



# TERMS & CONDITIONS OF BUSINESS

## 1. GENERAL

1.1 In these Conditions of Business ("the Conditions") the following terms shall unless the context otherwise require have the following meanings:-

1.1.1 "The Company" means PILOT LIGHTING Limited or (if applicable) its subsidiary or associated company named in the relevant hire form or sales invoice.

1.1.2 "The Customer" shall be the person body firm or company dealing with the Company

1.1.3 "Consumable Equipment" means any Equipment including but not limited to gelatine filters diffusion materials nets neutral density and pola filters, electric light bulbs filter gels fuses and film which once used cannot be reused in their originally designed form

1.1.4 "Non-Durable Equipment" shall mean any Equipment including but not limited to lens and glass filters which has a limited life by virtue of its

inherent characteristics or by virtue of its acute vulnerability in use notwithstanding other items of Equipment may be dependent upon its use

1.1.5 "Durable Equipment" shall mean items of Equipment including but not limited to camera bodies lenses and tripods, dollies and cranes but excluding Consumable Equipment and Non-Durable Equipment

1.1.6 "Equipment" shall mean Consumable Equipment Non-Durable Equipment or Durable Equipment as the context may require and includes any repaired or replaced Equipment

1.1.7 "The Hire Period" shall begin on the date specified in the hire form or if none is stated on the day on which the Equipment is made available to the Customer or dispatched to the Customer by the Company and the Hire Period shall (subject to Condition 6.3) end on the date specified in the hire form or if none is stated one month from the commencement of the Hire Period or if later on the day of the return of the Equipment to the Company in such condition as is required by the Conditions

1.1.8 "The Hire Charge" shall be the charge for the hire of Equipment (excluding Consumable Equipment) calculated at the rate specified in the hire form and the cost of the Consumable Equipment as specified on the Company's invoice.

1.2 These Conditions shall apply to all transactions for the hire and for the sale of Equipment and for the provision of services (including the services of technicians and other personnel) by the Company to the Customer and constitute the entire agreement between the Company and the Customer

to the exclusion of any other terms and conditions save to the extent of any variation waiver of or addition to the Conditions expressly agreed in

writing and signed by a director on behalf of the Company.

## 2. DELIVERY AND RISK

2.1 Unless the hire form or sales invoice otherwise provides in writing delivery will take place on collection of the Equipment by or on behalf of the

Customer at the premises of the Company.

2.2 Where the Equipment is to be dispatched to an address specified by the Customer the Company shall be deemed to have delivered the Equipment when the Company notifies the Customer that the Equipment is ready for dispatch and such dispatch shall be at the sole risk and expense of the Customer.



2.3 The risk in the Equipment shall pass to the Customer at the time of delivery and the Customer shall thereafter be liable for all loss and damage to the Equipment whether or not the Equipment has been dispatched by the Company or collected by the Customer or is in the custody of the Company.

2.4 Time shall not be of the essence of any contract with the Customer and the Company shall not be liable for any loss whatsoever arising out of delay by the Company.

### **3. ACCEPTANCE**

The Customer is deemed to have accepted the Equipment unless the Customer having tested the equipment gives notice in writing to the Company of any defects within three working days from the date of delivery. If the Customer fails to give such notice the Equipment shall be presumed conclusively to have been delivered by the Company and to have been accepted by the Customer.

### **4. INSURANCE**

4.1 In the case of a hire contract the Customer must before delivery of the Equipment insure the Equipment against loss or damage to its full replacement value as new and against all liability and consequential risks with an insurer of repute. Such insurance policy shall be marked "without recourse against the Company" and shall be endorsed with a note of the Company's interest in the Equipment and the Customer will on demand produce to the Company the policy of insurance and the receipt for the current premium.

4.2 In the event that the Customer fails to insure the Equipment in accordance with Condition 4.1 the Company shall be entitled to refuse to permit the Equipment to be collected or dispatched from the premises of the Company but any such refusal shall not affect the commencement of the Hire Period and the Company may (but shall not be obliged to) insure the Equipment and recover the cost of insurance on demand plus an administration surcharge of 25% of such cost from the Customer.

