

PHOTOGRAPHIC GOODS RENTAL/HIRE SERVICE

TERMS AND CONDITIONS

These terms and conditions (“**Terms**”) set out the legal terms and conditions upon which Jessops Europe Limited (England and Wales company number 08384909) (“**Jessops**”) rents/ hires out photographic Goods (as defined below) to its customers.

You must read these Terms carefully. By renting/hiring Goods (as defined below) from Jessops you confirm that you have read, understood and agree to be bound in full and without exception by these Terms.

1. Provision of Service

1.1 Subject always to these Terms, Jessops will permit Customers to rent/hire the Goods.

1.2 In these Terms unless the context otherwise requires, the following expressions shall have the following meanings:

“**Business Day**” means any day other than a Sunday or a bank holiday;

“**Carrier**” means a reputable carrier organisation responsible for carrying the Goods to and from the Customer;

“**Contract**” means a contract which incorporates these Terms made between the Customer and Jessops for the hire of Goods by the Customer from Jessops; such contract being formed as set out in Condition 2.1 below;

“**Customer**” means the person, firm, company or other organisation hiring Goods;

“**Deposit**” means the deposit required by Jessops from the Customer in relation to the hire of the Goods which is to be held as security by Jessops for the safe return of the Goods undamaged and in the same condition as that which they were supplied to the Customer;

“**Force Majeure Event**” means any event outside a party’s reasonable control including but not limited to acts of God, war, flood, fire, labour disputes, strikes, sub-contractors, lock-outs, riots, civil commotion, malicious damage, explosion, terrorism, governmental actions and any other similar events;

“**Goods**” means any camera, lens (and/or device) together with any accessories, instructions or other accompanying documents specified in a Contract which are available for hire to a Customer. A full list of the Goods (as defined below) available to rent/for hire can be found at www.jessops.com;

“**Hire Period**” means the period of hire of the Goods to the Customer by Jessops and as set out in the relevant Contract;

“**Liability**” means liability for any and all damages, claims, proceedings, actions, awards, expenses, costs and any other losses and/or liabilities;

“**Order Form**” means the online transaction form identifying the details specific to an order;

“**Possession Period**” means the period from the time the Customer receives the Goods from a Carrier to the time the Customer, having returned the Goods to Jessops, receives written confirmation from Jessops that the Goods have been returned to Jessops undamaged and in the same condition as that which they were supplied to the Customer;

“**Rental Costs**” means Jessops’s charge rate for the hire of the Goods by the Customer;

“**Services**” means the services (if any) to be performed by Jessops for the Customer in conjunction with the hire of the Goods.

2. Basis of contract

2.1 Acceptance of a Customer’s order for hiring Goods from Jessops and the formation of a Contract between Jessops and a Customer for the hire of such Goods will only take place when the

Goods that the Customer has ordered are despatched to the Customer and the Customer has received from Jessops a despatch confirmation email from Jessops.

- 2.2 In circumstances where Jessops has provided written confirmation pursuant to condition 2.1, but the Goods for reasons outside Jessops's control, cease to be available for the whole of the Hire Period, Jessops shall inform the Customer as soon as practicable.
- 2.3 In circumstances where condition 2.2 applies, Jessops will use reasonable endeavours to provide suitable replacement alternative goods in order to fulfil the Contract subject always to the Customer's right to:
 - 2.3.1 cancel the whole or part of their order and receive a full refund or a part thereof, as applicable; or
 - 2.3.2 re-schedule the whole or part of the order at no extra charge.
- 2.4 Where an order for Goods, confirmed pursuant to condition 2.1, is cancelled by the Customer in circumstances where condition 2.3 does not apply, the Customer agrees to pay a cancellation fee equal to: (i) 50% of the agreed Rental Costs for those Goods if the cancellation occurs not more than two weeks before the start of the Hire Period; and (ii) 25% of the agreed Rental Costs for those Goods if the cancellation occurs more than two weeks before the start of the Hire Period.
- 2.5 Where the Goods are hired to a Customer such that the hire would be subject to the provisions the Consumer Credit Act 1974 (the "**Act**") the duration of the Hire Period shall not exceed 3 months, at which time the Contract shall be deemed to have automatically terminated. Accordingly, a Contract for the hire of any Goods is not covered by the Act.
- 2.6 For the purposes of the fourteen day cancellation period pursuant to the Consumer Protection (Distance Selling) Regulations 2000, where the Hire Period will begin prior to the end of such cancellation period, the Customer agrees that the statutory cancellation period shall not apply.

