



Unless agreed otherwise in writing by Create, the following terms and conditions are deemed to apply to your Contract.

**Create – Standard Terms and Conditions
(Suppliers and Customers)**

1 Definitions

The following definitions apply in these Conditions.

1.1 Definitions:

Affiliate: means in respect of any entity, a second entity that:

- a) Controls the first entity;
- b) is under the Control of the first entity; or
- c) is under the Control of a third entity that Controls the first entity.

Business Day: a day other than a Saturday, Sunday or public holiday in UAE, or, a day other than Friday, Saturday or public holiday in KSA.

Commencement Date: has the meaning given in clause 2.3.

Company: means any of Create Media Services DMCC (License No. JLT-67981), C P G Film Production Services LLC (License No. 850333), Create Group Holding Limited (Registered No. 17589), Create Media Group FZ LLC (Registration No. 755) and Create Media Services LLC (License No. 1010630936) and their respective Subsidiaries and Affiliates from time to time, as the case may be.

Conditions: these terms and conditions.

Contract: means either:

- d) the contract between the Company and the Supplier for the supply of Goods and/or Services in accordance with these Conditions; or
- e) the contract between the Company and the Customer for the supply of Goods and/or Services in accordance with these Conditions,

as applicable.

Control means, in relation to a body corporate, the power of a person to secure that the affairs of the body corporate are conducted in accordance with the wishes of that person:

- a) by means of the holding of shares, or the possession of voting power, in or in relation to that or any other body corporate; or
- b) by virtue of any powers conferred by the constitutional or corporate documents, or any other document, regulating that or any other body corporate,

and **Controlled** shall be construed accordingly, and a **Change of Control** occurs if a person who controls any body corporate ceases to do so or if another person acquires control of it.

Customer: the person or firm who purchases Services from the Company.

Customer Default: has the meaning given in clause 5.3.

Deliverables: has the meaning given in clause 7.3.

Delivery Location: has the meaning given in clause 3.2.

Due Date: has the meaning given in clause 6.6.

Force Majeure Event: has the meaning given to it in clause 13.

Goods: the goods (or any part of them) set out in the Order.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Order: means either:

- a) the Company's order for the supply of Goods and/or Services from the Supplier, as set out in the Company's purchase order form or through written acceptance from the Company of the Supplier's quotation (as applicable); or
- b) the Customer's order for the supply of Services from the Company as set out in the Customer's purchase order form or through written acceptance from the Customer of the Company's quotation (as applicable),

as applicable.

Pre-Existing IP: has the meaning given in clause 7.1.

Services: the services, including the Deliverables, supplied either by the Company to the Customer or by the Supplier to the Company (as applicable) as set out in the Service Specification.

Services IP Materials: any documents (whether in electronic, paper or other form) constituting or relating to any Intellectual Property Right.

Specification: the description or specification for the Goods/Services agreed in writing between (a) the Company; and (b) the Supplier or the Customer.

Special Terms and Conditions means any special conditions contained in the Order or otherwise agreed in writing by (a) the Company; and (b) the Supplier or the Customer.

Subsidiary: any company, corporation, or other entity in which the Company, directly or indirectly, (i) holds more than fifty percent (50%) of the voting shares or other equity interests, (ii) has the power to appoint or remove a majority of the entity's board of directors or equivalent governing body, or (iii) has the power to exercise a controlling influence over the management or policies of the entity, regardless of whether such power is exercised.

Supplier: the person or firm who supplies the Goods and/or Services to the Company.

2 **Basis of contract**

2.1 These Conditions and the Special Conditions (if any) apply to the Contract to the exclusion of any other terms that are implied by trade, custom, practice or course of dealing.

2.2 The Order constitutes an offer to purchase Goods/Services in accordance with these Conditions. The Customer/Supplier is responsible for ensuring that the terms of the Order and any applicable Specification submitted by the Customer/Supplier are complete and accurate.

