

In these Terms of Business, “Pixipixel” means Pixipixel Limited and “Client” means any person, firm or company who requests, rents equipment, services and/or consumables from Pixipixel. Pixipixel Limited incorporates the business of 4K London.

**1 APPLICATION OF THESE TERMS**

- 1.1 These Terms of Business govern the supply of all equipment, services and consumables by Pixipixel. All other terms and conditions (including without limitation any terms and conditions of the Client) are excluded.
- 1.2 Any valid amendment or variation to these Terms of Business must be in writing and signed by a director of Pixipixel.

**2 ORDERING FROM PIXIPIXEL**

- 2.1 The Client may order rental equipment, services and/or consumables either by email or verbally, by telephone or in person. Where reasonably practicable, Pixipixel shall confirm orders by email.
- 2.2 All orders for equipment, services and/or consumables shall be binding on the Client whether or not they are confirmed by Pixipixel.
- 2.3 Pixipixel shall not be responsible for any errors made (by either party) in connection with verbal orders.
- 2.4 Pixipixel shall be entitled to assume that any person placing and/or signing an order on behalf of the Client is authorised to do so.
- 2.5 Pixipixel reserves the right in its absolute discretion to refuse to accept any order.
- 2.6 Once an order has been accepted by Pixipixel, Pixipixel shall supply the equipment, services and/or consumables ordered in accordance with these Terms of Business.

**3 CHARGES**

- 3.1 All prices and rental charges shall be as quoted by Pixipixel or calculated by reference to Pixipixel’s current price lists which are published on line. All prices exclude delivery and VAT and damage waiver where applicable.
- 3.2 All quotations shall (subject to clause 3.3) remain valid for a period of 30 days from the date on which they are first given, provided that Pixipixel shall be entitled to vary any quotation if the Client’s order differs from the requirements and specifications on which such quotation was based. The provision of a quotation by Pixipixel to the Client does not guarantee the availability of the equipment, consumables and/or services specified in such quotation, whether at the time of the quotation or at the time the Client wishes to place its order.
- 3.3 Prices and rental charges specified on Pixipixel’s price lists from time to time and/or quotations provided by Pixipixel may be subject to change without warning where necessary due to any variations in Pixipixel’s costs, such as third-party supplier costs and/or labour costs.
- 3.4 Where rental charges include a charge for the provision of personnel, overtime rates may apply during certain hours or after certain periods of time. Travel, subsistence and accommodation expenses of Pixipixel personnel will be charged to the Client, in addition to applicable day rates and rental charges.

**4 PAYMENT**

- 4.1 If Pixipixel has accepted an application from the Client to open a credit account with Pixipixel (which decision shall be in Pixipixel’s absolute discretion), the Client shall pay each invoice within 30 days of the invoice date. If the Client pays any invoice using a credit card, the Client may be liable to

pay an additional surcharge of 3% of the invoice amount. In the event of late payment of any invoice, Pixipixel reserves the right to withdraw credit facilities at any time without prior notice. Pixipixel reserves the right not to provide account facilities without disclosing a reason. Clients should be aware that credit account applications will be credit checked.

- 4.2 If the Client does not have an account with Pixipixel, the Client shall pay Pixipixel for all equipment, services and consumables as set out below. Payment may be made by cash, bank transfer or credit or debit card:
  - 4.2.1 rental charges for equipment, together with a deposit, must be paid in full prior to the commencement of the rental period. Pixipixel shall refund the deposit in full to the Client after the end of the rental period, except in the circumstances set out in clauses 9.29 and 9.30;
  - 4.2.2 all consumables must be paid for at the time of ordering.
- 4.3 All sums payable to Pixipixel shall be payable in pounds sterling, in full, without deduction, withholding or set-off. All prices and delivery charges are quoted exclusive of VAT.
- 4.4 If the Client is overdue with any payment hereunder, then without prejudice to Pixipixel’s other rights or remedies:
  - 4.4.1 the Client shall be liable to pay interest on the overdue amount at an annual rate of 5% above the prevailing base rate of Barclays Bank plc, which interest shall accrue on a daily basis from the date payment becomes due until Pixipixel has received payment of the overdue amount together with all interest that has accrued;
  - 4.4.2 the Client shall reimburse Pixipixel for any costs incurred by Pixipixel in taking steps to recover the overdue payment; and
  - 4.4.3 Pixipixel shall have the right, at its option, to suspend delivery of any services and/or consumables and/or to require the Client to cease using equipment until full payment is received.
- 4.5 The Client shall be responsible for all customs and other duties and all related costs and expenses payable on any international transaction.