### **5. SPECIFICATION SUITABILITY AND CONDITION**

5.1 All descriptions specifications performance figures drawings and particulars of weights and dimensions made available by the Company including (but not limited to) those in the catalogues price lists or publicity material of the Company are approximate and intended to give only a general idea of the Equipment and do not form part of the contract or constitute representations inducing the Customer to enter into a contract.

5.2 The Customer is solely responsible for determining that the Equipment is suitable for the intended use by the Customer and by entering into a contract the Customer acknowledges that it has satisfied itself that the Equipment is suitable for the purpose for which the Customer is to use the Equipment.

5.3 Save to the extent excluded by statute or as otherwise herein provided the Customer takes the Equipment in its actual state and condition on

delivery and the Company gives no express or implied guarantee or representation warranty as to the description quality suitability fitness for any purpose or otherwise of the Equipment.

5.4 Although the Company will use all reasonable endeavours to sell and hire Equipment in proper working order this contract is entered into on the basis that on delivery the Customer will inspect all Equipment (other than Consumable Equipment) for completeness correct functioning and fitness for the purpose.

### **6. PRICES PAYMENT AND INTEREST**

6.1 Orders are accepted by the Company only on the basis of the price ruling at the date of delivery and all prices quoted in the Company's catalogues and price lists are subject to alteration without notice.



6.2 Unless the hire form or the sale contract otherwise provides all prices are ex works and exclude all packaging insurance dispatch and transport charges and all Value Added Tax and any other tax duty levy or other similar charge all of which will be separately invoiced and be payable by the Customer.

6.3 In respect of hire contracts:-

6.3.1 Unless the contract otherwise provides the Hire Charge shall be paid in full at the commencement of the Hire Period

6.3.2 The Hire Charge shall continue to be payable by the Customer until the Equipment is returned at the expense of the Customer to the premises of the Company

6.3.3 In the event that the Equipment is damaged during the Hire Period the Hire Charge shall continue to be payable by the Customer until the Equipment (if capable of repair) is repaired or if damaged beyond repair or lost until the Equipment is replaced.

6.3.4 The Customer shall pay for all Consumable Equipment before delivery and the Company will refund to the Customer the cost of any Consumable Equipment returned by the Customer to the premises of the Company in an unused and undamaged state at or before the end of the Hire Period.

6.4 In respect of sale contracts the Customer shall pay for Equipment on delivery or if the contract so provides no later than 30 days after the date of the Company's invoice save that film stock will be paid no later than 14 days after the date of the Company's invoice.

6.5 Interest will be charged at a rate of 3 1/2% above the base rate from time to time prevailing of the Bank of Scotland on all sums outstanding after the due date for payment.

6.6 All Hire Charges and sales prices are exclusive of Value Added Tax which will be added at the rate ruling at the date of the contract and shall be payable by the Customer.

6.7 No claim or counterclaim against the Company shall entitle the Customer to withhold from the Company any sums due to the Company under this or any other contract with the Company

## **7. RESERVATION OF TITLE**

7.1 In all contracts relating to the sale of Equipment notwithstanding the delivery of the Equipment and the passing of risk in the Equipment the title in the Equipment shall not pass to the Customer until the Company has received payment in full of the price of the Equipment which is the subject of the contract and any other Equipment agreed to be hired supplied or sold by the Company to the Customer for which payment is then due.

7.2 Until such time as the Customer has paid in full for the Equipment the Customer shall hold the Equipment separately from that of the Customer and of third parties and in a manner which clearly identifies the Equipment as being the property of the Company. In the event that before payment of all sums due to the Company the Customer shall resell the goods for full market value the Customer shall keep the proceeds of such resale separate from all monies or property of the Customer and third parties until such time as the Company has been paid in full.

7.3 Until such time as the Company has been paid in full for the Equipment or (if sooner) the Customer has resold the Equipment at full market value the Company shall be entitled at any time to require the Customer to deliver up the Equipment to the Company and if the Customer fails to do so the Company is entitled to enter on the premises of the Customer or of any third party on which the Equipment is located and re-possess the Equipment and if such premises are not occupied by or under the control of the Customer the Customer undertakes to use its best endeavours to assist the Company to enter such premises in order to repossess the Equipment.

