

AEFilms Red One Production Kit and Services Terms and Conditions of Hire

1. INTERPRETATION

1.1 In these conditions:

'Charges' means the charges agreed between the parties for the hire of Equipment and for Services.

'Client' means the person, persons or organisation hiring the equipment.

'Company' means Stephen Webb t/as AEFilms (referred to as AEFilms), including employees, agents and authorised representatives.

'Contract' means a contract that incorporates these terms and conditions, the Quotation and any accompanying letter of agreement, made between the Company and the Client for the hire of Equipment and services.

'Deposit' means any advance payment required by the Company from the Client to secure the booking.

'Down Payment' means any advance payment required by the Company from the Client other than the Deposit.

'Equipment' means all articles and materials taken on hire from the Company by the Client.

'Hire Period' means the period commencing when the Client holds the Equipment on hire (including Saturdays, Sundays and Bank Holidays) and ending either upon return or repossession of the Equipment.

'Liability' means liability for any and all damages, claims, proceedings, actions, awards, expenses, costs and any other losses and/or liabilities.

'Quotation' means the quotation addressed to the Client which shall lapse 30 days from the date of such quotation unless accepted in writing before the expiry thereof, unless otherwise agreed in writing.

'Services' means the services and/or work (if any) to be undertaken by the Company for the Client (including the installation, delivery, collection and maintenance of the equipment and the provision of personnel) in conjunction with the hire of Equipment as agreed between the parties.

2. QUOTATION

2.1 Details of the Hire Period, payment schedule and Charges are set out in the Quotation.

2.2 The Charge for the Equipment commences at the start of the agreed hire period and terminates at the end of the agreed hire period, provided that the Equipment has been returned to the Company and in the same condition it was in at the commencement of hire.

2.3 In the event that the Equipment is lost, stolen, damaged or destroyed the period in respect of which a Charge shall be payable shall continue until such time as the Equipment is recovered and returned to the Company, repaired and returned (if damaged) or replaced by an equivalent or comparable item. Such additional hire charge shall not exceed an amount equal to thirteen weeks rental of the Equipment.

- 2.4 All dealings under the Contract will be on these conditions to the exclusion of all other terms and conditions including any which the Client purports to apply under any purchase order, confirmation of order, specification or other document regardless of that document being referred to in the Contract.

3. PAYMENT

- 3.1 Unless otherwise agreed and stated in the Quotation the following conditions shall apply.
- 3.2 Any Deposit and Down Payment required by the Company must be paid in advance of the Client hiring the Equipment in accordance with the details outlined in the Quotation.
- 3.3 Unless otherwise agreed in writing, Deposits are fully refundable up to one week before the commencement date for Hire of the Equipment stated in the Quotation.
- 3.4 Unless otherwise agreed in writing any Down Payment is fully refundable up to the day before the commencement date for Hire of the Equipment stated in the Quotation.
- 3.5 Payment in respect of Charges for the Equipment and for Services plus recompense for agreed expenses must be made in full, minus any advances already paid, within fourteen days of the Company's invoice.
- 3.6 If the Client fails to make any payment on the due dates, the Company understands and will exercise its statutory right to claim interests and compensation for debt recovery costs under the late payment legislation.
- 3.7 The Charges and any other charges as they relate to the contract are exclusive of any applicable value added tax (VAT), which the Client shall be additionally liable to pay.
- 3.8 The Client will pay all sums due to the Company under this Contract without any deduction, set-off, counterclaim, other deduction and or/withholding of monies. Time for payment shall be of the essence and payment shall not be deemed to be made until the Company has received cleared funds in respect of the full amount outstanding.

4. RISK AND INSURANCE

- 4.1 All Equipment shall, immediately upon delivery and thereafter, be the responsibility of and at the risk of the Client. For the avoidance of doubt property in the Equipment shall remain at all times with the Company notwithstanding that the Client shall be liable for any theft, loss, damage or destruction howsoever caused to the Equipment.
- 4.2 Risk in the Equipment will not pass back to the Company from the Client until the Equipment is back in the physical possession of the Company. This shall apply even if the Company has agreed to cease charging rental.
- 4.3 The Client shall provide a valid 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).
- 4.4 The Client shall give written notice to the Company of any occurrence which will or may rise to a claim being made on any insurance pursuant to this clause and such notice will be given within twenty-four hours of the occurrence first being known to the Client.
- 4.5 The Client shall, at its own cost, assist the Company in securing settlement of any claim. The proceeds of any such claim shall be held by the Client in trust for the Company and be paid to the Company on demand. The Client must not compromise any claim in respect of the Equipment and/or any associated insurance.

- 4.6 The Client shall be liable for any costs to the Company arising from any theft, loss, damage or destruction howsoever caused that is not covered by an insurance policy including, but not limited to, policy excess and legal fees.

