



**TERMS AND CONDITIONS OF  
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**Fitzrovia Post Production Limited  
33 Gresse Street  
London  
W1T 1QU**

# TERMS AND CONDITIONS OF BUSINESS

Fitzrovia Post Production Limited

33 Gresse Street, London W1T 1QU

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## Definitions;

<b>Agreement</b>	the terms comprised in the Service Schedule and these Conditions.
<b>Booking</b>	the hire of the Studio from the Start Date for the Period of Booking and subject to the other terms and conditions specified in the Service Schedule.
<b>“Client”</b>	the person or entity referred to as such in the Service Schedule.
<b>“Client’s Equipment”</b>	equipment brought onto the Premises by the Client, or the Client’s Personnel or any servant, employee, agent or contractor for or on behalf of the Client.
<b>“Client’s Own Part Recorded”</b>	the Client’s own recording media incorporating pre-recorded material including without limitation multi-track recording tape and computer software.
<b>“Client’s Personnel”</b>	persons invited by the Client to enter the Studio or the Premises during the Booking.
<b>“Client’s Recording”</b>	a recording made before the period of Booking which is delivered to the Company by the Client in connection with the Agreement.
<b>“Company”</b>	Fitzrovia Post Production Limited (company number 03748880). 33 Gresse Street, London W1T 1QU

<b>“Conditions”</b>	these terms and conditions and any amendment thereto as shall be notified to the Client and agreed in writing.
<b>“Fees”</b>	the Booking Fee, the Post Production Work Fee and all other sums payable by the Client to the Company under or in connection with the Agreement (including without limitation any costs incurred in respect of the Premises such as but not limited to accommodation and subsistence for the Period of the Booking). At the company’s discretion, a surcharge will be applied to the cost of goods bought or supplied by the Company or its employees to cover costs. The Company reserves the right to amend the surcharge from its current minimum of 10%.
<b>“Mastering”</b>	the processing by the Company of Recordings in accordance with the description in the Service Schedule or verbal instructions accepted by the Company.
<b>“Master Recording”</b>	the original recording produced for the Client in the course of the Booking on the media and in the format described in the Service Schedule.
<b>“Maximum Liability”</b>	the maximum liability of the Company to the Client arising under or in connection with the Agreement (in the aggregate for all potential claims by the Client) being the lesser of (i) £1,000 and (ii) the total amounts paid to the Company by the Client under the Agreement in the six months immediately preceding the initial notice of any claim.
<b>“Operators”</b>	the staff of the Company named as such in the Service Schedule.
<b>“Overtime Fee”</b>	shall have the meaning set out in paragraph 5 of this Agreement.
<b>“Period of Booking”</b>	the period described as such in the Service Schedule.
<b>“Post Production Work”</b>	the processing by the Company of Recordings in accordance with the description in the Service Schedule.
<b>“Post Production Work Fee”</b>	the fee payable by the Client to the Company for the Post Production Work as specified in the Service Schedule or if not specified then calculated in accordance with the Company’s published or usual scale of charges from time to time.

<b>“Pre-Production Master”</b>	a Recording in a form intended for mass production without further material change.
<b>“Premises”</b>	all parts of the building and premises in which the Studio is contained and surrounding land owned or leased by the Company (including without limitation the Studio itself).
<b>“Recording”</b>	means any single or multi-track audio and/or visual recording or data programming or derivative thereof or any one or more pieces of recorded sound or visual image recorded or used during the Booking or which is the subject of Post Production Work.
<b>“Regulations”</b>	the Company undertakes all work within and all our working practices are based on the guidelines of the APRS, ASA, BCAP, BBFC, OFCOM, RACC, UK Screen Association and or Governing bodies.
<b>“Representatives”</b>	the persons named in the Service Schedule being authorised by the Client to instruct the Company on behalf of the Client.
<b>“Service Schedule”</b>	the form of Service Schedule attached hereto as Schedule 1.
<b>“Service Fee”</b>	the fee payable by the Client to the Company for the Booking as specified in the Service Schedule or if not specified then calculated in accordance with the Company’s published or usual scale of charges from time to time.
<b>“Session Footage”</b>	all audio and or audio-visual material documenting the progress and/or making of the Recording in the Studio during the Booking Period.
<b>“Studio”</b>	the recording studios and residential buildings and the equipment specified in the Service Schedule.
<b>“Studio Breakdown”</b>	a failure or breakdown or unavailability for any reason of the Studio which prevents the Client’s use thereof in accordance with the terms of the Agreement.
<b>“Trade Marks”</b>	all Company owned and/or controlled trademarks, logos and associated rights (whether registered or not).
<b>“VAT”</b>	shall be at the rate to be charged to the client, as may be varied from time to time by HMRC. All fees shall be subject to VAT, save as otherwise stated in the Service Schedule.

