

## CREATIVE TECHNOLOGY LIMITED : TERMS OF PURCHASE

### 1 Interpretation

- 1.1 In these Terms unless the context otherwise requires: "CT" means Creative Technology Limited; "Goods" mean the goods (including any instalment or parts) which Supplier is to supply in accordance with this Order; "IPR" 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; "Order" means collectively this purchase order and the 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 in and to which this Order is subject and any amendments expressly agreed in writing between CT and Supplier.
- 1.2 Headings are for convenience only and shall not affect interpretation.
- 1.3 Any typographical or clerical error or omission in documents issued by CT shall be subject to correction without liability on the part of CT.

### 2 Basis of Order

- 2.1 CT engages Supplier to provide and Supplier agrees to provide the Services and/or Supplier agrees to sell or hire and CT to purchase or take on hire, as case may be, the Goods, subject to these Terms, which shall govern the Order to the exclusion of any other terms and conditions contained in any document or implied by course of dealing and shall not be varied except in writing signed by CT and Supplier. This Order contains the full and complete understanding between the parties and supersedes all prior arrangements and understandings, written or oral, relating to the Supply.
- 2.2 Except as agreed by CT 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 date(s), if any, specified in this Order or otherwise as directed by CT 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 CT based on shortage or damage in transit will be notified to Supplier within reasonable time of discovery.
- 3.3 CT may without liability to Supplier cancel Order in whole or part on giving at least 5 days' notice prior to scheduled delivery date (or, if not less than 5 days' notice, subject to reimbursement of Supplier's reasonable costs incurred (not to exceed price of the Supply), in which case, if CT requires, Supplier shall deliver to CT 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, CT will subject to these Terms pay Supplier the price (and any VAT thereon) as set out in this Order. This price shall be the only price which CT has to pay for the Supply and shall be fixed for the duration of this 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, CT shall pay undisputed invoices at end of month following later of delivery and acceptance of Goods or completion of Services and receipt of Supplier's valid invoice. Supplier's invoice must specify CT'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 3% above HSBC Bank plc base rate per annum until such time as payment is received.
- 4.3 CT shall be entitled to set-off against the price any amounts due by Supplier to CT 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 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 CT with copies of all such documents prepared by the Supplier;
- 5.1.5 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;
- 5.1.6 Supplier is skilled and knowledgeable in provision of the Supply and acknowledges that CT 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;
- 5.1.7 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;
- 5.1.8 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 CT 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 subcontractors 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 will comply with CT's Code of Conduct from time to time as published on CT's website at <http://www.ct-group.com/eu/en/contact/london#indtn-legal-panel>. 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 CT in relation to the Supply including attending meetings and supplying information. CT has 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 CT in writing as soon as practicable prior to commencement of Services and shall be subject to CT's prior approval (not to be unreasonably withheld). CT may withhold approval if CT has concerns regarding competence, training, conflict of interest or if CT's client objects for any reason. If approval is withheld, Supplier at its expense shall procure performance of Services by person(s) reasonably acceptable to CT.

### 6 Risk and Title

- 6.1 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 CT on delivery (except that any Supply rejected by CT is returned to Supplier at Supplier's risk and expense).

- 6.2 Risk in Goods on hire remains with Supplier at all times unless otherwise agreed in writing. If CT accepts risk, CT's liability shall be limited to the market value of the Goods in their condition immediately prior to loss or damage or to the reasonable cost of their repair, whichever is the lesser, provided that CT shall not be liable for electrical or mechanical breakdown (unless due to CT's misuse), fair wear and tear, existing damage, or loss or damage due to act of terrorism.
- 6.3 IPR in the product of any Supply specifically created or originated for CT shall be the exclusive property of CT. Supplier shall (and shall procure that its employees, agents and subcontractors shall) assign to CT (or as CT may direct) for no additional consideration all such IPR with full title guarantee and waive all moral rights in relation to the IPR and shall sign all documents and do all things necessary for such purposes.
- 6.4 Risk in Supplier's equipment and materials provided in course of Services remains with Supplier at all times.
- 6.5 All data, equipment and materials (including all IPR therein) provided by CT to Supplier in connection with this Order shall remain property of CT or its legal owner and shall be returned to CT 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 CT and Supplier shall indemnify CT against any loss or damage thereto. Supplier shall upon request submit stock returns of such items to CT.

### 7 Confidentiality, Marketing and Data Protection

- 7.1 All information relating to CT, 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 CT'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.
- 7.2 Except with the written consent of CT or as may be required in the performance of the Order, Supplier shall not refer to this Order or the subject matter thereof or CT'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.
- 7.3 Both parties will comply with all applicable legislation regarding privacy, data protection, unsolicited communications, telecommunication and security

### 8 Liability of Supplier and Insurance

- 8.1 If the Supply is incomplete, defective, late or does not conform to this Order, CT may without prejudice to any other right or remedy be entitled to one or more of the following remedies:
- 8.1.1 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 3 months warranty from its delivery to CT;
- 8.1.2 reject the Supply (and may do so notwithstanding commercial use by CT in order to meet pre-existing obligations, which use shall not constitute acceptance) and/or terminate the Order in whole or in part;
- 8.1.3 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
- 8.1.4 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.
- 8.2 Supplier shall indemnify CT 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 CT as a result of or arising from breach of the Order or Terms 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 IPR of any other person (except to extent claim arises from material supplied by CT).
- 8.3 Supplier shall have and maintain adequate public and product liability insurance (providing cover of not less than £2,000,000 per claim), employer's liability or workers' compensation insurance and, if applicable, travel, medical and motor insurance in respect of the Supply and all Supplier personnel performing this Order (and shall provide such evidence of insurance as CT reasonably requires).

### 9 Contractor Status and Taxation

- 9.1 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.
- 9.2 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 CT against all actions, claims and demands relating thereto and any interest and penalties thereon (or similar liabilities in any relevant jurisdiction).

### 10 Termination

- 10.1 If Supplier makes any voluntary arrangement with its creditors; (being an individual or firm) becomes bankrupt; (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); or an encumbrancer takes possession or receiver is appointed of any property or assets of Supplier; Supplier ceases or threatens to cease to carry on business; CT 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 Supplier is in breach of terms of this Order and if capable of remedy fails to remedy breach within 7 days of notice by CT, then (without prejudice to any other right or remedy) CT may cancel or suspend Order in whole or part without liability to Supplier who shall be liable for additional costs incurred by CT in completing Order or obtaining alternative Supply.
- 10.2 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.

### 11 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, 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 CT reserves right to terminate all or part of Order or require Supplier to suspend further performance.

### 12 General

- 12.1 If Supplier is more than one person, they shall be liable both individually and together.
- 12.2 No person other than CT 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.
- 12.3 The obligations on part of Supplier under this Order shall not be assigned or sub-contracted without CT's written consent.
- 12.4 Any notice under this Order shall be in writing and may be served by hand, pre-paid first class post or airmail, or facsimile to the party's address or facsimile number set out in this Order or such other address as is notified for the purpose.
- 12.5 Delay shall not prevent CT enforcing any provision of this Order. Any waiver of a breach of this Order shall not operate as a waiver of a later breach of the same or any other provision. If any provision of this Order is held to be invalid or unenforceable in whole or in part, the validity of the remaining provisions shall not be affected.
- 12.6 This Order shall be governed and construed in accordance with English law. The parties agree to submit to the non-exclusive jurisdiction of the English Courts.