

TERMS AND CONDITIONS OF HIRE

1. Definitions and Interpretation

1.1. In the Contract:

"Charge" means the charges agreed between the parties for the hire of the Equipment.

"Company" means Films at 59 Ltd, whose principal place of business is 59 Cotham Hill, Bristol BS6 6JR.

"Contract" means this agreement and any documents ancillary thereto.

"Customer" means the person, persons or company hiring the Equipment.

"Equipment" means all articles and materials taken on hire from the Company by the Customer in the course of its business.

"Quotation" means the quotation addressed to the Customer including any amendment in writing from the Company which shall lapse 30 days from the date of such Quotation unless accepted in writing by the Customer before the expiry of such 30 days or the Charge for the hire of equipment has commenced.

2. Application of Terms and Conditions

2.1 All dealings between the Customer and the company will be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, specification or other document and including any term implied by law, (so far as is possible), trade, custom, practice or course of dealing.

3. The Period of Hire of Equipment

3.1 The Charge for the hire of Equipment commences on the day the Equipment leaves the Company's premises or such other date as stipulated in the Quotation and terminates at the end of the agreed hire period or when terminated under clause 4.3.2(iii) or 10, providing that the Equipment has been returned to the Company in the same condition it was in at the commencement of the hire (fair wear and tear excepted).

3.2 In the event that the Equipment is lost, damaged or destroyed, the period in respect of which the Charge shall be payable shall continue until such time as the Equipment is recovered and returned to the Company or (if damaged) is repaired and available for re-hire or (if destroyed) is replaced by an equivalent or comparable item, up to a maximum of 13 weeks.

4. Payment

4.1 The Charge for hire of Equipment is that set out in the Quotation or, if applicable set out in a confirmation of order by the Company or notified by the Company to the Customer.

4.2 Unless the Customer has an approved credit account with the Company, all Charges must be paid prior to delivery or collection. Any Customer wishing to open a credit account with the

Company must submit a completed credit account application form for consideration by the Company together with any documents requested by the Company. The Company may give credit entirely at its discretion and may refuse or withdraw credit without specifying any reason.

4.3 If the Company has approved the Customer's credit account unless otherwise agreed in writing:-

4.3.1 Payment must be made within 30 days of the date of the invoice in full without deduction by way of set off, counterclaim or otherwise. The time for payment shall be of the essence.

4.3.2 If the Customer fails to make payment on the due date then, without prejudice to any other right or remedy the Company will be entitled to:-
i) charge the Customer interest on the amount unpaid at a rate of 4% per annum over Bank of England base rate from time to time or the rate specified in the Late Payment of Commercial Debt (Interest) Act 1988, as amended, whichever is the higher

ii) claim reasonable compensation for debt recovery costs as specified in the Late Payment of Commercial Debt Regulations 2002 (or any amendment thereof) on each invoice
iii) cancel the contract for hire of Equipment or any contract or hire of any Equipment with the Customer

iv) withdraw any credit facilities even if previously granted such that all sums invoiced to the Company are immediately payable

4.3.3 Payment to the Company shall not, in any circumstances, be dependant upon payment to the Customer from any third party.

5. Delivery and Risk

5.1 Any dates quoted for the delivery of the Equipment are approximate only and the Company shall not be liable for any delay in delivery or provision howsoever caused.

5.2 The Customer will inspect the Equipment upon delivery and notify the Company immediately in writing of any shortfall, missing items or defects capable of being ascertained on inspection, within 24 hours of delivery. If the Customer does not notify the Company accordingly, it shall be conclusively presumed that the Equipment is complete and, so far as it is able to be ascertained on inspection, in good working order.

5.3 All Equipment shall, immediately upon leaving the Company's (or as the case may be a third party's) premises and thereafter, be the responsibility of and at the risk of the Customer, though for the avoidance of doubt, property in the Equipment shall remain at all times with the Company notwithstanding that the Customer shall be liable for any theft, loss, damage or destruction howsoever caused to the Equipment.

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5.4 From the time the Equipment leaves the Company's (or as the case may be a third party's) premises and during the continuation of the period of hire of any Equipment the Customer (subject to the other provisions of this contract) shall make good to the Company all loss of or damage to the Equipment from whatever cause the same may arise, fair, wear and tear excepted and ensure that a policy of insurance is effected in accordance with clause 9 of this Contract.

5.5 Any repair or replacement of the Equipment undertaken by the Company, as required by clause 5.4, shall be liable to a 20% handling fee, payable by the Customer to the Company.

5.6 Where delivery to the Customer's premises is effected by a third party, delivery for these purposes shall be deemed to have occurred when the Equipment leave the Company's premises or the premises of the third party supplier.

6. Fitness for Purpose

6.1 The Customer must satisfy itself that the Equipment is fit for the Customer's purpose and the Company gives no warranty as to the fitness of the Equipment for any particular purpose.

