

TERMS AND CONDITIONS OF HIRE

THE HIRER'S ATTENTION IS PARTICULARLY DRAWN TO THE LIMITATION OF LIABILITY IN CLAUSE 10.

1. INTERPRETATION

1.1 The following definitions and rules of interpretation apply to these conditions:

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Company: Video Booth Systems Limited whose registered office is at Bentley House, The Green, Great Bentley, Essex, CO7 8PJ, with company registration number 05411424.

Content: any material (including without limitation all text, information, data, images, audio or video material in whatever medium or form) recorded using the Software and the Equipment, whether by the Hirer, its employees or any other persons authorised by the Hirer. The Content shall be made available to the Hirer by the Company in the manner and on the media referred to in the Hire Contract Form.

Delivery: the transfer of physical possession of the Equipment to the Hirer or the Hirer's representative, as described in clause 5.

Equipment: the equipment or other items listed in the Hire Contract Form, all substitutions, replacements or renewals of them and all related accessories, manuals and instructions provided for them.

Hire Agreement: the agreement for the hire of the Equipment from the Company by the Hirer upon and subject to these conditions. The Hire Agreement includes the Hire Contract Form.

Hire Contract Form: the form detailing the Equipment, the Hire Period, the Site or Sites and such other particulars of hire as have been agreed between the Hirer and the Company. The Hire Contract Form is part of the Hire Agreement.

Hire Period: the period of hire as set out in clause 3.

Hirer: the person, firm or company so described in the Hire Contract Form.

Rental Payment: the rental payment payable by or on behalf of the Hirer to the Company for hire of the Equipment pursuant to these conditions, which is set out in the Hire Contract Form.

Return Date: the date on which the Equipment is to be returned to the physical possession of the Company, as specified in the Hire Contract Form.

Site: the site or sites at which the Equipment is to be located during the Hire Period.

Software: the Company's proprietary computer software, which includes computer software, the data supplied with it, and the associated media, which is installed on the Equipment.

Software Licence: the licence for the use of the Software by the Hirer as set out in the Licence terms, which can be found at <http://www.videoboothsystems.com/terms>

Start Date: the date that the Hirer takes Delivery of the Equipment, as specified in the Hire Contract Form.

Total Loss: due to the Hirer's default the Equipment is, in the Company's reasonable opinion or the opinion of its insurer(s), damaged beyond repair, lost, stolen, seized or confiscated.

VAT: value added tax chargeable under the Value Added Tax Act 1994.

- 1.2 Clause and paragraph headings shall not affect the interpretation of these conditions.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.
- 1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and vice versa.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.8 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.9 A reference to **writing** or **written** includes e-mail.
- 1.10 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.11 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. EQUIPMENT HIRE

- 2.1 The Company shall hire the Equipment to the Hirer upon and subject to these conditions.
- 2.2 The Company shall not, other than in the exercise of its rights under this agreement or applicable law, interfere with the Hirer's quiet possession of the Equipment.

- 2.3 **By entering into this agreement, the Hirer confirms that it has read and agrees also to be bound by the terms of the Software Licence at <http://www.videoboothsystems.com/terms> (a copy of which is also available from the Company on request).**

3. HIRE PERIOD

The Hire Period starts on the Start Date and ends on the Return Date unless terminated earlier in accordance with these conditions.

4. RENTAL PAYMENTS

- 4.1 The Hirer shall pay the Rental Payment to the Company in advance as set out in the Hire Contract Form. The Rental Payment shall be paid in pounds sterling and shall be made by BACS.
- 4.2 The Rental Payment is exclusive of VAT and any other applicable taxes and duties or similar charges, which shall be payable by the Hirer at the rate and in the manner from time to time prescribed by law.
- 4.3 Time is of the essence in relation to the payment of all sums due under these conditions, including the Rental Payment.
- 4.4 If all or any of the Equipment is not delivered to the Company (or made available for collection by the Company, if so specified in the Hire Contract Form) on the expiry of the Hire Period specified in Hire Contract Form or the termination of this agreement (whichever is the earlier), then without prejudice to the Company's other rights and at its request the Hirer will pay to the Company as recompense for the continued use of that Equipment an amount equal to the Rental Payment payable under this agreement in respect of the Equipment concerned, apportioned on a pro rata basis, for each day that the Hirer is in default in returning the Equipment. This condition 4.4 will not give the Hirer any right to the continued use or possession of the Equipment.
- 4.5 In the event that the Company incurs any additional costs and expenses (including due to the Hirer failing to make the Equipment available for collection by the Company or its agents (where so specified in the Hire Contract Form), or failing to return the Equipment to the Company in accordance with the arrangements specified in the Hire Contract Form, or the Hirer failing to make available the parking and/or unloading facilities agreed with the Company) the Hirer will reimburse the Company in full on demand for any such costs and expenses reasonably incurred by the Company, plus any applicable VAT thereon.
- 4.6 All amounts due under these conditions shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

