

## **TERMS AND CONDITIONS OF THE STAGE MANAGEMENT COMPANY (UK) LTD BUSINESS**

The Stage Management Company (uk) Ltd ("the Company")  
Terms and Conditions of Trading ("Conditions")  
Last Updated: January 2014

### **1. Interpretation**

In these conditions:-

"Contract" Means the contract for the sale, purchase or hire of Products and/or the provision of the Services between the Company and the Customer, incorporating these conditions;

"Customer" Means the person or business who purchases or hires the Products and/or Services from the Company pursuant to the Contract;

"Materials" Means all those materials supplied or used in the course of the provision of the Services, other than the Products;

"Products" Means those products that the Company agrees to supply to the Customer for Purchase or Hire pursuant to the Contract;

"Services" Mean the supply, installation and/or consultation of the Products (If applicable) and/or other theatrical and/or entertainment equipment and events services pursuant to the contract.

### **2. Application of Conditions**

- 2.1 Subject to any variation under Condition 2.3, the Contract shall be on these Conditions to the exclusion of all other express conditions (including any terms and conditions that the Customer purports to apply under any purchase order, confirmation of order, specification or other document). The Company's quotation and description of the Services and/or Product(s), as provided to The Customer by email or otherwise in writing, incorporate these Terms and Conditions.
- 2.2 No terms or conditions endorsed on, delivered with or contained in the Customer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.
- 2.3 These conditions apply to all the Company's sales, hires, installations and all other services and any variation to these Conditions shall have no effect unless agreed in writing and signed by an authorised representative of the Company.
- 2.4 Any order or acceptance of a quotation for Products and/or Services by the Customer from the Company shall be deemed to be an offer by the Customer to purchase products and/or services subject to these Conditions. No order for products and/or services placed by the Customer shall be deemed accepted by the Company until the Company accepts the order in writing or, if earlier, the Company delivers the Products and/or provides the Services to the Customer.
- 2.5 The Customer shall ensure that the terms of its order and any required specification are accurate and complete, and that it gives the Company all necessary information relating to the Products and/or Services within a sufficient time in order to enable the Company to perform the Contract in accordance with its Terms. Should this information not be provided to The Company, then Stage Management Company reserve the right to cancel, without liability for any costs incurred by the Customer. The quality, quantity, description and specification of the Products and/or Services shall be those set out in the Company's quotation or written acceptance of the Customer's order in respect thereof, provided that the Company reserves the right to make any changes in the specification of the Products and/or Services that are required to conform with any applicable safety or statutory requirements. If a specified Product and/or Service is not available, for whatever reason, a suitable alternative will be offered.
- 2.6 Any representations concerning the Products and/or Services made or given by or on behalf of the Company shall have no effect unless previously agreed in writing and signed by an authorised representative of the Company. In entering into the Contract, the Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company that is not expressly set out in the Contract, provided that nothing in these Conditions in any way excludes or limits the Company's liability for fraudulent misrepresentation.

- 2.7 Any advice or recommendation given to the Customer or any of its sub contractors, freelance or other Staff or agents by the Company which is not Charged For, confirmed in writing and authorised by an authorised representative of the Company, is followed or acted upon entirely at the Customer's own risk, and accordingly the Company shall not be liable for any such advice or recommendation which is not so confirmed.
- 2.8 Verbal confirmation of orders and/or acceptance of quotes is not permitted except where stated on official Stage Management Company documentation, where only written quotations and order acceptances shall be valid in the form of a Purchase Order.
- 2.9 All descriptions, specifications, drawings, illustrations, designs and particulars of weights and dimensions issued or published by the Company are done so for the sole purpose of providing an approximate idea of the Product(s) and/or Service(s) to which they refer and shall not form part of the Contract.
- 2.10 Any quotation is given on the basis that no Contract shall come into existence or equipment held for rental/sale until the Customer places an order of sales and/or rental on the basis of such quotation and the Company despatches a written acceptance and booking of that order. Any quotation is valid for 30 days from the date of quotation and, unless accepted within that period, will be deemed to have been withdrawn on the expiry of such 30-day period after which time a re-quote will be necessary.