6.2 The Company may make available to the Customer facilities at the Company's premises for the Customer to inspect the Equipment and to set up the Equipment for the Customer's own use. The Customer relies entirely on its own skill and knowledge in relation to the use and set up of the Equipment.

6.3 The Equipment is the responsibility of and is at the risk of the Customer during the inspection set up or testing notwithstanding that such inspection set up or testing is taking place on the Company's premises, and the Customer must insure the Equipment under its own policy of insurance.

6.4 Any assistance given by the Company, its employees or agents during the testing or set up process is under the supervision and control of the Customer and accordingly the Company shall not be responsible for any such assistance.

6.5 Any advice or recommendations given by the Company, its employees or agents to the Customer, its employees or agents as to the use, set up or application of the Equipment which is not confirmed in writing by the Company is followed or acted upon entirely at the Customer's own risk and accordingly the Company shall not be responsible for any such advice or recommendation which is not so confirmed.

6.6 The Customer must carry out its own appropriate tests before using the Equipment for filming and must satisfy itself that the set up and adjustment of the Equipment is appropriate for the Customer's use. Such testing must be carried out by suitably qualified operatives. In addition to any other limitation of liability in this agreement

the Company shall have no liability if the Customer has not undertaken such tests.

7. Use of the Equipment

7.1 If the Equipment becomes defective during the hire period through no fault (directly or indirectly) of the Customer, the Company may, at its discretion, either replace the Equipment or repair any defective part providing the defective Equipment or part is returned to the Company at the place from which it was hired, with the costs of carriage, insurance and handling charges paid by the Customer. Alternatively, the Company may, at its discretion, pay the reasonable cost of the repair or, the replacement of the Equipment by a third party approved by the Company for that purpose and on terms acceptable to the Company.

7.2 The Customer will at all times during the hire period:

7.2.1 Keep the Equipment in its possession and under its control and not purport to sell, loan, assign, pledge or permit any lien to be created over it or any part of it;

7.2.2 Ensure that the Equipment is used in a skilful and proper manner, and in accordance with any operating instructions and ensure that the Equipment is operated and used by properly skilled and trained personnel;

7.2.3 Ensure that the Equipment is used in compliance with all relevant regulations, including but not limited to the Health & Safety at Work Act and with the benefit of all necessary permissions, licences or permits;

7.2.4 Not make alteration to the Equipment and not remove any existing component nor attempt or make any repair or modification to the Equipment nor remove any sign or marking from the Equipment.

7.2.5 Not hold or use the Equipment (nor permit others to do so) in a manner which will or may cause any provision of the insurance policies referred to in condition 9 to be broken;

7.2.6 Take proper care of the Equipment and ensure that it is safely and properly stored;

7.2.7 Inform in writing any person to whom a debenture or charge over any part of the Customer's assets is to be granted that the Equipment is not the property of the Customer.

7.2.8 Carry out regular reviews of any digital content or data captured by the Equipment by a suitably qualified technician.

7.2.9 Ensure that any visual or audio visual content or data recorded by the Equipment is kept safe.

7.2.10 Remove all visual or audio visual content or other data from the Equipment prior to its return to the Company.

7.3 The Customer will not, without prior consent of the Company in writing, which consent may be withheld at the Company's absolute discretion, allow the Equipment to be removed outside the

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United Kingdom or to be used in any abnormal or hazardous assignment.

7.4 Any employee or agent of the Company that visits the Customers premises or any premises save for the Company's at the request of the Customer or uses or demonstrates any of the Equipment is, at all times, under the supervision of the Customer. The Customer must ensure that there is a safe working environment in such circumstances and that all statutory and other obligations of all kinds are adhered to.

8. Liability and Indemnity

8.1 The Company does not exclude or limit any liability for death or personal injury caused by its negligence or for its fraudulent misrepresentation.

8.2 Without prejudice to clause 9.1, the Company shall not be liable for any direct or indirect loss of profit nor for any indirect loss, damage, costs, claims, demands or expenses whatsoever or howsoever caused, whether resulting from the Company's negligence or otherwise, under or in any way in connection with the Contract, or for any loss, damage, costs or claims or expenses for lost production time, delay in shooting, the cost of re-shooting unusable footage or remedial or repair work on digital media.

8.3 Without prejudice to the above the Company shall not be liable for any loss or damage to visual or audio visual content or other data left in the Equipment on its return to the Company.

8.4 The Customer will indemnify and keep the Company and its employees fully and effectively indemnified in full and on demand against all claims, demands, costs, actions, expenses (including professional advisors' fees) or proceedings made against them by any third party, arising out of or in any way in connection with the Customer's failure to comply with any of the provisions of the Contract.