2.3 The Order shall only be deemed to be accepted when the Company (in respect of supply contracts) or the Customer (in respect of customer contracts) issues written acceptance of the Order at which point and on which date the Contract shall come into existence (**Commencement Date**).

2.4 Subject to clause 2.1, the Contract constitutes the entire agreement between the parties. The Customer/Supplier acknowledges that it has not relied on any statement, promise or

representation made or given by or on behalf of the Company which is not set out in the Contract.

2.5 Any samples, drawings, descriptive matter, or advertising produced by the Company and any descriptions or illustrations contained in the Company's proposals, catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.

2.6 A quotation for the Services given by the Company shall not constitute an offer. A quotation shall only be valid for a period of fourteen (14) days from its date of issue unless otherwise stated on a quotation.

2.7 If there is any conflict between the Conditions and Special Conditions, the Special Conditions shall prevail.

3 Suppliers

A. Delivery of Goods

3.1 The Supplier shall ensure that each delivery of the Goods to the Company is accompanied by a delivery note which shows the date of the Order, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered.

3.2 The Supplier shall deliver Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after the Supplier (as applicable) notifies the Company that the Goods are ready.

3.3 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.

3.4 If the Supplier fails to deliver the Goods to the Company, its liability includes but is not limited to the costs and expenses incurred by the Company in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods.

3.5 The Supplier warrants that on delivery, and for a period of twelve (12) months from the date of delivery (warranty period), the Goods shall:

- (a) conform in all material respects with their description and any applicable Goods Specification;
- (b) be free from material defects in design, material and workmanship; and
- (c) be fit for any purpose held out by the Supplier.

3.6 If:

- (a) the Company gives notice in writing to the Supplier within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 3.5;
- (b) the Supplier is given a reasonable opportunity of examining such Goods; and
- (c) the Company (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Supplier's cost,

the Supplier shall repair or replace the defective Goods, or refund the price of the defective Goods in full.

3.7 The Supplier shall be liable for:

- (a) non-delivery of the Goods or loss of all or part of the Goods in transit (where the Goods are to be delivered in accordance with clause 4.2);

- (b) shortages in the quantity of the Goods delivered; and
- (c) damage to all or part of the Goods in transit.

3.8 Title and risk of the Goods shall pass to the Company on the delivery by the Company of a delivery acknowledgement notice signed by the Company.

B. Delivery of Services

3.9 The Supplier shall supply the Services to the Company in accordance with the Specification in all material respects.

3.10 The Supplier shall use all reasonable endeavours to meet any performance dates specified in the Order or as otherwise agreed between the Supplier and the Company.

3.11 Subject to written consent from the Company, the Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services.

3.12 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

4 Customers: Company's delivery of Services

4.1 The Company shall supply the Services to the Customer in accordance with the Specification in all material respects.

4.2 The Company shall use all reasonable endeavours to meet any performance dates specified in the Order or as otherwise agreed between the Company and the Customer, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

4.3 The Company shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Company shall notify the Customer in any such event.

4.4 The Company warrants to the Customer that the Services will be provided using reasonable care and skill.

5 Customer and Supplier obligations

A. Customers and Suppliers

5.1 Each Customer and Supplier shall:

- (a) ensure that the terms of the Order and any information it provides in the Specification are complete and accurate;
- (b) co-operate with the Company in all matters relating to the Services or Goods; and
- (c) obtain and maintain all necessary licences, permissions and consents in order to trade in accordance with the Contract.

B. Customers

5.2 Each Customer shall:

- (a) provide the Company, its employees, agents, consultants and subcontractors, with access to their respective systems and facilities as reasonably required by the Company to provide the Services; and

- (b) provide the Company with such information and materials as the Company may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects.
- 5.3 If the Company's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):
- (a) without limiting or affecting any other right or remedy available to it, the Company shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Company's performance of any of its obligations;
 - (b) the Company shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Company's failure or delay to perform any of its obligations as set out in this clause 5.3; and
 - (c) the Customer shall reimburse the Company on written demand for any costs or losses sustained or incurred by the Company arising directly or indirectly from the Customer Default.
- 5.4 The Company shall have no liability for any failure to deliver the Services to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Company with adequate delivery instructions or any other instructions that are relevant to the supply of the Services.