- 4.7 If the Hirer fails to make any payment due to the Company under these conditions by the due date for payment, then, without limiting the Company's remedies under clause 11, the Hirer shall pay interest on the overdue amount at the rate of 4% per annum above Barclays Bank plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Hirer shall pay the interest together with the overdue amount.

5. DELIVERY

- 5.1 The Company shall use all reasonable endeavours to effect Delivery of the Equipment (or make the Equipment available for collection by the Hirer if so specified in the Hire Contract Form) by the date and time and at the location agreed between the parties. Title and risk in the Equipment shall transfer in accordance with clause 7 of these conditions.
- 5.2 In the event of any delay in Delivery (or collection, as the case may be), the Company shall give a refund to the Hirer on a pro-rata basis for each full hour of the Hire Period for which the Hirer or the Hirer's agent does not have physical possession of the Equipment. Other than specifically as set out in this clause 5.2, the Company does not accept any liability whatsoever to the Hirer in the event of any such delay.
- 5.3 The Hirer shall procure that a duly authorised representative of the Hirer shall be present at the Delivery and installation (if installation is specified in the Hire Contract Form) of the Equipment. Acceptance of Delivery by such representative shall constitute conclusive evidence that the Hirer has examined the Equipment and has found it to be in good condition, complete and fit in every way for the purpose for which it is intended (save as regards any latent defects not reasonably apparent on inspection). The Hirer's duly authorised representative shall sign a receipt confirming such acceptance.
- 5.4 To facilitate Delivery (and installation, where relevant), the Hirer shall at its sole expense provide all requisite facilities, access and suitable working conditions to enable Delivery and installation to be carried out safely and expeditiously.

6. CANCELLATION PRIOR TO DELIVERY

In the event that the Hirer cancels the Hire Agreement for any reason prior to Delivery of the Equipment, the following charges will apply:

Time of cancellation	Cancellation charge
Within 14 days of the date on which the Hirer made the booking with the Company, and more than 14 days prior to the Start Date of the Hire Period	None
More than 14 days after the date on which the Hirer made the booking with the Company, and more than 14 days prior to the Start Date of the Hire Period	50% of the Rental Payment. In the event that the Company finds an alternative hirer for the Hire Period in question, the full amount of the cancellation charge will be credited to the Hirer's account with the Company, and will be offset against any rental payments payable by the Hirer in respect of any future bookings the Hirer makes with the Company
Within 14 days of Start Date of Hire Period	100% of the Rental Payment

7. TITLE, RISK AND INSURANCE

- 7.1 The Equipment shall at all times remain the property of the Company, and the Hirer shall have no right, title or interest in or to the Equipment (save the right to possession and use of the Equipment subject to these conditions).
- 7.2 The risk of loss, theft, damage or destruction of the Equipment shall pass to the Hirer on Delivery or collection by the Hirer or its representative, as the case may be. The Equipment shall remain at the sole risk of the Hirer during the Hire Period and any further term during which the Equipment is in the possession, custody or control of the Hirer (**Risk Period**) until such time as the Equipment is returned to or collected by the Company or its agents (as the case may be). During the Hire Period and the Risk Period, the Hirer shall, at its own expense, obtain and maintain the following insurances:
- (a) insurance of the Equipment to a value not less than its full replacement value comprehensively against all usual risks of loss, damage or destruction by fire, theft or accident;
 - (b) insurance for such amounts as a prudent owner or operator of the Equipment would insure for, to cover any third party or public liability risks of whatever nature and however arising in connection with the Equipment; and
 - (c) insurance against such other or further risks relating to the Equipment as may be required by law.

7.3 The Hirer shall give immediate written notice to the Company in the event of any loss, accident or damage to the Equipment arising out of or in connection with the Hirer's possession or use of the Equipment.