## **Terms and Conditions;**

### **1. AGREEMENT**

The Agreement alone applies to all facilities hired and work done by the Company for the Client and prevails over any terms and conditions put forward by the Client.

### **2. STUDIO FACILITIES**

The Company shall make the Studio and the Operators available to the Client for the Period of Booking and shall produce the Master Recording at the direction and subject to the monitoring and approval of the Client or the Representatives. The Client shall only permit people directly involved in the Recording, as stated on the Service Schedule, to enter the Premises and only during the Booking Period. The Company reserves the right to require any person to leave the Premises.

The Client is responsible for:

- (a) ensuring the suitability of the Studio for the Client's purpose;
- (b) ensuring that the Client's Equipment is compatible with the Studio and any and all electrical equipment to be used by the Customer during the Event must be fully PAT Tested. All such equipment must bear the appropriate labels and be accompanied by the appropriate certificates as proof of such testing and compliance.
- (c) the Company shall have the right to inspect electrical equipment at any time during the Period of Booking for compliance with sub-Clause b and shall have the right to remove, or request the removal of, any equipment not in compliance with that provision from the Studio.
- (d) the technical quality of any recording engineered by personnel provided by the Client;
- (e) any problem or damage caused by any use of Clients Own Part Recorded Media and plug-in software (including any virus damage); and
- (f) any acts or omissions of the Representatives or the Client's Personnel as if those acts and omissions were its own;
- (g) ensuring that the correct media and any associated materials are suitable for any audio and post production work to commence.
- (h) providing the correct specification for delivery within a reasonable period of time in advance of the Booking.

And the Company gives no warranty, undertaking or representation as to any of the foregoing, if:-

- (a) the Client fails to use the Studio for any or all of the Period of Booking,

(b) the Client cancels the Booking or

(c) the Company terminates the Booking or any or all of its obligations under the Agreement pursuant to paragraph 8.3 below, the Company may at its sole discretion and without any obligation whatsoever, make the Studio and Operators available for an alternative booking (in each case without having to refund the Fees or any part thereof to the Client).

(d) the Booking cannot be completed due to an intervening external event ("frustration/force majeure")

### **3. POST PRODUCTION WORK**

1) The Company shall carry out the Post Production Work with due care and diligence using suitable equipment and competent engineers.

2) The Client and the Representatives shall be entitled at all reasonable times to monitor the Company's performance of the Post Production Work and the Company shall carry out the Post Production Work at the direction of and subject to the monitoring and approval of the Client or the Representatives.

3) The Client, at its request, shall be entitled and shall be given all reasonable opportunity to evaluate by any reasonable means the content and quality of the Recording.

4) The Client shall ensure that the Pre-Production Master meets with its full satisfaction before proceeding to mass production of the recording thereon. The Client shall be deemed to have accepted and approved the Pre-Production Master if it does not notify the Company in writing of any concerns with it before the expiry of 14 days following the end of the Period of Booking.

### **4. FEES;**

1) The Client shall pay the Fees in cleared funds to such bank account as the Company may nominate in writing. All Fees shall be paid in full without any set-off, counterclaim, deduction or retention. Any fees quoted in € will be subject to a conversion rate applied by the Company acting reasonably.

2) The Company may raise invoices in respect of the Fees at any time during Production, periodically or upon conclusion.

3) Unless the Company agrees otherwise in advance and in writing, all invoices raised by the Company prior to the commencement of the Period of Booking shall be payable by the Client as follows:

i) 50% of all Fees set out in such invoices shall be payable within 7 days from the date of the invoice; and

ii) the remaining balance of such Fees shall be payable no later than 24 hours prior to the commencement of the Period of Booking.

