

DATED

01/05/2018

LOFT STUDIOS LTD

&

FILM PLUS IBIZA, S.L.

STANDARD TERMS AND CONDITIONS FOR

EQUIPMENT HIRE

1. INTERPRETATION

1.1 Definitions. In these Conditions, the following definitions apply:

Account Customer: A Customer who has a current monthly account facility with Loft Studios Limited. The term Customer shall include Account Customer where appropriate.

Associated Company: Any and all of the companies associated with Loft Studios Limited including, Film Plus LLP and Film Plus Ibiza SL.

Breakdown: means any failure or stoppage in the proper mechanical functions of the Equipment.

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

Cancellation Fee: means the fee payable by the Account Customer/ Non- Account Customer in accordance clause 3.3 below if they serve notice to cancel the hire of the Equipment.

Commencement of Hire: in respect of Equipment that shall be the date and time of Delivery unless the Equipment is delivered at a location outside Loft Studios Limited's premises in which case the Commencement of Hire shall be the date and time the Equipment leaves the Premises .

Conditions: these terms and conditions as amended from time to time in accordance with clause.

Customer: The party identified in Schedule 1 to this agreement.

Delivery: the transfer of physical possession of the Equipment to the Customer at Loft Studios Limited's premises.

Deposit: means the sum payable by the Non- Account Customer in accordance with clause 4.6 below to secure the hire of the Equipment.

Equipment: the items of equipment listed in the Order, all substitutions, replacements or renewals of such equipment and all related accessories, manuals and instructions provided for it.

Order: the Customer's written acceptance of Loft Studio Limited's quotation.

Owner: the owner of the Equipment, being, Loft Studios Limited.

Services: the services, supplied by Loft Studios Limited to the Customer as set out in the Service Specification.

Payment Schedule: Schedule 1 which sets out the sums payable under this agreement.

Non- Account Customer: Any Customer who is not an Account Customer.

Rental Payments: the payments made by or on behalf of Customer for hire of the Equipment.

Rental Period: the period of hire as set out in clause 3.

Site: the Customer's premises at which the Equipment is to be located as specified in the Order.

Premises: The offices or other facility at Loft Studios Limited's premises located at 77-81 Scrubs Lane, London NW10 6QU as set out in the Order.

Total Loss: the Equipment is, in Loft Studios Limited's reasonable opinion or the opinion of its insurer(s), damaged beyond repair, lost, stolen, seized or confiscated.

1.2 Construction. In these Conditions, the following rules apply:

- (a) All of these Conditions shall apply to the supply of both Equipment, Facilities and Services by Loft Studios Limited except where reference to one or the other is specified.
- (b) All of these Conditions shall apply to any Order made by a Customer with a Loft Studios Limited's Associated Company as if it had been made with that Associated Company and the Customer directly.
- (c) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (d) A reference to a party includes its personal representatives, successors or permitted assigns;
- (e) A reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (f) any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- (g) A reference to **writing** or **written** includes faxes and e-mails.

2. STUDIO AND EQUIPMENT HIRE

2.1 The Equipment is described in the Customer's Order and subject to any subsequent amendment or additional Order agreed with Loft Studios Limited in writing.

2.2 Loft Studios Limited shall hire the Equipment to the Customer subject to the terms and conditions of this agreement.

2.3 Loft Studios Limited shall not, other than in the exercise of its rights under this agreement or applicable law, interfere with the Customer's quiet possession of the Equipment.

2.4 The Customer must inform Loft Studios Limited of any change in its address and inform the Owner, at the Owner's request, of the whereabouts of the Equipment.

3. RENTAL PERIOD

3.1 The Equipment Rental Period starts on the Commencement of Hire and shall be calculated on the following basis:

- (a) 1 day: Any 24- hour period commencing from the time the Equipment leaves the Owner's premises until the same time the following day;
- (b) 1 week: Any continuous period of 7 days calculated in accordance with Section 3.1(a) above;
- (c) 1 month: Any continuous period of 30 days calculated in accordance with Section 3.1(a) above;
- (d) Weekend: The period from 4.00 p.m. on Friday to 10.00 a.m. on Monday, which is to be calculated as a period of one day for the purposes of these terms and conditions;
- (e) Early Pick-Up: Loft Studios Limited may state that, provided that the Equipment is available, the Equipment may be collected or delivered (as agreed between the parties) after 4.00 p.m. the day before the Commencement of Hire starts and returned by 10.00 a.m. the day after the end of the Rental Period without incurring further charges. If the Customer requests an Early Pick- Up, they may be charged for an additional 24 period of hire in accordance with 3.1(a) above.

