

# LA Entertainments Ltd

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## PART A - LEGAL TERMS AND CONDITIONS

### 1. Engagement

In consideration of payment by the Hirer to the Performer of the Fees, the Hirer hereby engages the Performer and the Performer hereby agrees to render to the Hirer the Services on the Date and at the Time and on the terms and conditions set out in this agreement. For the avoidance of any doubt, time shall be of the essence for the delivery and performance of the Services at the Venue.

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### 2. The Performer's Obligations

The Performer hereby agrees that he/she shall:

- 2.1. Perform the Services conscientiously, diligently and in a competent manner, using reasonable skill and care and to the full limit of his/her skill and ability, including preparing as necessary;
- 2.2. Liaise with the Venue to make sure (and shall have sole responsibility for ensuring) that there is in place at the Venue on the Date and at the Time all necessary equipment (including audio and visual equipment) that is required in order to enable the Performer provide the Services at the Venue in accordance with the terms and conditions of this agreement;
- 2.3. Insure (and shall have sole responsibility for insuring) all equipment/property that he/she brings to the Venue for the purpose of using in connection with the performance by the Performer of the Services at the Venue (including insuring against such risks as fire, theft, damage and public liability)
- 2.4. Perform the Services in willing co-operation with such persons as the Hirer may reasonably require and liaise where necessary with the Hirer and/or his/her nominated representatives as notified from time to time by the Hirer to the Performer;
- 2.5. When at the Venue, comply with all rules and regulations for the time being in force at the Venue;
- 2.6. Where he/she is a children's entertainer, upon request from the Hirer, produce the results of an upto-date Criminal Records Bureau check carried out against the Performer;
- 2.7. Assist the Hirer and/or the owner/operator of the Venue in applying for any permits and consents (including all necessary PRS licences) as may be needed so as to lawfully permit the performance of the Services at the Venue on the Date and at the Time;
- 2.8. Tell the Hirer immediately if any of the information the Performer has given to the Hirer/Venue, pursuant to this agreement or otherwise, becomes incorrect between now and the Date and Time;
- 2.9. Not, without the Hirer's written consent, incur any liability on the Hirer's behalf, including buying goods or services, nor hold himself/herself out as being entitled to do so;
- 2.10. Not, without the Hirer's prior written approval, enter into any arrangement or agreement with any third party in connection with the performance of the Services (e.g. permitting any third party to record/film/broadcast the performance by the Performer of all or any part of the Services).

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### 3. The Hirer's Obligations

3.1. The Hirer hereby confirms that before entering into this agreement he/she asked the owners/operators of the Venue to confirm that the Venue is suitable for performing the Services and the owners/operators of the Venue confirmed to the Hirer that the Venue is suitable for such purposes. For the avoidance of any doubt, the parties hereby acknowledge and agree that the Hirer is not responsible for the health and safety of the Venue and that all issues relating to the health and safety of the Venue are the sole responsibility and liability of the owners/operators of the Venue and not the Hirer.

3.2. In consideration of the Performer rendering the Services on the terms and conditions of this agreement, the Hirer hereby (as full and inclusive remuneration) agrees to pay the Fees to the Performer on the Due Date(s), such Fees to be payable only on receipt by the Hirer of an invoice. The Fees are exclusive of value added tax (VAT) which shall be payable by the Hirer only on receipt of a valid VAT invoice for the amount in question.

3.3. The Performer hereby acknowledges and agrees that the Fees represent full and final consideration for the provision of the Services and all other services rendered under this agreement and that no further sums shall be paid or payable to the Performer by the Hirer.

3.4. The Performer hereby confirms that he/she is self-employed, is solely liable for all income tax, VAT and national insurance due in respect of his/her engagement under this agreement and shall indemnify the Hirer and keep the Hirer indemnified against any proceeding in respect of any non-payment by the Performer of the same and in respect of any tax, National Insurance or other monies that may fall due to be paid by the Performer's agent or by the Performer in respect of any commission payable by the Performer to his/her agent.

