

MCL - TERMS OF BUSINESS

1. Interpretation

1.1. In these terms: "MCL" means Media Control (Europe) Limited; "Client" means the legal entity accepting MCL's quotation for the supply of Equipment or Services or whose order for Equipment or Services is accepted by MCL or the party otherwise commissioning the Services in each case as named on MCL's invoice; "Equipment" shall mean all and each item of equipment referred to in this Agreement to be supplied by MCL and all additions, alterations and replacements to that Equipment; "Dry Hire" shall mean the hire of Equipment without the supply of operational personnel; "Hire Charge" means MCL's charges for provision of Equipment and/or Services; "Services" shall mean the installation, operation and removal of the Equipment and/or other services as described in this Agreement; and "writing" shall include electronic mail.

2. Provision of Equipment and Services

2.1. MCL shall provide and Client shall accept the Equipment and engage the Services of MCL at the location(s) ("Venue") as described in MCL's hire agreement or order acceptance or, if none, MCL's most recent quotation for the event subject to these terms (the "Agreement"), which contain the entire agreement between MCL and the Client and shall apply to the exclusion of all other terms and conditions and shall not be varied except as confirmed in writing by MCL.

2.2. Client acknowledges that Equipment was selected by Client as suitable for its purpose and Client has not been induced to enter into this Agreement by any prior representation (whether innocently or negligently made) except as specifically contained in this Agreement.

2.3. Unless otherwise expressly agreed in writing by MCL, all Equipment supplied by MCL is supplied on hire in accordance with this Agreement and no ownership interest in the Equipment shall pass to Client or any third party.

2.4. MCL will use reasonable efforts to ensure Equipment is in good working order on delivery and of satisfactory quality and will provide the Services using reasonable care and skill and in accordance with this Agreement.

3. Order Acceptance and Cancellation

3.1. No order or booking submitted by the Client shall be deemed accepted unless and until MCL has issued a Hire Agreement or order acceptance signed on behalf of MCL or by some other act of acceptance on the part of MCL or unless MCL in its discretion waives any such requirement. MCL may stipulate payment of an initial deposit(s) as a condition of acceptance or performance.

3.2. Client shall be responsible for ensuring the accuracy of any order but MCL reserves the right to make changes in the manner of performance of the Services to comply with health and safety and other applicable legal requirements.

3.3. Following acceptance by MCL, Client may not cancel or terminate this Agreement except with MCL's written consent and then only on terms that Client indemnifies MCL in full against all loss (including, without limitation, MCL's loss of profit and reimbursement of all costs) incurred prior to or as a result of cancellation or termination.

4. Hire Charges

4.1. MCL's charges for provision of Equipment and/or Services shall be as stated in the Agreement. Any extra Equipment or Services later required will be chargeable in addition. Client shall be liable for continuing Hire Charges at the same rate as provided in this Agreement: if Equipment is lost stolen damaged or destroyed, until its repair or replacement (in such case any continuing Hire Charges not to exceed a further 13 weeks rental); and, in the case of a Dry Hire or where Client arranges transit, if Equipment is returned late, until date of its actual return to MCL.

4.2. Client shall pay Hire Charge (and any VAT), notwithstanding that performance may not have taken place, to be received by MCL in cleared funds on or before the date(s) specified for payment or, if none, on or before the earlier of (i) 3 working days prior to date of supply of the Equipment or Services and (ii) 30 days from date of MCL's invoice. It is a condition that each payment due under this Agreement is paid on time without any deduction, set-off or counterclaim. Any discounts quoted or agreed may be forfeited at MCL's discretion if payment is received after the due date.

4.3. If the Client fails to pay any sum on the due date then, without limiting any other right or remedy, MCL may: cancel or suspend provision of Services and Equipment to the Client under this or any other agreement between the parties; apply any payment made by Client (notwithstanding any express instruction by Client) towards the discharge of any sums due to MCL under this or any other agreement between the parties; and/or charge Client interest (both before and after judgement) on the amount unpaid at the rate of 1 % per month calculated on a daily basis until payment in full together with all costs, charges and expenses reasonably incurred by MCL (including legal fees) in recovering overdue amounts.