4) All invoices raised by the Company on or after the commencement of the Period of Booking shall be payable by the Client within 7 days from the date of the invoice.

5) In default of 4(d), the Client shall be liable to pay interest on any sums overdue and payable to the Company from time to time at the rate of four per cent (4%) per annum above the Company's bank's base rate for the first 30 days and thereafter ten per cent (10) per annum above the Company's banks base rate.

6) The Fees shall not be reduced as a result of:

i) the Client's failure to use the Studio for any or all of the Period of the Booking;

ii) the Client's cancellation of the Booking or any part thereof; or

iii) the Company's termination of any or all of its obligations under the Agreement pursuant to paragraph 8.3 below.

7) Notwithstanding any other provision of the Agreement, if the Client fails to pay any Fees (or part thereof) when due the Company may terminate the Booking immediately without notice and without any obligation to refund any Fees already paid by the Client.

8) No part of the Master Recording will be released to the Client, and the Company may suspend all or part of the services to be provided by it under the Agreement, until all outstanding Fees have been received by the Company.

## **5 OVERTIME FEES;**

1) If the Period of Booking is exceeded for any reason, the Client shall be charged an overtime fee equal to a minimum 10% of the Fees ("**Overtime Fee**").

2) The Company reserves the right to amend the Overtime Fee prior to the commencement of the Booking. The Company shall inform Client of the applicable Overtime Fee prior to the commencement of the Period of Booking.

3) The Overtime Fee shall accrue on a half hourly basis for every half hour exceeding the Period of Booking (any period over 15mins will be rounded up to 30 minutes).

4) The terms of paragraph 4 (Fees) shall apply to the payment of the Overtime Fee. Any reference to Fees in this Agreement shall be construed as including the Overtime Fee (as applicable).

## **6 CLIENT'S OWN MEDIA, PERSONNEL AND EQUIPMENT;**

1) The Company will supply blank media for recording if required.

2) The Client will be responsible for the integrity of the Client's own media, including without limitation the Client's Own Part Recorded Media, and the Company shall not be liable or responsible for any deficiency in or caused by such media.

3) The Client shall procure that each of the Client's Personnel shall abide by the Company's and the Studio's rules, regulations and health and safety and other policies and the Client shall be responsible for:

- i. the actions of the Client's Personnel on the Premises;
- ii. any and all injury, loss or damage to any person's equipment or premises caused by any act or omission of the Client's Personnel, or as a result of any defect in or inappropriate specification of the Client's Equipment or the Client's own media;
- iii. the cost of the hire of any Client's Equipment;
- iv. any costs and expenses incurred by the Company on behalf of the Client at the Client's request; and
- v. any and all loss or damage to the Client's Equipment (which shall be at the sole risk of the Client).

4) The Company reserves the right to refuse installation of the Clients plug-in software to any of the Company's computer hardware.

5) The Client shall vacate the Studio and the Premises and remove all Client's Equipment forthwith at the end of the Period of Booking or, if the Company so elects in writing, on the Company's termination of the Booking or some or all of its obligations under the Agreement pursuant to paragraph 8(c) below. The Company shall be entitled by two weeks' notice to the Client to require the Client to collect the Client's Equipment and in default of collection on or before the expiration of such period of notice, the Company shall be entitled to destroy or otherwise dispose of the Client's Equipment without further notice or warning.

## 7) SOUND LEVELS

The Client acknowledges that The Control of Noise at Work Regulations 2005 have established that prolonged exposure to high noise levels above 85 dB(A) may cause damage to hearing and that both studios and studio users are required by law to keep exposures as low as reasonably practicable and that accordingly:

- a) the Client shall be responsible for noise levels within the Studio;
- b) high noise levels shall not be sustained for long periods; and
- c) the Company reserves the right to take such action as it may deem appropriate to maintain tolerable noise levels and that no claim shall lie against the Company in respect of inconvenience or time lost in the event of such

## 8. RECORDINGS AND MATERIALS

(1) The Client shall procure the collection of the Recordings and all ancillary materials (if any) ("**the Materials**") immediately upon payment in full of the Company's invoice(s) applicable thereto ("**the Collection Date**").