#### **4. Intellectual Property Rights**

4.1. The Performer hereby irrevocably grants to the Hirer the worldwide right to use and to authorise others to use the Performer's name, biography, photograph, image and likeness (biography, photograph, image and likeness to be pre-approved in writing by the Performer, such approval not to be unreasonably withheld or delayed) in connection with the advertising and promotion of the performance of the Services at the Venue.

4.2. The Performer hereby irrevocably grants to the Hirer the worldwide right to take photographs of and/or to film and/or record (and to permit and/or authorise others to take photographs of and/or to film and/or record) for non-commercial usage only the performance of all or any part the Services by the Performer. However, nothing in this agreement shall permit the Hirer and/or any third party (and nothing in this agreement shall oblige the Performer to agree to permit the Hirer and/or any third party) to photograph, film and/or record for the purposes of commercial exploitation and/or usage the performance of all or any part the Services by the Performer.

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#### **5. Publicity**

5.1. The Performer shall not, without the Hirer's prior written approval, issue any images and/or written text in any media worldwide (including on the internet) relating to the performance of the Services, nor supply any confidential information relating to the performance of the Services to any third party (other than in the course of proper disclosure to the Performer's professional advisors).

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#### **6. Warranties and Indemnity**

6.1. The parties to this agreement hereby warrant, represent and undertake to each other that they are free to enter into and to perform this agreement and have not entered and shall not enter into any professional or other commitment which would or might conflict with or prevent them from doing so; and that they are eighteen years of age or older and, if required to do so, agree to provide each other with evidence to confirm the same.

6.2. The Performer hereby warrants, represents and undertakes to the Hirer that the performance of the Services by the Performer (save to the extent that it incorporates material provided by the Hirer) will not infringe the copyright or any other rights of any third party and that it will not contain any defamatory or obscene matter nor breach any contract, law or duty of confidentiality, nor constitute contempt of court, nor expose the Hirer to any civil or criminal proceedings. The Performer hereby indemnifies the Hirer and agrees to keep the Hirer fully and effectively indemnified against all actions, costs, damages, liabilities, losses, claims and expenses of whatsoever kind or nature arising from any breach or non-performance or threatened breach or non-performance by the Performer of any of the aforesaid warranties, representations and undertakings.

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#### **7. Termination**

7.1. On the occurrence in respect of one party of an Event of Default (as defined below), the other party (the "Aggrieved Party"), may terminate this agreement immediately by written notice to the defaulting party (the "Defaulting Party").

"Event of Default" means any of the events set out below:

##### **7.1.1. Breach**

The Defaulting Party fails, refuses or neglects to perform or comply with any of its obligations under this agreement or is otherwise in breach of any material obligation undertaking or warranty in this agreement.

##### **7.1.2. Insolvency**

Any of the following occur in respect of the Defaulting Party:

7.1.2.1. a meeting of creditors of that person being held or an arrangement or composition with or for the benefit of its creditors (including a voluntary arrangement as defined in the Insolvency Act 1986) being proposed by or in relation to that person;

7.1.2.2. a chargeholder, receiver, administrative receiver or other similar person taking possession of or being appointed over or any distress, execution or other process being levied or enforced (and not being discharged within seven days) on the whole or a material part of the assets of that person;

7.1.2.3. that person ceasing to carry on business or being deemed to be unable to pay its debts within the meaning of section 123 Insolvency Act 1986.

7.1.2.4. that person or its directors or the holder of a qualifying floating charge giving notice of their intention to appoint, appointing or making an application to the court for the appointment of an administrator;

7.1.2.5. a petition being presented (and not being discharged within 28 days) or a resolution being passed or an order being made for the administration or the winding-up, bankruptcy or dissolution of that person; or

7.1.2.6. the happening in relation to that person of an event analogous to any of the above in any jurisdiction in which it is incorporated or resident or in which it carries on business or has assets.

