

Terms & Conditions

In these conditions Bestlight Ltd is referred to as "the Company".

1. GENERAL

i. The Company is engaged in the business of providing certain facilities and services including:

- (a) The making recording and copying of film videotape and similar material
- (b) The provision of the services of suitably qualified persons in connection with the above.

The Company provides facilities and services ("the facilities and services") including but not limited to those specified above only on the basis of these Conditions which shall apply to all bookings, however made or accepted, and shall form part of every contract between a customer and the Company, and shall prevail over any terms and conditions contained or referred to in any communication from the customer, except insofar as otherwise expressly agreed in writing by a Director of the Company.

ii. The Company's responsibility is restricted to the supply of the facilities and services. In particular, unless otherwise agreed in writing by the Company the Company's responsibility does not extend to any matter which could fall within the province of a director or producer of any film videotapes or similar material. The customer is responsible for ensuring that any film or videotape is correct and complete in all respects as regards both form and content before use is made thereof or the same is removed from the Company's premises (whichever is the earlier). Where the Company agrees to provide additional facilities and services including the services of a producer or director the respective rights and obligations of the Company and the customer in respect of such additional facilities and services will be specified in special written terms and conditions issued by the Company.

2. BOOKINGS & CANCELLATIONS

i. Bookings must be confirmed in writing from the customer and received by the Company not less than two days before the commencement of the booking. Every booking however made shall be subject to these Conditions of Trading and the facilities and services shall be provided at the rates specified in Condition 4 below ("the agreed rates").

ii. Estimates will be supplied upon request by the Company and these will include the anticipated number of days for a project, working hours in each day and either a daily rate for the job or a completed project rate. Hours and days in excess of those quoted will be charged pro-rata.

- iii. (a) If notice of cancellation of a booking is received by the Company less than two working days prior to the scheduled start time, the customer shall pay the Company a cancellation fee equivalent to the agreed rates payable for all the facilities and services booked. For the purpose of this sub-paragraph the scheduled start time will be the hour at which the provision of the facilities and services is first intended by the Company to commence.
- (b) In addition to any cancellation charge under sub-paragraph (a) above, the Company shall in the event of cancellation of the booking (whenever occurring) be entitled to reimbursement by the customer for any amounts payable to sub-contractors or third parties in connection with the booking together with any handling charge or costs incurred by the Company as the Company may see fit to charge.

3. CUSTOMER'S WARRANTY

i. Where the Company makes videotape copies of film or videotape material ("the Material") provided by the customer the customer warrants:-

- (a) that any copy made by the Company of the Material will not infringe any copyright or trademark or other proprietary right or interest of any third party;
- (b) that the Material does not contain any matter defamatory of any person;
- (c) that the Material is not offensive or obscene;
- (d) that the copying of the Material is not illegal or tortious or otherwise gives rise to any liability on the part of the Customer or the Company.

ii. The customer warrants that it has or has obtained all rights, licences, permissions or consents necessary for the facilities or services required to be provided to it by the Company.

iii. The Company expressly reserves the right in its sole discretion and without prejudice to its other rights to refuse to supply facilities and services to the customer if it is discovered that any of the matters the subject of this warranty have occurred or the Company has reasonable grounds to suspect that any such matters is likely to occur and in such circumstances the refusal to supply or any cancellation of any booking consequent thereon shall be treated as a cancellation of a booking by the customer for the purposes of Condition 2 above.

4. PAYMENT

i. Subject to the further provisions contained in this Condition 4 the customer shall pay for the facilities and services supplied to it at the rate set out in the Company's current price list from time to time or the agreed rates if applicable together with any Value Added Tax.

ii. In certain circumstances the rates set out in the Company's current price list may be subject to adjustment as follows:-

- (a) If written agreement is reached between the Company and the customer to vary the Company's current price list at the time the booking is made or subsequently.
- (b) If at any time between the acceptance of a booking and its execution the charges of any sub-contractor engaged by the Company to supply any of the facilities and services shall be increased the amount payable by the customer shall be increased by an equivalent amount.
- (c) If the facilities and services are provided by the Company outside the normal working hours of the Company for the time being, the customer shall pay in addition to the agreed rates a supplement together with any Value Added Tax thereon at the rates for the time being charged by the Company for such provision.
- (d) If the Company in its sole discretion considers this necessary to take account of any unusual or special circumstances.

iii. (a) A customer who has established a credit account with the Company shall pay the full amount of any invoice in respect of the agreed rates, overtime rates, expenses and the charges and costs referred to in Condition 6 below (together with any VAT thereon) within 21 days from the date of the applicable invoice without any deduction or deferment in respect of any disputes or claims.

