



**AUTHORITY TO ACT**

**THIS AGREEMENT** is made on \_\_\_\_\_ (the "**Authority to Act**"),

**BETWEEN PICSEL LIMITED** whose registered number is 09899186 and whose registered office is Amelia House, Crescent Road, Worthing, BN11 1QR ("PICSEL"); and the Authorising Rightsholder set out below.

Name of Authorising Rightsholder			
Address			
Postcode		Phone number	
Contact name		Email address	
VAT Registration number			

By signing this Authority to Act, I hereby grant PICSEL the exclusive rights, licenses, permissions and mandates described in, and subject to, the terms and conditions governing this Authority to Act set out below.

In witness hereof, each party has duly signed this Authority to Act by its authorised signatory:

On behalf of <b>Authorised Representative</b>	)	
Company Name: _____	)	
By: _____	)	
Title: Director	)	
		Signature

On behalf of <b>PICSEL LIMITED</b>	)	
	)	
By: Paul Seheult	)	
Title: CEO	)	
		Signature

Terms & Conditions of this Authority to Act are set out below.

## TERMS AND CONDITIONS OF AUTHORITY TO ACT

### BACKGROUND:

- (A) PICSEL is a Collective Management Organisation established to exercise and enforce licences and other agreements in respect of the reproduction and other exploitation of Images in which copyright and other rights of a similar nature subsist, and to collect and distribute the income from such licences and other agreements as agent for its members and non-members who authorise it to act on their behalf or, under an extended licensing scheme, whom PICSEL is deemed to represent.
- (B) The Authorising Rightsholder is a Rightsholder, or is the Authorised Representative of a Rightsholder(s), in one or more Images, and wishes to grant an authority to act on behalf of the Authorising Rightsholder and its Rightsholders on the terms set out herein.

### IT IS HEREBY AGREED:

#### 1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Authority to Act the following words and expressions shall (except where the context otherwise requires) have the following meanings:

**“Administration Charge(s)”** means the commission and other fees charged by PICSEL for the administration of Mandated Rights.

**"Business"** means the conduct of the activities forming the business of PICSEL as agreed from time to time by the Members under and in accordance with its articles of association.

**“CLA Licences”** means the licences offered by CLA to the education, corporate and public sectors that authorise users to copy and share published material.

**"Collective Management Organisation"** means any organisation which is authorised by law or by way of assignment, licence or any other contractual arrangement to manage copyright or rights related to copyright on behalf of more than one right-holder, for the collective benefit of those right-holders, as its sole or main purpose, and which fulfils one or both of the following criteria:

- (a) it is owned or controlled by its Members; and/or
- (b) it is organised on a not-for-profit basis.

**“CLA”** means the Copyright Licensing Agency Ltd.

**“Collection Rights”** means the right to collect the income accrued prior to the Effective Date but payable thereafter as a result of the exercise of rights previously granted by the Authorising Rightsholder to DACS or any other Collective Management Organisation (whether exercised through CLA or otherwise).

**“DACS”** means the Design and Artist Copyright Society Ltd.

**“Distribution Policy”** means the policy adopted by the Members from time to time concerning the distribution of income arising from the exploitation by PICSEL of Images in accordance with the authorities to act granted by Rightsholders.

**“Effective Date”** means the date of the UK Mandate.

**“ERA”** means Educational Recording Agency Ltd.

**“ERA Licence”** means the centrally negotiated licence operated by ERA which authorises teachers and lecturers to use licensed audio-visual programmes and radio broadcasts for educational purposes.

**“Image”** means an image, illustration and picture of any kind whatsoever, including without limitation a photograph, film, transparency, negative, design, artwork, painting, montage, drawing, plan, lithograph, engraving, computer or electronically generated visual illustration including without limitation a moving and interactive image, and any other item which may be offered for the purposes of reproduction. The term shall also be deemed to include a database of any of the aforementioned and any data contained therein.

**“Mandated Rights”** include but are not limited to the rights licensed by the CLA under the CLA Licences, PLS, NLA for the photocopying, scanning, printing and digital re-use and communication of works that are part of composite works, such as books and magazines; licences governing document delivery services; uses made under the ERA Licence; rights licenses under cable retransmission; rights in respect of public performances; and any similar uses of works whether remunerated through licensing fees, royalties, levy systems or any other means, and whether any such rights are licensed, or remuneration claimed for, by Collective Management Organisations based in the UK or anywhere around the world, in each case as far as such rights or remuneration relates to use of a Work (including potential use such as the use arrived at by proportionate allocation of licensing income by a Collective Management Organisation in which Authorised Rightsholders or Rightsholders represented by them are entitled to participate).