3. Price and payment

- 3.1 The parties acknowledge that each Contract may be subject to a Deposit.
- 3.2 The amount of such Deposit together with the Rental Costs, charges for any Services (if any), shall be as quoted to the Customer at the time of the Customer placing their order. Jessops's prices are quoted inclusive of any applicable VAT.
- 3.3 All credit/debit card payments taken at the checkout process during the placing of a Customer's order are subject to authorisation by the Customer's payment card issuer. Jessops will take payment of all monies then due in relation to the Customer's order when Jessops accepts the Customer's order prior to despatch of the relevant Goods that are the subject of the Contract. The Merchant ID/payment reference in respect of the transaction will be "Jessops Europe Limited".
- 3.4 Payment will be reserved by Jessops at the time the Customer's order is placed. By placing an order for the hire of Goods from Jessops the Customer warrants and represents to Jessops that the details the Customer provides Jessops when placing their order, including the details of the Customer's credit or debit card are correct, that the credit or debit card which is being used is the Customer's own payment card and that there are sufficient funds or credit facilities to cover all amounts payable. Jessops may confirm the validity of a Customer's credit or debit card details from any relevant financial services provider or credit reference agency. This service is provided by a third party and all payments are handled by Royal Bank of Scotland.
- 3.5 In respect of any applicable Deposit, Jessops shall charge a sum equal to the Deposit from the Customer's credit or debit card when the Customer's order is despatched. Such Deposit shall be refunded by Jessops to the Customer as soon as practicable (and in any event within 7 days) once Jessops is satisfied that the Goods returned by the Customer are undamaged and in the same condition.
- 3.6 The Customer shall pay the Rental Costs, charges for any Services, and/or any other sums payable under the Contract (together, the "**Hire Charges**") to Jessops prior to the commencement of any Hire Period.

- 3.7 Jessops shall be entitled to take full payment of the Hire Charges from a Customer at any time after receipt of the Customer's order.
- 3.8 Prompt payment of the Hire Charges by the Customer pursuant to conditions 3.6 and 3.7 is an essential condition of the Contract. Payment shall not be deemed to be made until Jessops has received cleared funds in respect of the full amount due and payable.
- 3.9 Late payment may at Jessops's sole discretion attract interest on the amount unpaid (from the date that such unpaid amount became payable) at the rate of 4% above the base rate from time to time in force of Royal Bank of Scotland.
- 3.10 The Customer shall pay all sums due to Jessops under this Contract without any set-off, deduction, counterclaim and/or any other withholding of monies.