## **8. LIABILITY**

Save where excluded by statute:

8.1 The Customer acknowledges that in all its dealings with the Company it is relying on its own knowledge of the purpose for which the Equipment is required or personnel are contracted and the Customer is accordingly responsible for all losses



and liabilities of whatever nature arising out of this contract including (without limitation) any arising from any failure or non-delivery of Equipment or negligence of personnel supplied by the Company.

8.2 The Company will not in any circumstances be liable for indirect or consequential loss or damage of any type whatsoever or howsoever arising notwithstanding that such loss or damage is due to the Company's default and/or negligence of the Company or personnel supplied by the Company.

8.3 If the Company at the request of the Customer supplies the services of a technician or other person to the Customer that technician or other person will for the purpose of any liability to third parties or loss or damage sustained by the Customer or by the Company or by the said technician or other person be deemed to be the servant of the Customer and the services so supplied will be deemed to be supplied by the Customer and the Company will not be liable for any loss or damage of any type howsoever caused or howsoever arising and whether or not the said loss or damage has been caused or contributed to by the negligence and/or default of the Company.

## **9. CUSTOMER'S OBLIGATIONS**

9.1 The Customer will not during the Hire Period or in the event of a sale before payment in full to the Company sell offer for sale loan assign pledge mortgage encumber part with possession or suffer any lien to be created over the Equipment or by any other act or omission prejudice or jeopardise the Company's rights or interest in the Equipment.

9.2 The Customer will ensure that the Equipment remains at all times during the Hire Period in its custody and is handled and used in a proper and skilful manner only by persons with appropriate qualifications who are familiar with the type of Equipment in question and in accordance with any operating instructions issued by the manufacturer or by the Company.

9.3 The Customer shall at all times during the Hire Period keep the Equipment in good and substantial repair condition and properly serviced and maintained and shall bear the expense of replacing all worn and damaged parts thereof and the Customer shall protect the Equipment from the elements and from loss or damage by the acts or omissions criminal or otherwise of third parties.

9.4 The Customer shall be responsible for and shall indemnify the Company in respect of all loss which the Company may suffer as a result of any cancellation or any variation of any order for the hire or sale of Equipment or services or failure to return any Equipment hired from the Company to the Company's premises at the expiration of the Hire Period in good condition except in the case of Durable Equipment only for fair wear and tear.

9.5 The Customer will not during the Hire Period without the prior written consent of the Company use the Equipment in any abnormal or hazardous manner or location or take the Equipment out of Great Britain or take the Equipment in an aircraft other than on a regular scheduled flight by an established airline or take the Equipment on a boat or hovercraft or train other than on a regular sailing by an established shipping company or on the Eurostar train service.

9.6 The Customer shall obtain effect and keep effective all permissions licences and permits which may from time to time be required in connection with the business of the Customer and the use of the Equipment and the premises where the Equipment is situated and shall comply with all statutory and other obligations of all kinds in relation to the Equipment and the use thereof.

9.7 If the Equipment shall be lost stolen destroyed or damaged so as in the opinion of the insurers of the Equipment to be incapable of economic repair any money payable under any policy of insurance shall be applied in replacing such Equipment and if such money is insufficient the Customer shall be responsible for the payment of the balance.

9.8 The Customer shall permit the Company or its duly authorised representatives at all reasonable times to inspect the Equipment and for that purpose to enter upon any premises on which the Equipment may be situated and shall grant to the Company or duly authorised representatives reasonable facilities for such inspection.

9.9 The Customer agrees to indemnify and keep indemnified the Company and its directors employees and agents against all actions proceedings costs charges claims expenses and demands whatsoever brought against the Company its directors employees or agents in respect of any injury or damage occurring as a result of the use or presence of the Equipment or the



condition thereof at any time from the commencement of the Hire Period until the end of the Hire Period or physical possession of the Equipment is otherwise re-taken by the Company.

9.10 The Customer shall affix or cause to be affixed to each item of the Equipment (other than Consumable Equipment) and maintained throughout the Hire Period plates tags or markings indicating that the Equipment is the property of the Company and the Customer shall ensure that such plates tags or markings are conspicuous and are not obliterated defaced or covered up.