### **3. Prices**

- 3.1 The price for the Products and the Services shall be the Company's quoted price or, when no price has been quoted (or a quoted price is no longer valid), the corresponding price listed in the Company's price list current at the date of acceptance of the Customer's order. All prices are exclusive of V.A.T or any similar taxes, which will be added to or charged on invoices at the appropriate rate and are exclusive of the Company's charges for delivery, packaging, transport, insurance, reasonable personal expenses (referred to in the trade as "per diems"), accommodation and travel expenses including air fares (if any), the Central London Congestion charge and other road tolls as applicable unless included in that quotation.
- 3.2 The Company reserves the right, by giving notice to the Customer at any time before or after delivery, to increase the price for any Products and/or Services to take account of any increase in the cost supply to the Company which is due to any factor beyond its reasonable control (such as, without limitation, foreign exchange fluctuation, current regulation, alteration of duties or significant increase in the costs of transport, insurance, labour, manufacture or materials and any changes in delivery dates, quantities or specifications of Products and/or Services required by the Customer or any delay caused by the Customer's failure to give adequate information or instruction to the Company.
- 3.3 No order that has been accepted by the Company may be cancelled by the Customer except with the prior agreement in writing by the Company and on terms that the Customer shall indemnify the Company in full against all loss (including loss of profit), costs, damages, charges and expenses incurred by the Company as a result of cancellation.
- 3.4 Without prejudice to any other right or remedy available to the Company in the event of the cancellation of an order by the Customer the Company reserves the right to make a cancellation charge as follows:-  
 Notice Given of Cancellation % of Total Product and/or Service Charges  
 8 days 25% of total project cost  
 7 - 2 days 50% of total project cost  
 Less than 48 hours 75% of total project cost

## **4. Payment**

- 4.1 All invoices will be payable in cash, cheque or bank transfer in Sterling upon or prior to delivery unless a credit facility has been granted by the Company in writing in which case payment will be due on the conditions stated on the invoice and The Company's terms supersede any other payment terms or conditions outlined in any other documentation supplied to The Company. The customer will make all payments due under the Contract in full without any deduction or withholding whether by way of abatement, counterclaim, discount, set-off or otherwise.
- 4.2 Time of payment shall be of the essence of the Contract and, where any Products are to be collected by the Customer or the Customer wrongfully fails to take delivery of any Products and/or Services, the Company shall be entitled to invoice the Customer for the price of such Products notwithstanding that collection or delivery might not have taken place.
- 4.3 Interest will be chargeable on invoices remaining unpaid following the due date at the statutory rate of interest specified by the Late Payment of Commercial Debt (interest) Act 1998 where applicable and at 4% above the base rate of Bank of England for the time being in all other cases.
- 4.4 The Company in its absolute discretion may from time to time offer the Customer a discount for Products and/or Services.
- 4.5 Without prejudice to any other right or remedy of the Company, the Company reserves the right to suspend the delivery or supply of any Products and/or Services due to be made under the Contract or any other products or services to be delivered or supplied under any other contract between the Company and the Customer, or to terminate the Contract, if there is any outstanding liability owing to the Company by the Customer, or if in its reasonable opinion the Customer will not be able to meet any future or existing liability to the Company.
- 4.6 In the case of Sales Quotes and Invoicing, all products remain the property of The Stage Management Company (UK) Ltd until such time as cleared funds for the invoice value has been received inclusive of VAT.

## **5. Limit on Liability**

- 5.1 Nothing in this Contract shall be construed to limit or exclude either party's liability for personal injury (including sickness and death) to the extent that such injury results from the negligence or wilful default of itself, its employees, agents or sub-contractors; or any breach of any obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982; or fraud or fraudulent misrepresentation.
- 5.2 Except as provided in clause 5.1, the Company's maximum aggregate liability to the Customer in contract, tort or otherwise (including, but not limited to, liability for any negligent act or omissions) for damages which are not otherwise limited or excluded under this Contract, shall be limited to 100% of the price of the Contract price which has given rise to the claim.
- 5.3 Except as provided in clause 5.1, the Company shall not be liable to the Customer under or in connection with this Contract, whether in contract, tort (including negligence), misrepresentation (other than where made fraudulently), breach of statutory duty or otherwise for any loss of business, contracts, profits, anticipated savings, goodwill, or revenue; or for any indirect or consequential loss whatsoever incurred by the Customer, whether or not the Customer has been advised in advance of the possibility of any such loss.

## **6. General**

- 6.1 Without the previous consent of the Company our technicians and any unpaid for rental or sales equipment must not be used on any abnormal or hazardous assignment or taken out of the United Kingdom or taken from the ground other than on a regular scheduled flight by any airline recognised by IATA/ABTA unless otherwise agreed by the company prior to the

commencement of the hire. The Customer shall be solely responsible for obtaining all customs and VISA Clearances Licenses and permits as shall be necessary to take any project out of the United Kingdom.

