



# **INSURANCE TERMS AND CONDITIONS**

## **HIRE EQUIPMENT INSURANCE**

Hawthorn Theatrical are able to offer at an additional cost, usually 5% of the full weekly hire rate before any discounts, fire and burglary cover for our equipment whilst in customers premises subject to reasonable care being taken. The cover is offered as an extension to our existing policy with the Axa Insurance Company Plc, and is governed by their terms and conditions which we list below. We would point out that there is a £500.00 excess for each and every loss. We draw your attention to the limitations whilst it is contained in a vehicle.

## **THE COVER**

The Insurer will indemnify the insured against physical loss of or damage to Machinery described in the Schedule(s) to which this Specification applies from sudden and unforeseen cause whilst at the situation specified in the Schedule(s). Subject otherwise to the terms conditions and exclusions of this Document.

## **OPTIONAL EXTENSIONS**

In accordance with the details shown on the attached Schedule the Insured, having paid or agreed to pay the additional premiums to the Insurer, may elect to insure for any of the following options:-

### **Hired-in Machinery**

The cover offered under this extension provides for the Insured's legal liability for loss of or damage under the terms of the hiring agreement or otherwise to pay compensation for loss of or damage to Machinery described in the Schedule whilst in the Insured's custody or control.

### **Hiring Out**

- i It is agreed that cover provided under this Document for loss of or damage to Machinery extends to include cover whilst said Machinery is hired out by the Insured provided that all such hires shall be made subject to the Conditions of Hire as lodged with the Insurer.
- ii Notwithstanding anything contained to the contrary in paragraph i) of this Optional Extension this Insurance can be extended to provide an Indemnity to the hirer when specified in the Insured's hire invoice. The hirer shall be deemed to be subject to the normal terms conditions and exclusions of this Document as if he were the Insured.
- iii Whenever Machinery is hired in for rehire by the Insured it is agreed that the hiring conditions used are no less onerous than those under which the Insured hired such Machinery.

## **VEHICLE WARRANTY**

It is warranted that whilst the Machinery insured by this Document is contained in a vehicle:-

- i All doors, windows and other openings are fully closed and locked and that the machinery is situated in an enclosed luggage compartment capable of concealing the equipment from view (unless the vehicle is a van or a cage is fitted to the vehicle) whenever the vehicle is left unattended.
- ii Between the hours of 9.00 pm and 6.00 am, the vehicle is fully alarmed whilst unattended or kept in a locked garage or building or security compound. This provision shall not apply whilst on location.

## **EXCLUSIONS**

The Insurer shall not be liable for:-

### **Consequential Loss**

- 1 Loss of use of Machinery or any other consequential loss unless more specifically insured hereunder.

### **Excluded Parts**

2. Loss of or damage to:-
  - i light sources and other expendable parts unless accompanied by other indemnifiable loss or damage;
  - ii film, video and sound recording tape whilst contained within any camera, sound or video recording equipment or whilst under-going any form of processing;
  - iii film, video and sound recording tape which is lost or damaged at custom points as a result of exposure by surveillance machines.

### **Packing**

3. Loss or damage caused by insufficiency or unsuitability of packing or preparation of the Machinery.

### **War Risks**

4.
  - i Any consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, confiscation, or nationalisation or requisition or destruction of or damage to property by or under the order of any government or local authority.
  - ii Any consequence of riot, strike, lock out and civil commotion whilst the Machinery is situated in Northern

Ireland or anywhere outside the United Kingdom.

- iii Loss or damage caused by capture, seizure, arrest, restraint or detainment (Piracy excepted) and the consequences thereof or any attempt thereat.
- iv Loss or damage caused by any terrorist or any person acting from a political motive.

#### **Maintenance Agreement**

5. Loss or damage recoverable under any guarantee or maintenance rental hire or lease agreement.

#### **Intentional Acts**

6. Loss or damage caused by:-
- i the intentional act or wilful neglect of the Insured;
  - ii Intentional overloading of Machinery;
  - iii Experiments involving the imposition of any abnormal conditions on Machinery.

#### **Wear and Tear**

7. i Wear and tear, gradual deterioration or rust;
- ii Gradually developing defects, cracks, flaws or fractures;
  - iii Scratching or chipping of painted or polished surfaces.