4.4. MCL may, at any time before performance, increase the Hire Charge to reflect any matter apparent on subsequent site survey, any increase in cost due to any factor beyond the control of MCL or change or delay caused by the Client. MCL will provide timely notice to Client of any such increase. To the extent this Agreement has not been performed (but not otherwise), if

Client following consultation with MCL does not accept the increase and MCL does not waive it, Client may cancel this Agreement by written notice given within 5 working days of notice of increase (but not less than 3 working days prior to commencement of Equipment hire or Services) provided that Client indemnifies MCL in full against all costs, charges and expenses incurred by MCL prior to or as a result of cancellation.

5. Risk and Insurance

5.1. The Equipment shall be at the risk of the Client from the time of delivery at the Venue or, if earlier, delivery to Client's carrier, until its return to MCL's premises or, if earlier, possession is taken by MCL's carrier.

5.2. Client shall at its own expense insure Equipment with an insurance company of repute (naming MCL as a loss payee): against all loss or damage (whether or not the Client's or MCL's fault) in an amount equal to its replacement cost new; and against liability for any continuing Hire Charges under Clause 4.1 until earlier of: return of Equipment to MCL in good working order and condition (fair wear and tear excepted) or (if not capable of economic repair) its replacement with equivalent new equipment; or receipt by MCL of payment in full of its replacement cost new and all other sums due hereunder.

5.3. Client hereby irrevocably authorises MCL in name and on behalf of Client to make any claims under the insurance in respect of loss of or damage to Equipment; to settle or compromise such claims; and to receive and give good discharge to insurers for any moneys payable. Client shall not do or allow to be done any act or thing whereby insurance of Equipment may be invalidated.

5.4. If Equipment is lost or damaged, Client shall notify MCL forthwith, assist in making appropriate claims under such insurance and not without MCL's consent settle or compromise any claim.

5.5. Client will on request at any time produce to MCL the insurance policy and receipt for current premium. If Client fails to keep Equipment insured to MCL's satisfaction or to produce policy or receipt or if MCL so agrees in writing, MCL may insure Equipment, in consideration of which Client will pay MCL further sum equal to 15% of MCL's charges (before any discount) for relevant Equipment or Services.

5.6. MCL accepts no responsibility for loss or damage to any equipment or materials of the Client or any third party, which MCL may agree to store or transport, and any such equipment or materials shall at all times be at the Client's risk.

6. Health and Safety

6.1. Client shall take all reasonable steps to safeguard the health, safety and welfare of MCL's personnel while at the Venue, to safeguard the Equipment from theft, loss or damage and to give MCL adequate notice of any unusual risks. Without prejudice to the foregoing, the Client acknowledges that MCL shall not be obliged to continue supply of Equipment or Services (and may take down all or any Equipment previously installed) where, in MCL's reasonable opinion, the installation poses a material risk to health and safety or to the Equipment;

6.2. Where a support structure is supplied by the Client, Client shall ensure that the surface, on which the Equipment and structure will be installed, will be stable under load and that the structure will be fit for the purpose (taking account of prevailing wind speeds) and will comply with all health and safety and other relevant regulations. Client shall provide MCL on request with copies of certificates of compliance and structural engineering calculations verifying adequacy of Client's structure. Equipment dimensions and weights and representational drawings of structures are available on request from MCL but are approximate and representational only and do not obviate the need for the Client to obtain appropriate professional advice.

7. Client's Undertakings

Client undertakes to MCL that Client shall:

7.1. grant or procure access for MCL to and from the Venue at such times as MCL may reasonably require to discharge its obligations;

7.2. where applicable, provide free of charge within a reasonable distance of the operating position of the Equipment at the Venue: a video feed of the relevant format; an uninterrupted power supply terminated in an appropriate connection; and such other facilities as MCL may reasonably require.