**5 INTELLECTUAL PROPERTY RIGHTS**

- 5.1 The Client warrants that no copyright or other intellectual property right (including without limitation moral rights) of any third party, now existent or hereafter created, will be infringed by virtue of:
  - 5.1.1 the Client’s use of Pixipixel’s equipment;
  - 5.1.2 any services to be carried out by Pixipixel at the request of the Client;
- 5.2 The Client agrees to indemnify Pixipixel against all losses, damages, claims or expenses (including legal costs on an indemnity basis) which Pixipixel may incur by virtue of any breach of the warranties or in the event of any claim (whether or not proceedings are issued) by any party against Pixipixel or its employees, agents or contractors, that any third party copyright or other intellectual property right (including without limitation moral rights) has been infringed by virtue of anything done by, on behalf of or at the request of the Client.

## DELIVERIES & COLLECTIONS

- 5.3 The Client must sign for delivery of rental equipment, services and/or consumables, or Pixipixel will not be held responsible for any losses arising from the delivery.
- 5.4 Whilst Pixipixel will make every effort to deliver and collect rental equipment and/or consumables as per the client's instructions, it will not be liable for any losses arising from delays in delivery or collection.

## 6 LIMITATION OF LIABILITY

- 6.1 Pixipixel's liability in respect of faulty or malfunctioning rental equipment shall be limited to the adjustment, repair or replacement of such equipment and/or the refund of the applicable deposits held or rental charges and, for the avoidance of doubt, Pixipixel shall not be liable for the cost of re-taking or re-shooting any material which is not captured or is lost, or for any other costs or losses (e.g Studio, cast or crew overtime) incurred by the Client, as a result of the equipment being faulty.
- 6.2 Pixipixel's maximum aggregate liability under or in connection with any order shall not exceed the total sums payable by the Client to Pixipixel in connection with the relevant order.
- 6.3 Pixipixel shall not be liable for any loss of income or profits, loss of contracts or for any indirect or consequential loss or damage of any kind howsoever arising.
- 6.4 Nothing in these Terms of Business shall exclude or in any way limit Pixipixel's liability for fraud, or for death or personal injury caused by its negligence, or any other liability to the extent that the same may not be excluded or limited as a matter of law.
- 6.5 Nothing in this Agreement will affect any consumer's statutory rights.

## 7 FORCE MAJEURE

- 7.1 Pixipixel shall not be liable for any delay in performing or failure to perform its obligations hereunder to the extent that such delay or failure results from any cause or circumstance beyond its reasonable control, including without limitation any inability of Pixipixel to secure labour, materials, supplies or transport, scarcity of fuel, power or components, breakdown of machinery, fire, storm, flood, acts of God, internet failure, war, civil disturbance, strikes, lockouts or industrial action (each an "event of force majeure"). If any event of force majeure occurs, the date(s) for performance of Pixipixel's affected obligation(s) shall be postponed for as long as is made necessary by the event of force majeure. If any event of force majeure continues for a period of or exceeding 60 days, the Client may cancel the affected order (or the affected part(s) of it) by written notice to Pixipixel.

