



Agreement for Use of Church Hall or Church

Partial or Shared use ONLY

It is very common for Church halls, and sometimes Churches, to be “let out” for use by community groups or individuals and organisations for commercial activities. A style of terms and conditions is attached. Optional clauses are in italics.

When allowing use of the premises, the following points should be borne in mind:

1. These terms are solely for use where the congregation is dealing with non - Church of Scotland organisations. This circular relates to Scotland and the style complies with Scots law. Congregations outwith Scotland should seek legal advice locally.
2. The style is intended only for use in cases where outside organisations are being allowed partial or shared use of Church premises, e.g for a one off event, or so many hours per week, with the Congregation being entitled to sole use at all other times.
3. The style is designed to provide flexibility to both parties so that both the congregation and user can end the arrangement on giving a certain amount of notice (4 weeks or so is suggested). It is not appropriate for use in cases where the whole of a building is to be let exclusively to an outside organisation, **or** where the users require an arrangement to be binding on both parties for more than a year, without the congregation having right to give notice in the interim if required. In such cases, if the property is vested in the General Trustees, the matter should be reported to the Secretary of the General Trustees as it will fall to the General Trustees, in consultation with the Financial Board, to make any arrangement with the users.

Where the property is vested in local trustees for the congregation and where at the outset the users are being given rights either to exclusive use of the premises, or use for more than a year without the congregation being able to give notice if necessary, the Financial Board is strongly advised to seek legal advice. The Law Department of the Church will be pleased to act in such cases.

4. It is advisable to obtain a detailed programme of the event/use prior to commencement of the agreement for consideration before a decision is made to proceed. The use of the premises should not be one which is prohibited in terms of any conditions contained in the title deeds. It may be advisable to seek legal advice so that this can be checked. Another factor which should be borne in mind is the possibility that - depending on the proposed use - temporary Planning or other Local Authority permissions may be needed.
5. Churches and Church Halls, benefit from full exemption from non-domestic rates. Financial Boards are entitled to charge full market rents to those using the premises without their charitable exemption from non-domestic rates being affected. Water and wastewater charges are covered by different legislation and many congregations are currently exempted

from paying such charges in terms of the Water and Wastewater Exemption Scheme, depending on the level of income.

6. Potentially, the letting of premises may be affected by discrimination law. The relevant legislation is the Equality Act 2010, which covers amongst other things the management of premises and the provision of facilities and services. The Act contains some protections for churches, allowing them to impose certain requirements in relation to the use of their premises in some circumstances where doing so might otherwise be discriminatory. This is a complex area and if any such restrictions on use are being contemplated, advice should be sought from the Law Department.
7. Adequate insurance arrangements should be made by the users who should be asked to exhibit Certificates of Insurance for approval by the Financial Board of the Congregation. Note that the sum for public liability insurance has been set to £5 million. Congregations will need to consider whether this is adequate taking into consideration the size of the building and the potential use by third parties. There may be cases where small local groups may find it difficult or expensive to obtain their own insurance. At the end of the day, it will be for the Financial Board to decide whether to grant a let to an “uninsured” group. Before doing so, however, they should very carefully assess the risks involved and they may also wish to consult the Church of Scotland Insurance Company Limited for further advice.

Where loss occurs due to the fault of the user - e.g. by setting the building on fire, the cost will, in all probability, be met by the Church’s insurers via the Congregation’s property insurance. It is to be anticipated, however, that the insurers will seek to recover the sums paid out from the user. Obviously, this could prove difficult in a small community. Additionally, there may well be occasions when the Congregation might suffer a loss and no claim could be submitted on the Congregation’s insurance. As an example, not all Congregational property may be covered for theft. If a user omitted to secure the premises when leaving and items of Congregational property were stolen, no claim could be made and the loss would have to be recovered from the user.

