

BOWTIE TELEVISION LIMITED

TERMS AND CONDITIONS OF PURCHASE

1 Interpretation

1.1 In these Terms unless the context otherwise requires: “**Company**” means BOWTIE TELEVISION LIMITED; “**Goods**” mean the goods (including any instalment or parts) which Supplier is to supply in accordance with this Order; “**IPRs**” means all industrial and intellectual property rights including, without limitation, patents, trade marks, service marks, design rights, copyright, lending and rental rights, technical knowledge, know-how, trade secrets, confidential information and any other commercial monopoly rights, and any applications and rights to apply for any of the foregoing in any part of the world; “**Purchase Order**” means the Company’s order form signed by a duly authorised representative of the Company submitted to the Supplier; “**Order**” means collectively the Purchase Order and these Terms; “**Services**” means services or any of them (including provision of any necessary or ancillary equipment) which Supplier is to supply in accordance with this Order; “**Supplier**” means the person, firm or company identified as such in this Order; “**Supply**” means the provision of the Goods and/or Services; “**Terms**” means the terms and conditions set out herein and to which this Order is subject (and any amendments expressly agreed in writing between Company and Supplier).

1.2 Any typographical or clerical error or omission in documents issued by Company shall be subject to correction without liability on the part of Company.

2 Basis of Order

2.1 Company engages Supplier to provide and Supplier agrees to provide the Services and/or Supplier agrees to sell or hire and Company to purchase or take on hire, as case may be, the Goods, subject to these Terms.

2.2 The Purchase Order constitutes an offer by Company to purchase the Services and/or to purchase or take on hire, as the case may be, the Goods.

2.3 Any acceptance of the Purchase Order by Supplier shall establish a contract for sale and purchase of those Goods and/or Services on these Terms.

2.4 Any counter-offer made by Supplier to supply the Goods and/or Services on other conditions shall only be validly accepted if such acceptance is in writing and signed by a duly authorised representative of Company.

2.5 Except as agreed by Company in writing, description, specification and quantity of Supply shall be as set out or referred to in this Order.

3 Delivery and Cancellation

3.1 Supplier shall deliver Supply at the address(es) and on the date(s), if any, specified in the Purchase Order or otherwise as directed by Company in writing. Time for delivery, installation, testing, operation and removal of Goods and for commencement, performance and completion of Services and each stage thereof by Supplier shall be of the essence.

3.2 Supplier shall be responsible for properly labelling, addressing, packing and securing Supply so as to be delivered in the normal course of transit in an undamaged condition. Claims by Company based on shortage or damage in transit will be notified to Supplier within reasonable time of discovery.

3.3 Company may without liability to Supplier cancel this Order in whole or part on giving at least five (5) days’ notice prior to scheduled delivery date (or, if on less than five (5) days’ notice, subject to reimbursement of Supplier’s reasonable costs incurred (not to exceed price of the Supply), in which case, if Company requires, Supplier shall deliver to Company the Supply and other materials, complete or incomplete, for which costs are paid).

4 Price and Payment

4.1 In consideration of the Supply and the obligations of Supplier in this Order, Company will, subject to these Terms, pay Supplier the price (and any VAT thereon) as set out in the Purchase Order. This price shall be the only price which Company has to pay for the Supply and shall be fixed for the duration of the Purchase Order and inclusive of all fees, customs, import and export duties, insurance, salaries, employment-related expenses and all other out-of-pocket expenses incurred in the performance of the Services.

4.2 Unless otherwise agreed in writing, Company shall pay undisputed invoices at the end of the month following the later of delivery and acceptance of Goods or completion of Services and receipt of Supplier’s valid invoice. Supplier’s invoice must specify Company’s order number, description of Supply and, if applicable, quantity of Supply, unit price and delivery date and fully itemise all expenses claimed. In the event of late or non-payment of an undisputed invoice, Supplier shall be entitled to charge interest at the rate of three per cent (3%) above HSBC Bank plc base rate per annum until such time as payment is received.

4.3 Company shall be entitled to set-off against the price any amounts due by Supplier to Company under this or any other agreement.