5. DELIVERY, COLLECTION AND SERVICES

- 5.1 Any dates quoted for delivery of the Equipment and provision of Services are approximate only and the Company shall not be liable for any delay in delivery or provision whatsoever.
- 5.2 It is the responsibility of the Client to collect the Equipment from the Company unless otherwise agreed in writing.
- 5.3 If the Company agrees to deliver or have delivered to the Client the Equipment it will do so for the remuneration of the associated expenses as agreed in the quotation.
- 5.4 If, upon delivery of the Equipment, the Client discovers that the Equipment is damaged or malfunctioning in any way, it shall notify the company within 24 hours of delivery. If the Client does not notify the Company accordingly, the Client shall not be entitled to reject the Equipment and the Company shall have no liability for such defect or failure and the Client shall be bound to pay charges as if the Equipment had been delivered in accordance with the Contract. The Company shall endeavour to replace any faulty Equipment which is notified in accordance with this clause as soon as is reasonably practicable.
- 5.5 Where delivery to the Client is affected by a third party, delivery for these purposes shall be deemed to have occurred when the Equipment leaves the Company's premises or the premises of the third party supplier.
- 5.6 Where the Company provides Services the persons performing the Services are servants of, and are under the direction and control of, the Client. The Client shall be solely responsible for any instruction, guidance and/or advice given by the Client to any such person and for any damage which occurs as a result of such persons following the Client's instructions, guidance and/or advice.
- 5.7 The Company shall provide the Services with reasonable skill and in accordance with all statutory regulations. No other warranties express or implied are given by the Company under this Contract including for the avoidance of doubt any warranty of satisfaction or fitness for purpose.
- 5.8 The Client will allow and/or procure sufficient access to and from the relevant site and procure sufficient unloading space, facilities, equipment and access to power supplies for the Company's employees, sub-contractors and/or agents to allow them to carry out the Services. The Client will ensure that the site where the Services are to be performed is, where necessary, cleared and prepared before the Services are due to commence.
- 5.9 If any Services are delayed, postponed and/or are cancelled due to the Client failing to comply with its obligations the Client shall be liable to pay any expenses incurred by the Company for such delay, postponement and/or cancellation.

6. USE OF THE EQUIPMENT

- 6.1 The Client shall:-
- 6.1.1 keep the Equipment in its possession and under its control and not remove the Equipment from the United Kingdom without the prior written consent of the Company;
- 6.1.2 take adequate and proper measures to protect the Equipment from theft, damage and/or other risks;

- 6.1.3 ensure that the Equipment is used in a proper manner with the benefit of such permissions, licenses or permits as may be required, in accordance with all statutory regulations and only by persons having the appropriate qualifications;
- 6.1.4 not interfere with the Equipment , the working mechanisms or other parts thereof and take reasonable care of the Equipment and only use the Equipment for its proper purpose and in a safe and correct manner;
- 6.1.5 be responsible for the conduct and cost of any testing, examinations and/or checks in relation to the Equipment required by any legislation unless the Company has agreed to provide them as part of the Service;
- 6.1.6 not do, nor omit to do, anything that cause any provision of the insurance policy mentioned in condition 4 to be broken;
- 6.1.7 not continue to use Equipment where it has become damaged and will notify the Company immediately if the Equipment is involved in an accident resulting in damage to the Equipment, other property and/or injury to any person.
- 6.2 The Equipment must be returned to the Company in good working order and condition (excepting fair wear and tear) and in clean condition together with any associated documentation.
- 6.3 Allowance will be made in relation to the rental to the Client for any non-use of the Equipment due to breakdown caused by the development of an inherent fault and/or fair wear and tear on condition the Client informs the Company immediately of the breakdown.
- 6.4 The Client shall be responsible for all expenses, loss (including loss of hire) and/or damage suffered by the Company arising from any breakdown of the Equipment due to the Client's negligence, misdirection and/or misuse of the Equipment.
- 6.5 The Company will at its own cost carry out all routine maintenance and repairs to the Equipment during the Hire Period and all repairs which are required due to fair wear and tear and/or an inherent fault in the Equipment. The Client shall be responsible for the cost of all repairs necessary to the Equipment during the Hire Period which arise otherwise than as a result of fair wear and tear and/or an inherent fault.
- 6.6 The Client must not attempt to repair the Equipment unless authorised to do so in writing by the Company.

7. TERMINATION OF CONTRACT

- 7.1 If the Hire Period has a fixed duration neither the Client nor the Company shall be entitled to terminate the Contract before the expiry of said period without the other party's consent.
- 7.2 If the Hire Period does not have a fixed duration either party is entitled to terminate the Contract upon giving the other party any agreed period of notice.
- 7.3 Where no such period of notice has been specified the Client may terminate the Contract by the physical return of the Equipment to the Company and the Company shall be entitled to terminate the Contract by giving no less than 7 days notice to the Client.

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 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.
- 8.3 The Client 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 advisor's fees) or proceedings made against them by any third party, arising out of or in any way in connection with the Client's failure to comply with any provisions of the Contract.
- 8.4 The Client shall be liable for the acts and/or omissions of its employees, agents, servants and/or subcontractors as though they were its own acts and/or omissions under this Contract.
- 8.5 The Company shall have no liability to the Client for any delay and/or non performance of a Contract to the extent that such delay is due to any events outside the Company's reasonable ability to control, including but not limited to acts of God, war, flood, fire, labour disputes, strikes, sub-contractors, lockouts, riots, civil commotion, malicious damage, explosion, governmental actions and any other similar events. If the Company is affected by any such events then time for performance shall be extended for a period equal to the period that such event or events delayed such performance.

9. GENERAL

- 9.1 Each hire of Equipment shall form a distinct Contract which shall be separate to any other Contract relating to other Equipment.
- 9.2 This Contract is the entire agreement between the parties and supersedes any previous agreement in relation to its subject matter. The Client 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 innocently or negligently 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.
- 9.3 Neither party shall without the prior written consent of the other assign, transfer, change or deal in any 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.
- 9.4 No variation to the Contract will be binding unless agreed in writing between the Client and the Company.
- 9.5 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.
- 9.6 All third party rights are excluded and no third parties shall have any rights to enforce the Contract. This Contract is governed by and interpreted in accordance with English law and the parties agree to submit to the non-exclusive jurisdiction of the English courts.