4. Delivery and collection

- 4.1 Jessops shall send the Goods to the Customer using a Carrier to arrive no less than 1 day prior to the commencement of the Hire Period.
- 4.2 For multiple item orders, Jessops will endeavour to post all Goods together. Should any Goods be unavailable for hire and the Customer consents to a reschedule all or part of the Goods any additional costs incurred as a result of sending the Goods in multiple consignments will be paid by Jessops.
- 4.3 The Customer shall accept delivery of the Goods on the day the Carrier first attempts to deliver and within 24 hours of such delivery inform Jessops of any damaged Goods.
- 4.4 In the event that the Carrier makes its first attempt to deliver the Goods on or after the start of the Hire Period, the Hire Period shall only begin on the day following such delivery and shall continue at no additional cost to the Customer for a length of time equal to the length of the Hire Period previously agreed by Jessops and the Customer, unless other arrangements are agreed by the parties.
- 4.5 Without prejudice to condition 4.4, where a Carrier has made an attempt to deliver but the Customer has not been present to take delivery, the Hire Period shall be as shown on the Order Form, unless otherwise agreed in writing by Jessops.
- 4.6 The Customer will arrange with a Carrier for the return of the Goods to Jessops using a recorded and insured service. The Customer shall ensure that the Goods are returned to Jessops no later than the first Business Day following the end of the Hire Period.
- 4.7 The Customer must return the Goods using appropriate packaging securely sealed with the name and address of Jessops's return address clearly marked.
- 4.8 Without prejudice to condition 4.9, in the event that the Goods are not returned to Jessops in accordance with condition 4.6, the Customer will be charged a fee equal to up to 20% of the weekly Rental Costs for each complete day that the Goods remain unreturned.
- 4.9 Where the Goods are not returned to Jessops within 3 days following the end of the Hire Period and the Customer has failed to either:
 - 4.9.1 contact Jessops and explain the circumstances of the default; or
 - 4.9.2 negotiate an extension to the Hire Period with Jessops who has provided written confirmation of such an extension, Jessops will report the Goods stolen and will take steps for recovery including but not limited to charging the Customer's credit or debit card for the full price of replacement Goods **plus** in addition a fee equal to up to two thirds of the applicable Rental Costs until suitable replacement Goods have been acquired and commissioned for service.

5. Responsibility and ownership

- 5.1 Responsibility for the Goods shall lie with the Customer for the duration of the Possession Period even in circumstances where Jessops has agreed for any reason to cease charging any Rental Costs.
- 5.2 Ownership of the Goods remains at all times with Jessops. The Customer has no right, title or interest in the Goods except that they are hired to the Customer.
- 5.3 The Customer must not pass itself off as the owner of the Goods or, subject to condition 5.2, as having any interest in the Goods.

6. Care of goods

- 6.1 The Customer shall:-
 - 6.1.1 not remove any labels from and/or interfere with the Goods and take reasonable care of the Goods, only using them for their proper purpose in a safe and correct manner in accordance with any operating and/or safety instructions supplied to the Customer;
 - 6.1.2 notify Jessops within 24 hours after any breakdown, loss and/or damage to the Goods;
 - 6.1.3 take adequate and proper measures to protect the Goods from theft, damage and/or other risks;
 - 6.1.4 notify Jessops of any change of its address and upon Jessops's request provide details of the location of the Goods;
 - 6.1.5 permit Jessops at all reasonable times to inspect the Goods including procuring access to any premises where the Goods are situated;
 - 6.1.6 keep the Goods at all times in its possession and control and not to remove the Goods from the United Kingdom without the prior written consent of Jessops;
 - 6.1.7 be responsible for the conduct and cost of any testing, examinations and/or checks in relation to the Goods required by any legislation, best practice and/or operating instructions except to the extent that Jessops has agreed to provide them as part of any Services;
 - 6.1.8 not continue to use Goods where they have been damaged and shall notify Jessops within 24 hours if the Goods are involved in an accident resulting in damage to the Goods or other property and/or injury to any person.
- 6.2 The Goods must be returned by the Customer in good working order and condition (fair wear and tear excepted).

7. Loss, Damage & Insurance

- 7.1 Jessops shall provide insurance cover against damage, loss or theft of the Goods, subject to the restrictions set out in condition 7.2 (the "**Jessops's Cover**").
- 7.2 Any claim made in respect of Jessops's Cover will be subject to:
 - 7.2.1 the payment of the first £250 of the claim (for the avoidance of doubt Jessops may in its sole discretion deduct such payments from any Deposit held without the prior consent of or notification to the Customer);
 - 7.2.2 the return of the Goods, unless lost or stolen, (in whatever condition or state of disrepair) together with all accessories and components supplied therewith;
 - 7.2.3 the returned Goods being clearly and indisputably identifiable as Jessops's Goods by way of the manufacturers serial number or any other unique identifier indexed and recorded by Jessops.
- 7.3 The Customer agrees that failure to adhere to all of the conditions stipulated in condition 7.2 will render Jessops's Cover null and void and will make the Customer liable to pay for the cost of repair or replacement of the Goods.

