

## **CONSUMER HIRE AGREEMENT – TERMS AND CONDITIONS**

### **1 Definitions**

- (a) Paul Sweetnam of Gleann Tuarigh, Parkmountain, Youghal, County Cork. trading as “Hire Fitness Ireland” is hereinafter referred to as the “Owner”.
- (b) “Equipment” means the equipment which is provided to the Hirer under the Contract and delivered to the Hirer and detailed further on the Order Form.
- (c) “The Contract” means the contract between the Owner and the Hirer for the Rental of the Equipment which incorporates the Order Form executed by the Hirer and these terms and conditions (“the Conditions”).
- (d) “Order Form” means the order form being the consumer hire agreement to which these terms are appended.
- (e) “Rental” is the provision of the Equipment by the Owner to the Hirer for the Hirer’s use as a commercial hire agreement within the meaning of the Consumer Credit Act 1995 for an agreed period and at an agreed cost and subject to the Conditions.
- (f) “Rental Fee” means the amount payable by the Hirer to the Owner for the hire of the Equipment for one (1) week.

### **2 Rental Period**

- (a) The Contract shall commence on the day of delivery.
- (b) The Contract shall terminate on the day of collection.
- (c) The Rental will be charged weekly (7 days) including Saturdays Sundays and national, bank or public holidays in Ireland.
- (d) The minimum Rental period is for four weeks.

### **3 Rental Charges**

- (a) Unless otherwise agreed the Hirer shall pay a deposit equal to four weeks rental (“Deposit”). The Deposit shall be paid by the Hirer to the Owner and retained by the Owner until the termination of the Contract and subject to the return of the Equipment in satisfactory condition.
- (b) The Rental Fee shall be payable in advance for periods of 4 weeks or such shorter period as the Owner may agree.
- (c) If the Hirer does not make the Equipment available for collection on termination of the Contract, the Hirer shall be responsible for the Rental Fee until the Equipment is collected by the Owner. Should the Hirer return or make the Equipment available to the Owner before the end of the agreed Rental period, the Owner shall be entitled to charge the Hirer the full amount or a proportion of the Rental Fee that the Owner deems appropriate.
- (d) The Owner shall be entitled to vary the amount of the Rental Fee at any time after the expiry of the minimum rental period by giving the Hirer not less than four (4) weeks’ notice in writing.
- (e) The Rental Fee is inclusive of Value Added Tax.

- (f) On termination of the Contract the final Rental Fee shall include payment for any complete and incomplete weeks in respect of which the Equipment has been hired by the Hirer.

#### **4 Payment**

- (a) Following the payment of the Deposit, the Rental Fee shall be paid by the Hirer to the Owner as detailed in the Order Form in advance for the period of four (4) weeks at a time.
- (b) Failure to pay in advance may, at the discretion of Owner, result in the termination of the Contract.
- (c) During the Contract, the Owner reserves the right to charge interest on overdue Rental Fees at the rate of 2% a year above the European Central Bank's base rate from time to time in force and an administration fee of €40.00 in respect of each late payment of an invoice.

#### **5 References**

Prior to accepting any order, the Owner may, at its discretion, request references, proof of identity and proof of residence.

#### **6 Acceptance**

The Hirer shall satisfy himself that the Equipment supplied by the Owner corresponds to the Order Form and is in working order. Any part of the Equipment found to be faulty, or not found to correspond with the Order Form, shall be notified to the Owner within seven working days of receipt of the Equipment. Failure to do so will render the Hirer responsible for the payment of the Rental Fee up to the time of notification.

#### **7 Suitability**

It is the Hirer's responsibility to ensure that the Equipment is, if necessary, compatible with existing installations, and is suitable for all the Hirer's requirements.

#### **8 Substitution**

The Owner reserves the right to substitute the Equipment proposed for the Rental with alternative equipment of an equal or higher specification (which, for the purposes of interpreting the Contract, shall become the Equipment). On termination of the Contract the Hirer may not substitute any Equipment delivered by the Owner.

#### **9 Responsibilities of Hirer**

- (a) The Hirer acknowledges that at the time of signing the Contract he has been instructed in the safe operation of the Equipment and the Hirer undertakes to ensure no one else uses the Equipment who is not properly instructed and shall not allow the Equipment to be misused in any way other than in accordance with the instructions of the Owner.

- (b) Save in respect of death or personal injury caused by the Owner's negligence the Hirer shall at all times and in all respects indemnify the Owner against and from, any and every expense, liability, loss, claim or proceeding whatsoever in respect of any personal injury or loss whatsoever (including but without prejudice to the generality of the foregoing, injury to the Hirer (if the same is possible) and injury to any servant, employee or agent of the Hirer) and in respect of damage to any property whatsoever (including the Equipment) or injury to any person arising out of or in connection with or consequent upon the hire, delivery, use, misuse, non-use, repossession, collection, return or non-return of the Equipment or any part thereof.
- (c) The Owner shall not be liable for any consequential expense liability, whatsoever caused by the late delivery, late collection, non-delivery, unsuitability, breakdown, failure or repossession of the Equipment.
- (d) The Hirer will ensure that the Equipment is not used by anyone under the age of 16 years old.

