



## TERMS & CONDITIONS (V1.2)

### MY SHOW KIT (MSK) CONDITIONS OF HIRE

parties) shall be inapplicable unless agreed in writing by MSK.

- 2.5 By issuing a purchase order or otherwise acknowledging a hire estimate issued by MSK the Hirer is agreeing to these Terms and Conditions as amended in accordance with these Conditions.
- 2.6 Any advice or recommendations given by MSK or its employees or agents to the Hirer or its employees or agents as to the storage, application, installation or use of the Equipment which is not confirmed in writing by MSK is followed or acted upon entirely at the Hirer's own risk and, accordingly, MSK shall not be liable for any such advice or recommendations which are not so confirmed or the actions of any third party in the storage, application, installation or use of the Equipment unless the Hirer has separately contracted for such services with MSK directly.
- 2.7 In the event of and only to the extent of any conflict between these Terms and Conditions and the Hire Estimate then the conflict shall be resolved in accordance with the following order of priority namely the Hire Estimate (if issued) and these Conditions.

#### 1. DEFINITIONS

1. In these Conditions: –

- 1.1 "Contract" means a contract for the hire of Equipment concluded by the acceptance by MSK of an order pursuant to Condition 3. The Contract comprises these Conditions, the Hire Estimate (if one is issued) and the Letter Agreement (if one is issued).
- 1.2 "Equipment" means the equipment described or any individual item therefor.
- 1.3 "Hire Estimate" means, if issued, the document which could set out the schedule of Equipment for hire, the Hire Period and the Hire Charge.
- 1.4 "Hire Charge" means the charge payable by the Hirer to MSK for the hire of Equipment.
- 1.5 "Hire Period" means a period starting on the date that the Equipment is dispatched to or collected by Hirer, and ending on the date on which the Equipment is to be returned to MSK.
- 1.6 "Hirer" means the hirer of Equipment from MSK.
- 1.7 "MSK" means My Show Kit.
- 1.8 "CMPM" means CM Production Management Ltd.
- 1.9 "The Site" means the premises or site specified by the Hirer where the Equipment is to be used.
- 1.10 The headings in these Conditions are for ease of reference only and shall not affect their interpretation.

#### 2. GENERAL

- 2.1 The headings in these Conditions are for ease of reference only and shall not affect their interpretation.
- 2.2 My Show Kit is a Trading name of CM Production Management Ltd.
- 2.3 These Terms and Conditions shall apply to all contracts for the hire of the Equipment by MSK to the Hirer to the exclusion of all other terms and conditions referred to, offered or relied on by the Hirer unless the Hirer specifically states in writing, separately from such terms, that it wishes such terms to apply and this has been acknowledged by MSK in writing.
- 2.4 Any variation to these Terms and Conditions (including any special terms and conditions agreed between the

#### 3. ORDER

- 3.1 MSK shall only accept an order for hire of Equipment provided that it is in writing. Unless otherwise agreed, the written acceptance of the Hirer's order by an authorised employee of MSK shall constitute the Contract of which these Conditions and Hire Estimate shall form a part. Any terms or conditions in the Hirer's order or any other documentation of whatsoever kind issued by the Hirer which are inconsistent with these Conditions or any other terms of the Contract shall have no effect whatsoever.

#### 4. HIRE OF EQUIPMENT

- 4.1 MSK hereby hires to the Hirer the Equipment for the Hire Period at the Hire Charge.
- 4.2 MSK reserves the right to supply equipment of a similar design to the Equipment requested.
- 4.3 All descriptions and specifications, drawings and particulars of weights and dimensions issued by MSK are approximate only, and are intended only to present a general idea of the goods to which they refer and shall not form part of the contract. Due to continuing development, MSK reserves the right to change specifications without notice.

#### 5. HIRE CHARGE

- 5.1 The Hirer shall pay to MSK the appropriate Hire Charge for the Equipment payable on Invoice submitted at least 1 day before your Hire Date begins.
- 5.2 The Hirer shall pay to MSK any packing and delivery charges where appropriate.
- 5.3 All amounts due under the Contract from the Hirer to MSK shall be paid in full without any set-off, counterclaim, deduction or withholding whatsoever (other than any deduction or withholding of tax as required by law).

#### 6. DELIVERY & COLLECTION

- 6.1 Any dates and times quoted for delivery of the Equipment are approximate only and MSK shall not be liable for any delay in delivery of the Equipment howsoever caused.
- 6.2 MSK's normal hours of delivery are Monday to Friday 9am – 6pm and outside these hours additional charges for Delivery and Collection may apply.

- 6.3 MSK reserves the right to recharge additional costs of delivery and collection including, but not restricted to, parking fines, waiting time and toll charges.