## 8 GENERAL

- 8.1 Pixipixel reserves the right to change opening times.
- 8.2 The Client may not assign, sub-license or sub-contract any of its rights or obligations under these Terms of Business without the prior written consent of Pixipixel.
- 8.3 No person shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these Terms of Business.
- 8.4 These Terms of Business constitute the entire agreement and understanding between the parties with respect to their subject matter and supersede any prior agreement, understanding or arrangement between the parties, whether oral or in writing, with respect to the same. No

representation, undertaking or promise shall be taken to have been given or be implied from anything said or written in communications between the parties except as set out in these Terms of Business. Neither party shall have any remedy in respect of any untrue statement made to it upon which it has relied (unless such untrue statement was made fraudulently) and that party's only remedies shall be for breach of contract as provided in these Terms of Business.

## 9 ADDITIONAL TERMS APPLICABLE TO RENTAL OF EQUIPMENT

The Client's attention is drawn in particular to the cancellation terms applicable to all rental arrangements.

### Rental Period

- 9.1 The rental period for equipment shall commence:
- 9.1.1 upon delivery to or collection by the Client of the equipment; or
- 9.1.2 where delivery or collection of the equipment is delayed due to any act or omission of the Client or due to Pixipixel's representatives being unable to gain access to the delivery address nominated by the Client, on the date on which delivery is first attempted or collection should have taken place, and shall continue for the period agreed between the parties when the Client ordered the equipment, unless terminated sooner by Pixipixel.
- 9.2 The minimum rental period for equipment shall be one day.
- 9.3 Rental periods may be extended by agreement between the parties, subject always to the availability of the equipment and the Client's payment (or agreement to pay) all additional rental charges.
- 9.4 All rental periods and production schedules should include adequate provision for equipment set-up time.
- 9.5 Rental charges shall be payable for the entirety of the rental period, whether or not the relevant equipment is in use for the whole of such rental period.

### Delivery & Collection of Equipment

- 9.6 The Client may collect equipment directly from Pixipixel or have it delivered or collected by Pixipixel for an additional delivery charge.
- 9.7 Where Pixipixel has agreed to deliver equipment to the Client, equipment shall be delivered to the delivery address specified by the Client. If Pixipixel's delivery team is/are unable to gain access to the delivery address and/or if delivery is delayed due to any act of the Client, the Client shall be responsible for any additional charges as a result of rearranging delivery.
- 9.8 Title to all equipment shall remain with Pixipixel at all times and, save for the right to use such equipment during the agreed rental period, the Client shall acquire no right, title or interest in or to the same.

### Damage Waiver

- 9.9 The Client shall be responsible, for the duration of the rental period, for the cost of insuring all hired-in rental equipment from Pixipixel.
- 9.10 Unless the Client agrees to insure the equipment, Pixipixel will apply, in addition to the rental charges, a "Damage Waiver" fee of 15% of the total applicable rental charges. The following Damage Waiver terms will then apply in the event of damage to or loss of the equipment:
- 9.10.1 Maximum rental period - two months, longer subject to negotiation;

9.10.2 Damage Waiver Excess - first £500+VAT for each and every loss, for which the Client shall be responsible;

### 9.10.3 Exclusions

- (a) damage caused by corrosion, excessive heat, dampness or physical mistreatment;
- (b) damage occasioned by or resulting from nationalisation, confiscation, requisition, seizure or destruction by the government or any public authority;
- (c) property damaged as a result of its undergoing any process including testing, repairing, adjusting, servicing or maintenance operation;
- (d) damage arising from:
  - riot or civil commotion occurring elsewhere than in the United Kingdom, the Channel Islands or the Isle of Man;
  - breakage of flash tubes and/or bulbs;
- (e) damage to glass and other fragile or brittle articles unless such damage is caused by fire, theft or as a result of an accident to the vehicle in which the article(s) is/are being transported;
- (f) theft from unoccupied vehicles;
- (g) damage to property carried on the outside of vehicles unless as a result of overturning or collision;
- (h) damage or loss as a result of negligence;
- (i) consequential loss of any description.