8. HIRER'S RESPONSIBILITIES

8.1 The Hirer shall during the term of this agreement:

- (a) ensure that the Equipment is kept and operated in a suitable environment, used only for the purposes for which it is designed, and operated in a proper manner in accordance with any operating instructions provided by the Company or its representatives;
- (b) take such steps (including compliance with all safety and usage instructions provided by the Company) as may be necessary to ensure, so far as is reasonably practicable, that the Equipment is at all times safe and without risk to health when it is being used;
- (c) maintain at its own expense the Equipment in good order, repair and condition in order to keep it in as good an operating condition as it was on the Start Date (fair wear and tear only excepted);
- (d) make no alteration to the Equipment and shall not remove any existing component(s) from the Equipment;
- (e) keep the Company fully informed of all material matters relating to the Equipment;
- (f) at all times keep the Equipment in the possession or control of the Hirer and keep the Company informed of its location;
- (g) permit the Company or its duly authorised representative to inspect the Equipment at all reasonable times and for such purpose to enter upon the Site or any premises at which the Equipment may be located, and shall grant reasonable access and facilities for such inspection;
- (h) not, without the prior written consent of the Company, 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 it;
- (i) be responsible for the loss, theft or destruction of or for any damage to the Equipment occasioned in any manner or by any cause whatsoever whether by the Hirer or any third party whilst the Equipment is at the Hirer's risk (other than as a direct result of fair wear and tear or any act of the Company) and shall fully and effectually indemnify the Company in respect of all claims, proceedings, costs, expenses, loss, damage and liabilities incurred by the Company arising directly or indirectly from any such loss, theft destruction or damage;

- (j) be responsible for any of the Hirer's materials or property which the Company agrees to transport on behalf of the Hirer, such materials and property to remain at the Hirer's sole risk at all times;
- (k) not without the prior written consent of the Company, attach the Equipment to any land or building so as to cause the Equipment to become a permanent or immovable fixture on such land or building. If the Equipment does become affixed to any land or building then the Equipment must be capable of being removed without material injury to such land or building and the Hirer shall repair and make good any damage caused by the affixation or removal of the Equipment from any land or building and indemnify the Company against all losses, costs or expenses incurred as a result of such affixation or removal;
- (l) not do or permit to be done any act or thing which will or may jeopardise the right, title and/or interest of the Company in the Equipment and, where the Equipment has become affixed to any land or building, the Hirer must take all necessary steps to ensure that the Company may enter such land or building and recover the Equipment both during the term of this agreement and for a reasonable period thereafter, including by procuring from any person having an interest in such land or building, a waiver in writing and in favour of the Company of any rights such person may have or acquire in the Equipment and a right for the Company to enter onto such land or building to remove the Equipment;
- (m) not suffer or permit the Equipment to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if the Equipment is so confiscated, seized or taken, the Hirer shall notify the Company and the Hirer shall at its sole expense use its best endeavours to procure an immediate release of the Equipment and shall indemnify the Company on demand against all losses, costs, charges, damages and expenses incurred as a result of such confiscation;
- (n) not use the Equipment for any unlawful purpose;
- (o) ensure that at all times the Equipment remains identifiable as being the Company's property and wherever possible shall ensure that a visible sign to that effect is attached to the Equipment;
- (p) deliver up the Equipment (or make it available for collection, as applicable) at the end of the Hire Period or on earlier termination of this agreement at such address as the Company requires, or if necessary allow the Company or its representatives access to the Site or any premises where the Equipment is located for the purpose of removing the Equipment;
- (q) allow the Company to remove from and dispose of any branding items or materials (such as decals or skins) applied to the Equipment by the Hirer or on the Hirer's behalf, without any liability to the Hirer, in the event that such items or materials are not collected from the Company within one month of the end of the Hire Period; and

- (r) not do or permit to be done anything which could invalidate the insurances referred to in clause 7.

8.2 The Hirer acknowledges and agrees that the Hirer and not the Company is the sole owner of, and is responsible for, the Content. In particular, the Hirer is responsible for ensuring that it enters into an appropriate legal agreement with the individuals who create the Content using the Software and the Equipment (the **End Users**), which legal terms shall include:

- (a) obtaining the appropriate consents of the End Users to the Hirer recording and using the Content, sufficient to discharge the Hirer's obligations under the Data Protection Act 1998 and any associated legislation; and
- (b) a notice informing the End Users that the Equipment and the Software are the sole property of the Company, and are available for use only upon and subject to the terms of this agreement and of the Software Licence.