**"Members"** means the members from time to time of PICSEL.

**"Net Receipts"** means all monies received by PICSEL from the exercise of the Mandated Rights less PICSEL's Administration Charge(s) and subject to PICSEL's payment obligations to other agency or sub-licensee agreements.

**"PICSEL Licences"** means licences granted by PICSEL or its agent(s) on behalf of Authorising Rightsholders in operation of the Business as the same may be amended or replaced from time to time.

**“RightShare®”** is the electronic distribution system operated by PICSEL in accordance with the applicable Distribution Policy.

**“Rightsholder”** means any person (other than a collective management organisation) that owns or controls (whether exclusively or non-exclusively) a copyright or related right, or under an agreement for the exploitation of rights or by law is entitled to a share of the rights revenue from a copyright or related right.

**"Work"** means an Image in which copyright and other rights of a similar nature subsist, which is owned and/or controlled by the Authorising Rightsholder, or a Rightsholder represented by the Authorising Rightsholder, whether in whole or in part and whether exclusively or non-exclusively and which the Authorising Rightsholder has not notified PICSEL should be excluded from the Mandated Rights in accordance with the procedure established for excluding Images from any category of Mandated Rights hereunder.

1.2 Words and expressions defined in the Copyright Designs & Patents Act 1988 (as amended, modified or re-enacted) shall, where the context permits, bear the same meanings in this Authority to Act. In this Authority to Act references to the singular number only also include the plural and vice versa. Any reference to a clause is a reference to a clause of this Authority to Act. Clause headings are for ease of reference only and do not affect the construction or interpretation of this Authority to Act.

## **2. GRANT OF AUTHORITY**

2.1 Subject to Clause 2.2 below, the Authorising Rightsholder hereby, grants to PICSEL as of the Effective Date for the term hereof, as its sole agent, the exclusive license and a mandate to negotiate, license, claim, administer and enforce:

2.1.1 the Mandated Rights

2.1.2 the Collection Rights

2.1.3 any further rights the Authorising Rightsholder grants PICSEL in the future,

in each case, throughout the world, directly or through PICSEL's agents and/or licensees, including without limitation, any Collective Management Organisation and their licenses, in accordance with the terms of this Authority to Act.

It is understood that exclusivity under this clause 2.1 is limited to the actual uses of the Work claimed and paid for through RightShare® or any other distribution system which may be adopted by PICSEL from time to time.

2.2 The grant of authority hereunder is conditional upon the termination by the Authorising Rightsholder of the grant of rights and/or mandate previously granted by the Authorising Rightsholder to DACS (if applicable) or any other Collective Management Organisation. Upon termination, the Mandated Rights shall immediately vest in PICSEL without further formality but the Authorising Rightsholder agrees to provide PICSEL with such supporting documentation as PICSEL may reasonably require in order to verify the termination.

2.3 For the avoidance of doubt, all rights not expressly granted hereunder are reserved to the Authorising Rightsholder. If applicable, the Authorising Rightsholder reserves to itself the right to grant licences in respect of the Images solely in respect of non-commercial uses of the Mandated Rights.

## **3. WARRANTY AND UNDERTAKING**

3.1 The Authorising Rightsholder warrants that it has the full right and authority to enter into this Authority to Act and that the exercise by PICSEL of the Mandated Rights will not violate or infringe the right of any third party or be in breach of any applicable laws or regulations.

3.2 The Authorising Rightsholder warrants and undertakes with PICSEL that, where applicable, it shall appropriately and effectively allocate and distribute payments from the exploitation of the Mandated Rights hereunder due to the relevant Rightsholder(s) of the Image(s) in accordance with the agreement(s) between the Authorising Rightsholder and such Rightsholder(s).

- 3.3 The warranties set out in clauses 3.1 and 3.2 shall be deemed repeated with each claim made by the Authorising Rightsholder through RightShare® or any other distribution system which may be adopted by PICSEL from time to time.
- 3.3 The Authorising Rightsholder agrees that this Authority to Act shall also be subject to PICSEL's Distribution Policy and any other relevant rules and policies validly adopted by PICSEL.
- 3.4 The Authorising Rightsholder shall co-operate with PICSEL in any way that PICSEL may reasonably require (including without limitation the production of documents) to verify that it has the right to grant the Mandated Rights to PICSEL hereunder and that, where applicable, it is fulfilling its obligations under Clause 3.2 above. The Authorising Rightsholder shall notify PICSEL without delay of any and all changes to its representation of Rightsholders which might affect the Mandated Rights.