6 Charges and payment

- 6.1 The price for any Goods and/or Services shall be the price set out in the Order.

A. Suppliers

- 6.2 Invoices issued by a Supplier to the Company should include the Supplier's Bank Details including Bank Name, Bank Address, Account Name, Account Number, IBAN, Currency, Swift code or as applicable for the Supplier's Country of jurisdiction. Invoices must also include the Supplier's tax registration number (TRN) and mention the Order number.
- 6.3 On fulfilment of the delivery terms, unless otherwise specified in the Order, the Company shall make payment as per the Order once the Services/Goods have been delivered to the Company (the determination of such delivery to be at the sole discretion of the Company).
- 6.4 The Company may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Supplier against any amount payable by the Company to the Supplier.

B. Customers

- 6.5 Unless otherwise agreed in the Special Conditions, the Customer shall pay each invoice submitted by the Company:
- (a) within thirty (30) days of the date of the invoice or in accordance with any credit terms agreed by the Company and confirmed in writing to the Customer;
 - (b) in full and in cleared funds to a bank account nominated in writing by the Company, and
 - (c) for the avoidance of doubt, the Customer shall be responsible for ensuring that the Company receives full payment of its invoice in its account as specified in the invoice (and any bank or foreign exchange charges shall be for the account of the Customer), and time for payment shall be of the essence of the Contract.

- 6.6 If the Customer fails to make a payment due to the Company under the Contract or Order by the due date (**Due Date**), then, the Customer shall pay interest on the overdue amount at the rate of 5% above base rate applied by the Central Bank of the UAE, per annum. Such interest shall accrue on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 6.7 If the Company exercises its right mentioned in clause 6.6 above, the interest shall become due without need to serve any notice, file any legal action or prove any damage or losses, provided that the delay is not caused by an action attributed to the Company.
- 6.8 All amounts due under the Contract to the Company shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

7 Intellectual property rights

- 7.1 The Customer acknowledges that any and all Intellectual Property Rights which are owned by the Company prior to the Commencement Date (**Pre-Existing IP**), shall remain the sole property of the Company.
- 7.2 Nothing in these Conditions shall operate to transfer the ownership of any Pre-Existing IP from the Company to the Customer.
- 7.3 Subject to full payment of all fees and expenses due under the Contract and each relevant Order, the Company agrees to assign to the Customer all IP Rights in the deliverables specifically created for and delivered to the Customer under their respective Contract (**Deliverables**), excluding any Pre-Existing IP incorporated into the Deliverables.
- 7.4 To the extent that any Pre-Existing IP is incorporated into the Deliverables, the Company grants the Customer a non-exclusive, royalty-free, perpetual, worldwide licence to use such Pre-Existing IP solely in connection with the use of the Deliverables.
- 7.5 The Customer agrees not to reverse engineer, decompile, or disassemble any Pre-Existing IP or use it for any purpose other than as provided in the Contract.

8 Customer's insolvency or incapacity

- 8.1 If the Customer becomes subject to any of the events listed in clause 8.2, or the Company reasonably believes that the Customer is about to become subject to any of them and notifies the Customer accordingly, then, without limiting any other right or remedy available to the Company, the Company may cancel or suspend all further deliveries of Services under the Contract or under any other contract between the Customer and the Contract, or terminate the Contract forthwith, without incurring any liability to the Customer, and all outstanding sums in respect of the Services performed for the Customer shall become immediately due.
- 8.2 For the purposes of clause 8.1, the relevant events are:
- (a) the Customer suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company) is deemed unable to pay its debts;
 - (b) the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
 - (c) a bankruptcy petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer;
 - (d) a creditor or encumbrancer of the Customer attaches or takes possession of, or a diligence, distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within fourteen (14) days;