3.2 The Equipment Rental Period starts on the Commencement of Hire and shall be calculated on the following basis:

- (a) 1 day: 9am to 6pm
- (b) Overtime: Charged at an hourly rate outside of these periods and subject to change at the discretion of Loft Studios Limited.

3.3 In the event that the Customer cancels any Order more than 48 hours prior to the Commencement of Hire then a Cancellation Fee of 25% Rental Payment is payable. If we receive notice of cancellation less than 48 hours prior to the Commencement of Hire then a Cancellation Fee of 50% of Rental Payment is payable. If we receive notice of cancellation less than 24 hours prior to the Commencement of Hire, then a Cancellation Fee of 100% is payable.

3.4 Loft Studios Limited will use all reasonable endeavours to have each item of specified Equipment available for hire on the Commencement of Hire but shall not incur any liability whatsoever in the event of any non-availability due to failure by

another customer to return, unforeseeable mechanical breakdown or any other circumstance beyond its reasonable control.

- 3.5 If the Customer fails to return the Equipment after the expiry of the Equipment Rental Period then the Owner shall be entitled, in its sole and absolute discretion to charge the Customer Overtime per day for the Equipment hire in accordance with clause 3.2(b) above.

4. RENTAL PAYMENTS AND DEPOSIT

- 4.1 The Account Customer shall be invoiced monthly in arrears and shall pay the Rental Payments due for all hiring of Equipment within 30 days of the date of the invoice. The Rental Payment shall be made by BACS, CHEQUE OR CREDIT/DEBIT CARD in the currency specified in the Order.

- 4.2 The Non-Account Customer shall pay the Rental Payments due for all hiring of Equipment in full on or before the Commencement of Hire.

- 4.3 The Rental Payments are exclusive of VAT and any other applicable taxes and duties or similar charges which shall be payable by the Customer at the rate and in the manner from time to time prescribed by law.

- 4.4 All payments to be made by either party under this agreement shall be made without withholding or set-off on account of disputes, counterclaims or for any other reason whatsoever.

- 4.5 If the Customer fails to pay any Rental Payments or any other sums payable under this agreement by the due date for payment under this agreement then, without limiting Loft Studios Limited's rights under clause 11.1, the Customer shall pay interest on such sums for the period from and including the due date of payment up to the actual date of payment, whether before or after judgment. The interest shall be paid at the rate of eight per cent (8%) per annum above the Bank of England base rate from time to time.

- 4.6 The Deposit is a deposit against default by a Customer who is not an Account Customer of payment of any Rental Payments or any loss of or damage caused to the Equipment. The Non-Account Customer shall, on or before the Commencement of Hire, pay a deposit to Loft Studios Limited of equivalent to the full value of any Equipment hired and a deposit. If the Customer causes any loss or damage to the Equipment (in whole or in part), Loft Studios Limited shall be entitled to apply the Deposit against such default, loss or damage. Provided there is no loss or damage to the Equipment or any other circumstances in which the Owner reasonably believes the Deposit should be retained and not refunded to the Customer, the Deposit (or balance thereof) shall be refundable within five (5) Business Days of the end of the

Rental Period. If, in the reasonable opinion of the Owner, the costs of repairing any damage to the Equipment exceeds the sum of the Deposit paid by the Customer, Loft Studios Limited shall invoice the Customer for any additional sums owed to Loft Studios Limited and this must be paid by the Customer within 30 days of the date of the invoice.

- 4.7 Any invoice disputes need to be raised within 48 hours of receiving the invoice.

5. DELIVERY AND COLLECTION OF THE EQUIPMENT

- 5.1 The Customer shall be responsible for the collection of the Equipment from the Owner's Premises on the first day of the Rental Period, between the hours of 8.00 a.m and 7.00 p.m Monday to Friday or at such other time agreed with the Owner. If Loft Studios Limited agrees to deliver or collect the Equipment to the Customer's Site outside of 8.00 am to 7.00 p.m. Monday to Friday, it may charge a call out fee for every member of staff required to work outside of their normal working hours at £80 per person and this charge will be added to the Customer's standard delivery fee.
- 5.2 If the Owner agrees to deliver the Equipment to the Customer's Site, the Owner shall deliver the Equipment to the Customers Site on the first day of the Rental Period between the hours of 8.00am and 7.00pm Monday to Friday. It is the responsibility of the Customer to ensure that such access and space is available at the Customer's Site to allow the Owner to deliver and unload the Equipment. The Customer must ensure that the Equipment is safely and properly stored during the Rental Period. If Loft Studios Limited agrees to deliver the Equipment outside of 8.00am to 7.00pm, it may charge a call out fee for every member of staff required to work outside of their normal working hours at £80 per person and this charge will be added to the Customer's standard delivery fee.
- 5.3 The Customer shall be responsible for the immediate return of the Equipment to the Owner's Premises upon the termination or expiry of the Rental Period.