8.3 The Hirer acknowledges that the Company shall not be responsible for any loss of or damage to the Equipment arising out of or in connection with any negligence, misuse, mishandling of the Equipment or otherwise caused by the Hirer or its officers, employees, agents and contractors, and the Hirer undertakes to indemnify the Company on demand against the same, and against all losses, liabilities, claims, damages, costs or expenses of whatever nature otherwise arising out of or in connection with any failure by the Hirer to comply with the terms of this agreement.

8.4 The Hirer agrees to notify the Company immediately in the event of any fault in the Equipment or failure of the Equipment to operate properly and will provide the Company with such information concerning the fault or failure as the Company may reasonably request. The Hirer acknowledges and agrees that:

- (a) all routine servicing and maintenance of the Equipment due to fair wear and tear will be carried out by or for the Company at the Company's expense;
- (b) any repair or replacement of the Equipment or any part of it which is the Hirer's responsibility under these conditions will be carried out by or for the Company at the Hirer's expense, and the Hirer will on demand indemnify the Company in respect of all costs, charges and expenses the Company incurs in relation to any such repair or replacement; and
- (c) the Hirer will promptly deliver the Equipment to such place as the Company may direct or make it available for collection by or on behalf of the Company to enable any such servicing, maintenance, repair or replacement to be carried out.

9. **WARRANTY**

9.1 The Company warrants that the Equipment shall substantially conform to its specification (as made available by the Company), be of satisfactory quality and fit for any purpose held out by the Company. The Company shall use reasonable endeavours

to remedy, free of charge, any material defect in the Equipment which manifests itself on Delivery, provided that:

- (a) the Hirer notifies the Company of any defect in writing as soon as reasonably practicable after becoming aware of the defect;
- (b) the Company is permitted to make a full examination of the alleged defect;
- (c) the defect did not materialise as a result of misuse, neglect, alteration, mishandling or unauthorised manipulation by any person other than the Company's authorised personnel;
- (d) the defect did not arise out of any information, design or any other assistance supplied or furnished by the Hirer or on its behalf; and
- (e) the defect is directly attributable to defective material, workmanship or design.

9.2 Insofar as the Equipment comprises or contains equipment or components which were not manufactured or produced by the Company, the Hirer shall be entitled only to such warranty or other benefit as the Company has received from the manufacturer.

9.3 If the Company fails to remedy any material defect in the Equipment in accordance with clause 9.1, the Company shall, at the Hirer's request, accept the return of part or all of the Equipment and make an appropriate reduction to the Rental Payments payable during the remaining term of the agreement.

10. LIABILITY

10.1 Without prejudice to clause 10.2, the Company's maximum aggregate liability for breach of this agreement (including any liability for the acts or omissions of its employees, agents and subcontractors), whether arising in contract, tort (including negligence), misrepresentation or otherwise, shall in no circumstances exceed the total amount of the Rental Payment payable pursuant to this agreement.

10.2 Nothing in this agreement shall exclude or in any way limit:

- (a) either party's liability for death or personal injury caused by its own negligence;
- (b) either party's liability for fraud or fraudulent misrepresentation; or
- (c) any other liability which cannot be excluded by law.

10.3 This agreement sets forth the full extent of the Company's obligations and liabilities in respect of the Equipment and its hiring to the Hirer. In particular, there are no conditions, warranties or other terms, express or implied, including as to quality, fitness for a particular purpose or any other kind whatsoever, that are binding on the Company except as specifically stated in these conditions. Any condition, warranty or other term concerning the Equipment which might otherwise be implied into or incorporated

within this agreement, whether by statute, common law or otherwise, is expressly excluded.

- 10.4 The Company will not under any circumstances accept any liability whatsoever in relation to the Content, including any liability for the quality, content, or amount of material so recorded, or for any claims or circumstances arising from the production or use of the Content (whether by the Hirer or a third party). The Hirer accepts full responsibility for Content and it accepts as reasonable the exclusions from liability contained in this clause 10.4 because the Company cannot exercise any control over the Content.
- 10.5 Without prejudice to clause 10.2, neither party shall be liable under this agreement for any:
- (a) loss of profit;
 - (b) loss of revenue;
 - (c) loss of business; or
 - (d) indirect or consequential loss or damage,

in each case, however caused, even if foreseeable.