5 Supplier’s Obligations and Warranties

5.1 Without prejudice to any warranty implied by law, Supplier warrants, represents and undertakes that:

5.1.1 the Supply will correspond to the requirements of this Order and to specification and any sample and will comply with all applicable laws and standards;

5.1.2 all Goods for sale will be new and all Goods sold or hired will be of satisfactory quality, fit for their intended purpose, comply with manufacturer’s specification and be free from defects in design, material and workmanship for twelve (12) months from later of delivery or first use (or for the duration of their hire, if

hired) (“**Warranty Period**”);

5.1.3 all Services will be carried out in a proper, timely, safe, workmanlike and cost efficient manner to the highest standard reasonably expected and with reasonable care and skill by persons of appropriate training and experience acting without supervision and any product of such Services will be of satisfactory quality and fit for its intended purpose;

5.1.4 all Services will be performed without risk to health and safety in accordance with good practice and in compliance with all relevant health and safety laws (and Supplier shall at its cost conduct all necessary risk assessments and provide all personal protective equipment). Supplier shall familiarise itself with all health and safety documentation relating to the Services and, on request, shall provide Company with copies of all such documents prepared by the Supplier;

5.1.5 Supplier will take all necessary steps to safeguard the health, safety and welfare of all persons engaged in providing the Supply;

5.1.6 in the case of communications, computer or other equipment hardware or software, all Goods will be licensed for their intended use, secure and free of viruses and malicious software;

5.1.7 Supplier is skilled and knowledgeable in provision of the Supply and acknowledges that Company relies on Supplier’s skill and judgment and all recommendations or advice given by Supplier in negotiation of this Order concerning Supply, its fitness for purpose, functionality, use or storage of any Goods and the performance and product of any Services;

5.1.8 no bribe or improper financial or other advantage has been, will be or is agreed to be given or received by or on behalf of Supplier in connection with this Order; and

5.1.9 Supplier has appropriate technical and organisational measures in place to safeguard any personal data and in processing any personal data shall comply with any instructions of Company and all applicable data protection laws, principles and guidance.

5.2 Supplier shall be liable in full for the acts and omissions of its employees, agents or permitted sub-contractors and undertakes to ensure the proper and safe performance and discharge of the Services by such persons in accordance with this Order.

5.3 Supplier shall (and shall procure that its personnel) comply with all rules regulations and procedures in force at any venue where Services are to be provided and with any code of conduct (including dress code) notified to it. Supplier will ensure that its personnel at all times behave in a proper and respectful manner and do not attempt to carry out the Services while under the influence of alcohol or non-prescribed drugs or similar substances.

5.4 Supplier shall co-operate with all reasonable requests made by the Company in relation to the Supply including attending meetings and supplying information. The Company has the right, with its client and on notice, to inspect any part of the Supply at Supplier’s premises or elsewhere and to inspect and take copies of all books and records of Supplier relating to the Supply or compliance with this Order.

5.5 If the Services are to be performed (whether alone or jointly) by any person named in this Order, the provision of a substitute shall be notified to the Company in writing as soon as practicable prior to commencement of Services and shall be subject to the Company’s prior approval (not to be unreasonably withheld). The Company may withhold approval if it has concerns regarding competence, training, conflict of interest or if its client objects for any reason. If approval is withheld, Supplier at its expense shall procure performance of Services by person(s) reasonably acceptable to the Company.

6 Inspection and testing of Goods

6.1 Supplier shall:

6.1.1 carefully test and inspect the Goods before delivery to ensure they comply with the requirements of the Purchase Order; and

6.1.2 if so requested by Company, give the Company reasonable advance notice of such tests (which the Company shall be entitled to attend).

6.2 The Company reserves the right to call for certificates or test certificates for the Goods at any stage of manufacture or assembly. Such certificates shall clearly state Company’s order number and a description of Supply. If, as a result of any inspection or test, Company finds that the Goods do not comply with the Purchase Order, or are unlikely to comply with it on completion of manufacture, processing or performance, Company may inform Supplier, and Supplier shall take such steps as are necessary to ensure compliance.