7.2. On any such termination:

7.2.1. neither party shall have any further obligation to the other under this agreement unless

stated in this agreement; and

7.2.2. the rights, remedies or obligations of the parties that have accrued or become due prior to termination shall remain unaffected.

7.3. If a party exercises a right to terminate consequent on any breach by the other party, such termination shall be without prejudice to any other rights which the party exercising such right may have in respect of such breach.

7.4. The provisions of this clause 7 and clauses/sub-clauses 4.2, 5.1, 6 and 8 -15 inclusive shall remain in effect notwithstanding termination or expiry of this agreement.

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## **8. Limitation of Liability**

8.1. Notwithstanding any other provision of this agreement, neither party's liability under or in connection with this agreement shall be excluded or reduced to the extent that it arises in respect of the following matters:

8.1.1. for death or personal injury caused by negligence;

8.1.2. for fraud or fraudulent misrepresentation;

8.1.3. for any other matter for which it would be unlawful to exclude or limit or attempt to exclude or limit liability.

8.2. Save for any claim for breach of any warranty given in this agreement or pursuant to any indemnity given in this agreement, neither party shall have any liability to the other (howsoever arising, including liability in negligence or otherwise in tort) under or in connection with this agreement for any:

8.2.1. loss of or damage to reputation or goodwill;

8.2.2. loss of opportunity;

8.2.3. wasted management or other staff time; in each case whether direct, indirect, special and/or consequential loss or damage; or

8.2.4. for any other indirect, consequential and/or special loss or damage.

8.3. The Hirer shall not be liable for any claim for loss of publicity or opportunity to enhance the Performer's reputation even if the Hirer delays or cancels the performance of the Services by the Performer.

8.4. The Hirer shall not be liable for any loss or damage to the equipment/property that the Performer brings to the Venue caused or suffered in connection with the Performer's engagement under this agreement, unless caused by the Hirer's negligence and recoverable on that ground following the judgment of a competent court.

8.5. The parties are aware that they should (as appropriate) take out suitable insurance to cover the types of loss, damage, expense and/or liability listed in sub-clauses 8.2-8.4 inclusive of this agreement.

8.6. The parties agree that this clause is fully understood and that the Fees and all other mutual agreements of the parties set forth in this agreement are arrived at having regard to the provisions of this clause 8.

8.7. In case of any conflict between this clause 8 and any other clause of this agreement, the provisions of this clause 9 shall prevail.

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## **9. Force Majeure**

9.1. If the Performer is prevented from performing any of its obligations under this agreement (the "Affected Obligations") due to an occurrence of Force Majeure, the following provisions of this clause shall apply.

9.2. Upon the occurrence of Force Majeure, any party aware of the Force Majeure shall immediately give oral notice of the occurrence to the other party (such notice to be subsequently confirmed in writing), specifying the circumstances giving rise to Force Majeure, the Affected Obligations and stating that the performance of the Affected Obligations is prevented.

9.3. The Performer will not be in breach of this agreement, nor liable for any failure or delay in performance, if the Performer is unable to perform the Affected Obligations by reason of the Force Majeure.

9.4. The Performer shall, without being obliged to incur any expenditure or cost, use its endeavours to: (a) mitigate the effects of the Force Majeure on the performance of its obligations under this agreement; and

(b) bring the Force Majeure to an end or find a solution by which this agreement may be performed despite the continuance of the Force Majeure.

9.5. If, due to an occurrence of Force Majeure, the Performer is prevented from performing the Services at the Venue and does not perform the Services at the Venue then the Hirer will not be liable to pay the Fees to the Hirer.

9.6. For the purposes of this clause 9, "Force Majeure" means any cause affecting the performance by the Performer of its obligations under this agreement, arising from any act, event, omission, happening or non-happening beyond the (as relevant) Performer's and/or Hirer's reasonable control, including (but not by way of limitation) acts of any Governmental, public or licensing authority, fire, flood, war, riot, revolution, epidemics, unusually severe weather, illness, accident, or an industrial or labour dispute.