## 7. USE OF EQUIPMENT

- 7.1 The Hirer shall ensure that the Equipment is installed and used by competent and qualified personnel in a manner which complies with any applicable statute, regulation or order from time to time in force affecting the Equipment including but not limited to the Health and Safety at Work Act 1974 and any statutory amendment or replacement of it.
- 7.2 The Hirer shall at their own expense keep the Equipment in good general repair, condition and working order, fair wear and tear expected. Without prejudice to the generality of the foregoing, the Hirer shall on a very regular basis and certainly every week:
- 7.2.1 Inspect, test and clean the Equipment;
- 7.2.2 Check and maintain wiring to the fixing and rigging of the Equipment.
- 7.3 The Hirer shall not without the prior written consent of MSK and or CPM make any modifications or alterations of the Equipment (including but not limited to the removal of any marks that identify the Equipment as being owned by CPM and or MSK), or take the Equipment outside of the United Kingdom, or if the Equipment is delivered to a Hirer in a country outside the United Kingdom, then the hirer shall not without the prior written consent of MSK, take the equipment outside of that country.
- 7.4 The Hirer shall not, without the prior written consent of MSK in writing, 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 the Equipment.
- 7.5 The Hirer shall allow MSK to inspect the Equipment upon request during MSK's normal working hours.
- 7.6 The Hirer shall return all faulty lamps to MSK. The replacement cost of the lamps will be charged to the Hirer if they are not returned to MSK.

## 8. EQUIPMENT BREAKDOWN

- 8.1 Where the breakdown of the Equipment is caused by fair wear and tear or by a fault in the Equipment or where stoppage occurs in the course of carrying out normal repairs, full allowance for the Hire charges in respect of the individual piece of Equipment that has broken down in such circumstances will be made to the Hirer, any claims to be considered from the time and date of notification in writing by the Hirer.
- 8.2 Where the breakdown of the Equipment is caused as a result of the negligence or misuse by the Hirer, the Hirer shall be responsible for all loss or damage incurred by MSK arising from any breakdown and for the payment of the hire charges during the period the Equipment is inoperable due to such breakdown.

## 9. OWNERSHIP

- 9.1 The Equipment shall at all times remain the property of CPM trading as MSK or a third party finance company (as the case may be) and the Hirer shall have no rights to the Equipment other than as Hirer and the Hirer shall not do or permit or cause to be done any matter or thing whereby the rights of MSK or a third party finance company (as the case may be) in respect of the Equipment are or may be prejudicially affected.

## 10. LOSS, DAMAGE AND INSURANCE

- 10.1 In the event of any loss or damage to the Equipment the Hirer shall pay for its replacement, or the cost of restoring it to good working order, or allow MSK or its agent to carry out such work at the Hirer's expense.
- 10.2 The Hirer shall during the Hire Period (without prejudice to the liability of the Hirer to MSK pursuant to Condition 10.1) keep the Equipment insured for its full replacement value with a reputable insurance company against loss or damage from all risks (including third party risks). The Hirer shall notify its insurers that the Equipment is on hire from MSK and request the insurers to endorse a note of such interest on the policy, naming MSK as loss payee. The Hirer shall on demand show to MSK the policy, the premium receipts and insurance certificate and shall not use or allow the Equipment to be used for any purpose not permitted by the terms and conditions of the said policy or do or allow to be done any act or thing whereby the insurance may be invalidated.
- 10.3 Where any event or accident shall occur which is a risk covered by the Hirer's insurance hereunder, the Hirer shall immediately notify MSK thereof. The Hirer shall hold any monies received by the same as MSK directs.

## 11. HIRER'S INDEMNITIES

- 11.1 The Hirer shall be solely responsible for and hold MSK fully indemnified against all claims, demands, liabilities, losses, damages, proceedings, costs and expenses which may be brought against or incurred by MSK as a result of any accident involving the Equipment.
- 11.2 The Hirer shall be solely responsible for and hold MSK fully indemnified against all claims, demands, liabilities, losses, damages, proceedings, costs and expenses which may be brought against or incurred by MSK as a result of any breach or default on the part of the Hirer in the discharge of its obligations under any Contract.

## 12. LIMITATIONS OF LIABILITY

- 12.1 MSK's liability for direct physical damage to tangible property of the Hirer caused by the negligence of MSK, its employees, agents or sub-contractors, or by breach of any Contract, shall not exceed £500,000 subject to the exclusions set out in Condition 12.2.
- 12.2 MSK shall not be liable for the following loss or damage howsoever caused and even if foreseeable by or in contemplation of MSK:

- 12.2.1 Loss of profits, business, revenue, goodwill or anticipated savings whether sustained by the Hirer or any other person, or:
- 12.2.2 Special, indirect or consequential loss other than direct physical damage to tangible property of the Hirer or any person, or:
- 12.2.3 Any loss arising from any claim made against MSK by any other person.