#### **Guarantees of Performance**

8. Penalties for delay or detention or in connection with guarantees of performance or efficiency.

#### **Terrorist Acts**

9. i Any consequence of civil commotion assuming the proportion of or amounting to a popular rising, martial law or the act of any lawfully constituted authority;
- ii Loss or destruction of or damage to any property in Northern Ireland or loss resulting therefrom caused by or happening through or in consequence of:-
    - a) civil commotion;
    - b) any unlawful, wanton or malicious act committed maliciously by a person or persons acting on behalf of or in connection with any unlawful association.

NOTE: 'Unlawful association' means any organisation which is engaged in terrorism and includes an organisation which at any relevant time is a proscribed organisation within the meaning of the Northern Ireland (Emergency Provisions) Act 1973.

NOTE: 'Terrorism' means the use of violence for political ends and includes any use of violence for the purpose of putting the public or any section of the public in fear

In any action, suit or other proceedings where the Insurer alleges that by reason of the provisions of this exclusion any loss, destruction or damage is not covered by this Insurance the burden of proving that such loss, destruction or damage is covered shall be upon the Insured.

#### **Nuclear Risk**

10. i Loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss:
- ii Any legal liability of whatsoever nature; directly or indirectly caused by or contributed to by or arising from:-
    - a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
    - b) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

#### **Sonic Bang**

11. Loss, destruction or damage directly occasioned by pressure waves caused by aircraft or other aerial devices travelling at sonic or super-sonic speeds.

### **GENERAL DEFINITIONS**

#### **Limit of Indemnity**

Limit of Indemnity shall mean the maximum liability of the Insurer in respect of any one accident or series of accidents arising out of any one occurrence as specified in the Schedule.

#### **Excess**

Excess shall mean the first amount of each and every claim for which the Insurer shall not be liable as specified in the Schedule.

#### **Territorial Area**

Anywhere in the United Kingdom, Isle of Man, Channel Islands or Republic of Ireland.

Outside these areas additional quotations can be obtained, but only if prior notification in writing is given.

## **CONDITIONS**

### **Claims Notification and Requirements**

1. In the event of any occurrence giving rise, or likely to give rise, to a claim hereunder, the Insured or his personal representative, shall:
  - i As soon as practicable after the same shall have come to his knowledge, give notice thereof to The Axa Insurance Association Limited by telephone if practicable, and also by letter giving the fullest possible particulars and information, and in the event of loss by theft, or where the Insured has reason to believe a criminal offence has been committed, notify the Police:
  - ii Take precautions to prevent further damage to the Machinery and the Insurer shall not be liable for any further damage resulting from the continued use of the machinery until the Machinery has been repaired to the satisfaction of the Insurer:
  - ii Retain any damaged Machinery or parts thereof:
  - iv When required to do so, deliver to the Insurer a statement in writing of all particulars and details reasonably practicable of the Machinery affected, and the value thereof, and of the loss or damage thereto, and furnish all such vouchers, proofs, explanations, and other evidence as may be reasonably required by the Insurer, together with a statutory declaration, if required, in verification of the statement.

### **Claims Settlements**

- 2 i The Insurer may, at their option, repair, reinstate or replace or pay in money for any loss or damage covered by this Insurance. The Insured may, without prejudice to any liability of the Insurer, proceed with minor repairs subject to compliance with Condition No. 1 provided that the repairs are carried out to the satisfaction of the Insurer and any damaged part is kept for their inspection. Subject to the foregoing special privilege the Insurer shall not be liable for the cost of any repairs undertaken by the Insured without the permission of the Insurer in writing.
- ii The Insurer shall be entitled, at their discretion, and in the name of the Insured, to take over, defend or settle any claim.

### **Other Insurances**

3. This Insurance does not cover any damage, which at the time of the happening or such damage is insured by or would, but for the existence of this Insurance, be insured by any other policy or policies, except in respect of any excess beyond the amount which would have been payable under such other policy or policies had this Insurance not been effected.

### **Average**

4. If any specific item of Machinery shown in the Schedule shall have an individual Limit of Indemnity set against it, and at the time of any loss or damage to such item it shall be of greater value than the limit of Indemnity then the Insured shall be considered his own Insurer for the difference and shall bear a rateable proportion of the loss or damage accordingly.

### **Precautions**

5. The Insured shall do all acts necessary to comply with any statutory obligations and shall take all reasonable steps to ensure that the Machinery is properly maintained and all reasonable precautions to prevent loss or damage and accidents involving the Machinery.