## **10 Insurance**

- 10.1 The Hirer hereby indemnifies the Owner against any loss or damage to the Equipment and against any loss, damage or injury caused by the Equipment (except for any caused by the Owner's own negligence) in so far as it is not covered by insurance of the Equipment.
- 10.2 The Hirer must insure and keep the Equipment insured under a fully comprehensive policy at the Hirer's expense to its full replacement value with a reputable insurer chosen by the Hirer. Insurance must include cover against the risk of loss or damage by fire, theft, accident and other risks, including third party risks, as are normally insured against in the case of equipment of the type to which this Contract relates.
- 10.3 The Hirer must have the Owner's interest noted on the policy. The Hirer agrees to produce to the Owner on demand evidence of the insurance cover and of the payments of premiums under the insurance policy.
- 10.4 The Hirer agrees to notify the Company promptly of any loss of or damage to the Equipment and hold any insurance moneys received by the Hirer in trust for the Owner.
- 10.5 The Hirer irrevocably authorises the Owner to negotiate with the insurers to settle any insurance claim and to receive any insurance moneys in relation thereto.
- 10.6 The Owner shall apply the insurance moneys as follows:
  - 10.6.1 in making good any damage;
  - 10.6.2 in replacing the Equipment with goods of a similar type;
  - 10.6.3 in compensating the Owner for any loss or damage which it may suffer or incur.
- 10.7 The Hirer agrees to pay any shortfall to the Owner on demand.
- 10.8 Any loss of or damage to the Equipment shall not affect the continuance of this Contract.

10.9 If the Hirer fails to pay any insurance premium the Owner may, but shall not be obliged to, pay the same and the Hirer agrees to reimburse the Owner on demand.

### **11 Equipment Location**

- (a) The location of the Equipment, during the Rental, shall remain at the delivery address and shall only be relocated upon the written consent of the Owner. The Hirer shall provide the Owner with information regarding the whereabouts of the Equipment on demand from the Owner.
- (b) The Owner shall be granted access to the premises where the Equipment is located by the Hirer at all reasonable times and with reasonable notice to inspect, maintain, replace, substitute or remove the Equipment under the terms stipulated herein subject to the rights of the Hirer under the Consumer Credit Act 1995.

### **12 Modification to Equipment**

The Equipment shall not be altered modified or adjusted defaced or repaired by the Hirer. Any such action shall render the Hirer liable for the full replacement cost of the Equipment.

### **13 Care of Equipment**

- (a) The Hirer shall at his own expense keep the Equipment in a clean and good condition and not subject it to any misuse or wear and tear over that consistent with normal and reasonable use, adhering, where applicable, the manufacturers' recommendations. The Hirer undertakes not to remove or interfere with any identification marks affixed to the Equipment, or to deface or add to the Equipment.
- (b) The Hirer agrees to pay all costs incurred by the Owner in rectifying any damage caused to the Equipment. The Hirer shall be responsible for payment of the Rental Fee notwithstanding that he no longer has possession of the Equipment until such rectification is complete.
- (c) The Equipment shall be returned in a clean and functional condition. A charge of up to €50 may be made by the Owner for cleaning the Equipment upon its return in an unsatisfactory condition.

### **14 Maintenance**

- (a) In the event of failure of the Equipment the Owner shall use reasonable endeavours to repair or to replace the Equipment with the same or similar/higher specification equipment, within five working days at no charge to the Hirer. Should the Equipment failure prove to be due to misuse or the fault of the Hirer, the Owner reserves the right to pass on any repair costs and engineering charges to the Hirer. Under no circumstances shall the Hirer be entitled to attempt any repairs of the Equipment.
- (b) The Hirer shall be responsible for day to day adjustment and care of the Equipment (for example: running belt alignment, pedal, handle bar and

seat adjustments). The Owner shall impose a charge of up to €50.00 for visits to the Equipment arising from matters of this nature.

### **15 Termination by the Hirer**

- (a) The Contract shall terminate seven days after service by the Hirer on the Owner of notice in writing that the Hirer wishes to terminate the Contract. If the Hirer does not serve written notice of termination on the Owner seven days prior to the end of Minimum Contract Period, the Contract shall continue until seven days after the Owner receives written notice of termination from the Hirer.
- (b) In the event of termination of the Contract prior to the end of the Minimum Contract Period a cancellation charge shall be payable by the Hirer to the Owner in the amount equalling eight weeks Rental or 60% of the outstanding Rental from the date of termination until the last day of the Minimum Contract Period, whichever is the greater. In the event of termination of the Contract after the expiry of the Minimum Contract Period no cancellation charge shall apply.

### **16 Termination by the Owner**

- (a) The Owner may terminate the Rental if the Hirer is in breach of the Contract, or is in default of any payment due, or in the Owner's sole opinion may become in breach or default during the period of Rental provided that ten days' written notice shall be given of the said breach to the Hirer and that such breach has not been remedied in such period.
- (b) The Owner shall be entitled at any time and for any reason what so ever without explanation to terminate this Contract by giving the Hirer 10 days' notice in writing. Any termination under this Contract shall not affect the right of the Owner to recover from the Hirer any money due to the Owner under this Contract or for breach of contract.