8. The style contains a specific clause concerning lets for regulated work with children and young people or protected adults. For the avoidance of doubt, so far as outside groups are concerned, no actual day-to-day supervision of the users’ activities is necessary. Indeed, any involvement of Church personnel which might give outsiders the impression that the users were operating in some way under the umbrella of the Congregation might have its own dangers vis-à-vis questions of legal liability. It is however entirely proper that before agreeing to the use, assurances should be sought as to safeguarding procedures and this is reflected in the relative clause in the agreement.
9. Where alcohol is to be served in the premises, care will require to be taken to ensure that the users observe the necessary licensing formalities. You may wish to refer to our separate circular on the Church and Alcohol which explains the requirements. http://www.churchofscotland.org.uk/data/assets/pdf_file/0019/2836/law_alcohol.pdf

10. Some uses/events may require a Theatre licence or a Public Entertainment licence and again care will require to be taken to ensure that the users observe the necessary licensing formalities. Please see our Licensing of Events circular.

https://www.churchofscotland.org.uk/data/assets/pdf_file/0020/28523/Theatre_and_Public_Entertainment_Licences2.pdf

11. Where the premises will be used for food preparation (beyond tea, coffee and biscuits) it is important that the user is aware of and familiar with the food hygiene regulations. You may wish to refer to our separate circular which explains the requirements and to the Health and Safety Toolkit issued by the Church of Scotland General Trustees.
12. All congregations should have a Health and Safety and Fire Safety policies in place and whilst the style refers to some actions that are necessary on the part of the Hall user, depending on the premises in question it may be that further steps are necessary. Consideration should be given to appending the Fire Safety instructions to the Terms & Conditions.
13. Appropriate steps will require to be taken to deal with the risks caused by COVID-19. The style includes obligations on users to comply with the congregation's COVID 19 operating plan and to produce their own risk assessment. It includes obligations to wipe down all surfaces with suitable disinfectant after use but Congregations may prefer to make their own arrangements for cleaning of surfaces within the premises after each use, recovering the cost from the user. It may also be necessary to verify with the user that numbers of people using the premises will not exceed a permissible level and that physical distancing requirements will be observed at all times.
14. Clearly the attached style will require to be adapted depending on local circumstances and the use which is to be made of the accommodation by outside bodies. It is designed to give general guidance only, and there are italics where changes might be made. The Law Department is more than happy to assist and so please do not hesitate to contact us for help – lawdept@churchofscotland.org.uk

**TERMS AND CONDITIONS
FOR THE USE OF PREMISES**

between

CHURCH OF SCOTLAND CONGREGATION,

and

the User (as defined below)

1. DEFINITIONS

1.1 For the purposes of this Agreement:

Congregation means Church of Scotland congregation, Scottish Charity Number SC , *address, email address*

User means (full name/company name and number)

..... (address/company registered office)

..... (email address)

Charge is (full amount due)

Deposit is (*amount*)

to be paid on:

..... (*date*)

Permitted Use is (*including reference to the related equipment (moveable property of the Congregation), essential to the Permitted Use. This might be, say: chairs, kitchen equipment, sports equipment, a digital projector and so on. It might be appropriate to include the number, make and model, in some instances.*)

Premises means and all related fixtures, fittings and equipment essential to the Permitted Use

together with the use of:

..... (for example only: kitchen/toilets/storage cupboards etc.)

Time of Use means (times from - to/date/year)

.....

- 1.2 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3 Any obligation on a party not to do something includes an obligation not to allow that thing to be done and an obligation to use best endeavours to prevent that thing being done by another person.
- 1.4 A reference to **writing** or **written** includes e-mail.
- 1.5 Unless expressly provided otherwise, the obligations and liabilities of the User under these Terms and Conditions are joint and several.

2. **LICENCE TO OCCUPY**

- 2.1 The Congregation CONSENTS to the User using the Premises for the Charge at the Time of Use on the terms and conditions following.
- 2.2 The User acknowledges that:
 - (a) no relationship of landlord and tenant is created between the parties;
 - (b) the Congregation retains control, possession and management of the Premises and the User has no right to exclude the Congregation (or others authorised by the Congregation) from the Premises at any time so long as its beneficial use of the Premises is not impeded or prevented;
 - (c) the licence to occupy governed by these Terms and Conditions is personal to the User and not assignable in whole or in part to another party. The rights given in Clause 2.1 may only be exercised by the User and its employees and permitted visitors.