6. TRAINING

- 6.1 The Customer warrants that it shall provide proper and adequate training and instruction in the correct operation of the Equipment to any persons who will or may be using the Equipment during the Hire Period. prior to the commencement of the Rental Period ("Training").
- 6.2 The Customer shall be fully liable for any costs of training.

7. **TITLE, RISK AND INSURANCE**

- 7.1 The Equipment shall at all times remain the property of Loft Studio Limited, and the Customer shall have no right, title or interest in or to the Equipment (save the right to possession and use of the Equipment subject to the terms and conditions of this agreement).
- 7.2 The risk of loss, theft, damage or destruction of the Equipment shall pass to the Customer on Delivery. The Equipment shall remain at the sole risk of the Customer during the Rental Period and any further term during which the Equipment is in the possession, custody or control of the Customer (**Risk Period**) until such time as the Equipment is redelivered to Loft Studio Limited. During the Rental Period and the Risk Period, the Customer shall, at its own expense, obtain and maintain the following insurances:
- (a) insurance of the Equipment to a value not less than its full replacement value comprehensively against all usual risks of loss, damage or destruction by fire, theft or accident, and such other risks as Loft Studios Limited may from time to time nominate in writing;
 - (b) insurance for such amounts as a prudent owner or operator of the Equipment would insure for, or such amount as Loft Studios Limited may from time to time reasonably require, to cover any third party or public liability risks of whatever nature and however arising in connection with the Equipment; and
 - (c) insurance against such other or further risks relating to the Equipment as may be required by law, together with such other insurance as Loft Studios Limited may from time to time consider reasonably necessary and advise to the Customer.
- 7.3 All insurance policies procured by the Customer shall be endorsed to provide Loft Studios Limited with at least twenty (20) Business Days' prior written notice of cancellation or material change (including any reduction in coverage or policy amount) and shall upon Loft Studios Limited's request name Loft Studios Limited on the policies as a loss payee in relation to any claim relating to the Equipment. The Customer shall be responsible for paying any deductibles due on any claims under such insurance policies.
- 7.4 The Customer shall, on demand, supply copies of the relevant insurance policies or other insurance confirmation acceptable to Loft Studios Limited and proof of premium payment to Loft Studios Limited to confirm the insurance arrangements.
- 7.5 The Customer shall not, during the period of hire, allow the Equipment to be used for any purpose not permitted by the terms and conditions of the policy of insurance or to do or allow to be done any act or thing whereby the insurance may be invalidated.

- 7.6 The Customer shall give immediate written notice to Loft Studios Limited in the event of any loss, accident or damage to the Equipment or arising out of or in connection with the Customer's possession or use of the Equipment.
- 7.7 The Customer shall indemnify Loft Studios Limited against all loss or damage to the Equipment not recovered by Loft Studios Limited under any policy of insurance.
- 7.8 If the Customer fails to effect or maintain any of the insurances required under this agreement, Loft Studios Limited shall be entitled to effect and maintain the same, pay such premiums, calculated as a percentage of the Rental Payments in respect of the cost of Loft Studios Limited maintaining a policy of insurance in respect of the Equipment (the Insurance Fee) as may be necessary for that purpose and recover the same as a debt due from the Customer.
- 7.9 If the Customer does not have an insurance policy to cover the Equipment hire, Loft Studios Limited will charge the Customer an additional 15% of the net Rental Payment due by the Customer to cover the insurance for any loss and damage which is not caused by the Customer's negligence and an additional £250 to cover any excess.