(2) After the Collection Date:



- a) notwithstanding any other provision of the Agreement, the Materials shall be held by the Company solely at the risk of the Client;
  - b) the Client shall be liable to the Company for such reasonable charges as the Company may raise against the Client for the continued storage of the Materials; and
  - c) the Company shall be entitled to serve notice on the Client requiring the Client to collect the Materials within two weeks of the date of such notice failing which the Company shall be entitled to destroy or otherwise dispose of the Materials without further notice of warning.
  - d) The company reserves the right to charge for the resupply of any master files or media.
- (3) Notwithstanding any other provision of the Agreement, until such time as the Company is in receipt of cleared payment of all Fees, (a) the Company shall retain legal title to the Materials (which shall remain the property of the Company), (b) the Company shall retain possession of all of the Materials and (c) the Client is not entitled to sell, manufacture, license or distribute the Master Recordings.
- (4) Notwithstanding any other provision of the Agreement the Client acknowledges and agrees that all risk in the Materials when in transit or otherwise off the Premises shall vest in the Client.
- (5) The Company retains a general lien on any property of the Master Recordings and/or Materials in its possession for any unpaid sums the Client may owe to the Company.

**8) COMPLIANCE WITH LAWS AND CLIENT'S OBLIGATIONS IN GENERAL;**

1) In performing its obligations under the Agreement, the Client shall and shall procure that the Client's Personnel (a) comply with all applicable laws, statutes and regulations from time to time in force and (b) obtain and maintain all necessary licences and consents to enable the Company to provide its services under the Agreement.

2) The Client shall:

- a. co-operate with the Company in all matters relating to the services to be provided by the Company under the Agreement; and
- b. provide to the Company in a timely manner all documents, information, items and materials in any form (whether owned by the Client or third party) reasonably required by the Company in connection with the services to be provided by the Company under the Agreement.
- c. The Client shall not procure nor seek to procure and member of staff of the Company
- d. The Customer shall be made aware of all fire exits and fire equipment prior to the start of the Hire Term. All fire exits and access thereto must remain completely unobstructed. All signs for fire exits and equipment must remain as prominent and visible as they are when the Studio is unoccupied. Fire equipment must not be moved from its present location unless being used for its intended purpose.

## **10 UNAUTHORISED ACCESS**

- 1) The Client's access to the Studio shall be limited to such areas of the Premises that are necessary for the Booking or as directed or permitted by the Company.
- 2) The Company, in its sole discretion, reserves the right to refuse entry by the Client or any Client Personnel to any area of its Premises at any time.
- 3) Entry into or use of the areas marked "Private" or "Staff only" on the Premises by the Client any Client Personnel is strictly prohibited at all times.

## **11 SMOKING**

- 1) Smoking anywhere on the Premises is strictly forbidden. This applies to anything that can be smoked and includes but is not limited to, cigarettes, pipes, cigars, vapes and herbal cigarettes. This is in the interest of hygiene, safety and the health of other users of the Studio, the Company's employees and in compliance with legal requirements.
- 2) Any Client or Client Personnel wishing to smoke must do so strictly outside of the Premises and shall considerately dispose of any debris, not on the public highway.

## **12 DRUG & ALCOHOL USE**

- 1) The Company is committed to providing a safe, healthy, and productive working environment for all employees, contractors, Clients, Client Personnel and visitors involved in its operation.
- 2) The use of drugs on the Premises by the Client or Client Personnel is strictly forbidden.
- 3) Any Client or Client Personnel found using, supplying, under the influence, or in the possession of, an illegal substance whilst on the Premises will be required to leave the Premises immediately and may face prosecution under the law. A breach of this clause shall be deemed to be material breach of this Agreement. In such circumstances, the Company reserves the right to terminate the Booking, regardless of whether such Booking has commenced or not, and any Fees paid or owing to the Company by the Client shall be non-refundable.
- 4) Consumption of alcohol on the Premises by the Client or Client Personnel is strictly forbidden save as expressly agreed by the Company. Where alcohol is served by or with the consent of the Company it is the sole responsibility of the Client and the Client Personnel to ensure that any alcohol is consumed in a responsible and appropriate manner and does not cause a breach of any other term of this Agreement.
- 5) The Company reserves the right to refuse entry to the Premises to any Client or Client Personnel or require that any Client or Client Personnel leave the Premises if