3. **OBLIGATIONS OF THE USER**

- 3.1 The User agrees and undertakes:

- (a) to pay the Charge, without deduction, to the Treasurer of the Congregation in advance of the Time of Use as directed by the Treasurer by any means reasonably required by the Congregation. No written demand will be given for the Charge. The Charge shall be reviewed from time to time by the Congregation. The Congregation shall provide notice in writing should there be any change in the Charge.

To secure the booking of the Premises, the User will pay the Deposit. Cancellation by the User may render the Deposit non-refundable.

- (b) to pay to the Congregation interest at the rate of five percent per annum above the base rate of the Royal Bank of Scotland from time to time calculated on a daily basis on any part of the Charge if it is unpaid from the due date until the date that it is paid (whether formally demanded or not). However, in the event that the User fails to pay the Charge when due, the Congregation may at its sole discretion terminate this Agreement with immediate effect;
- (c) to use the Premises for the sole purpose of the Permitted Use *and to ensure that the use is compliant with the Planning Acts and any other statutory provisions or licencing requirements. In particular, the User shall ensure that all Necessary Consents are in place and shall exhibit these to the Congregation, if requested. If additional rates are at any time levied on the Congregation with respect to the Premises due to the User's use of the Premises, the User will be bound to reimburse the Congregation for the additional amount. The User will not do anything which will or might vitiate in whole or in part any insurance effected by the Congregation in respect of the Premises from time to time;*

Necessary Consents means all planning permissions and all other consents, licences, permissions, certificates, authorisations and approvals whether of a public or private nature which shall be required by any competent authority for the Permitted Use, including without prejudice to the foregoing generality any Safety Certificate, Public Entertainment Agreement or licence, Theatre Licence or any other licence, certificate or permission issued or required in respect of the Permitted Use.

- (d) not to do or permit to be done in the Premises anything which is illegal or which may be or become a nuisance (whether actionable or not), annoyance, inconvenience or disturbance to the Congregation or any owner or occupier of any neighbouring property and the User will observe any reasonable rules and regulations the Congregation makes and notifies to the User from time to time;
- (e) not to make any alteration or addition whatsoever to the Premises;
- (f) to submit the User's COVID-19 Risk Assessment and COVID-19 Operating plan/protocols to the Congregation for review prior to commencement of use, to comply with the Congregation's COVID-19 Risk Assessment and COVID-19 Operating plan/protocols, and in accordance with the congregation's Operating Plan to leave the Premises in a clean and tidy condition and clear of all rubbish at the end of the Time of Use, including the

thorough wiping down of all surfaces which have been touched in the Premises with disinfectant at the end of the Time of Use, and to dispose of cleaning products safely;

- (g) to ensure that all persons in the Premises during the period of use comply with current Scottish Government and Health & Safety Executive guidelines and regulations on prevention of the spread of COVID-19 and adhere to all physical distancing and infection control measures and mitigations recommended or required by the Scottish Government;
- (h) to refuse entry to the Premises to any person displaying symptoms of COVID-19, and to notify the Congregation immediately if they become aware of any person in the Premises subsequently being diagnosed with COVID-19.
- (i) to supervise and control all persons present within the Premises and their exit and entry to and from the Premises, and ensure the provision of an adequate number of attendants or supervisors to ensure compliance with these Terms and Conditions, the safety of all persons present in the Premises and the immediately surrounding area and the preservation of order therein during the Time of Use; declaring that should any delegates/visitors or third parties entering the Premises with the agreement of the User behave in a manner unacceptable to the Congregation (acting reasonably), the Congregation shall have the right to remove such party from the Premises;
- (j) to comply with the Health and Safety and Fire Safety policy of the Congregation and in advance of using the Premises to nominate: (i) a competent person to take charge in the event of fire to ensure that all persons in the Premises (including those who may require assistance) can escape unimpeded through a fire exit and assemble in the nominated assembly area; to ensure that the fire exits, exit corridors and all stairways (if any) are kept clear of obstruction at all times; and to ensure that the fire exit doors are kept closed except when the alarm sounds; and (ii) a competent person to take charge of Health and Safety; to ensure compliance with the associated policy; to undertake risk assessments, to share those with the Congregation and to take account of any shared by the Congregation; to be responsible for coordinating and administering health and safety activities associated with the Permitted Use; and to provide and arrange the necessary training, guidance and information to support this;
- (k) to lock and secure all entrances to and exits from the Premises after the Time of Use, if required;
- (l) not to display any advertisements, signboard, nameplate, inscription, flag, banner, placard, poster, signs or notices at the Premises without the prior written consent of the Congregation;
- (m) to observe all reasonable instructions of the Congregation regarding taking precautions to prevent any damage to any part of the Premises and to make good any damage caused to the Premises or surrounding property through their use of the Premises; to report any accidental damage to the Congregation as soon as possible after the event;