(b) A customer who does not have an established credit account with the Company shall pay the full amount of any invoice in respect of the provision of facilities and services or any other sums due to the Company pursuant to these Conditions of Trading without any deduction or deferment in respect of disputes or claims and before any films videotapes computer data or other material involved in the provision of these facilities or services are removed from the Company's premises.

(c) Where full payment is not received by the Company by the due date interest shall accrue on the sum outstanding from the invoice date at the rate of 2% per annum over the Minimum Lending Rate from time to time of the Barclays Bank plc such interest to run from day to day and to accrue after as well as before any judgement without prejudice to the Company's right to receive payment on the due date. The Customer shall reimburse the Company for any costs incurred in the course of recovering monies due to it including legal fees on an indemnity basis.

(d) The Company reserves the right to withdraw credit facilities at any time without notice. In such circumstances the customer shall be treated as not having an established credit account and the provisions of Condition 4 (iii)(b) above shall apply.

5. UNION AGREEMENTS AND RELATED CUSTOMER OBLIGATIONS

The customer shall observe and conform to all the terms and conditions of agreements (whether legally binding or not) between either unions or employees and any of the Company, the customer or any third party and any other such agreements which may affect the Company from time to time ("Employee Agreements"). The customer shall indemnify the Company against all loss damage costs and expenses of any kind whatsoever which the Company may suffer as a result of any action by any union or employee following conduct by the customer which may amount to a breach of any of the provisions of the aforesaid Employee Agreements.

6. VIDEOTAPES ETC

i. The making and reproduction of films and videotapes by the Company may involve the use of videotapes or other material belonging to the customer and/or the Company, at the discretion of the Company. Where videotapes or other material belonging to the Company are used the customer shall pay the Company a separate hire charge at the rates fixed by the Company for the time being (together with any Value Added Tax) in addition to the agreed rates. The period of hire shall start upon commencement of work by the Company on the films or videotapes in question and shall terminate upon completion of the making or reproduction of the films or videotapes in question. The Company thereafter shall be entitled to remove recorded matter from its videotapes and other material until such time as the property therein has passed to the customer.

ii. If the customer requests in writing that films videotapes or similar material supplied to the Company by the customer for the purpose of the Company providing the facilities and/or services to be insured against loss or damage by fire theft or flood and such request affords the Company the period of time and the information (including the insurance value requested) necessary to enable the Company to effect a suitable policy of insurance the Company will use all reasonable efforts to arrange the same. The Company shall not be liable for any failure to effect such a policy of insurance nor the sufficiency of any policy arranged either as regards the risks insured against or the amount covered. Unless the customer makes such a request and such a policy of insurance is arranged the value of the film videotape and similar material shall be deemed to be limited to the value of the bare film videotape or similar material without any account being taken of the value of any matter recorded thereon. If such a policy is arranged then the Company will hold the proceeds thereof in respect of any loss or damage to the film videotape or other material insured for the benefit of the customer but shall not be under any further or other liability of any nature whatsoever to the customer in respect of such loss or damage however the same may arise whether from the negligence of the Company or any person for whom the Company is vicariously liable or otherwise. The customer shall reimburse the Company any cost including any handling charge which the Company may consider appropriate incurred by the Company in effecting any such policy of insurance.

iii. Upon completion of the supply of the facilities and services to the customer by the Company any films videotapes or other material belonging to the customer but in the possession of the Company will, if space permits, be stored by the Company. The customer shall pay the Company a separate storage charge to be agreed between the parties which shall accrue due to the Company in respect of all films videotapes or similar material not collected from the Company's premises by the customer within 1 month of completion as aforesaid. In the event of a charge not being agreed between the Company and the customer in respect of these storage charges a rate so £1 per month per box item pool or film can shall apply. The Company reserves the right to erase recorded material from any films videotapes or similar material not collected from the Company's premises by the customer within 1 month of completion as aforesaid. The customer will be deemed to have satisfied himself as to the suitability of the storage provided by the Company and to have retained in his possession a duplicate of such films videotapes or similar material whether or not it has done so. The Company's liability in respect of loss of or damage to the customer's films videotapes or similar material will be limited to the amount of the bare film videotape or similar material and no liability whatsoever

shall attach to the Company in respect of the loss or of damage to material Company, its employees or agents save that the Company shall accept liability recorded on such films videotapes or similar material stored by the Company whether such loss or damage arises from the negligence of the Company its servants or agents or from any other cause whatsoever.