#### **4. INDEMNITIES**

- 4.1 The Authorising Rightsholder hereby indemnifies and agrees to keep indemnified PICSEL against all demands, claims, liabilities, costs and expense incurred by PICSEL or its licensees whatsoever arising out of a breach or alleged breach of the warranties set out in Clauses 3.1 and 3.2 above and its other obligations hereunder Provided That the above indemnity does not extend to any claims arising by reason of any wrongful act or default by PICSEL, its servants, agents. The Authorising Rightsholder acknowledges that PICSEL may include indemnities in favour of licensees within licences granted by PICSEL in relation to the infringement of Images copied under such Licences and the validity of the rights granted thereunder.

#### **5. TERM AND TERMINATION**

- 5.1 Without prejudice to the ability of the Authorising Rightsholder to withdraw Mandated Rights from its Mandate in accordance with Clause 5.3 below, the term of this Authority to Act commence on the date set out at the head of this agreement and shall remain in full force and effect unless and until the Authorising Rightsholder shall give to PICSEL three (3) calendar months' notice in writing terminating the term hereof.
- 5.2 On termination of the term hereof in accordance with Clause 5.1 above this Authority to Act shall cease to have any force and effect save in respect of:
- (a) all PICSEL Licences granted by PICSEL or its agents and/or licensees (including without limitation CLA, ERA and NLA) entered into prior to and still in force on the date of termination in respect of which the Mandated Rights granted hereunder shall continue so as to permit such PICSEL Licences to continue in force and effect for their remaining duration in accordance with their terms and in respect of which applicable Net Receipts shall continue to be paid to the Authorising Rightsholder which the Authorising Rightsholder shall continue to distribute in accordance with Clause 3.2, where applicable; and
  - (b) any other right or remedy which either the Authorising Rightsholder or PICSEL may have in respect of any breach of this Authority to Act which existed at or before the date of termination; and
  - (c) any other obligation which PICSEL and the Authorising Rightsholder may have to each other in connection with distributions, Administration Charges and the provision of information shall continue to apply, where relevant.

5.3 At any time during the term hereof, the Authorising Rightsholder shall be entitled to withdraw this Authority to Act in respect of specific:

- (a) Images; and/or
- (b) categories of Mandated Rights; and/or
- (c) territories

by giving three (3) calendar months' notice in writing in the form of the Withdrawal of Rights Form which PICSEL shall make available to the Authorising Rightsholder on its website. Upon withdrawal, the provisions of Clause 5.2(a) to (c) shall apply to the rights in Images so withdrawn. Withdrawal shall be without prejudice to the Authority to Act in respect of any remaining Mandated Rights relating to Images not so withdrawn.

## **6. GENERAL**

6.1 The Authorising Rightsholder shall on the written request of PICSEL promptly execute and deliver such documents and perform such acts as may reasonably be required for the purpose of giving full effect to this Authority to Act.

6.2 No failure to exercise or delay in exercising any right or remedy under this Authority to Act shall constitute a waiver thereof and no waiver by the Authorising Rightsholder or PICSEL of any breach or non-fulfilment by the other of any provision of this Authority to Act shall be deemed to be a waiver of any subsequent or other breach of that or any other provision hereof and no single or partial exercise of any right or remedy under this Authority to Act shall preclude or restrict the further exercise of any such right or remedy. The rights and remedies of the Authorising Rightsholder and PICSEL provided in this Authority to Act are cumulative and not exclusive of any rights and remedies provided by law.

6.3 No variation of this Authority to Act shall be valid unless it is in writing and executed by or on behalf of each of the Authorising Rightsholder and PICSEL.

6.4 As regards its subject matter, this Authority to Act contains the whole agreement between the parties and supersedes all previous agreements, mandates, authorities, arrangements and understandings.

6.5 A person who is not a party to this Authority to Act shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Authority to Act. This Clause does not affect any right or remedy of any person that exists or is available otherwise than pursuant to that Act.

6.6 This Authority to Act shall be governed by and construed in accordance with English law and the Authorising Rightsholder and PICSEL hereby submit for all purposes in connection with this Authority to Act to the non-exclusive jurisdiction of the English courts.