the Company considers that, in its sole discretion, the Client or any Client Personnel is behaving in an inappropriate manner or endangers the right for all employees to work in a safe working environment. For the avoidance of doubt, this shall include where the Company considers that the Client or any Client Personnel has consumed alcohol pursuant to this clause in an inappropriate or irresponsible manner. In such circumstances, the Company reserves the right to terminate the Booking, regardless of whether such Booking has commenced or not, and any Fees paid or owing to the Company by the Client shall be non-refundable.

### **13 NON-COMPLIANCE AND TERMINATION**

1) The Client shall be responsible for the actions of the Client Personnel and shall ensure that the Client Personnel are made aware of the obligations in this Agreement and shall ensure that the Client Personnel comply with these obligations at all times.

2) To the extent the Company so elects in writing, the Company's obligations under the Agreement shall terminate with immediate effect if the Client commits a breach of any provision of the Agreement.

3) To the extent permissible by law, the Client shall keep the Company fully indemnified against all costs, expenses, damages and losses, including any interest, fines, legal and other professional fees and expenses awarded against or incurred or paid by the Company arising out of, or in connection with, any breach of this Agreement by the Client or any Client Personnel.

4) In the event that a Booking is terminated as a result of a breach of the provisions of this Agreement, the Company shall not be required to refund any Fee to the Client and reserves the right to charge the full Fee to the Client in the event that a Booking is cancelled by the Company, regardless of whether such Booking has commenced or not.

5) Where the Customer is an individual, the Company shall be entitled to terminate the Hire Agreement in the event that:

(i) the Customer is in breach of these Terms and Conditions;

(ii) the Customer has had their personal belongings confiscated in order to satisfy debts; or

(iii) the Customer has a receiving order made against them.

6) Where the Customer is a company, the Company shall be entitled to terminate the Hire Agreement in the event that:

(i) the Customer is in breach of these Terms and Conditions;

(ii) the Customer goes into bankruptcy or liquidation either voluntary or compulsory (save for the purposes of bona fide corporate reconstruction or

amalgamation) or if a receiver is appointed in respect of the whole or any part of its assets.

7) In the event of termination for any of the above reasons:

(i) all payments required under the Hire Agreement shall become due and immediately payable; and

(ii) the Company shall have the immediate right to request the immediate vacation of the Venue if the Event or preparations therefor have already commenced.

#### **14 INDEMNITY and INSURANCE**

1) The Client shall indemnify the Company and keep the Company indemnified in full against any injury, loss, damage, costs and/or expenses suffered by the Company arising from or attributable to:

- (i) the Client's cancellation of the Booking including without limitation any costs or expenses incurred by the Company in connection with the Booking;
- (ii) the Client's making, use or exploitation of the Recordings;
- (iii) the Client's breach of the Agreement;
- (iv) the Client's media including without limitation the Client's Own Part Recorded Material; or the Client's own plug-in software.

2) The Company has in place insurance cover for the Studio and all other property of the Company which is in the Studio either permanently or only for the duration of the Hire Term.

3) The Customer shall be responsible for securing adequate insurance cover for any additional items that they bring to the Studio. The Company's insurance shall not cover the Customer's property nor that of any third parties.

#### **15 CONTENT OF RECORDING AND RESTRICTIONS**

1) The Client undertakes that nothing whatsoever shall be included in the Recording (or any software introduced by the Client) which constitutes a breach or infringement of any intellectual property rights or which shall be in any way illegal, scandalous, obscene or libellous and the Client will indemnify the Company and keep the Company indemnified in full against any injury, loss, damage, costs and/or expenses in respect thereof and shall pay all costs, fees and expenses which may be incurred by the Company in reference to any such claim.

2) The Client may acknowledge that the Recording, Mastering or Post-Production Work took place at Real World Studios. Notwithstanding the foregoing, the fact that the Recording is recorded, mastered or subject to Post-Production Work in the Studio does not imply an "endorsement" as between the Company and the Recording or the

- Client. If the Company becomes aware that the Client is implying such an endorsement the Company shall notify the Client and the Client shall immediately cease the relevant
- 3) The Company shall not be required to reproduce any matter which in its opinion is or may be of an illegal, scandalous, obscene or libellous nature.
  - 4) The Client undertakes that, unless otherwise agreed by the Company in writing, the Recording will not be used to create software or hardware audio products including, but not limited to, plug-ins or sample instruments. Further the Client undertakes that it will not use the Company's name, logo or Trade Mark to promote, endorse or otherwise advertise non-Company audio products without the express prior written permission of the Company.
  - 5) The Client undertakes to the Company that in all Materials recorded, mastered or produced at the Premises:
    - (a) it shall credit the Company as the location of such work unless the Company notifies the Client in writing that it does not wish to be credited; and
    - (b) if the Client credits any of its employees, agents or contractors, it shall also credit the Operators.
    - (c) Upon compliance with this clause and the other terms of this Agreement, once the session footage has passed to the Public domain, the Company hereby grants to the Client a perpetual and royalty free license to refer to the Client and to use all or part of the session footage processed or produced by the company on the Client's behalf in order to promote or advertise the Company's business.
  - 6) The Company reserves the right to restrict usage of any parts of the Studio depending on the nature of the recording in the other Studios.

## **16 STUDIO BREAKDOWN WARRANTY**

1) In the event of Studio Breakdown the Company shall at its option either replace (as soon as can reasonably be arranged) the Studio facilities to which the Client was entitled by the terms hereof and which have been lost as a result of such Studio Breakdown or credit or refund to the Client the Booking Fee in respect of the Booking and shall have no liability or obligation to the Client beyond these remedies.

## **17 MASTER RECORDING AND POST PRODUCTION WORK WARRANTY**

1) The Client shall promptly notify the Company in writing of any defect in or loss of or damage to the Master Recording or the Post Production Work of which it is made aware whether as a result of any test carried out by the Client pursuant this Agreement or these Conditions or otherwise. The Client shall be deemed to have accepted and approved the Master Recording and the Post Production Work if it does not notify the Company in writing of any concerns with either or both of them before the expiry of 14 days following the end of the Period of Booking.

2) The Company shall use its reasonable endeavours to correct any such defect and to effect replacement of such lost or damaged materials so notified to it or of which it is aware only to the extent they are directly attributable to faulty materials or workmanship or the negligence of the Company.

3) If the Company is unable reasonably to effect such rectification or replacement its liability in respect of any Master Recording or Post Production Work shall be limited to the Maximum Liability.

## **18 CLIENT'S RECORDINGS**

1) It is a condition of the Agreement that all Client's Recordings shall have been copied by the Client before delivery to the Company, and that the Company's liability for loss of or damage to a Client's Recording shall be limited to the lower of the value of the media on which it is recorded and the Maximum Liability.

## **19 INTELLECTUAL PROPERTY AND NON-SOLICITATION**

1) The Trade Marks are the property of the Company and the Client shall not use the Trade Marks unless expressly authorized in writing by the Company to do so.

The Client:

a) warrants that the receipt and use of the Client's Recording and the Client's own media (including without limitation the Client's Own Part Recorded Media), in the performance of the Agreement by the Company, its agents, subcontractors or consultants shall not infringe the rights, including without limitation any intellectual property rights, of any third party; and

b) shall indemnify the Company and keep the Company indemnified in full against any injury, loss, damage, costs and/or expenses awarded against or incurred or paid by the Company as a result of or in connection with any claim brought against the Company, its agents, subcontractors or consultants for actual or alleged infringement of a third party's rights, including without limitation intellectual property rights arising out of, or in connection with, the receipt or use in the performance of the Agreement of the Client's Recording and the Client's own media (including without limitation the Client's Own Part Recorded Media).

2) The Client shall not, at any time during the Period of Booking and for 6 months after the Period of Booking, solicit or entice away from the Company or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant or subcontractor of the Company in the provision of any services contemplated by the Agreement (including without limitation the Operators). In the event of a breach of this subclause, the Client shall indemnify the Company in respect of the costs incurred in replacing such personnel and any consequential loss, including but not limited to financial loss, incurred as a result of the interruption to business.

## **20 FILMING AND PHOTOGRAPHY RESTRICTIONS**

1) The Client shall not, and shall procure that the Client's Personnel shall not, photograph or film any part of the Premises or Company personnel save as expressly provided in the remainder of this paragraph 20.

2) The Client shall be permitted to photograph and/or record Session Footage within the Studio solely for non-commercial personal purposes provided that:

a) it is first agreed in writing by the Company, the copyright and all related rights in and to the said Session Footage (excluding the copyright and all related rights in and to any underlying music composition) shall vest in Company and to the extent any such rights vest in the Client, the Client hereby assigns all rights in the said Session Footage to the Company, whether vested, contingent or future;

b) the Client hereby waives, and shall procure the waiver from the Representatives and the Client's Personnel of any and all moral and/or so-called "Performer's" rights in the said Session Footage; and

i) the Client shall provide the Company with a copy of the said Session Footage

ii) the Client shall protect such footage from the Public domain until the Company has expressed consent in writing

3) If the Client, the Representatives or the Client's Personnel either:

i) wish to use the Session Footage for purposes not expressly permitted hereunder; and/or

ii) wish to photograph and/or film the whole or part of the Premises,

then the Client shall put such request in writing to Company and the Company's decision on such matter shall be final.

## **21 CONFIDENTIALITY**

1) The Client undertakes that it shall not at any time disclose to any person any confidential information relating to the Company, except as permitted below:

2) The Client may disclose the Company's confidential information:

i) to the Representatives who need to know this information for the purposes of carrying out the Client's obligations under the Agreement, provided that the Client takes all reasonable steps to ensure that the Representatives comply with the confidentiality obligations contained in this paragraph as though they were a party to the Agreement. The Client shall be responsible for its Representatives' compliance with the confidentiality obligations set out in this paragraph and

ii) as may be required by applicable law, a court of competent jurisdiction or any governmental or regulatory authority with competent jurisdiction.

3) The Company reserves all rights in its confidential information. No rights or obligations in respect of the Company's confidential information other than those expressly stated in the Agreement are granted to the Client or to be implied from the Agreement.

## **22 COMPANY'S OVERALL LIABILITY**

1) The Company's total liability to the Client, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Agreement shall be limited to the Maximum Liability.

2) The Company shall not be liable to the Client, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Agreement for any or all of the following: loss of profits, loss of sales or business, loss of agreements or contracts, loss of anticipated savings, loss of or damage to goodwill, loss of use or corruption of software, data or information and any indirect or consequential loss.

3) The Company's liability under the Agreement shall be to the exclusion of all other liability to the Client whether contractual, tortious or otherwise. All other conditions, warranties, stipulations or other statements whatsoever concerning the Agreement, whether express or implied, by statute, at common law or otherwise howsoever, are hereby excluded.

4) The Client accepts as reasonable that the Company's total liability to the Client shall be as set out in the Agreement. In fixing that limit the Client and the Company have had regard to the price and nature of the Booking and the Post Production Work and the terms hereof, and the level of expenses expected to be incurred by the Client in respect thereof and the resources available to each party including insurance cover, to meet any liability.

5) Where the booking is made by a consumer as defined in the Sale of Goods Act 1979, the Supply of Goods and Services act 1982, the Enterprise Act 2002 or the Consumer Rights Act 2015 or other consumer protections, the statutory rights of the client are not affected by these terms and conditions.

6) Nothing in the Agreement excludes or limits liability for fraud, fraudulent misrepresentation, death or personal injury cause by negligence or any other liability which cannot be limited or excluded by applicable law.

## **23 ASSIGNMENT**

The Client shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Agreement without the prior written consent of the Company.

## **24 FORCE MAJEURE**

Notwithstanding any other term of the Agreement the Company shall not be under any liability for any failure to perform any of its obligations under the Agreement due to "Force Majeure". Following notification by the Company to the Client of such cause, the Company shall be allowed a reasonable extension of time for the performance of its obligations. For the purpose of this Agreement, 'Force Majeure' means any matters beyond the reasonable control of the Company, including without limitation:-

a) Act of God, explosion, flood, tempest, fire or accident;



- b) war or threat of war, sabotage, insurrection, civil disturbance or requisition;
- c) acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority including those imposed by any pandemic;
- d) import or export regulations or embargoes;
- e) strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Company or of a third party);
- f) difficulties in obtaining raw materials, labour, fuel, parts or machinery; and power failure or breakdown in machinery.