## 13. TERMINATION

- 13.1 Where there is no fixed period of hire, the period of hire may be terminated by either party giving to the other 7 days' notice in writing and the Hirer's obligations under this agreement shall continue until the Equipment is returned to MSK.
- 13.2 MSK shall have the right to immediately terminate a Contract by giving notice in writing if:

- 13.2.1 The Hirer fails to pay when due any amount under the Contract, or:
- 13.2.2 The Hirer is in material breach of any of the Terms and Conditions or any other terms of the Contract, or:
- 13.2.3 The Hirer is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors, or:
- 13.2.4 The Hirer shall do or cause to be done or permit or suffer any act of thing whereby the rights of MSK over the Equipment may be prejudiced or put in jeopardy, or:
- 13.2.5 The Hirer suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business, or:
- 13.2.6 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 or the Hirer (being a Company, Limited Liability Partnership, or Partnership) other than for the sole purpose of a scheme for a solvent amalgamation of the Hirer with one or more other Companies or the solvent reconstruction of the Hirer), or:
- 13.2.7 The Hirer suspends, or threatens to suspend, payment of its debt or is unable to pay its debt as they fall due or admits inability to pay its debt or (being a Company or Limited Liability Partnership) is deemed unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 as if the word "it is proved to the satisfaction of the court" did not appear in Sections 123(1) or 123(2) of the Insolvency Act 1986, or:
- 13.2.8 Any event occurs, or proceeding is taken, with respect to the Hirer in any jurisdiction to which it is a subject that has an effect equivalent or similar to any of the events mentioned in Condition 13.2.3 to Condition 13.2.7, inclusive.

#### 14. CONSEQUENCES OF TERMINATION

- 14.1 Any termination of a Contract (however occasioned) shall not affect any accrued rights of liabilities of either party, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 14.2 On termination of a Contract (however occasioned) the Hirer shall no longer be in possession of the Equipment with MSK's consent and shall, unless otherwise agreed with MSK, forthwith return the Equipment to MSK in good working order.
- 14.3 Notwithstanding Condition 14.2, MSK may, without notice and at the Hirer's expense; retake possession of the Equipment and for this purpose may enter the Site or any premises at which the Equipment is located.
- 14.4 On termination of a Contract (howsoever occasioned), without prejudice to any other rights or remedies of the Hirer, the Hirer shall pay to MSK on demand all Hire Charges due but unpaid and other sums due but unpaid at the date of such demand together any interest accrued pursuant to Condition 5.5 and any costs and expenses incurred by MSK in recovering the Equipment and/or in collecting sums due under the Contract (including storage, insurance, repair, transport, and legal costs).

14.5 On termination of a Contract pursuant to Condition 13.2, without prejudice to any other rights of remedies of MSK, the Hirer shall pay to CPM on demand a sum equal to the whole of the Hire Charges 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 Hire Period, less a discount for accelerated payment of 10% of the sum due.

14.6 The sums payable pursuant to Condition 14.5 shall be agreed compensation for MSK's loss and irrespective shall be payable in addition to the sums payable pursuant to Condition 14.4.

#### 15. FORE MAJEURE

15.1 Although MSK and CPM shall use all reasonable endeavours to discharge its obligations under a Contract in a prompt and efficient manner, it does not accept responsibility for any failure or delay caused by circumstances beyond its control.

#### 16. SEVERANCE

16.1 If any term or provision of these Terms and Conditions is held invalid, illegal or unenforceable for any reason by any court or competent jurisdiction such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if these Terms and Conditions had been agreed with the invalid, illegal or unenforceable provision eliminated.

#### 17. GENERAL

17.1 No neglect, delay or indulgence by MSK in enforcing a Contract shall prejudice the rights of MSK or be construed as a waiver.

17.2 The Hirer hereby waives all and any future claims and rights of set off against any sums due to MSK hereunder regardless of any equity, set off or counter-claim on the part of the Hirer against MSK.

17.3 Any notice hereunder shall be in writing and may be served by sending it by pre-paid first class letter post or delivery to the address stated herein, and in any other case, to the last known address of the addressee. In providing service of any notice it shall be sufficient to prove that the envelope containing the notice was properly addressed, stamped and posted. Service shall be deemed to be effective at noon of the second business day following the day of posting, and any notice delivered to an address by hand shall be deemed to be effective from the date of such delivery.

17.4 The Hirer shall not assign or otherwise transfer all or any part of a Contract.

17.5 The formation, construction and performance of all Contracts shall be governed in all respect by English Law. The parties hereby agree to submit to the exclusive jurisdiction of the English Courts.