7.4 Jessops shall be entitled at any time to apply all or any part of the Deposit towards satisfaction in whole or part of the Customer's obligations and liabilities pursuant to these Terms (including, but not limited to, this condition 7). For the avoidance of doubt, the payment by the Customer of a Deposit, and Jessops' rights in relation to the same, are without prejudice to Jessops' other legal rights and remedies against the Customer pursuant to these Terms and shall not absolve the Customer from any liability or other obligation pursuant to these Terms which are in excess of the amount of any Deposit received by Jessops from the Customer.

8. Termination

Subject always to condition 9 neither the Customer nor Jessops shall be entitled to terminate a Contract before the expiry of the Hire Period without the prior written agreement of the other party.

9. Default

9.1 If the Customer:

9.1.1 fails to make any payment to Jessops when due pursuant to these Terms;

9.1.2 breaches the terms of the Contract and, where the breach is capable of remedy, has not remedied the breach to Jessops satisfaction (acting reasonably and in good faith) within 24 hours of receiving notice requiring the breach to be remedied;

9.1.3 persistently breaches the terms of the Contract;

9.1.4 provides incomplete, materially inaccurate or misleading facts and/or information in connection with the Contract;

9.1.5 pledges, charges or creates any form of security over any Goods, or ceases or threatens to cease to carry on business, or proposes to compound with its creditors, applies for an interim moratorium in respect of claims and/or proceedings, any distress, execution or other legal process is levied on any property of the Customer, has a Bankruptcy Petition presented against them or the Customer takes or suffers any similar action in any jurisdiction;

9.1.6 being a company, enters into voluntary or compulsory liquidation, has a receiver, administrator or administrative receiver appointed over all or any of its assets, any attachment order is made against the Customer, any distress, execution or other legal process is levied on any property of the Customer or the Customer takes or suffers any similar action in any jurisdiction;

9.1.7 appears reasonably to Jessops to be financially inadequate to meet their obligations under the Contract; and/or

9.1.8 appears reasonably to Jessops to be about to suffer any of the above events,

then Jessops shall have the right, without prejudice to any other remedies, to exercise any or all of the rights set out in condition 9.2.

9.2 If any of the events set out in condition 9.1 occurs in relation to the Customer then:

9.2.1 so far as the law permits, Jessops may enter, without prior notice, any premises of the Customer where Goods may be and repossess any Goods;

9.2.2 Jessops may withhold the performance of any Services and cease any Services in progress under this and/or any other Contract with the Customer;

9.2.3 Jessops may immediately cancel, terminate and/or suspend without Liability to the Customer the Contract and/or any other contract with the Customer; and/or

9.2.4 all monies owed by the Customer to Jessops shall immediately become due and payable.

9.3 Any repossession of the Goods envisaged under condition 9.2 shall not affect Jessops's right to recover from the Customer any monies due under the Contract and/or any damages in respect of any breach which occurred prior to repossession of the Goods.

9.4 Upon termination of the Contract the Customer shall immediately, at the Customer's sole cost and expense:

9.4.1 return the Goods in accordance with conditions 4.6 and 4.7 or make the Goods available for collection by Jessops as requested by Jessops; and

9.4.2 pay Jessops all arrears for the Hire Charges together with any other liabilities arising under the Contract and/or pursuant to these Terms.

10. Limitations of liability

10.1 All warranties, representations, terms, conditions and duties implied by law relating to fitness, quality and/or adequacy of the Goods and/or the Services are excluded to the fullest extent permitted by law.