- (e) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer;
- (f) a floating charge holder (including any pledge) over the Customer's assets has become entitled to appoint or has appointed an administrative receiver;
- (g) a person becomes entitled to appoint a receiver over the Customer's assets or a receiver is appointed over the Customer's assets;
- (h) any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clauses 8.2(a) and 8.2(h) (inclusive);
- (i) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of its business;
- (j) the Customer's financial position deteriorates to such an extent that in the Company's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy;
- (k) in respect of an individual Customer, the Customer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes incapacitated; or
- (l) there is a change of Control of the Customer.

9 Confidentiality

- 9.1 The Company and the Customer/Supplier undertake that it each shall not at any time during the Contract, and for a period of two (2) years after termination or expiry of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 9.2.
- 9.2 The Company and the Customer/Supplier may disclose the other party's confidential information:
- (a) to its employees, officers, representatives, contractors or subcontracts or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 9; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 9.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.
- 9.4 This clause 9 shall survive termination.

10 Limitation of liability

- 10.1 The Supplier/Customer shall obtain insurance cover which insures its liabilities under the respective Order with a reputable insurance company.
- 10.2 Notwithstanding any other provision of the Contract or Orders, the total liability of the Company for all claims arising out of or related to the Contract, or any Goods or Services provided under any Orders between the Company and any Partner, whether in contract, tort, or otherwise, shall not exceed the total value of the specific Order under which such claim arises.

- 10.3 The restrictions on liability in this clause 10 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 10.4 In no event shall the Company be liable for any indirect, incidental, special, consequential, or punitive damages, including but not limited to loss of profits, revenue, or data, whether in an action in contract, tort, strict liability, or otherwise, even if Company has been advised of the possibility of such damages.
- 10.5 This clause 10 shall survive termination of the Contract.

11 Termination

- 11.1 Without affecting any other right or remedy available to it, the Company may cancel or terminate the Contract immediately at any time by giving the Customer/Supplier seven (7) days' written notice.
- 11.2 The Customer may cancel or terminate an Order at any time by giving the Company written notice of sixty (60) days subject to all accrued fees for work carried out up to the date of termination being fully paid.
- 11.3 Without affecting any other right or remedy available to it, the Company may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Company and the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.
- 11.4 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination. Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.
- 11.5 The termination of the Contract shall not of itself give rise to any liability on the part of either party to pay any compensation to the other party, including but not limited to, for loss of profits or goodwill.

12 Consequences of termination

- 12.1 On termination of the Contract:
- (a) the Customer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Company shall submit an invoice, which shall be payable by the Customer immediately on receipt;
 - (b) the Customer shall return any Deliverables which have not been fully paid for. If the Customer fails to do so, then the Company may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract; and
 - (c) each party shall return or, at the disclosing party's request, destroy the Confidential Information of the other party.

13 Force majeure

Neither party to the Contract shall be in breach of the Contract nor liable for delay in performing or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control and which could not have been contemplated (**Force Majeure Event**). In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed, unless otherwise agreed in writing. If the period of delay or non-performance continues for thirty (30) days, the

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party not affected may terminate the Contract by giving written notice of seven (7) days to the affected party.

14 **Assignment**

14.1 The Company may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

14.2 The Supplier/Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract or the Order without the prior written consent of the Company.

14.3 Any third party hired or contracted by a Customer/Supplier shall be the responsibility of such Customer/Supplier to honour any sums payable pursuant to any agreement between the Customer/Supplier and the third party. The Company shall not be held responsible for any payments, disputes or claims in relation to a third party.

15 **Governing law**

15.1 The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of the Abu Dhabi Global Market, United Arab Emirates.

15.2 Each party irrevocably agrees that the courts of the Abu Dhabi Global Market, United Arab Emirates shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with these Conditions, the Contract or its subject matter or formation.