9.11 The Client acknowledges and accepts the above Damage Waiver terms and agrees that it shall not, for the duration of the rental period, do or omit to do any act or thing which would or may vitiate or invalidate the Damage Waiver terms and/or jeopardise the prospect of a successful claim in respect of any loss of or damage to the equipment.

9.12 Where Pixipixel incurs loss, damage or expense as a result of loss of or damage to the equipment during the rental period, and such loss, damage or expense is not recoverable under the Damage Waiver, the Client shall be liable for and shall indemnify Pixipixel against such loss, damage or expense. Any loss must be reported to the local police within 24 hours.

9.13 Where the Client has agreed to arrange insurance for the equipment, the Client shall keep the equipment insured against loss or damage throughout the rental period for all risks including theft. Such insurance shall be with a reputable insurance company, shall be for the full replacement value (as new) of the equipment, shall be free from restriction or excess. The Client shall produce to Pixipixel on demand a copy of a current valid insurance policy in respect of the equipment in accordance with this clause 9.15.

9.14 Where the Client has arranged insurance, the Client shall be liable for and shall indemnify Pixipixel against any and all losses, damages or expenses incurred by Pixipixel which arise out of or in connection with any loss of or damage to the equipment caused during the rental period (fair wear and tear excepted), including without limitation:

9.14.1 any loss of rental income resulting from such loss or damage, up to maximum of 13 weeks' rental charges; and

9.14.2 the lesser of (1) the full replacement cost of the equipment and (2) the cost of reinstating the equipment to satisfactory and operational condition.

9.15 Within 24 hours of becoming aware of any occurrence which will or may give rise to a Damage Waiver claim, or a claim under the Client's insurance, in relation to the equipment, the Client shall provide notice to Pixipixel of such occurrence.

9.16 Pixipixel reserves the right to terminate usage of any equipment if Pixipixel considers that its employees, agents, contractors or equipment would or may be put at risk if such usage were to continue, for example in adverse weather conditions. In these circumstances, rental charges shall remain payable by the Client in full.

### Customer's Obligations

9.17 During the rental period, the Client shall:

9.17.1 keep all rental equipment in its custody and control and shall not sell, loan, assign, pledge, encumber or part with possession of or suffer a lien to be created over the equipment or any part thereof (unless otherwise agreed in writing by Pixipixel);

9.17.2 ensure that all equipment is used in a skilful and proper manner by persons having the appropriate qualifications and experience who are familiar with the equipment; and

9.17.3 take proper care of all equipment and ensure that it is properly stored and protected from interference, deterioration and/or damage or theft from any source.

### Replacement and Repairs of Rental Equipment

9.18 The Client shall at all reasonable times allow Pixipixel and its representatives access to rental equipment in order to inspect, test, adjust, repair, alter or replace the same.

9.19 If at any time during the rental period any rental equipment requires adjustment, repair or replacement then:

9.19.1 the Client shall not, and shall not permit any third party to, adjust, repair, alter or replace the equipment but shall forthwith give notice of such requirement to Pixipixel; and

9.19.2 Pixipixel shall either carry out the necessary adjustment or repair at the Client's premises or, at Pixipixel's discretion, shall arrange for the removal of the equipment (or the relevant part(s) thereof) to Pixipixel's premises for such purpose.

9.20 If Pixipixel removes any rental equipment for adjustment or repair, Pixipixel may, at its option:

9.20.1 adjust, repair and redeliver the relevant equipment;

9.20.2 terminate the rental period forthwith in relation to the relevant equipment by giving notice to the Client, in which case Pixipixel shall refund to the Client any part of any rental charges paid by the Client in respect of the relevant equipment that relates to the unexpired part of the rental period; or

9.20.3 replace the relevant equipment, in which case the replacement equipment shall be deemed to have been included in the equipment delivered to or collected by the Client at the start of the rental period.