- iv. (a) Property in any films videotapes or other material belonging to the Company shall remain with the Company as legal and equitable owner and shall not pass to the customer and the customer shall keep such films videotapes or other materials as a bailee for the Company and in a fiduciary capacity (keeping the same clearly identified as such as returning the same to the Company upon request) until full payment has been received by the Company of the agreed sums and of any other sums which are due from the customer to the Company pursuant to these Conditions of Trading or otherwise.
- (b) The Company reserves the immediate right of possession of any material to which it has retained title as aforesaid and thereafter to resell the same and remove or erase any recorded matter thereon and for this purpose the customer grants and irrevocable right and licence to the servants or agents of the Company to enter upon any or all of its premises with or without vehicles at any time. The right shall continue to subsist notwithstanding termination of this contract for any reason and without prejudice to any accrued rights of the Company hereunder or otherwise.
- (c) Where the customer requires the Company to deliver any films videotapes or similar material belonging to the Company to a third party, the Company shall be entitled to notify such third party that until full payment is received by the Company the property therein remains with the Company, that the Company has reserved certain rights in respect thereof and that it may restrict the third party by way of injunction from dealing with the same in any way the customer acknowledging that the Company's interests cannot be protected by way of an award of damages against such third party.
- (d) The Company shall also be entitled to restrict the customer dealing with any such films videotapes or similar material in any manner until full payment as aforesaid has been received by the Company.
- v. The Company shall have a general lien upon all tapes and other goods of the customer in the possession of the Company for any sum for the time being owing to the Company and such lien may be enforced by sale.

7. EXEMPTION AND LIMITATION OF LIABILITY

i. All implied conditions and warranties, statutory or otherwise are hereby excluded. The Company shall not be liable for any consequential loss.

ii. The Company shall not in any way be liable to the customer if it shall be unable to provide any of the facilities or services as a result of a trade dispute or any other circumstances whatsoever outside the control of the Company. In the event of the defective working, stoppage or a breakdown of any equipment hired to the customer or in the event of any other failure by the Company to perform its obligations hereunder due to circumstances within its control the Company will use its reasonable endeavours to remedy the same without delay but in respect of any period during which the customer is thereby prevented from making use of the facilities and services the customer will not be entitled to a proportional remission of the agreed rates. Save as aforesaid the Company shall be under no liability whatsoever in respect of such breakdown stoppage or defective working or other failure to perform its obligations.

iii. The Company shall not be liable for any loss or damage to any property of the customer howsoever arising, whether or not the same is caused by negligence of the Company or its servants or agents or sub-contractors or other persons for whom the Company is vicariously liable.

iv. The Company's aggregate liability (if any) to the customer whether for negligence, breach of contract, misrepresentation or otherwise shall in no circumstances exceed the total of the agreed rates (adjusted if appropriate) and in no circumstances shall the Company be liable for any loss damage or injury direct or indirect resulting from defective material, faulty workmanship or otherwise howsoever arising and whether or not caused by the negligence of the

death or personal injury caused by the negligence of the Company.

v. The parties agree that the restrictions on the liabilities of the Company hereunder are fair and reasonable bearing in mind the terms and conditions applying to the facilities and services and the prices being charged by the Company and that any such restrictions are reasonably required to protect the interests of the Company.