### **17 Liability**

- (a) The Hirer expressly acknowledges that the Owner is not the original manufacturer or supplier of the Equipment, and that the Equipment has been selected by the Hirer as suitable for his purpose. The Hirer accordingly agrees and acknowledges that all conditions, warranties or representations whether express or implied or statutory or otherwise in respect of the Equipment or its fitness for any particular purpose are hereby expressly excluded to the fullest extent permitted by law.
- (b) The Hirer acknowledges that the Owner or its representatives are not qualified to advise the Hirer on any aspects of physical exercise or personal health. The Hirer should consult his Doctor before undertaking in any strenuous exercise.

- (c) It is the Hirer's responsibility to ensure that he is capable of undergoing a routine of exercises on the Equipment. The Hirer accepts the risk of injury from performing exercises on the Equipment and is advised to consult his doctor prior to beginning any fitness program or exercise on the Equipment supplied.

### **18 Ownership**

The Equipment is and shall remain the sole property of the Owner and the Hirer shall not sell offer for sale, assign, mortgage, pledge, lend or otherwise deal with or part with possession of the Equipment.

### **19 Law and Jurisdiction**

Any dispute between the Owner and the Hirer arising from the Contract shall be subject to Irish Law and the parties submit to the exclusive jurisdiction of the Irish Courts.

### **20 Delivery & Collection**

- (a) All times or dates quoted for delivery & Collection of the Equipment are given in good faith but without any responsibility on the part of the Owner. The delivery or collection will take place during Monday to Friday between the hours of 9.30am to 4.30pm unless otherwise agreed. Time of delivery shall not be of the essence of the Contract.
- (b) The Owner shall arrange collection of the Equipment from the location detailed on the Contract during Monday – Friday, between the hours of 9.30am to 4.30pm within Ten days after the termination date.
- (c) The Owner shall not be held liable for any damage made while delivering, collecting and installing the Equipment in the Hirer's home or place of business however it so may be caused.
- (d) In the event that the Hirer cancels the delivery or collection with less than 24 hours' notice to the Owner or is not in at the agreed delivery or collection time a charge of up to €50.00 shall be made for re-delivery or collection of the Equipment.
- (e) The Owner may charge extra fee for deliveries and collections outside standard hours of Monday – Friday, between the hours of 9.30am to 4.30pm.

### **21 Validity of Conditions**

Should any term in the Contract be held to be invalid such invalidation shall not affect the validity of the remaining terms. Any failure by the Owner to enforce any or all of the Conditions shall not amount to or be interpreted as a waiver of any of its rights.

### **22 Data Protection**

- (a) To help the Owner decide whether to enter into this Contract or any future agreement with the Hirer, the Owner may make the use of the information

- provided to it by the Hirer; information received from enquiries made about the Hirer; and information gained from the Hirer's performance of this and any other agreement which the Hirer has with the Owner. The Owner's enquiries may include searching the Hirer's record at one or more credit reference agencies ("the Credit Reference Agencies") who will keep details of the search. These details will be seen by other organisations who make searches. Information held about the Hirer by the Credit Reference Agencies may be linked to records relating to one or more of the Hirer's partners. This is called "association". For the purposes of this Contract and the application, the Hirer may be treated as financially linked and assessed with reference to any associated records.
- (b) If this is a joint application or if the Owner is informed by the Hirer of a financial association with another person, the Hirer must ensure that he has the authority (i) to disclose information about the joint applicant and any such other person and (ii) to authorise the Owner to search, link or record information about the joint applicant or such other person, at one or more of the Credit Reference Agencies. An "association" will be created at the Credit Reference Agencies between the joint applicants and/or between the Hirer and any person with whom the Hirer has stated there is a financial relationship. This links together all the financial records, and unless a disassociation is successfully filed at the Credit Reference Agencies, all the financial records will be taken into account in any future applications by the joint applicants, whether such applications are made together, or separately. The Owner may also use a credit storing system.
  - (c) If the Owner enters into this Contract with the Hirer, the Owner may disclose information about the Hirer, this Contract and the conduct of the Hirer's account (including payment record) to any of the Credit Reference Agencies.
  - (d) Such information may also be disclosed to other lenders, the supplier, the insurer, and any other person or company, which the Owner may select from time to time for the purposes of considering any future applications for finance and financial related services that may be made by the Hirer or any member of the Hirer's household, fraud prevention, tracing debtors and recovering debt, carrying out statistical analysis and administering the Hirer's account.
  - (e) The information which the Owner holds about the Hirer may be used for the purpose of carrying out market research. The Owner may also provide the Hirer with information about the Owner's other products and services. For these purposes, the Company may contact the Hirer by post, telephone, or other means. If the Hirer does not wish to be contacted for this purpose he/she should write to the Owner.