve the Venue with consequent inconvenience to visitors provided that Newquay Town Council in exercising this right shall have regard to the representations of the Hirer.
- 6.6 To undertake works that do not materially interfere with the Event.
- 6.7 The right after 24 hours after the end of the Licence Period at the cost of the Hirer to remove from the Venue and to store all structures, goods, equipment, waste and other materials brought onto the Venue by the Hirer or its contractors or employees and after 48 hours after the end of the Licence Period to dispose of the same at the cost of the Hirer.

## **7 Force majeure**

- 7.1 If an event beyond the control of Newquay Town Council will prevent it from fulfilling the substance of its obligations under this Agreement then Newquay Town Council will ensure that the Hirer is aware and the Hirer shall be entitled at any time thereafter, so long as such cause still subsists, to cancel or suspend this Agreement by notice in writing to the Hirer.

- 7.2 In the event of cancellation or suspension pursuant to clause 7.1 above Newquay Town Council shall be under no liability to the Hirer for loss sustained. The Hirer shall in the event of cancellation be under no liability to Newquay Town Council in respect of its future obligations under this Agreement and in the event of suspension shall be relieved of their obligations under this Agreement for the period of such suspension (but without prejudice to the rights of either party in respect of any claim accrued under this Agreement until the date of the commencement of the cancellation or suspension).
- 7.3 Newquay Town Council may also suspend, control or cancel the Event on the occurrence of an event beyond their control.

## **8 Assignment**

The Hirer shall not be entitled to assign, dispose of or deal with the whole of its rights and obligations under this Agreement.

## **9 Insurance**

- 9.1 The Hirer shall at its own expense during the Licence Period effect and maintain with an insurance office of repute:
- 9.1.1 public liability insurance with an adequate indemnity limit of not less than £5 million in respect of any one claim;
  - 9.1.2 insurance of the Venue in an adequate sum in respect of all normal commercial risks;
  - 9.1.3 where not covered by the insurances obtained above, insurance against loss of or damage to the property and effects of the Hirer, its sub-licensees and their respective contractors, sub-contractors and agents and against death, injury, loss or damage suffered by employees of them or to their property or against any consequential loss suffered by them.
- 9.2 Prior to commencement of the Licence Period the Hirer shall produce to Newquay Town Council details of the insurance maintained including copy documents of the certificate of cover and policy schedule.
- 9.3 Breach of this clause 9 shall entitle Newquay Town Council to terminate this agreement immediately without notice and without further liability to Newquay Town Council.

## **10 Termination by Newquay Town Council**

10.1 Other than where specified in this agreement, Newquay Town Council may terminate this Agreement immediately on notice without further liability in the event that:

10.1.1 the Hirer is in material breach of any of its obligations under this agreement; or

10.1.2 commits a series of breaches of this agreement which when taken together are sufficiently serious to amount to a material breach.

## **11 Termination by the Hirer**

11.1 The Hirer may terminate this agreement at any time on written notice. Refund of the Licence Fee and Administration Fee will be provided as follows based on the time to commencement of the Licence Period from the date notice of cancellation is received by Newquay Town Council:

11.1.1 28 days or more – full refund;

11.1.2 14 days or more – 50% refund; or

11.1.3 Less than 14 days – none.

11.2 Clauses 1, 3, 5, 6, 8, 9, 10, 12 and 13 shall survive termination of this agreement by either party.

## **12 Limitation of liability**

12.1 Nothing in this agreement shall limit or exclude Newquay Town Council's liability for:

12.1.1 death or personal injury caused by its negligence;

12.1.2 fraud or fraudulent misrepresentation; or

12.1.3 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.

12.2 Subject to clause 13.1, Newquay Town Council's total liability to the Hirer where the Hirer is acting other than as a consumer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this agreement shall be limited to the sums paid by the under this agreement.

### **13 Indemnity**

13.1 Other than in accordance with clause 13.1 the Hirer shall indemnify Newquay Town Council against:

13.1.1 claims which may be made against Newquay Town Council in respect of the Event; and

13.1.2 losses Newquay Town Council incurs as a result of the Hirer breaching this agreement

13.2 Newquay Town Council may retain part or all of the Security Deposit in part or complete satisfaction of that indemnity and may demand the balance from the Hirer.

### **14 Notices**

Notice under this Agreement shall be deemed given when delivered by hand, by email when transmission is confirmed or on the second business day after posting if sent by mail.

### **15 Rights of third parties**

A person who is not a party to this Agreement may not rely upon or enforce any rights pursuant to the Contracts (Rights of Third Parties) Act 1999.

### **16 Governing law and jurisdiction**

This Agreement shall be governed by and construed in all respects in accordance with the laws of England whose courts are the courts of exclusive jurisdiction.



## Schedule 1 – Venue Hire

### Licence Fee

Event Type	Fees per day.
	<b>VAT will be applied to all hire charges</b>
<b>ZONE 1 (including Band Stand)</b>	
Commercial / CIC	£185.00
Commercial Electrical Usage	£75.00
Community/ Charity	£50.00
Community/ Charity Electrical Usage	£50.00
Security Deposit	Commensurate with location of the Event and the risk of damage it presents.
<b>ZONE 2</b>	
Commercial / CIC	£85.00
Commercial Electrical Usage	£50.00
Community/ Charity	£25.00
Community/ Charity Electrical Usage	£25.00
Security Deposit	Commensurate with location of the Event and the risk of damage it presents.
<b>BAND STAND</b>	
Commercial / CIC	£85.00
Community/ Charity	£50.00
<b>Optional</b>	
2.3 metre Pedestrian Barrier	£10.00 per barrier
Deckchairs (50 in total)	£50.00

### 1 Concessions

Whether the Hirer is entitled to a concession in accordance with the above table is at the discretion of Newquay Town Council who will notify the Hirer prior to providing a Booking Confirmation.

## **2 Security Deposit**

- 2.1 The amount of the Security Deposit will be notified to the Hirer prior to providing a Booking Confirmation.
- 2.2 Provided that no loss or damage has been incurred by Newquay Town Council the Security Deposit will be returned by cheque no later than 4 weeks after the Licence Period ends.
- 2.3 Where any loss or damage has occurred the Security Deposit will be retained and the balance returned within 4 weeks after the full costs have been incurred by Newquay Town Council.