

# Terms and Conditions

## Conditions of Business

**1.1** These terms and conditions ("terms") shall apply to each contract for the hire of equipment and/or in relation to the provision of services of personnel entered into between ProVision Facilities Limited ("ProVision"), company number 3106525, registered address The London Television Centre, Upper Ground, London SE1 9LT, acting on behalf of itself and the ITV group of companies (being the ultimate parent undertaking of ProVision for the time being (currently ITV plc) and all direct and indirect subsidiary undertakings, including but not limited to ITV Services Limited, for the time being of such parent undertaking, with "subsidiary undertaking" and "parent undertaking" as defined in section 1162 Companies Act 2006) (the "ITV Group"), and the other party to the contract ("the hirer"). Acceptance of delivery or collection by the hirer of equipment or any part thereof shall be deemed to constitute the unconditional acceptance of these terms, and all other terms and conditions whether written, printed or otherwise are hereby excluded. Nothing said or done by any agent or employee of ProVision or any member of the ITV Group or of the hirer which purports to vary these terms shall be binding on ProVision or any member of the ITV Group unless reduced into writing and signed by a director of ProVision or a member of the ITV Group with a specific reference to these terms.

**1.2** In these conditions the expression "Equipment" includes (a) any equipment available for hire from ProVision including, without limitation, hire vehicles owned or operated by or on behalf of ProVision or the ITV Group, and (b) includes any repaired or replaced equipment referred to at 1.2(a).

## 2. INSURANCE

Save in relation to Vehicles (in relation to which see paragraph 5 below), from the date of commencement of the hire period (as set out at condition 3 below) of the Equipment to the hirer until ProVision or the relevant member of the ITV Group retakes physical possession of it the hirer shall at its own expense keep the Equipment insured for its full replacement value against theft (whether or not such theft involves forcible or violent entry and/or exit to any premises) loss (including arising in connection with the use or storage of the Equipment, damage liability arising in connection with the use or storage of the Equipment and against all and any risks in respect of the Equipment required by ProVision or the relevant member of the ITV Group including without limitation all third party and consequential risks under a policy of insurance free from restriction of excess in the name of the hirer with an endorsement recording ProVision's or the relevant member of the ITV Group's interest and stating that no payment is to be given to the hirer under the policy until ProVision's or the relevant member of the ITV Group's interest has been discharged and shall on demand produce the policy and all premium receipts for ProVision's inspection and in default of the hirer so doing or if otherwise agreed ProVision or the relevant member of the ITV Group may: **A)** insure as aforesaid and recover the cost from the hirer forthwith, the hirer hereby irrevocably appoints ProVision or the relevant member of the ITV Group the agent of the hirer (for the purpose of receiving all monies payable under the said policy to the extent required to protect ProVision's or the relevant member of the ITV Group's interest in the Equipment in the hire thereof and giving a discharge thereof) and/or **B)** without limiting condition 5 (Hire of Vehicles) below, prohibit the Equipment (in whole or in part) from leaving the premises or control of ProVision or the relevant member of the ITV Group whether or not the same is subject to a contract of hire.

## 3. HIRE PERIOD AND CHARGES

**3.1** The hire charge for the Equipment will be charged (unless otherwise agreed in writing) in respect of each day of the hire period. The hire period commences (unless expressly agreed in writing) on the day the equipment leaves the premises of ProVision ("the start day") and terminates (subject as hereinafter provided) on the later to occur of:

- i)** the end of the period of hire expressed in ProVision's confirmation of order/delivery note (the "contractual hire period") and
- ii)** the return of the Equipment to ProVision in good condition, fair wear and tear excepted save in relation to lenses and camera filters.

**3.2** In the event that any Equipment or part thereof is lost, damaged, destroyed or delayed in transit, then (without prejudice to condition 10 and the other rights of ProVision hereunder or at law) the contractual hire period shall be deemed to continue and the hire charge shall continue to accrue and be payable (notwithstanding that the hire charge may have been expressed to cease at an earlier rate) at the standard daily rate card rate or rates until such time as the Equipment is returned to ProVision or (if damaged) is repaired and available for re-hire, or (if destroyed) is replaced by an equivalent or comparable item available for hire.

**3.3** ProVision reserves the right generally or for any particular service, client or class of equipment to alter at any time and without previous notice the prices and specifications published in its Equipment hire catalogue but no such alteration shall affect a contract of hire then current.

**3.4** Rates for weekly hire of Equipment (if applicable) are for hire periods of 7 consecutive days.

**3.5** The hirer agrees to pay all charges (including any charges in respect of insurance affected by ProVision or the relevant member of the ITV Group or pursuant to condition 2 or 9 hereof) promptly but in any event no later than 30 days from the date of invoice from ProVision. All payments shall be made to ProVision at the address shown on its invoice and payments made by post shall be at the risk of the hirer.

**3.6** All hire charges are exclusive of Value Added Tax, which will be added at the rate applicable during the contractual hire period.

#### **4. CONDITION AND SUITABILITY OF EQUIPMENT**

**4.1** ProVision will use its best endeavours to supply and hire the Equipment in good, working condition. If Equipment is or becomes defective, ProVision will at its discretion replace the Equipment or repair any defective part providing the defective Equipment or part is returned forthwith to ProVision to the place from which it was hired with the cost of carriage, insurance and handling charges paid by the hirer. Alternatively ProVision may (at its discretion) pay the reasonable cost of repair or replacement of the Equipment by a dealer approved by ProVision for that purpose and on terms acceptable to and agreed in writing by ProVision. These conditions shall apply mutatis mutandis to any such repaired or replaced Equipment.

**4.2** Any descriptions or illustrations in ProVision's catalogues, price lists or other advertising materials are intended merely to represent a general idea of the goods and shall not form representations or be part of these conditions or the hire contract.

**4.3** The purchaser is deemed to have satisfied itself that the goods are suitable for the purpose and capable of performing the function and use to which the hirer intends to put them.

**4.4** Save as expressly herein provided and to the extent permitted by law all guarantees or warranties express or implied as to the quality, suitability or fitness of the equipment for any purpose or otherwise are excluded and neither ProVision nor any member of the ITV Group shall be liable to the hirer (save as provided in 4.1 above) in any way whatsoever (including without limitation indirect or consequential loss) for any misrepresentation or breach of warranty or condition either express or implied whether by statute or otherwise or in any way relating to the Equipment.

#### **5. HIRE OF VEHICLES**

**5.1** Only those individuals authorised by the relevant ITV Group Transport Department (the "ITV Transport Department") will be authorised to drive any vehicle made available for hire by ProVision or any member of the ITV Group and hired by the hirer (the "Vehicle").

**5.2** Each hirer of a Vehicle acknowledges and agrees that ITV Services Limited, through the ITV Transport Department, controls the method in which the driver of a Vehicle (the "Driver") drives the Vehicle at all times during the contractual hire period.

**5.3** The hirer of a Vehicle acknowledges and agrees that no Driver shall be entitled or permitted (expressly or impliedly) to drive or hire a Vehicle unless, *inter alia*, (a) the ITV Transport Department has checked and verified the Driver's driving licence and driving record to the satisfaction of the ITV Transport Department, (b) the Driver has completed a driver's induction with the ITV Transport Department to the reasonable satisfaction of the ITV Transport Department, and (c) the Driver and the hirer have each respectively accepted and agreed on each occasion to the undertakings contained in the Driver's Declaration form and the LGV Driver's Production Compliance document.

**5.4** If a Driver or the hirer does not meet the applicable requirements set out in condition 5.3, the Driver may be denied authority to drive a Vehicle and/or the hirer may not be permitted to hire a Vehicle. Neither ProVision, the ITV Transport Department nor any member of the ITV Group is responsible for the failure of a Driver or a hirer to qualify for authority to drive or hire.

**5.5** During the contractual hire period the hirer shall ensure and procure that each Driver adheres to any and all applicable legislation or regulations, including without limitation road traffic legislation, the requirements of European LGV Drivers Hours legislation, the Goods Vehicles (Licensing of Operators) Act 1995, the European Working Time Directive for Mobile Workers and the applicable operating licence (and any conditions attached thereto) held in the name of ITV Services Limited.

**5.6** The Vehicle must not be driven by anyone other than the Driver and then only on the condition that the Driver's ability to drive is not in any way impaired by mental or physical incapacity or restricted by law.

**5.7** The hirer shall not, and shall procure that the Driver shall not, act or omit to act in any manner (a) that may or would render void any insurance policy held by ProVision, any member of the ITV Group, the hirer or the

Driver, or (b) in contravention of any road traffic legislation or construction and use regulations. In no circumstances shall the hirer or the Driver permit (expressly or by implication) any person who is (a) not authorised by the ITV Transport Department to drive the Vehicle, or (b) under the influence of alcohol or drugs, to drive, operate or be in control of the Vehicle or any other Equipment attached thereto at any time. The hirer shall not, and shall procure that the Driver shall not, in the event of mechanical, electrical or structural failure of the Vehicle, operate or drive the Vehicle or any other Equipment attached thereto where further damage might thereby be caused.

**5.8** In the event that the Vehicle is involved in an accident or collision, or suffers any damage, the hirer shall inform the ITV Transport Department as soon as it is practicable to do so.

**5.9** The hirer acknowledges that the ITV Group, including but not limited to ITV Services Limited and ProVision, owes certain obligations and responsibilities at law in connection with the Vehicles operated by them. In the event that a Driver fails to comply with his or her obligations and responsibilities as documented in the Driver's declaration and stipulated in the Driver's induction then (a) the ITV Transport Department may where appropriate initiate disciplinary procedures in relation to the Driver's authority to drive a Vehicle, including, without limitation, the right to revoke or suspend the Driver's authority to drive at any time and (b) the hirer acknowledges that if such action may result in ITV Services Limited's Operator's Licence being revoked or suspended the hirer shall indemnify and keep indemnified each member of the ITV Group from any damages, losses and costs (including without limitation reasonable legal costs) in connection therewith.

**5.10** The hirer acknowledges that the ITV Group shall not be liable for any loss or damage suffered by the hirer or the Driver in the event that the ITV Transport Department commences disciplinary procedures against a Driver or refuses, suspends or revokes a Driver's authority to drive a Vehicle. The hirer shall pay any additional costs incurred by the ITV Transport Department or ProVision plus a reasonable administration charge if a Driver's authority to drive is suspended or revoked during a contractual hire period. The hirer acknowledges that if the ITV Transport Department reasonably suspects or knows that a Driver has not complied or is not complying with the Driver's obligations then the ITV Transport Department may carry out compliance checks at any time during the Production, the cost of which shall be met by the hirer.

**5.11** The hirer shall be responsible for all fuel costs during the hire period, payable in such manner as agreed with Provision at the start of the hire period.

**5.12** All fines, court costs and intended prosecutions for parking, traffic or other offences (including any costs which arise if the vehicle is clamped) are the responsibility of the Driver and neither ProVision nor any member of the ITV Group accepts any liability whatsoever for any such costs or fines. The hirer or the Driver (as the case may be) shall pay the appropriate authority any fines and costs if and when the authority demands this payment. All fines and intended prosecutions incurred will attract reasonable administration charges which arise when ProVision or the ITV Group has any involvement in dealing with such matters.

**5.13** The ITV Group has comprehensive insurance in place for Vehicles, subject to industry standard exclusions. The hirer shall not act or omit to act in a manner so as to render void any such insurance policy, or in a manner that may reasonably be expected to do so.

**5.14** In the event of an incident during the hire period involving injury to, damage to or loss of, a Vehicle, Equipment, any third party or third party's equipment, the hirer shall: (i) where the damages, losses or costs (including the costs of repair to the Vehicle and any third party's equipment, and any third party liabilities) incurred by the ITV Group in relation to such incident do not exceed the value of the insurance excess, pay the relevant member of the ITV Group such amount, (ii) where the damages, losses or costs (including the costs of repair to the Vehicle and any third party's equipment, and any third party liabilities) incurred by the ITV Group are recoverable under the Vehicle or the ITV Group's insurance policy, pay the relevant member of the ITV Group the amount of the insurance excess, and (iii) where the damages, losses or costs (including the costs of repair to the Vehicle and any third party's equipment, and any third party liabilities) are not recoverable (in whole or in part) under the Vehicle's or relevant ITV Group's insurance policy due to the actions or omissions of the hirer or Driver (including by reason of negligence or breach of these terms), pay (on demand and on an indemnity basis) the relevant member(s) of the ITV Group such damages, losses or costs.

## **6. PROPERTY AND RISK**

**6.1** The Equipment shall remain at all times the property of ProVision. The Customer shall, throughout the hire period, maintain in situ, and not remove, cover up or deface, any plates, tags or markings indicating that the Equipment is the property of ProVision or any member of the ITV Group (as applicable).

**6.2** The Equipment shall with effect from the first day of the contractual hire period and throughout the period of hire (including any period during which the contractual hire period may be deemed to be extended pursuant to the condition 3.2) be at the hirer's sole risk and the hirer shall indemnify ProVision and each member of the ITV Group from any loss or damage whatsoever nature howsoever caused to or by the equipment or the use

thereof other than death or personal injury resulting from ProVision's or a member of the ITV Group's negligence. Without prejudice to the generality of, but subject to, the foregoing, neither ProVision nor any member of the ITV Group will be liable:

- i)** for any damage to or any defect in the Equipment caused by careless handling or reckless driving; or
- ii)** for any loss, damage or injury to the hirer or a Driver of any kind whether caused by negligence or otherwise resulting from any delay, detention, late delivery/ non-delivery, defect or deficiency of, in or relating to any Equipment or from the service of any technician or any other employee of ProVision or the ITV Group or any other services supplied or provided by ProVision or the ITV Group;
- iii)** for any loss suffered by the hirer as a result of trade disputes, difficulties in obtaining equipment or component from suppliers or manufacturers of anything otherwise outside the control of ProVision or the ITV Group which precludes or inhibits the use of proper use by the hirer of Equipment hired or agreed to be hired. The hirer will keep ProVision, each member of the ITV Group and their respective employees fully and properly indemnified against any claims against them and any third party arising in any way out of the hire of Equipment or the making available to the hirer of the services of technicians or employees of ProVision or the ITV Group or other personnel.

## **7. SERVICES**

If the services of technicians or other employees of ProVision or the ITV Group or other personnel are made available for the use by the hirer, such persons will be deemed to be the employees of the hirer so long as their services are so available, and neither ProVision nor any member of the ITV Group shall be liable for any loss, damage or injury caused by them (other than death or personal injury caused by negligence of ProVision or a member of the ITV Group) to the hirer or third parties.

## **8. HIRER'S UNDERTAKINGS**

Without limiting the provision of condition 5 above, the hirer shall and (if applicable) shall procure that a Driver shall:

- a)** ensure that the Equipment is used and operated in the proper and skilful manner and only by persons having the appropriate qualifications, skills and experience in the use and operation of the Equipment;
- b)** take proper care of the Equipment and ensure that it is kept clean and dry and safely and properly stored and (without prejudice to the generality of the foregoing) kept in a securely locked place when not in use and allow ProVision or its agents at all reasonable times access to the Equipment for the purpose of examining the condition thereof or the compliance by the hirer with the terms of these conditions;
- c)** retain possession and control of the Equipment and not purport to sell, load, assign, pledge or encumber it, or permit any lien to be created over it or do any other things to make an omission inconsistent with ProVision's or a member of the ITV Group's (as the case may be) ownership thereof;
- d)** obtain all necessary licences, permits and permissions for the use of the Equipment or the provision of the personnel or services and not use the Equipment or permit the same to be used contrary to the law or any regulation or by-law for the same time being in force in any country; and
- e)** take such steps as are sufficient to ensure that the Equipment and its operation will be safe and without risks to the health for the purposes of the Health and Safety at Work, etc Act 1974 and any modifications or re-enactment thereof.

**8.2** The hirer will not without the prior consent of ProVision in writing, allow the Equipment to be removed outside the United Kingdom or to be used on any abnormal or hazardous assignment.

## **9. TERMINATION AND RETURN OF THE EQUIPMENT**

**9.1** The hiring and the contract shall immediately determine and ProVision or any member of the ITV Group shall be entitled to take such steps as are necessary in its opinion for the protection of the Equipment (including the entry of the premises where the Equipment is and the recovery of possession of all or part of the Equipment) if any of the following events occur: **a)** any breach by the hirer of the terms hereof or the hiring; **b)** any act or omission by the hirer which in the opinion of ProVision might jeopardise the right of ProVision or the relevant member of the ITV Group to ownership or use of equipment; **c)** if a winding-up order is made against the hirer (being a company) or if the members of the hirer pass a resolution for its voluntary liquidation (except for the purposes of amalgamation or reconstruction) or if a meeting of the creditors of the hirer is called or if the hirer enters or seeks to enter into any agreement or composition with its creditors or if a receiver is appointed over all or any of the hirer's assets or any such assets are the subject of any distress or execution (or in Scotland, poindin or arrestment); **d)** if the hirer fails to pay any hire charge or other sum due to ProVision within 30 days of submission to the hirer by ProVision of an invoice or written demand; **e)** if the hirer allows any judgement against it to remain unsatisfied for more than fourteen days.

**9.2** The hirer shall return the Equipment to ProVision at the premises of ProVision from which it was hired or such address as ProVision may nominate not later than the last day of the contractual hire period. Should the hirer fail so to return any or all Equipment to ProVision or be otherwise in breach of these conditions of hire it will permit (and will be deemed to have permitted) the representative of ProVision to enter the premises where the Equipment may be (or where ProVision may reasonably believe this to be) and recover the possession of the same.

**9.3** The hirer shall return the Equipment to ProVision in good condition, fair wear and tear excepted provided however that lenses and camera filters must be returned to ProVision in the same condition in which they were at the commencement of the contractual hire period.

**9.4** Save as expressly herein provided, the hirer shall be responsible for and indemnify and keep indemnified ProVision and each member of the ITV Group on demand for:

**a)** any loss or damage to the Equipment;

**b)** any cost and expense ProVision or a member of the ITV Group may incur in removing, repairing, repossessing or recovering the Equipment

**c)** any other loss (including loss of use) that ProVision or a member of the ITV Group may suffer by reason of any breach by the hirer of these terms and conditions.

## **10. GENERAL**

**10.1** Neither ProVision nor any member of the ITV Group will waive (or be deemed to have waived) any rights under these conditions or implied by law by accepting the return of the Equipment; repossessing the Equipment or granting any indulgence to the hirer.

**10.2.** Film, magnetic tapes, equipment, materials, accessories, media and any other property ostensibly belonging to the hirer in the possession, in custody of or handled by ProVision or a member of the ITV Group will be subject to a lien in favour of ProVision for the general balance of all monies from time to time due to ProVision from the hirer.

**10.3.** The contract of hire is personal to the hirer, who may not assign its right thereunder.

**10.4.** These conditions shall be governed by and interpreted according to the laws of England and Wales and the hirer hereby submits irrevocably to the jurisdiction of the English courts.

**10.5.** Headings in these conditions are for ease of reference only and shall not affect the construction thereof.

## **11. FORCE MAJEURE**

If events beyond ProVision's or any member of the ITV Group's reasonable control prevents ProVision or a member of the ITV Group from performing any obligation hereunder ProVision may without liability cancel this contract.

## **12. SEVERABILITY**

If any of these conditions or any part of any condition is declared by a court or competent jurisdiction to be invalid or unenforceable then all other conditions or parts thereof will remain in full force and effect.