7 Risk and Title

7.1 Goods for sale shall be sold by Supplier as beneficial owner free of any lien, charge or encumbrance except that third party software shall be supplied with all licences consents and authorities (fully paid-up) required for its intended or normal use. Risk and title in such Goods shall pass to Company on delivery (except that any Supply rejected by Company is returned to Supplier at Supplier’s risk and expense).

- 7.2 Risk in Goods on hire remains with Supplier at all times unless otherwise agreed in writing. If Company accepts any risk, Company's liability shall be limited to: (i) the market value of the Goods in their condition immediately prior to loss or damage; or (ii) to the reasonable cost of their repair, whichever is the lesser, provided that Company shall not be liable for electrical or mechanical breakdown (unless such breakdown is due to Company's misuse), fair wear and tear, existing damage, or loss or damage due to act of terrorism.
- 7.3 IPRs in the product of any Supply specifically created or originated for Company shall be the exclusive property of Company. Supplier shall (and shall procure that its employees, agents and subcontractors shall) assign to Company (or as Company may direct) for no additional consideration all such IPRs with full title guarantee and waive all moral rights in relation to the IPRs and shall sign all documents and do all things necessary for such purposes.
- 7.4 Risk in Supplier's equipment and materials provided in course of Services remains with Supplier at all times.
- 7.5 All data, equipment and materials (including all IPRs therein) provided by Company to Supplier in connection with this Order shall remain property of Company or its legal owner and shall be returned to Company forthwith on request. Supplier shall take all reasonable care of such items to ensure their safety and security and shall not use or permit their use except for purposes of this Order. Such items shall be at risk of Supplier until return to Company and Supplier shall indemnify Company against any loss or damage thereto. Supplier shall upon request submit stock returns of such items to Company.
- 8 Confidentiality, Marketing and Data Protection**
- 8.1 All information relating to Company, this Order or the subject matter thereof (including the end-client, project content and purpose, participants, attendees, funding, venue, date, time and value of this Order) are strictly confidential. Supplier undertakes, without limit of time, to keep such information confidential and secure; not to use or disclose the same without Company's written consent other than as necessary for the purposes of this Order; and forthwith on request to return or permanently erase or destroy the same. The foregoing shall not apply to information in the public domain (other than by reason of Supplier's breach) or disclosure required by law.
- 8.2 Except with the written consent of Company or as may be required in the performance of this Order, Supplier shall not refer to this Order or the subject matter thereof or Company's or the Supplier's involvement) in any press or marketing materials or media or electronic communication or on any Internet site nor make, transmit, post, upload or download or otherwise publish or disclose any text, still image, audio or video recording of or relating to the project.
- 8.3 Both parties will comply with all applicable legislation regarding privacy, data protection, unsolicited communications, telecommunication and security
- 9 Liability of Supplier and Insurance**
- 9.1 If the Supply is incomplete, defective, late or does not conform to this Order, Company may without prejudice to any other right or remedy be entitled to one or more of the following remedies:
- 9.1.1 require Supplier at its cost forthwith to remedy, repair or replace defective Supply. Any repair or replacement shall have benefit of remainder of its initial Warranty Period or, if longer, an extended three (3) months warranty from its delivery to Company;
- 9.1.2 reject the Supply (and may do so notwithstanding commercial use by Company in order to meet pre-existing obligations, which use shall not constitute acceptance) and/or terminate this Order in whole or in part;
- 9.1.3 require a refund of all sums paid in respect of any Supply which is defective or not delivered and payment of all additional costs reasonably incurred in obtaining a replacement; and
- 9.1.4 claim such damages as it may have suffered or incurred as a result of or in connection with the Supplier's breach or breaches of this Agreement.
- 9.2 Supplier shall indemnify Company in full against all liability loss damages costs and expenses (including loss of profit, additional costs of working, legal costs and expenses) incurred or awarded against or paid by Company as a result of or arising from breach of the Order by or negligent act, omission or misconduct of Supplier (or any person for whom Supplier is responsible) or any claim that the Supply infringes any IPRs of any other person (except to extent claim arises from material supplied by Company).