## **10. Assignment**

10.1. The Performer shall not, without the prior written consent of the Hirer, assign, transfer or deal in any other manner with this agreement or any of his/her rights and/or obligations under or arising out of this agreement. The Performer shall not be entitled to sub-contract or delegate in any manner any or all of his/her obligations under this agreement to any third party or agent.

10.2. Each party that has rights under this agreement is acting on its own behalf and not for the benefit of another person.

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## **11. No Waiver**

11.1. A waiver of any right, term, provision, remedy or condition of this agreement will be valid only if it is in writing, signed by the party giving the waiver. Any such waiver will be valid only in the particular instance and for the particular purpose for which it is given and will not constitute a waiver of any other right or remedy.

11.2. Any failure (in whole or in part) to exercise or delay in exercising any right, power or remedy ("**Right**") available under this agreement or in law will not constitute a waiver of that or any other Right nor will any single or partial exercise of any Right preclude any other or further exercise of that or any other Right. The rights and remedies provided by this agreement are cumulative and (unless otherwise expressly stated in this agreement) may be exercised without excluding any other rights or remedies available in law.

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## **12. Third Party Rights**

12.1. A person who is not a party to this agreement shall not have any rights under or in connection with it. In particular, a person who is not a party to this agreement has no right to enforce any term of this agreement under the Contracts (Rights of Third Parties) Act 1999.

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## **13. Notices**

13.1. Any notice or other communication required to be given under this agreement shall, unless this agreement expressly provides otherwise, be in writing and shall be delivered personally, or sent by prepaid first class post or recorded delivery or by commercial courier, to the party required to receive the notice at its address as set out above or as otherwise specified by the relevant party by notice in writing to each other party.

13.2. Any notice shall be deemed to have been duly received:

13.2.1. if delivered personally, when left at the address and for the contact referred to in this clause; or

13.2.2. if sent by pre-paid first class post or recorded delivery, at 9.00 am on the second business day after posting; or

13.2.3. if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

13.3. A notice required to be given under this agreement shall not be validly given if sent by e-mail.

13.4. The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

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## **14. Variation and Entire Agreement**

14.1. This agreement can only be amended and varied in writing signed by or on behalf of both parties. This agreement (constituting Part A, Part B and Schedule 1 inclusive) contains and constitutes the entire understanding and agreement between the parties in connection with and about the subject matter of this agreement and supersedes all earlier and other agreements and understandings between them and all earlier representations by any party about such subject matter. Any prior representations, warranties, statements and assurances which are not expressly set out in this Agreement will not be of any effect.

14.2. The parties warrant that there are no representations, warranties, promises, terms, conditions, obligations and/or statements upon which they have relied in entering into this agreement and which are not expressly set out in this agreement and no such representation, warranty, promise, obligation, statement and/or any other term or condition is to be implied in it whether by virtue of any usage or course of dealing or otherwise (including, subject to sub-clause 8.1, by statute or common law) except as expressly set out in this agreement.

14.3. If a party has given any representation, warranty, promise or statement then (except to the extent that it has been set out in this agreement) the party to whom it is given waives any rights or remedies which it may have in respect of it.

14.4. This clause 14 shall not exclude the liability of a party for fraud or fraudulent misrepresentation or concealment or any resulting right to rescind this agreement.

**15. Governing Law and Jurisdiction**

15.1. This agreement and any dispute or claim arising out of or in connection with it, including its subject matter, termination, enforceability, construction, interpretation and/or formation (and including any and all non-contractual disputes or claims, such as claims for negligence and/or misrepresentation) shall be governed in all respects by and construed in accordance with the law of England and Wales.

15.2. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim or other matter that arises out of or in connection with this agreement, including its subject matter, termination, enforceability, construction, interpretation and/or formation (and including any and all non-contractual disputes or claims, such as claims for negligence and/or misrepresentation) and the parties hereby irrevocably submit to the exclusive jurisdiction of those courts.

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