7.3. where MCL's Services are dependent on provision of equipment or services by Client or its contractor, ensure that all such equipment and services are provided on time when required; the equipment is of adequate quality and specification and in good working order; and the services are provided by persons of adequate competence and experience using reasonable care and skill;

7.4. obtain all necessary licences and consents relating to the Venue and the communication or use by MCL of live or pre-recorded material;

7.5. if transit of Equipment is arranged by Client, arrange any necessary customs clearances, comply with all applicable import/export regulations and pay all related duties;

7.6. (except in case of a Dry Hire) not permit the Equipment to be operated other than by MCL personnel nor open the outer case or otherwise interfere with the Equipment;

- 7.7. in event of Equipment breakdown or malfunction, not attempt or arrange any repair without MCL's prior authorisation;
- 7.8. not to sell, sub-let or otherwise dispose of or part with Equipment or any interest therein or do or permit to be done any act or thing which may prejudice or jeopardise MCL's rights in the Equipment but to keep Equipment in its or MCL's possession and control free from lien, charge or encumbrance so that Equipment shall at all times remain property of MCL or its legal owner;
- 7.9. to permit or procure for MCL or its agents access to any premises to inspect or remove Equipment;
- 7.10. to notify MCL in writing of any change in Client's contact details and forthwith upon request to inform MCL of the location of Equipment;
- 7.11. (notwithstanding termination of this Agreement) indemnify MCL and keep MCL fully and effectively indemnified against all liabilities whatsoever arising out of the operation and use of Equipment and any breach by Client of this Agreement (including without limitation loss, damage or injury caused by any negligent act or omission or wilful misconduct of the Client, its employees, agents or sub-contractors or any claim that any such use or communication of any material infringes any patent, copyright, trade mark, registered design, design right or other intellectual property right of any third party) and against all costs, claims, demands, expenses and liabilities incurred by MCL in connection therewith provided such indemnity shall not extend to liability for MCL's negligence.
8. **Additional Client Undertakings (Dry Hire Only)**
Client undertakes during the continuance of this Agreement and until return of Equipment to MCL:
- 8.1. to check Equipment before taking into use, to notify MCL forthwith of any repair or maintenance required to Equipment and not to permit such repair or maintenance other than by MCL or with its authority;
- 8.2. to ensure Equipment is only used in a proper manner without risk to health and safety and not contrary to any law or for any purpose for which Equipment is not designed or reasonably suited; and not to make any modification to Equipment, open the outer case (unless required in normal use) or remove any notices or serial numbers on the Equipment.
9. **Exclusion and Limitation Of Liability**
- 9.1. Client acknowledges that electronic equipment may suffer breakdown or malfunction from time to time without fault and that consequences to Client of breach of this Agreement by MCL may be disproportionate to MCL's Hire Charges. Therefore, Client agrees that MCL's entire liability to the Client in respect of this Agreement and any breach or negligent act or omission (including liability for acts or omissions of MCL's employees, agents and sub-contractors) shall be limited as follows:
- 9.1.1. except as provided in this Agreement, all conditions, warranties and representations concerning the Services and Equipment, their state, quality, description, fitness for purpose or otherwise are excluded to the fullest extent permitted by law;
- 9.1.2. MCL's liability in respect of each event or series of connected events shall not exceed the total Hire Charges received by MCL except that in the case of recorded material, MCL's liability shall be limited to the cost of replacing blank media only and in the case of loss of or damage to physical property caused by MCL's negligence, MCL's liability shall be limited to £1,000,000;
- 9.1.3. MCL will not be liable for any loss, damage or expense caused by any interruption or loss of use of Equipment, increased cost of working, delay, loss of profit or goodwill, special, consequential or indirect damage however caused, even if reasonably foreseeable or MCL was advised of the risk of its occurrence;
- 9.1.4. Client shall give MCL reasonable details of any claim in writing without delay and no later than 90 days of occurrence of the matter giving rise to the claim;
- 9.1.5. all Equipment agreed to be sold by MCL is sold "as is" and no warranty is given as to performance, functionality, fitness for purpose or that it is of satisfactory quality, unless otherwise agreed by MCL in writing.
- 9.2. Nothing in this Agreement shall limit or exclude MCL's liability in respect of death or personal injury resulting from MCL's negligence.