## **25 MISCELLANEOUS**

- 1) The Client shall procure that neither the Client nor any of the Client's Personnel shall be held out as an agent of or pledge the credit of the Company.
- 2) The Agreement constitutes the entire agreement between the Company and the Client and neither party shall be bound by any other statement or representation made to the other.
- 3) No variation or amendment to the Agreement shall be effective unless made in writing and signed by the Company and the Client.
- 4) If any part of the Agreement shall be held to be void, voidable or otherwise unenforceable by a court of competent jurisdiction then the balance thereof shall remain in full force and effect.
- 5) For the purpose of the Contracts (Rights of Third Parties) Act 1999, the Agreement does not and is not intended to give any rights, or any right to enforce any of its provisions, to any person who is not a party to it.
- 6) All notices required to be given hereunder shall be in writing and deemed properly served if delivered by hand or sent by fax or email (provided that proof of transmission can be produced) to the address or fax number respectively of the applicable party specified on the Service Schedule on the date of delivery or transmission or if sent by recorded delivery post to such address within two (2) working days of posting.
- 7) The Agreement shall be construed in accordance with the laws of England and Wales and is subject to the exclusive jurisdiction of the English Courts.
- 8) The Client shall be deemed to accept the provisions of this Agreement (and any email from the Company relating to this Agreement) upon the commencement of the Booking, notwithstanding the absence of written confirmation of acceptance by the Client of this Agreement and any terms contained in any relevant email from the Company.

9) If any of the terms and conditions of this Agreement are adjudged by a Court to be void or unenforceable, the same shall in no way affect any other provisions of these terms and conditions generally or the validity or enforceability of the same.

10) Any failure or delay by the Company in exercising or enforcing any rights conferred by these terms and conditions shall not be deemed to be a waiver thereof or operate so as to bar the exercise or enforcement of such rights at any time, subject only to general limitation tie limits.

## **26 GENERAL DATA PROTECTION REGULATIONS (GDPR)**

In compliance with the GDPR

What personal information will the Company hold about you?

Personal information means any information about an individual from which that person can be identified. It does not include data where the identity has been removed (anonymous data).

We may collect, use, store and transfer different kinds of personal information about you, as follows:-

1. Full name and title
2. Contact information including email and postal addresses, telephone and fax numbers
4. Qualifications and employment history
5. Disciplinary and regulatory investigation history
6. Details of any potential conflicts of interest
7. Adverse credit and negative media
8. Criminal convictions
9. Date of birth
10. Identification or supporting documents (such as passport, driving license, birth certificate, utility bill etc.)
11. IP address
12. Gender
13. Bank details

We do not collect any Special Categories of Personal Data about you (this includes details about your race, ethnicity, religious or philosophical beliefs, sex life, sexual orientation, political opinions, trade union membership, information about your health and genetic and biometric data).

How will the Company use personal information held about you?

We will only use your personal information when the law allows us to.

We will use our personal data where we need to: (a) in order to meet our contractual obligations under our Agreement with you; (b) where it is necessary for our legitimate

interests (or those of a third party) and your interests and fundamental rights do not override those interests; or (c) where we need to comply with a legal or regulatory obligation. In summary this means we use your personal information to enable us to facilitate transactional functionality in respect of this Agreement.

We do not rely on consent as a legal basis for processing and storage your personal information other than in relation to sending third party direct marketing communications to you. You have the right to withdraw consent to marketing at any time by contacting us in writing.

THE TERMS OF BUSINESS SET OUT ABOVE ARE AGREED

Signed.....

Dated.....

Due to the COVID-19 situation a priority of the Company is to keep our staff and clients safe. Therefore, meetings by Zoom, Skype or telephone can be offered. If attendances in person are necessary or preferred, we have all the necessary protective equipment on site to ensure proper protection and distancing stop paragraph our risk assessment is available for inspection upon request.