9.11 The Customer shall at the end of the Hire Period or (if earlier) on the termination of the hiring contract return the Equipment in such good working order and condition as required by the Conditions at its own risk and cost to the premises of the Company or to such other address in the United Kingdom as the Company may reasonably direct in writing.

## **10. Termination**

10.1 In any of the following circumstances the Company may immediately terminate the hiring of the Equipment:-

10.1.1 If the Customer shall fail to pay on the due date any installment of the Hire Charge or any other sum or sums to be paid by the Customer or shall otherwise be in breach of any of the terms of the hire contract.

10.1.2 If the Customer being an individual shall be adjudicated bankrupt or enter into any voluntary arrangement with his creditors or if any distress or execution shall be levied or threatened on any of the Customer's property

10.1.3 If the Customer being a corporation a winding up order is made against the Customer or if the Customer shall call any meeting of its creditors or pass any resolution for the winding up of the Customer (otherwise than for the purposes of amalgamation or reconstruction) or if an administrator is appointed or if a receiver is appointed over all or any of the Customer's assets or if the Customer makes any arrangement for the benefit of its creditors or if any distress or execution shall be levied or threatened on any of the Customer's property.

10.1.4 If the Customer shall allow any judgement against the Customer to remain unsatisfied for more than 14 days.

10.1.5 If the Customer suffers any act or thing or permits any act or omission which in the reasonable opinion of the Company prejudices or puts in jeopardy the rights of the Company in the Equipment.

10.2 Upon the termination of the Contract for whatever reason the Customer shall be entitled to take all such steps as in the reasonable belief of the Company are necessary for the protection of the Equipment including entry upon any premises upon which the Equipment may be kept or where the Company reasonably believes the hired Equipment to be kept in order to recover such Equipment and where such premises are not occupied by or under the control of the Customer the Customer undertakes to use its best endeavours to assist the Company or its duly authorised representatives to enter such premises for the purposes of recovering all the Equipment

10.3 The Customer will on demand compensate the Company in full for any loss or damage to the Equipment and for all costs and expenses which the Company may incur in recovering the Equipment and for all and any other losses (including loss of use) which the Company may suffer by reason of the breach by the Customer of these Conditions.

## **11. FORCE MAJEURE**

The Company shall not be liable for any loss or damage or injury of any kind or whether direct or indirect or consequential or otherwise resulting from any circumstances whatsoever beyond the control of the Company including (but without limitation) all riot civil commotion strike lock-out fire flood explosion requisitions and acts of God.

## **12. WAIVER**

No neglect delay or indulgence on the part of the Company in enforcing the terms and conditions of this contract shall constitute a waiver by the Company of any of its rights under these Conditions nor act as a bar to the exercise or enforcement thereof at any later time or times nor shall the acceptance by the Company of the return of the Equipment nor the re-possession of the Equipment by the Company constitute such a waiver.



### **13. PERSONAL**

A hire contract is personal to the Customer who may not assign it nor permit any person other than the Customer or its duly authorised employees or representatives or any technician whose services are provided by the Company to use the Equipment.

### **14. SEVERABILITY**

If any of these Conditions or any part of any Condition is determined by any Court or Tribunal of competent jurisdiction to be illegal void or unenforceable such Condition or such part thereof such be deemed to be deleted from these Conditions from the date of such determination or such earlier date as the Court or Tribunal may order but in all other respects these Conditions will remain in full force and effect.

### **15. NOTICES**

Any demand notice or other communication required to be given under these Conditions shall be in writing and shall be sufficiently served if delivered by hand facsimile transmission or prepaid registered or recorded delivery post addressed to the other party at in the case of the Company its registered office for the time being and in the case of the Customer at such address as is specified in the hire contract or sales invoice and any such demand notice or communication shall be deemed to have been served if delivered by hand on delivery or if sent by facsimile transmission at the time of successful transmission or if sent by prepaid registered or recorded delivery post 48 hours after posting.

### **16. INTERPRETATION**

The headings in these Conditions are for ease of reference only and shall not affect the construction of these Conditions.

### **17. JURISDICTION**

These Conditions shall in all respects be governed and construed in accordance with the laws of England and Wales and the Customer hereby submits irrevocably to the jurisdiction of the English Courts.