- 9.3. If so requested by Client, MCL may consider accepting higher limits of liability subject to payment by Client of an additional charge.
- 9.4. MCL shall not be liable to the Client by reason of any delay or failure in performing MCL's obligations due to any cause beyond MCL's reasonable control including, without limitation, fire, flood, material adverse weather conditions (when MCL shall be entitled not to install or, if installed, may take down all or any of the Equipment), interruption of power supply, war, act of terrorism or civil disturbance, industrial action or trade dispute or blockade, legal or governmental restriction or embargo ("Force Majeure"). In the event of Force Majeure, if the Equipment has been installed at the Venue, Client shall be liable to pay the Hire Charge in full but otherwise the provisions of clause 3.3 shall apply.
10. **Termination**
- 10.1. This Agreement shall forthwith terminate without notice if Client (being an individual) dies or is subject to an interim order (within meaning of Insolvency Act 1986) or the presentation of a bankruptcy petition; or enters into any arrangement or composition with creditors; or (being a limited company) enters into compulsory or voluntary liquidation (not being for the purpose of reconstruction or amalgamation on terms previously approved by MCL in writing); or has a receiver appointed or a petition presented for an administration order; or has any distress, execution or other legal process made in respect of Client's property; or if anything analogous to the foregoing under the laws of any jurisdiction occurs in relation to the Client.
- 10.2. MCL may terminate this Agreement forthwith by notice without liability to Client if: Client fails to pay in full any sum owing to MCL or any affiliated company of MCL on its due date for payment; Client commits a breach of any other provision of this or any other agreement with MCL or an affiliated company of MCL and (if a breach capable of being remedied) fails to remedy such breach within 7 days after notice requiring the same; or performance by MCL is prevented by Force Majeure; or MCL or Client is unable to obtain insurance for Equipment and (if Venue is outside of UK) MCL's personnel on terms (including insurance premium) to MCL's satisfaction.
- 10.3. Upon termination, all sums due under this Agreement shall become immediately payable by the Client and, in the case of a Dry Hire, Client shall no longer be in possession of Equipment with MCL's consent and (without prejudice to Client's obligations and other rights and remedies of MCL) Client shall at Client's expense return Equipment to MCL in good working condition (fair wear and tear excepted) and in default MCL may forthwith without notice repossess Equipment and all costs and expenses (including without limitation, any legal costs and expenses) incurred by MCL in locating, repossessing or restoring Equipment shall be payable by the Client.
- 10.4. Termination or cancellation shall not limit any other right or remedy of either party against the other under this Agreement or at law and all sums then owing to MCL by Client shall become immediately due and payable.
11. **Confidentiality**
- 11.1. Each party shall treat as it does its own confidential information all information obtained from the other pursuant to this Agreement which is marked "confidential" or the equivalent or has the necessary quality of confidence about it.
12. **General**
- 12.1. If the Client is more than one person, they shall be liable both individually and together.
- 12.2. The Contracts (Right of Third Parties) Act 1999 shall not apply this Agreement and no person other than MCL and Client shall have any rights under or to enforce this Agreement.
- 12.3. Neither party shall assign or otherwise transfer any of its rights or obligations under this Agreement except that MCL may sub-contract all or any of its obligations to a competent third party.
- 12.4. Any typographical or clerical error or omission in documents issued by MCL may be corrected without liability on part of MCL.
- 12.5. Any notice under this Agreement shall be in writing and may be served by hand, pre-paid first class post or airmail, electronic mail or facsimile to its address or facsimile number set out in this Agreement or such other address as is notified for the purpose. A confirming copy of any notice served by electronic mail or facsimile shall be sent by post within 24 hours of transmission.
- 12.6. Delay shall not prevent MCL enforcing any provision of this Agreement. Any waiver of a breach of this Agreement shall not be operate as a waiver of a later breach of the same or any other provision.
- 12.7. If any provision of this Agreement is held to be invalid or unenforceable in whole or in part, the validity of the remaining provisions shall not be affected.
- 12.8. Headings in this Agreement are included for convenience only and shall not affect interpretation.
- 12.9. This Agreement shall be governed and construed in accordance with English law. The parties agree to submit to the non-exclusive jurisdiction of the English Courts.