8. CUSTOMER'S RESPONSIBILITIES

- 8.1 The Customer shall during the term of this agreement:
- (a) ensure that the Equipment is kept and operated in a suitable environment used only for the purposes for which it is designed, and operated in a proper manner by trained competent staff in accordance with any operating instructions which may be provided by Loft Studios Limited;
 - (b) keep the Equipment in its possession and control on the Premises and ensure that it is secure against loss, damage and theft;
 - (c) not hold itself out as owner of the Equipment, nor shall it, charge, encumber, sell, let, lease, hire or otherwise dispose of, part with, or abandon the Equipment, nor shall it permit or suffer the creation of any lien or distress over the Equipment;
 - (d) take such steps (including compliance with all safety and usage instructions provided by Loft Studios Limited) as may be necessary to ensure, so far as is reasonably practicable, that the Equipment is at all times safe and without risk to health during the Rental Period;
 - (e) maintain at its own expense the Equipment in good and substantial repair in order to keep it in as good an operating condition as it was on the Commencement of Hire (fair wear and tear only excepted) including replacement of worn, damaged and lost parts, and shall make good any damage to the Equipment;

- (f) make no alteration to the Equipment and shall not remove any existing component(s) from the Equipment without the prior written consent of Loft Studios Limited unless the component(s) is/are replaced immediately (or if removed in the ordinary course of repair and maintenance as soon as practicable) by the same component or by one of a similar make and model or an improved/advanced version of it. If a component is replaced, the Customer must inform Loft Studios Limited immediately. The new component must be compatible with the Equipment fitted by a competent person with due care and skill. The Customer shall be liable for any new components that are fitted. Title and property in all substitutions, replacements, renewals made in or to the Equipment shall vest in Loft Studios Limited immediately upon installation;
- (g) keep Loft Studios Limited fully informed of all material matters relating to the Studio and / or Equipment;
- (h) maintain operating and maintenance records of the Equipment and make copies of such records readily available to Loft Studios Limited, together with such additional information as Loft Studios Limited may reasonably require;
- (i) ensure that any persons entering the Studio or using the Equipment during the Rental Period shall abide by these terms and conditions at all times;
- (j) not, without the prior written consent of Loft Studios Limited, part with control of (including for the purposes of repair or maintenance), sell or offer for sale, underlet or lend the Equipment or allow the creation of any mortgage, charge, lien or other security interest in respect of it;
- (k) not without the prior written consent of Loft Studios Limited, attach the Equipment to any land or building so as to cause the Equipment to become a permanent or immovable fixture on such land or building. If the Equipment does become affixed to any land or building then the Equipment must be capable of being removed without material injury to such land or building and the Customer shall repair and make good any damage caused by the affixation or removal of the Equipment from any land or building and indemnify Loft Studios Limited against all losses, costs or expenses incurred as a result of such affixation or removal;
- (l) not do or permit to be done any act or thing which will or may jeopardise the right, title and/or interest of Loft Studios Limited in the Equipment and, where the Equipment has become affixed to any land or building, the Customer must take all necessary steps to ensure that Loft Studios Limited may enter such land or building and recover the Equipment both during the term of this agreement and for a reasonable period thereafter, including by procuring from any person having an interest in such land or building, a waiver in writing and in favour of Loft Studios Limited of any rights such person may have or acquire in the Equipment and a right for Loft Studios Limited to enter onto such land or building to remove the Equipment;

- (m) not suffer or permit the Equipment to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if the Equipment is so confiscated, seized or taken, the Customer shall notify Loft Studios Limited and the Customer shall at its sole expense use its best endeavours to procure an immediate release of the Equipment and shall indemnify Loft Studios Limited on demand against all losses, costs, charges, damages and expenses incurred as a result of such confiscation;
- (n) not use the Equipment for any unlawful purpose;
- (o) ensure that at all times the Equipment remains identifiable as being Loft Studio Limited's is attached to the Equipment;
- (p) deliver up the Equipment at the end of the Rental Period or on earlier termination of this agreement;
- (q) ensure that any identification marks, labels or signs on or fixed to the Equipment are not removed, defaced, amended, obscured or otherwise subjected to interference, including those which identify the Equipment as belonging to the Owner;
- (r) permit the Owner, its employees and agents access to the Equipment and the premises on which it is held for the purpose of inspecting, repairing, servicing and replacing the Equipment;
- (s) ensure that the Equipment is returned in the same condition that it was supplied in (fair wear and tear excepted); and
- (t) ensure that use of the Equipment complies with any relevant Government or Local Authority Regulations, including any applicable licensing requirements.

8.2 The Customer acknowledges that Loft Studios Limited shall not be responsible for any loss of or damage to the Equipment arising out of or in connection with any negligence, misuse, mishandling of the Equipment or otherwise caused by the Customer or its officers, employees, agents and contractors, and the Customer undertakes to indemnify Loft Studios Limited on demand against the same, and against all losses, liabilities, claims, damages, costs or expenses of whatever nature otherwise arising out of or in connection with any failure by the Customer to comply with the terms of this agreement.