### **Access**

6. The Insurer or their representatives shall have the right at all reasonable times to

### **Alteration or Modification**

7. The Insured shall notify the Insurer of any proposed alterations or modifications to the Machinery and of any proposed departure from normal working conditions.

### **Subrogation**

8. The Insurer may, at any time, at their expense, use all legal means, in the name of the Insured, or securing reimbursement for loss or damage, and the Insured shall give all reasonable assistance for that purpose.

### **Suspension of Cover**

9. The Insurer reserves the right at any time by written notice to the Insured to suspend the insurance of any Machinery until the requirements of the Insurer shall have been fulfilled.

### **Cancellation**

10. The Insurer may cancel this Insurance by sending ten days' notice by registered letter to the Insured at his last known address, and in such event, the Insured shall become entitled to the return of a proportionate part of the premium corresponding to the unexpired period of insurance.

### **Arbitration**

11. If any difference shall arise as to the amount to be paid under this insurance Liability being otherwise admitted such difference shall be referred to an arbitrator to be appointed by the parties in accordance with the statutory provisions in that behalf of the time being in force. Where any difference is by this condition to be referred to arbitration, the making of any award shall be a condition precedent to any right of action against the Insurer.

#### **Observance**

12. The due observance and fulfilment of the terms and conditions contained in this Insurance or endorsed hereon, insofar as they relate to anything to be done or complied with by the Insured, and the truth of the statements and answers in the proposal, shall be conditions precedent to any liability of the Insurer to make any payment under this Insurance.

#### **Situation**

13. The insurance hereunder operates whilst the Machinery is at any situation in the countries specified in the schedule and whilst in transit from one such situation to another.

#### **Automatic Reinstatement of Sum Insured**

14. In the event of loss or damage insured by this Document this sum insured in respect of such item(s) shall be reinstated from the time of the occurrence, the Insured undertaking to pay such additional premium as may be required.

#### **Reinstatement**

15. In the event of the Machinery insured being destroyed or damaged the basis upon which the amount payable is to be calculated shall be the Reinstatement of the Machinery destroyed or damaged subject to the following Special Provisions and subject also to the terms and conditions of this Document except insofar as the same may be varied hereby.

For the purposes of the insurance under this Condition Reinstatement shall mean the carrying out of the aforementioned work namely

- a) Where Machinery is lost or destroyed its replacement by similar property in a condition equal to but not better or more extensive than its condition when new;
- b) Where machinery is damaged the repair of the damage and the restoration of the damaged portion of the machinery to a condition substantially the same as but not better or more extensive than its condition when new.

#### **Special Provisions**

- i The work of Reinstatement in any manner suitable to the requirements of the Insured subject to the liability of the Insurer not being thereby increased must be commenced and carried out with reasonable despatch otherwise no payment beyond the amount which would have been payable under this Document if this Condition had not been incorporated herein shall be made.
- ii When any Machinery Insured is lost, damaged or destroyed in part only the liability of the Insurer shall not exceed the sum representing the cost which the Insurer could have been called upon to pay for Reinstatement if such machinery had been wholly lost or destroyed.
- iii No payment beyond the amount which would have been payable under this Document if this Condition had not been operative will be made until the cost of Reinstatement has been actually incurred.
- iv The sum insured shown against each item described in the schedule shall not be less than the new replacement cost of such item. For the purpose of this proviso, the new replacement cost shall mean the present valid list price, plus cost of any freight, import duty and installation costs. In the event of the insured item being obsolete, the sum Insured should represent the current list price of the nearest equivalent model.
- v No payment will be made beyond the amount which would have been made payable under this Document if this Condition had not been operative if at the time of any loss, destruction or damage to any Machinery insured by this Document such Machinery is covered by any other insurance effected by or on behalf of the Insured which is not upon an identical basis of Reinstatement.
- vi Where by reason of any of the above Special Provisions no payment is to be made beyond the amount which would have been payable under this Document had this Condition not been operative the rights and liabilities of the Insurer and the Insured in respect of any loss, destruction or damage shall be subject to the terms of this Document as if this Condition had not been operative.

#### **English Jurisdiction**

It is hereby agreed that this Insurance shall be governed by English Law and that English courts alone shall have jurisdiction in any dispute arising hereunder