11. TERMINATION

- 11.1 Without affecting any other right or remedy available to it, the Company may terminate this agreement with immediate effect by giving written notice to the Hirer if:
- (a) the Hirer fails to pay any amount due under this agreement on the due date for payment;
 - (b) the Hirer commits a material breach of any other term of this agreement;
 - (c) the Hirer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts 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 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
 - (d) the Hirer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a company) 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;
 - (e) 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 of the Hirer (being a company) 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;

- (f) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Hirer (being a company);
- (g) the holder of a qualifying floating charge over the assets of the Hirer (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (h) a person becomes entitled to appoint a receiver over the assets of the Hirer or a receiver is appointed over the assets of the Hirer;
- (i) the Hirer (being an individual) is the subject of a bankruptcy petition or order;
- (j) a creditor or encumbrancer of the Hirer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Hirer's assets and such attachment or process is not discharged within 14 days;
- (k) any event occurs, or proceeding is taken, with respect to the Hirer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 11.1(c) to clause 11.1(j) (inclusive);
- (l) the Hirer suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- (m) the Hirer (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.

11.2 For the purposes of clause 11.1(b), **material breach** means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the Company would otherwise derive from:

- (a) a substantial portion of this agreement; or
- (b) any of the obligations set out in clause 8,

over the term of this agreement. In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.

11.3 This agreement shall automatically terminate if a Total Loss occurs in relation to the Equipment.

12. CONSEQUENCES OF TERMINATION

12.1 Upon termination of this agreement, however caused:

- (a) the Company's consent to the Hirer's possession of the Equipment shall terminate and the Company may, by its authorised representatives, 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; and

- (b) without prejudice to any other rights or remedies of the Hirer, the Hirer shall pay to the Company on demand:
 - (i) all Rental Payments and other sums due but unpaid at the date of such demand together with any interest accrued pursuant to clause 4.7;
 - (ii) any costs and expenses incurred by the Company in recovering the Equipment and/or in collecting any sums due under this agreement (including any storage, insurance, repair, transport, legal and remarketing costs).

12.2 Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

13. FORCE MAJEURE

13.1 The Company will not be liable or responsible for any failure to perform, or delay in performance of, any of its obligations under this agreement that is caused by an event outside its reasonable control (**Force Majeure Event**).

13.2 A Force Majeure Event includes any act, event, non-happening, omission or accident beyond our reasonable control and includes in particular (without limitation) the following:

- (a) strikes, lock-outs or other industrial action;
- (b) civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war;
- (c) fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster;
- (d) impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport;
- (e) impossibility of the use of public or private telecommunications networks;
- (f) the acts, decrees, legislation, regulations or restrictions of any government
- (g) user error in relation to the use of the Equipment or the Software.

The Company's performance under this agreement is deemed to be suspended for the period that any Force Majeure Event continues, and the Company will have an

extension of time for performance for the duration of that period. The Company will use its reasonable endeavours to bring the Force Majeure Event to a close or to find a solution by which its obligations under this agreement may be performed despite the Force Majeure Event.

14. CONFIDENTIAL INFORMATION

14.1 Each party undertakes that it shall not at any time during this agreement, and for a period of one year after termination of this agreement, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 14.2.

14.2 Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 14; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

14.3 No party shall use any other party's confidential information for any purpose other than to perform its obligations under this agreement.

14.4 Nothing in this clause 14 or elsewhere in this agreement shall prevent the Company from naming the Hirer in the Company's marketing and promotional materials, except where the Hirer has requested the Company in writing not to do so.

15. ASSIGNMENT AND OTHER DEALINGS

This agreement is personal to the parties and neither party shall assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement.

16. ENTIRE AGREEMENT

16.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

16.2 Each party acknowledges that in entering into this agreement it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement.

16.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

16.4 Nothing in this clause shall limit or exclude any liability for fraud.

17. VARIATION

No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

18. NO PARTNERSHIP OR AGENCY

18.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

18.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

19. THIRD PARTY RIGHTS

No one other than a party to this agreement shall have any right to enforce any of its terms.

20. NOTICES

20.1 Any notice or other communication given to a party under or in connection with this agreement shall be in writing and shall be:

- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- (b) sent by e-mail.

20.2 Any notice or communication shall be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.
- (c) if sent by e-mail, one Business Day after transmission.

20.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

21. WAIVER

No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

22. RIGHTS AND REMEDIES

Except as expressly provided in this agreement, the rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

23. SEVERANCE

23.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.

23.2 If any provision or part-provision of this agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

24. GOVERNING LAW

This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

25. JURISDICTION

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).