10.2 Jessops shall have no Liability to the Customer if, without just cause, any monies due in respect of the Goods and/or the Services has not been paid in full by the due date for payment.

10.3 Jessops shall have no Liability for additional damage, loss, consequential loss, liability, claims, costs or expenses caused or contributed to by the Customer's continued use of defective Goods and/or Services after a defect has become apparent or suspected or should reasonably have become apparent to the Customer.

10.4 The Customer shall give Jessops a reasonable opportunity to remedy any matter for which Jessops is liable before the Customer incurs any costs and/or expenses in remedying the matter itself. If the Customer does not do so Jessops shall have no Liability to the Customer.

10.5 Jessops's total Liability to the Customer for:

10.5.1 breach of contract;

10.5.2 tort (including negligence); and

10.5.3 breach of statutory and/or common law duty, arising from or in connection with any Contract shall not cumulatively exceed the amount of the Hire Charges under such Contract or £100 (one hundred pounds) whichever is the higher.

To the extent that any Liability of Jessops would be met by any insurance of the Customer, the Liability of Jessops under a Contract shall be reduced by the amount paid out to the Customer by its insurer.

10.6 Nothing in this Contract shall exclude or limit the Liability of Jessops for fraud, death or personal injury due to Jessops's negligence or any other liability that cannot be excluded or limited as a matter of law.

11. General

11.1 Upon termination of the Contract the applicable provisions of conditions 3, 5 and 7 shall continue in full force and effect.

11.2 Each hire of an item of Goods shall form a distinct Contract which shall be separate to any other Contract relating to other Goods.

11.3 No variation to the Contract shall be valid unless it is in writing and signed by or on behalf of both the Customer and Jessops by a duly authorised officer of the parties.

11.4 The Customer shall not, or purport to, assign its rights or transfer or subcontract any of its rights or obligations under the Contract without the prior written consent of Jessops.

11.5 The Customer shall be liable, where applicable, 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.

11.6 The Customer agrees to indemnify and keep indemnified Jessops against any and all losses, lost profits, damages, claims, costs (including legal costs on a full indemnity basis), actions and any other losses and/or liabilities suffered by Jessops and arising from or due to any breach of contract, any tortious act and/or omission and/or any breach of statutory duty by the Customer.

- 11.7 No waiver by Jessops of any breach of this Contract shall be considered as a waiver of any subsequent breach of the same provision or any other provision.
- 11.8 If any provision is held by any competent authority to be unenforceable in whole or in part the validity of the other provisions of this Contract and the remainder of the affected provision shall be unaffected and shall remain in full force and effect.
- 11.9 Jessops shall have no Liability to the Customer for any delay and/or non-performance of a Contract to the extent that such delay or non-performance is due to any Force Majeure Event.
- 11.10 These Terms and Conditions together with the other agreed terms comprising the Contract and any document expressly referred to in any of its terms contains the entire agreement between the Customer and Jessops relating to the subject matter covered and supersedes any previous agreements, arrangements, undertakings or proposals, written or oral, in relation to such matters. No oral explanation or oral information given by either the Customer or Jessops shall alter the interpretation of the Terms or the Contract.
- 11.11 The Customer agrees that the only remedy available to it for breach of any term expressly set out in the Contract shall be a breach of contract. Nothing contained in this condition 11.11 shall however operate to limit or exclude any liability of either the Customer or Jessops for fraud or fraudulent misrepresentation.
- 11.12 Subject to condition 11.13, all third party rights are excluded and no third parties shall have any rights to enforce the Contract.
- 11.13 Without prejudice to the generality of condition 11.12 a finance company with whom Jessops has an outstanding finance agreement relating to the Goods shall, subject to Jessops's consent, have the right to enforce this Contract as if they were Jessops.
- 11.14 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 (including, but not limited, in each case to, non-contractual disputes and claims).