8.3 The Customer acknowledges that Loft Studios Limited reserve the right to hire the Equipment at any time without giving any reason.

9. BREAKDOWN

9.1 In the event that the Equipment suffers a Breakdown the Customer must immediately stop use of the Equipment and disconnect the Equipment from the power source (where appropriate).

- 9.2 The Owner must be immediately informed of any Equipment Breakdown.
- 9.3 The Customer must not undertake or permit any repair work on the Equipment without the express written permission of the Owner.
- 9.4 Where the Breakdown is caused by the negligence of the Customer or by the misuse of the Equipment, the cost of repair or replacement of the Equipment shall be borne by the Customer. The Rental Payments shall continue to be payable by the Customer during any period of stoppage.

10. LIABILITY

THE CUSTOMERS ATTENTION IS DRAWN TO THIS CLAUSE

- 10.1 The Owner does not loan or supply the Equipment with any representation concerning the condition, performance or quality of the Equipment of with or subject to any term, condition or warranty express or to be implied by statute, common law or otherwise and all such representations, conditions, warranties whether relating to the capacity, age, satisfactory quality, description, condition of use of the Equipment or to the suitability or fitness of the Equipment for a particular or any purpose are expressly excluded and/or waived by the Customer.
- 10.2 Without prejudice to clause 10.3, Loft Studios Limited's maximum aggregate liability for breach of this agreement (including any liability for the acts or omissions of its employees, agents and subcontractors), whether arising in contract, tort (including negligence), misrepresentation or otherwise, shall in no circumstances exceed the amount of the Rental Payment due from the Customer.
- 10.3 Nothing in this agreement shall exclude or in any way limit:
- (a) either party's liability for death or personal injury caused by its own negligence;
 - (b) either party's liability for fraud or fraudulent misrepresentation; or
 - (c) liability for any breach of the terms implied by section 8 of the Supply of Equipment (Implied Terms) Act 1973 or any other liability which cannot be excluded by law.
- 10.4 This agreement sets forth the full extent of Loft Studios Limited's obligations and liabilities in respect of the Equipment or Studio and its hiring to the Customer. In particular, there are no conditions, warranties or other terms, express or implied, including as to quality, fitness for a particular purpose or any other kind whatsoever, that are binding on Loft Studios Limited except as specifically stated in this agreement. Any condition, warranty or other term concerning the Equipment which

might otherwise be implied into or incorporated within this agreement, whether by statute, common law or otherwise, is expressly excluded.

10.5 Without prejudice to clause 10.3, Loft Studios Limited shall not be liable under this agreement for any:

- (a) loss of profit;
- (b) loss of revenue
- (c) loss of business; or
- (d) indirect or consequential loss or damage,

in each case, however caused, even if foreseeable.

11. TERMINATION

11.1 Loft Studios Limited may, without prejudice to any other right or remedy which may be available to it, terminate this agreement immediately by written notice to the Customer if:

- (a) the Customer defaults in any of its payment obligations;
- (b) the Customer commits a material breach of this agreement which breach is irremediable, or which breach (if remediable) is not remedied within ten (10) Business Days after the service of written notice from Loft Studios Limited requiring it to do so;
- (c) the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
- (d) the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors [other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer]; or
- (e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer; or
- (f) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Customer; or
- (g) the holder of a qualifying floating charge over the assets of the Customer has become entitled to appoint or has appointed an administrative receiver;
- (h) a person becomes entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the Customer; or

- (i) a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Customer's assets and such attachment or process is not discharged within 14 days; or
- (j) any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 11.1(c) to clause 11.1(i) (inclusive); or
- (k) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- (l) the Customer breaches clause 8 of this agreement.

11.2 This agreement shall automatically terminate if a Total Loss occurs in relation to the Equipment.

11.3 Upon termination of this agreement, however caused:

- (a) Loft Studios Limited's consent to the Customer's possession of the Equipment shall terminate and Loft Studios Limited may, by its authorised representatives, without notice and at the Customer's expense, retake possession of the Equipment and for this purpose may enter the Site or any premises at which the Equipment is located; and
- (b) without prejudice to any other rights or remedies of the Customer, the Customer shall pay to Loft Studios Limited on demand:
 - (i) all Rental Payments and other sums due but unpaid at the date of such demand together with any interest accrued pursuant to *clause* 4.5;
 - (ii) any costs and expenses incurred by Loft Studios Limited in recovering the Equipment and/or in collecting any sums due under this agreement (including any storage, insurance, repair, transport, legal and remarketing costs).