8.5 The Customer shall also fully and completely indemnify and keep the Company and its employees fully and effectively indemnified and on demand in respect of all claims by any person whatsoever for injury to personal property caused by or in connection with or arising out of the storage, transit, loading or use of the Equipment during the continuance of the hire period and in respect of all costs and charges in connection therewith arising under statute or common law save for any matter arising directly as a result of the Company's own negligence.

8.6 If any agent or employee of the Company provides services at premises other than that of the Company he or she does so under the direction and supervision of the Customer and the Company will not be liable for any loss or damage occasioned by such servant or agent to the Customer or any third party howsoever such loss or damage has been caused.

9. Insurance

9.1 The Customer shall effect the following insurances:

9.1.1 An all risks insurance policy on all items of the Equipment for their full replacement value (including without limitation cover against loss, theft or damage to the Equipment) and the charges set out in clause 3.2.

9.1.2 A third party liability insurance policy covering the liability of the Customer for death, injury and damage to or loss of property arising directly or indirectly out of the use or possession of the Equipment and shall note the Company as an additional insured on the policy and the Customer shall at the commencement of the hire period give notice to the insurer of the Company's interest in such policy.

9.2 The policy in respect of such insurance and evidence of payment of premiums shall, when requested by the Company, be produced to the Company for inspection and in any event shall be produced to the Company each year on the anniversary of the initial granting of any credit. The Customer will notify the Company of any change in relation to such policy.

9.3 The Customer shall give written notice to the Company of any occurrence which will or may give rise to a claim being made on any insurance pursuant to this clause and such notice shall be given within twenty four hours of the occurrence being first known to the Customer.

9.4 The Customer shall, at its own cost, assist the Company in securing the settlement of any claim and the payment to the Company of the value of such claim so far as it relates to the Equipment or to the liability of the Company to any third party.

10. Termination and Repossession

10.1 Either party shall be entitled to immediately terminate the Contract on giving written notice to the other if:

10.1.1 That other party commits any material breach of these conditions and, in the case of such a breach which is capable of remedy, fails to remedy the same within 14 days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied (for the avoidance of doubt any late payment or failure to pay by the Customer any sums due shall be a material breach); or

10.1.2 That other party makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or partnership) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of solvent amalgamation or reconstruction); or

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10.1.3 An encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of that other party; or

10.1.4 That other party ceases, or threatens to cease, to carry on business.

10.2 On termination the Customer shall pay to the Company all costs and expenses due under the Contract.

10.3 Neither party shall have any right to claim for any loss or damage occasioned by such termination, which shall be without prejudice to any accrued rights and remedies of either party.

10.4 At the expiry of the hire period, or following termination of the Contract for whatever reason, the Customer shall forthwith return the Equipment to the Company's premises in good working order and condition.

10.5 If the Customer fails to return the Equipment on the due date the Company may, without notice, re-take possession of the Equipment and for this purpose shall be entitled without notice, to enter into any premises occupied or controlled by the Customer.

11. Notices

Any notice to be given in accordance with this Contract shall be deemed to be properly given if delivered by hand or sent by prepaid post or email or facsimile to the party concerned at the address or email address or facsimile number as set out on the Quotation or to such other address, email or facsimile number as may be communicated from time to time in writing to the sender of the notice. Notices sent by prepaid post shall be deemed to have been received three working days after the date of posting. Notices delivered by hand shall be deemed to have been delivered upon receipt. Notices sent by email or facsimile shall be deemed to have been received if sent before 4pm on any working day on that day and if sent after 4pm on any working day on the first working day following the date of sending as the case may be and in both cases provided the sender has retained a successful transmission receipt.

12. Proper Law

This Contract shall be governed and construed in accordance with the laws of England and the parties hereby submit to the exclusive jurisdiction of the English courts.

13. General

13.1 No variation to the Contract will be binding unless agreed in writing between the Company and the Customer.

13.2 This Contract is the entire agreement between the parties and supersedes any previous agreement in relation to its subject matter. The Customer acknowledges and agrees

that in entering into this Contract it does not rely on and shall have no remedy in respect of any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to the Contract or not) other than as expressly set out in the Contract and its only remedy for breach of this Contract shall be for breach of contract under the terms of this Contract.

13.3 The Company shall not be liable for any delay in performing or any failure to perform any of its obligations under this Contract caused directly or indirectly by any event beyond its reasonable control.

13.4 Neither party shall without the prior written consent of the other party assign, transfer, charge or deal in any other manner with this Contract or its rights under it or part of it, or purport to do any of the same, nor sub-contract any or all of its obligations under this Contract.

13.5 If any part of the Contract becomes invalid, illegal or unenforceable it shall be severed from the Contract and the remainder of the Contract shall remain in full force and effect.

13.6 A person who is not a party to the Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract but this does not affect any right or remedy of a third party which exists or is available apart from that act.

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