- (n) To report to the Congregation any accidents, giving details of the date, nature of the incident and steps taken, including a statement of any First Aid items used;
- (o) not to permit any dogs (with the exception of guide dogs) or other animals to enter any part of the Premises during the Time of Use;
- (p) not to conduct or suffer to be conducted in the Premises any collection, game of chance, sweepstake, lottery or betting of any kind whatsoever without the prior written consent of the Congregation;
- (q) not to permit any person to smoke, vape or consume any illegal substance within the Premises *nor allow any person to sell any intoxicating liquor or other alcoholic beverage, food or other beverages in the Premises*;
- (r) not, without the prior written consent of the Congregation, to permit any beverage or food to be consumed within the Premises;
- (s) not to cause or permit to be caused any damage to the Premises or any neighbouring property or any property of the Congregation within the Premises;
- (t) not to use smoke machines or pyrotechnics without the prior written consent of the Congregation;
- (u) not to bring on to the Premises any items of an inflammable or explosive nature;
- (v) not, by any act or default, do anything whereby the Service Media or any part of it serving the Premises or neighbouring property may become choked, obstructed or damaged nor whereby any deleterious matter, grease or effluent shall be passed into or deposited into any drains or sewer serving the Premises or any adjoining property;

Service Media means all media for the supply or removal of heat, electricity, gas, water, sewage, air-conditioning, energy, telecommunications, data and all other services and utilities and all structures, machinery and equipment ancillary to those media.

- (w) to vacate the Premises and leave them in a clean and tidy condition and to remove any of the User's furniture, equipment and goods from the Premises at the end of the Time of Use, declaring that should the Premises be left in a dirty or untidy condition, the Congregation shall be entitled to arrange for them to be cleaned and recover from the User the reasonable cost of doing so;
- (x) to ensure that any third parties employed or appointed by the User to perform any services in connection with the use of the Premises are made aware of these Terms and Conditions and comply with them in all respects;
- (y) to indemnify the Congregation (including the Trustees vested in the Premises) against all loss, damage, actions, proceedings, costs, claims, demands or other liability arising

from these Terms and Conditions, any breach of the User's obligations undertakings contained within these Terms and Conditions and the exercise of any rights conferred by these Terms and Conditions;

4 SAFEGUARDING

- 4.1 *The User is aware of the requirement to safeguard the welfare of children and young people and keep them safe from harm and abuse. The User has adopted a recruitment procedure for working with children and young people which, where appropriate, includes requiring employees and volunteers to be members of the Protection of Vulnerable Groups Scheme as laid down by the Protection of Vulnerable Groups (Scotland) Act 2007 ("the Act") and will comply with the Act in all respects. If the User is found to be in breach of these undertakings, the Congregation shall have the right to terminate this Agreement with immediate effect.ⁱ*
- 4.2 *The User is aware of the requirement to safeguard the welfare of protected adults and keep them safe from harm and abuse. The User has adopted a recruitment procedure for working with protected adults which, where appropriate, requires employees and volunteers to be members of the Protection of Vulnerable Groups Scheme and will comply with the Act in all respects. If the User is found to be in breach of these undertakings, the Congregation shall have the right to terminate this Agreement with immediate effect.*

5 NO WARRANTY

- 5.1 The Congregation does not warrant in any way that the Premises are fit for the purpose for which the User intends to use them or possess the Necessary Consents for the Permitted Use. The Premises and all related fixtures, fittings and equipment are deemed to be in good working order at the commencement of the Time of Use but should the User discover any defects it must immediately notify these to the Congregation in writing.
- 5.2 The Congregation shall have no liability whatsoever for any loss, damage, actions, proceedings, costs, claims or demands by any party of any kind and any loss or damage, howsoever occurring, to any materials, equipment or other property belonging to or under the control or custody of the User.