- 6.2 The Customer is liable for all loss, damage, breakage and theft of hired Products during the hire period, save where the Company itself has negligently and directly caused such loss etc. itself. In this regard, the Customer's responsibility for loss, damage, breakage and theft extends to such loss etc. caused by third parties including damage done by members of the audience and artists (whether or not part of the performance), inadequate handling or operation by third parties (including local crews), damage by adverse weather conditions including water damage, loss due to theft or damage on site including in transit, loss or damage during transportation, theft or damaged caused by other people who have access to the site where the Product(s) will be used, and/or damage done by modifying cables by cutting and/or rewiring plugs and sockets.
- 6.3 The Customer shall ensure that an adequate insurance policy is in place to cover loss, damage, breakage and theft of Products during the hire period, before hiring products and/or services from the Company. The Customer indemnifies the Company on demand for all loss, damage, breakage and theft of hired Products during the hire period. Where the Customer has obtained its own insurance to cover such losses, but the insurer does not pay out or there is a shortfall in the cover given under the policy, the Customer shall be responsible for putting the Company back in pocket for the replacement of the relevant lost, broken or stolen Product(s) or for making up the difference between the insurance shortfall and the actual cost of replacement.
- 6.4 The Customer is advised not to use any original copyright protected materials on or in connection with the use of the Company's Products and/or Equipment, including, but not limited to any Lighting Design or Design of Creative Works including the broadcast of copyrighted materials in a public area.
- 6.5 All rights in and to any design conceived by the Company in the provision of services for the Customer shall be and shall remain the creation and property of the Company. No changes shall be made to or any recording taken, either photographically or by means of film or moving image, of any design or creation without the Company's prior written approval. The Company shall reserve the right to charge a fee for this use as deemed appropriate.
- 6.6 The Company are hereby identified as the creator of all its' creative works in accordance with Section 77 of the Copyright, Designs and Patents Act 1988.
- 6.7 The Company shall receive free billing and/or logo and business advertising in all relevant promotional material including advertising material, souvenir brochures, programmes and events acknowledgment sheets.
- 6.8 The Company reserve the right to sub contact wholly or in part any part of the Contract to any third party. The Directors of the company and other key personnel may also, in the event of illness or injury, substitute other appropriate workers to carry out the whole or any part of the Contract.
- 6.9 Subject to clause 6.8, neither party shall be permitted to assign its rights or obligations under this Contract without the prior written consent of the other.
- 6.10A person who is not a party to the Contract shall not have any rights under or in connection with it.
- 6.11 This Contract may be executed in any number of counterparts, each of which, when executed and delivered, shall be an original, and all the counterparts together shall constitute one and the same instrument.
- 6.12 If any wording in any provision of this Contract shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such wording shall not affect the remainder of this Contract and the remainder of such provision and all other provisions not affected by such invalidity or unenforceability shall remain in full force and effect.
- 6.13 The failure of either party to insist upon strict performance of any provision of this Contract, or the failure of either party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by this Contract.
- 6.14 This Contract, together with the written quotation and description of Services/Hire provided by the Company, supersedes all previous conditions, understandings, commitments, contracts or representations (other than fraudulent misrepresentations) whatsoever whether oral or written

relating to the subject matter of this Contract and constitutes the entire agreement between the parties relating to the subject matter of this Contract.

6.15 English law shall apply to the Contract and the parties hereby agree to submit to the exclusive jurisdiction of the English Courts in relation to any dispute that arises under the Contract.

6.16 Divisibility Clause on Contracts

Each contract is divisible. Each delivery made thereunder shall be deemed to arise from a separate contract and shall be invoiced separately; any invoice for a delivery shall be payable in full in accordance with terms of payment provided for therein, without reference to and notwithstanding any defect of default in delivery of any other instalment.

All updated versions of Terms and Conditions can be viewed online at our website.

I confirm that I am authorised on behalf of The Customer to have read, understood and accepted the terms of business outlined above and agree to abide by these terms and conditions throughout the contract period between The Customer and Stage Management Company. I understand that failure to adhere to any of the terms and conditions will be seen as breach of contract and suitable action taken.

Please note that even in the absence of a signed returned copy of this document, these Terms and Conditions shall apply to the performance of any Services or the supply or hire of any Products to The Customer by the Company.

\_\_\_\_\_(signature)

PRINT NAME:

DATE: