



## **TERMS OF SERVICE**

Show Motion Media Ltd

17 Gravel Walks

Oldham

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### **1. DEFINITIONS**

The term "Show Motion" shall mean Show Motion Media Ltd.

The term "Client" or "Customer" shall mean the individual, firm, agency, organisation or company to whom the purchase order or invoice is issued.

The term "Products and Services" and "Final Media" shall mean any product or service that is provided by Show Motion to the Client,

The term "Media production or "Media shoot" shall mean a video and/or photographic shoot.

The term "Project" shall mean the work set out in the Proposal/Order/Invoice that enables Show Motion to complete and deliver the final media.

The term "Contract" shall mean the agreement formed between the Client and Show Motion when an order is received from the Client. An order may be in written, verbal or electronic form.

### **2. SUPPLY OF PRODUCTS OR SERVICES**

Show Motion agrees to supply the products or services to the Client as detailed in the Proposal/Order/Invoice and according to these Terms and conditions.

The Customer shall specify the subject matter of the project no later than 7 days after the date of the Agreement and shall, within a reasonable time prior to the date of the media Shoot, specify any particular media or compositions they require.

Subject to any specific reasonable requirements set out by the Customer, Show Motion shall use their own exclusive judgement when selecting equipment and deciding upon artistic factors such as composition, lighting and video style.

Subject to the nature of the project and the specific reasonable requirements of the Customer, Show Motion will capture as much media content as they deem appropriate with a view to giving the best choice when editing and completing the final media to be supplied to the Customer. The amount of images shot during the media shoot shall not affect the Price payable by the Customer.

Following editing and completion of the final media, Show Motion will make proposed final versions available to the Customer to enable the Customer to either approve them as final media to be supplied to the Customer or to reasonably request that any final changes be made by Show Motion Media before they are supplied as final media to the Customer.

Show Motion shall deliver the final media to the Customer in the format(s) agreed, subject to the terms of the Licence granted.

The Customer shall have a period of 7 days following the delivery of the proposed final media to be supplied to inform Show Motion of any final changes that the Customer requests. Show Motion shall undertake any necessary changes which are requested that are reasonably practicable upon receiving the request.

Subject to the terms of the agreement there shall be no right to reject the Videos on the basis of style or composition unless a Rejection Fee has been stated in the Quotation and included as part of the Agreement.

Show Motion shall be free to sub-contract any of their obligations under the Agreement provided that any and all sub-contractors are reasonably skilled and insured in the relevant practices and provided that no additional charges are passed on to the Customer.

Whilst Show Motion will aim to produce the best quality of media content possible, the quality achievable may be adversely affected by certain unavoidable factors in particular the type and level of indoor and outdoor lighting (other than Show Motion's own lighting equipment used).

It will not be the responsibility of Show Motion to obtain any consents, permissions, licences, clearances or other authorisations necessary where: any media shot will or may include any live musical performance or any recorded musical material; or person or persons not hired or organised by Show Motion appear or speak in any captured media. Video, Photography, audio or otherwise.

The Customer must ensure that Show Motion has access and all relevant permissions to the parts of the venue for the project at least 48 hours before the media Shoot is due to begin.

### 3. RIGHTS RESERVED

Should Show Motion choose not to enforce any or all of these conditions it should not be interpreted as a waiver of any of Show Motion's rights. By providing Show Motion with an Order and upon acceptance of the agreement, the Client agrees to abide by these terms and conditions.

### 4. PAYMENT TERMS

All estimates are exclusive of VAT.

Estimates prepared by Show Motion are valid at the date of issue; however, if additional products or services are required Show Motion will notify the Client in writing of the additional costs that might be incurred due to changes and additional work requested by the Client.

All estimates are valid for 30 days from date of issue.

### 5. BOOKING PROCEDURE

Show Motion shall provide a consultation or order form to the Customer, which shall include prompts for the Customer to provide all information required to provide a quotation.

Once the Customer has completed and submitted the consultation/order then Show Motion shall prepare and submit a Quotation to the Customer either by email or first class post which shall set out the Deposit, the Price and any anticipated Expenses. The Quotation shall not necessarily include all Expenses which may be incurred nor shall it include the Royalty Fees which may be payable for the final media. The Quotation shall confirm which particular information contained in the Order (whether part/s or all) are accepted for the purpose of the Quotation

The Customer may accept a Quotation by telephone, email or first class post, and Show Motion will then provide the Customer with the Agreement. The Customer shall be free to submit to Show Motion any changes to anything in the Order and/or Quotation and if they do so, Show Motion will reissue the Quotation with amendments or advise the Customer that Show Motion is not willing to amend the original Quotation.

No Order, Quotation, changes to either/both documents or any acceptance of either/both documents by either Party shall give rise to any binding agreement between the Parties.

A binding agreement will only come into existence and be of legal effect between the Parties for any services to be provided by Show Motion if and when an Agreement as defined above is signed or confirmed, electronically or in writing by both Parties and the Deposit has been paid in full.

Unless payment is received Show Motion reserve the right to take other bookings on the date agreed by the client and Show Motion

## 6. WORKING HOURS

A full production day entails 6-8 hours, including travel to filming location.

## 7. EXPENSES INCURRED

Show Motion retains the right to charge expenses incurred in providing the products or services beyond the initial agreement. Subject to presenting the Client with receipts/proof of expenditure.

## 8. FINAL DELIVERY SIGN OFF

Show Motion requires the Client's written approval of any final media.

Show Motion shall invoice the Customer [on completion of the products and Services] OR [at the end of the Project] for the Price (excluding any Deposit paid) and all other items set out in the Quotation and the Agreement, including further reasonable Expenses incurred and the total Royalty Fees payable for Show Motion's Services including supply of the final media.

Any and all invoices provided by Show Motion to the Customer under the Agreement must be paid in full within 30 days of receipt by the Customer.

Any sums which remain unpaid following the expiry of the time period set out, shall incur interest on a daily basis at 8% above the base rate of Barclays bank from time to time until payment in full is made.

Where any sums remain unpaid following the expiry of the time period set out. The Licence granted for use of the final media to the Customer, shall be suspended until payment is received in full by Show Motion.

## 9. CANCELLATIONS

Without prejudice to any right to terminate the Agreement pursuant to any other provision of these Terms and Conditions, the Customer may cancel or reschedule the Video or photography Shoot at any time prior to start date agreed in the order. The following shall apply to cancellation or rescheduling:

If the Customer cancels the media Shoot more than 14 days ahead of the start date agreed in the order, Show Motion shall issue a full refund of all sums paid, including the Deposit.

If the Customer cancels the media Shoot less than 7 days ahead of the start date Show Motion shall retain all sums paid and any outstanding sums shall become immediately payable. No refund shall be issued.

If the Customer reschedules the media Shoot less than 7 days ahead of the start date Show Motion shall charge 50% of the cost of the media shoot.

Show Motion may cancel media production dates at any time prior to the start date and shall refund all sums paid, including the Deposit.

Where a refund is due it shall be paid by Show Motion within 7 Business Days of the event triggering such refund.

## 10. FORCE MAJEURE

Show Motion shall not be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond their reasonable control ("Force Majeure"). Such causes include, but are not limited to: power failure, internet service provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other similar or dissimilar event that is beyond the control of Show Motion.

In the event that as a result of Force Majeure Show Motion cannot perform their obligations under the Agreement for a continuous period of 6 months, either Party may at their discretion terminate the Agreement by written notice at the end of that period. In the event of such termination, Show Motion shall be entitled to retain from the Price received or still due from the Customer such costs, expenses and disbursements which Show Motion has incurred or for which they are liable to any third parties in connection with the provision of Show Motion's services [and such contribution to Show Motion's overhead as shall be reasonable] and shall return any balance to the Customer. Show Motion may, but shall not be obliged to, take such steps as they shall in their discretion consider reasonable to recover any such costs and expenses from the relevant third parties and shall, subject to deduction of costs incurred in connection therewith, reimburse any sums so recovered to the Customer.

Show Motion shall advise the Customer in writing as soon as possible if and when any such Force Majeure event occurs and at the same time provide an estimate to the Customer of how long the event is likely to continue and its likely impact on the performance of Show Motion's obligations.

## 11. LIABILITY

Show Motion accepts no liability for any loss or damage that may arise from the supply of the products or services. In the unlikely event of the Company being unable to supply the products or services as specified in the Order/Invoice, liability shall be limited to the total invoice value – or monies already paid by the Client. Show Motion will not be liable to provide replacement services.

## 12. CARE AND DAMAGE TO CLIENT PROPERTY

Whilst every care is taken in the handling of the Client's property, the Company accepts no responsibility whatsoever for any loss or damage due to unforeseen circumstances whilst in the custody of Show Motion. Liability for such loss or damage will be limited to the replacement cost of the materials or media and in no circumstances will any liability attach to any claim for the value of the content.

### 13. PERMITS AND INCLUSION OF COPYRIGHT MATERIAL

The Client will ensure that permission is sought for the inclusion of any copyrighted material they supply to Show Motion to enable them to deliver the products or services. The Client agrees to indemnify Show Motion in the event of any breach of copyright claims being brought against the Company in respect of material supplied by the Client. The Client will ensure that all necessary arrangements have been made with, and permissions obtained from, people and places that may be captured in video, photography or audio as a result of Show Motion supplying products or services

### 14. HEALTH & SAFETY

Show Motion reserves the right not to film in dangerous or unsafe situations. Show Motion and Client will observe current Health & Safety regulations and have due consideration for the safety and welfare of staff and the general public.

### 15. COPYRIGHT

The Copyright of all media produced is and shall remain the property of Show Motion. Subject to a written agreement to the contrary nothing in these Terms and Conditions shall vest any ownership rights in the Customer.

A Licence shall become effective on the date of delivery of the final media to the Customer and, subject to the agreement, shall continue from that date for the duration of copyright protection (which shall be the life of the Photographer plus 70 years under Section 12 of the Copyright Designs and Patents Act 1988)

All Licences shall be granted on a per-Project basis. The Customer shall pay Royalty Fees once per Project and shall not be required to pay recurring Royalty Fees for repeated use within the same Project.

The Customer shall be permitted to use the final media in any Project subject to the following limitations:

- 1.The final media may not be used for any purposes which are libellous, defamatory, pornographic, obscene or otherwise unlawful;
- 2.The final media may not be used to form any part of a logo, service mark, trade mark or any other form of business or brand identity;
- 3.Where the final media are to be published on a website of any kind the Customer must take reasonable steps to limit the ease of copying and downloading the same.

The Licences shall apply only to the final media and Projects and shall not extend to proofs or any other material provided by Show Motion to the Customer or to any other Projects.

The Customer may not sub-licence the supplied media without the prior written permission of the Show Motion.

Show Motion reserves the right to use the media produced by them in any advertising or promotional material, provided such material is only related to Show Motion and it's services.

The Licences granted to the Customer shall be automatically revoked if the Customer breaches any of their terms.

## 16. CONFIDENTIALITY

Unless otherwise agreed Show Motion will treat any information gained during the supply of the products or services as being private and confidential. Likewise, the Client shall keep confidential any methods or technology used by Show Motion to supply the products or services.<sup>1</sup>

## 17. GOVERNING LAW

These Terms of Service and any accompanying Proposal/Order/Invoice, and/or contract are governed by the laws of the United Kingdom.

These Terms and Service and the Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.

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- If you have any questions about our terms of service. Please contact Show Motion.

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