6 INSURANCE

The User will be responsible for arranging all necessary insurances for its property in or on the Premises, and shall also maintain insurance against employers' liability and third party risks, such amount to be a minimum of FIVE MILLION POUNDS (£5,000,000) STERLING in respect of any one claim, and shall exhibit the relevant policy to the Congregation together with evidence that the premiums necessary to keep the policy in force have been paid.

7 TERMINATION

- 7.1 These Terms and Conditions may be terminated at any time by either the Congregation or the User giving *4 weeks'* notice in writing to the other party. The Congregation shall be entitled to retain all payments made to it in terms of these Terms and Conditions.
- 7.2 Notwithstanding the foregoing, the Congregation shall be entitled to terminate this Agreement forthwith and without penalty should there be a material breach by the User of any of the terms and conditions of these Terms and Conditions providing such breach is not remedied by the User immediately on receipt by the User of notice (or, as appropriate, verbal intimation) that it is in breach. If these Terms and Conditions are so terminated by the Congregation in terms of this clause, the User shall have no claim whatsoever against the Congregation in damages or otherwise howsoever caused.
- 7.3 Termination of these Terms and Conditions shall not affect the rights of either party in connection with any breach of any obligation under these Terms and Conditions which existed at or before the date of termination.
- 7.4 Should the User be in breach of these Terms and Conditions and whether or not the Congregation has terminated this Agreement the Congregation shall be entitled to payment from the User of damages for all losses reasonably and necessarily incurred by the Congregation (including economic and consequential loss) as a result of said breach.

8 NOTICES

Any notice or other communication given under this Agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or other next working day delivery service to the other party at the address given in this agreement, or may be sent by email to the other party at the email address given in this agreement.

This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

9 LIMITATION OF CONGREGATION'S LIABILITY

9.1 Subject to clause 9.2, the Congregation is not liable for:

- (a) the death of, or injury to, or infection with COVID-19 of, the User, its employees, associates or invitees to the Premises; or
- (b) damage to any property of the User or that of the User's employees, associates or other invitees to the Premises; or
- (c) any losses, claims, demands, actions, proceedings, damages, costs or expenses or other liability incurred by User or the User's employees, associates or other invitees to the Premises in the exercise or purported exercise of the rights granted by clause 2.

9.2 Nothing in clause 9.1 shall limit or exclude the Congregation's liability for:

- (a) death or personal injury, or damage to property caused by negligence on the part of the Congregation or its employees or agents; or
- (b) any matter in respect of which it would be unlawful for the Congregation to exclude or restrict liability.

10 FORCE MAJEURE

If by reason of an Act of God, accident, fire, failure of any technical or electrical facilities not within the Congregation’s reasonable control, enactment, rule, order or act of Government, war, threat of terrorism, riot, state of emergency, civil commotion or disturbance, lock-out, strike, shortage of materials, failure of any previous User to vacate the Premises or any part thereof or other cause outwith the control of the Congregation (each being a “Force Majeure Event”), the Congregation is or anticipates that it will be prevented or hindered from fulfilling its obligations under these Terms and Conditions then the Congregation shall forthwith advise the User accordingly, whereupon these Terms and Conditions shall be terminated and the User shall be excused performance of its obligations hereunder (including payment of the Charge) during the continuation of the Force Majeure Event.

11 GOVERNING LAW

These Terms and Conditions and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of Scotland.

IN WITNESS WHEREOF these presents consisting of this and the preceding pages are signed as follows:

At

On

..... (Session Clerk/Clerk to the Congregational Board)

..... (Print Name)

..... (Witness)

..... (Name, address, occupation of witness)

.....

.....

At

On

..... (User/Company Director)

..... (Print Name)

..... (Witness)

..... (Name, address, occupation of witness)

.....

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