- 9.3 Supplier shall have and maintain adequate public and product liability insurance (providing cover of not less than two million pounds sterling (£2,000,000) per claim), employer's liability or workers' compensation insurance and, if applicable, travel, Professional Indemnity Insurance (providing cover of not less than one million pounds sterling (£1,000,000) per claim or greater if stipulated by the Company) medical and motor insurance in respect of the Supply and all Supplier personnel performing this Order (and shall provide such evidence of insurance as Company reasonably requires).
- 10 Contractor Status and Taxation**
- 10.1 Status of Supplier is of an independent contractor and, if an individual, a self employed person. Nothing in this Order shall create or be deemed to create an agency, partnership or employment relationship between the parties.
- 10.2 The person(s) through whom Services are provided by Supplier shall remain employees or contractors of Supplier and Supplier shall be solely responsible for the provision, administration and payment of their remuneration, benefits and other entitlements, tax, national insurance, pension, mandatory provident fund and social contributions. If Supplier is an individual supplying Services, the price is inclusive of provision for holiday pay, pension and other social benefits to which Supplier may be entitled in law. Supplier agrees to indemnify Company against all actions, claims and demands relating thereto and any interest and penalties thereon (or similar liabilities in any relevant jurisdiction).
- 11 Termination**
- 11.1 If:
- 11.1.1 Supplier makes any voluntary arrangement with its creditors;
- 11.1.2 (being an individual or firm) becomes bankrupt;
- 11.1.3 (being a company) has petition for administration or winding-up order presented against it, goes into liquidation (other than for purposes of amalgamation or reconstruction);
- 11.1.4 an encumbrancer takes possession or receiver is appointed of any property or assets of Supplier;
- 11.1.5 Supplier ceases or threatens to cease to carry on business;
- 11.1.6 Company reasonably apprehends that any of the above is about to occur (or anything analogous under laws of any relevant jurisdiction) and so notifies Supplier; or
- 11.1.7 Supplier is in breach of terms of this Order and if capable of remedy fails to remedy breach within seven (7) days of notice by Company, then (without prejudice to any other right or remedy) Company may cancel or suspend this Order in whole or part without liability to Supplier who shall be liable for additional costs incurred by Company in completing this Order or obtaining alternative Supply.
- 11.2 Completion of performance of any Order or its termination for any reason shall not affect the accrued rights of the parties under this Order or the continuation of any provision which expressly or by implication survives termination including, without limitation, clauses 7 and 8.
- 12 Force Majeure**
- Neither party shall be liable to the other for delay or failure due to any cause beyond its reasonable control (including, without limitation, due to fire, flood, material adverse weather, epidemic, pandemic, quarantine restriction, trade disputes or industrial actions (other than involving its own workforce), actual or threatened act of war, terrorism, civil disturbance, act or omission of government). In such circumstances Company reserves the right without liability to terminate all or part of this Order or require Supplier to suspend further performance.
- 13 General**
- 13.1 If Supplier is more than one person, they shall be liable both individually and together.
- 13.2 No person other than Company and Supplier shall have any rights under or to enforce this Order and The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Order.
- 13.3 If any part of any provision of these Terms is invalid or unenforceable, then the remainder of the provision and all other provisions of these Terms shall remain valid and enforceable.
- 13.4 The obligations on part of Supplier under this Order shall not be assigned or sub-contracted without Company's written consent.
- 13.5 Any notice under or in connection with these Terms shall be in writing and shall be delivered to the party due to receive the notice at its address set out in the Purchase Order or such other address as either party may specify by notice in writing to the other.
- 13.6 This Order constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between the parties, whether written or oral, relating to its subject matter.
- 13.7 No neglect or delay by Company in enforcing any of its rights pursuant to these Terms shall prejudice such rights or be construed as a waiver of such rights by Company.
- 13.8 No variation of these Terms shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 13.9 This Order shall be read and construed in accordance with the laws of England, and in the event of dispute Supplier will be subject to the non-exclusive jurisdiction of the Courts of England.