8. INDEMNITIES BY CUSTOMER

i. The customer shall fully indemnify the Company or (where relevant) its sub-contractor from and against all actions proceedings claims demands damages fees costs losses and expenses or other liabilities whatsoever made against or incurred or suffered by the Company by reason of or in respect of:-

- (a) Any infringement of copyright or trademark or any passing off or any other infringement of or interference with any proprietary right or interest of any third party or any liability for defamation or obscenity arising out of any film videotape or similar material made reproduced or transmitted by or on behalf of the customer or any other of the facilities and services provided by the Company for the customer
- (b) Any breach by the customer of any of these Conditions
- (c) Any personal injury or death or loss or damage to property caused by or arising out of or in connection with the use by the customer, its servants, agents or sub-contractors of any facilities or services provided by the Company or instructions given by any of the aforesaid to the Company, its servants, agents or sub-contractors for the purpose of or in connection with the provision hereunder of facilities or services by the Company.

ii. The customer shall fully indemnify the Company or (where relevant) its sub-contractor for any loss of or damage to any equipment belonging to or hired out by the Company or its sub-contractor caused by or arising out of or in connection with the use thereof by the customer, whether or not the same is attributable to any negligence or breach of contract by the customer.

No equipment may be removed by the customer from the Company's premises without the express consent of the Company.

iii. For the purpose of this Condition the Company contracts for itself and as trustee for its sub-contractors.

9. CREDITS AND USE OF MATERIAL BY COMPANY

i. The customer shall ensure that as required by the Company screen credits are given in respect of the facilities and services supplied by the Company.

ii. In consideration of the supply of the facilities and services to the customer by the Company the customer hereby grants the Company the right to utilise such part or parts of the films videotapes or other material produced by or in connection with the supply of facilities and services by the Company for the customer as the Company may in its sole discretion consider necessary or desirable for its own advertising and promotional purposes.

10. TERMINATION

If the customer shall make default in or commit a breach of contract with or any other of his obligations to the Company, or if any distress of obligation shall be levied upon the customer's property or assets, or if the customer shall make or offer to make any arrangement or composition with creditors, or commit any act of bankruptcy, or if any petition or receiving order in bankruptcy shall be presented or made against him, or if the customer is a limited company and any resolution or petition to wind up such company's business (other than for the purpose of amalgamation or reconstruction) shall be passed or presented, or if a receiver of such company's undertaking, property or assets or any part thereof shall be appointed or if

in any circumstances or events shall occur which in the Company's absolute opinion indicate that it is likely that any of the foregoing may occur or that the customer may not perform its obligations under any contract with the Company, the Company shall have the right without prejudice to any other claim, right or remedy forthwith to terminate in whole or in part any contract(s) then subsisting. The Company may exercise such right to terminate upon notice of such termination being posted or delivered by hand to the customer's last known address, or sent by telex or telefax to the same location. Notices sent by post shall be deemed to have been given on the date of despatch and upon giving such notice the contract or any part thereof shall be deemed to have been so terminated. The Company shall be entitled to payment in respect of the facilities and services rendered prior to such termination and/or declare immediately due and payable any amounts due from the customer on any account and/or withdraw the customer's right to credit or shorten the applicable credit period and/or repossess any films videotapes or other equipment or material in the possession of the customer or third parties and for this purpose enter upon the premises of the customer with or without agents and with or without vehicles and the Company reserves the right at its election to call upon the customer and the customer agrees to assign to the Company any and all copyright and other industrial and intellectual and commercial property rights in any material recorded on the films videotapes or other materials pursuant to these conditions of trading or to grant to the Company full right title and licence to use such material for such purposes as the Company shall deem fit.

11. SUB-CONTRACTING

The Company shall be entitled to procure the performance of the whole or any part of any contract with the customer by a sub-contract.

12. MISCELLANEOUS

i. In the sub-clause "Media" shall mean the digitised representation of video and audio held on a computer storage system. In the non-linear domain: where editing days are not consecutive, the Company will hold in memory at no additional charge the customer's media for a maximum of 2 days, providing the 2 days are consecutive and one of those days is a Sunday. If media is required to be held at other times when editing is not proceeding, a charge of 25% of the agreed daily rate will apply.

ii. This is the sole agreement between the parties which shall not be varied unless in writing and signed by the parties. The parties have not entered into this agreement relying upon any representation made by or on behalf of the other.

iii. The customer shall keep information about the Company's method and affairs strictly confidential.

13. PROPER LAW AND JURISDICTION

These conditions shall be read and construed in accordance with the Laws of England and the customer agrees to submit to the exclusive jurisdiction of the English courts. The rights of the Company hereunder shall be additional to any rights arising at common law or otherwise.