9.21 If Pixipixel adjusts, repairs or substitutes the equipment pursuant to clause 9.21, Pixipixel may at its option vary the rental charges with effect from the date of completion of such adjustments or repairs, or from delivery of such

replacement equipment, and may invoice the Client for any additional rental charges payable.

- 9.22 If any equipment requires adjustment, repair or replacement due to any act or omission of the Client and/or due to any failure of the Client to comply with these Terms of Business, Pixipixel shall be entitled to retain any deposit paid by the Client in respect of the equipment and the Client shall be liable for all costs incurred by Pixipixel in carrying out such adjustment, repair or replacement (including without limitation the costs of inspecting, loading, unloading, transporting and testing such equipment), to the extent not covered by the amount of the deposit.

### **Cancellation**

- 9.23 If confirmed order for the rental of equipment is cancelled less than 24 hours prior to the intended start of the rental period, but more than four working hours before such time, the Client shall pay Pixipixel 25% of the rental charges for all equipment for the first full day of the rental period.
- 9.24 If any confirmed order for the rental of equipment is cancelled less than four working hours prior to the intended start of the rental period, the Client shall pay Pixipixel 50% of the rental charges for all equipment for the first full day of the rental period.
- 9.25 If any confirmed order for the rental of equipment is cancelled after the intended start of the rental period, the Client shall pay Pixipixel 100% of the rental charges for all equipment for the first full day of the rental period, together with any delivery costs incurred by Pixipixel.
- 9.26 "working hours" for this purpose are: 8am to 7pm. By way of example, if the rental period is due to start at 9am on a Tuesday and the Client cancels its order at 7pm on the Monday evening, that equates to one working hour's notice of cancellation and the charge specified in clause 9.26 above shall apply.

### **Termination of Rental Period**

- 9.27 Pixipixel may terminate any rental period immediately on notice to the Client in the event of any material breach of these Terms of Business by the Client (including without limitation any failure to pay any rental charges when due) and/or if the Client uses any equipment in any way which is unlawful and/or would cause damage to the equipment or any part of them and/or would or might bring Pixipixel into disrepute.
- 9.28 Upon termination or expiry of the rental period, the Client shall:

9.28.1 allow Pixipixel or its authorised representatives and/or contractors, at a time agreed with Pixipixel, to enter onto the premises at which all rental equipment is being used or stored (the "Collection Address") for the purposes of collecting the equipment; or

9.28.2 immediately at its own expense return all equipment to an address nominated by Pixipixel. If the Client fails to return all equipment in accordance with this clause 9.28.2, Pixipixel shall be entitled to enter the Collection Address for the purpose of removing such equipment and the Client hereby grants Pixipixel an irrevocable licence for Pixipixel's representatives and/or contractors to enter the Collection Address for such purpose; and

### **Return of Equipment: Loss / Damage**

- 9.29 The Client shall be responsible for returning all rental equipment at the end of the rental period in the condition in which it was delivered to or collected by the Client (subject to fair wear and tear).
- 9.30 If any equipment is returned damaged, or if equipment is lost and not returned at the end of the rental period, Pixipixel shall be entitled to retain any deposit paid by the Client in respect of the equipment and the Client shall be charged for the repair or replacement of the relevant equipment (to the extent not covered by the amount of the deposit) and for any loss of rental income incurred by Pixipixel as a result of such damage or loss, up to a maximum of 13 weeks' rental charges.

## **10 ADDITIONAL TERMS APPLICABLE TO THE SALE OF CONSUMABLES**

- 10.1 The Client may collect consumables from Pixipixel or have them delivered by Pixipixel for an additional delivery charge.
- 10.2 Title to all consumables shall pass to the Client upon receipt of the full price payable for them or, if later, on the date on which the consumables are delivered to or collected by the Client.
- 10.3 If the Client fails to notify Pixipixel, within three days after collection or receipt, of any defect or problem with consumables, the Client shall be deemed to have accepted the Consumables as being in a satisfactory condition upon delivery or collection.
- 10.4 Consumables purchases are not refundable and not returnable unless they are faulty