11.4 Upon termination of this agreement pursuant to clause 11.1, any other repudiation of this agreement by the Customer which is accepted by Loft Studios Limited or pursuant to clause 11.2, without prejudice to any other rights or remedies of Loft Studios Limited, the Customer shall pay to Loft Studios Limited on demand a sum equal to the whole of the Rental Payments that would (but for the termination) have been payable if the agreement had continued from the date of such demand to the end of the Rental Period, less:

- (a) a discount for accelerated payment at the percentage rate set out in the Payment Schedule; and
- (b) Loft Studios Limited's reasonable assessment of the market value of the Equipment on sale.

- 11.5 The sums payable pursuant to clause 11.4 shall be agreed compensation for Loft Studios Limited's loss and shall be payable in addition to the sums payable pursuant to clause 11.3(b). Such sums may be partly or wholly recovered from any Deposit.
- 11.6 Termination of this agreement shall be without prejudice to the rights and obligations of the parties accrued up to the date of termination.

12. NOTICES AND SERVICE

- 12.1 Any notice or other information required or authorised by this Agreement to be given by either party to the other shall be given by:
- (a) delivering it by hand;
 - (b) sending it by pre-paid registered post; or
 - (c) sending it by email, facsimile transmission or comparable means of communication

to the other party at the address given in Sub-clause 12.4.

- 12.2 Any notice or information given by post in the manner provided by Clause 12.1.2 which is not returned to the sender as undelivered shall be deemed to have been given on the second business day after the envelope containing it was so posted; and proof that the envelope containing any such notice or information was properly addressed, pre-paid, registered and posted, and that it has not been so returned to the sender, shall be sufficient evidence that the notice or information has been duly given.
- 12.3 Any notice or information sent by facsimile transmission or comparable means of communication shall be deemed to have been duly given on the date of transmission, provided that a confirming copy of it is sent as provided in Clause 12.1.2 to the other party at the address given in Clause 12.4 within 24 hours after transmission.
- 12.4 Service of any document for the purposes of any legal proceedings concerning or arising out of this Agreement shall be effected by either party by causing it to be delivered to the other party at its registered or principal office, or to such other address as may be notified to it by the other party in writing from time to time.

13. FORCE MAJEURE

Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control, and in such circumstances.

14. CONFIDENTIAL INFORMATION

14.1 Neither party shall, during and after termination of this agreement, without the prior written consent of the other party, use or disclose to any other person any information of the other party which is identified as confidential or which is confidential by its nature.

14.2 Each party shall on demand and on termination of this agreement surrender to the other party all materials relating to such confidential information in its or its personnel's, agents' or representatives' possession.

15. ASSIGNMENT AND SUBCONTRACTING

15.1 Neither party shall, without the prior written consent of the other party assign, transfer, mortgage, charge or deal in any manner with this agreement or any of its rights and obligations under this agreement, or purport to do any of the same.

15.2 Neither party shall subcontract or delegate in any manner any or all of its obligations under this agreement to any third party or agent without the prior written consent of the other party. Each party shall in all cases retain sole responsibility for the performance of the tasks assigned to it under this agreement, regardless of the use of authorised subcontractors.

15.3 Each party that has rights under this agreement is acting on its own behalf and not for the benefit of another person.

16. ENTIRE AGREEMENT AND VARIATION

16.1 This agreement constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.

16.2 Each party acknowledges that, in entering into this agreement, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in this agreement. Each party agrees that its only liability in respect of those representations and warranties that are set out in this agreement (whether made innocently or negligently) shall be for breach of contract.

16.3 Nothing in this clause shall limit or exclude any liability for fraud or for fraudulent misrepresentation.

16.4 No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

17. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

17.1 A person who is not a party to this agreement shall not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999 except where such rights are expressly granted by clause 1.2(b).

17.2 The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this agreement is not subject to the consent of any person that is not a party to this agreement.

18. NO WAIVER

No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

19. SEVERANCE

19.1 If any court or competent authority finds that any provision of this agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this agreement shall not be affected.

19.2 If any invalid, unenforceable or illegal provision of this agreement would be valid, enforceable and legal if some part of it were deleted, [the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

20. GOVERNING LAW AND JURISDICTION

20.1 This agreement and any dispute or claim arising out of or in connection with it or its subject matter shall be governed by and construed in accordance with English law.

20.2 The parties irrevocably agree that the courts of England and Wales shall have [non-] exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter.

This agreement has been entered into on the date stated at the beginning of it.