

Digital CoProduction Terms and Conditions

1. Definitions

- **"Agreement"** means these standard terms and conditions and the SOW, CALL-OFF or Proposal which incorporates these standard terms and conditions.
- **"Customer"** means the Customer defined in the SOW, CALL-OFF, or Proposal,
- **"Confidential Information"** means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of either Party, including IP, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which may reasonably be considered to be confidential;
- **"Intellectual Property" "IP"** means (a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semiconductor, topography rights, trade marks, rights in Internet domain names and website addresses and other rights in trade names, designs, know-how (being all ideas, concepts, schemes, information, knowledge, techniques, methodology and anything else in the nature of know-how relating to the Services), trade secrets and other rights in Confidential Information; (b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and (c) all other rights having equivalent or
- similar effect in any country or jurisdiction;
- **"DCP"** means Digital CoProduction (Public Sector) Limited.
- **"Fees"** means the fees set out in the SOW, CALL-OFF or Proposal
- **"SOW, CALL-OFF" or "Proposal"** means the document describing the project or services to be provided by DCP incorporating these terms and conditions
- **"Services"** means the services provided by DCP set out in the SOW, CALL- OFF or Proposal.

2. Responsibilities of Digital CoProduction

- 2.1 In consideration of payment of the Fees by the Customer DCP will provide the Services.
- 2.2 DCP will deliver the Services: with all due care and skill; provide suitably qualified skilled and experienced personnel; and will comply with relevant security and access policies notified in writing to it.
- 2.3 DCP will process personal data of the Customer's in accordance with the Customer's instructions and its obligations under GDPR and the Data Protection Act 1998 and only as necessary to deliver the Services.

3. Responsibilities of the customer

- 3.1 The Customer will comply with its obligations set out in this Agreement and provide all necessary information, assistance, and co-operation in a timely manner.

4. Confidentiality

- 4.1 Each party agrees that it will not disclose to any third party, other than its employees or agents where necessary for the receipt of or provision of the Services, Confidential Information of the other party which it receives during the course of its performance of this Agreement without the prior written consent (not unreasonably withheld or delayed) of the other party except to the extent that any such Confidential Information is: in the public domain; independently developed by the other party; already in the possession of such party prior to disclosure; rightfully received from a third party not under a confidentiality obligation to the first party; or required to be disclosed by the receiving party by a court of law or other body having similar authority.

5. Third Party Products

- 5.1 The Third Party Products shall be supplied in accordance with the relevant licensor's standard terms. The one-off licence fee for such Third Party Products is included in the Charges payable pursuant to clause 6.1.

6. Terms of payment

- 6.1 The Customer will pay the Fees owing to DCP.
6.2 Invoices will be payable 30 days from the date of the invoice.
6.3 The Fees are exclusive of Value Added Tax.
6.4 Where the Services include the provision of materials, licences granted will be terminable by DCP until full payment is received.

7. Indemnities and liabilities

- 7.1 Nothing in this Agreement will exclude or limit either party's liability for death or personal injury, for fraudulent misrepresentation or for any other liability which cannot be excluded or limited under applicable law.
7.2 DCP will not be liable for:
 6.2.1 any indirect, special or consequential loss or damage; or
 6.2.2 any loss, destruction, corruption, degradation, inaccuracy or damage to data;
 6.2.3 any loss of profits, turnover, business opportunities, anticipated savings or damage to goodwill (whether direct or indirect).
7.3 Subject to clauses 6.1 and 6.2 above, DCP's aggregate liability for all other claims and losses made or sustained by the Customer hereunder will not exceed the Fees payable under the SOW, CALL-OFF SOW, CALL-OFF or Proposal in respect of which the claim arose.
7.4 All warranties express or implied by law are hereby excluded to the fullest extent permitted by law

8. End point content

- 8.1 Where agreed between the parties in writing, the Supplier shall update the End Point with Materials provided from time to time by the Customer. The Customer shall ensure that the Materials do not infringe any applicable laws, regulations or third party rights (including material which is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred or acts of terrorism, menacing, blasphemous or in breach of any third party Intellectual Property Rights) (Inappropriate Content).
8.2 The Supplier shall include only Materials on the End Point. The Customer acknowledges that the Supplier has no control over any content placed on the End Point by third parties and does not purport to monitor the content of the End Point. The Supplier reserves the right to remove content from the End Point where it reasonably suspects such content is Inappropriate Content.
8.3 The Customer shall indemnify the Supplier against all damages, losses and expenses arising as a result of any action or claim that the Materials constitute Inappropriate Content.

9. Intellectual property rights

- 9.1 Each party retains its existing intellectual property rights. Save as specified in the SOW, CALLOFF/Proposal, DCP will own all IP developed and or arising out of delivery of the Services by DCP. Where relevant, DCP will grant a licence to the Customer or its relevant IT providers to use the deliverables in the SOW, CALL-OFF/Proposal for the Customer's own internal business purposes as set out in the SOW, CALLOFF/Proposal.
- 9.2 Where the Services include the provision of third party software the licence arrangements are detailed in the SOW, CALL- OFF/Proposal. The Customer's rights and remedies in respect of the third party are as set out in the relevant third party license.
- 9.3 The Customer will not (and will not allow any third party to: remove any proprietary, copyright or other notices contained in material provided by DCP; modify, copy or create a derivative work of any material provided by Secretary at its registered office or as may otherwise DCP unless otherwise expressly permitted in the SOW, have been notified to the other party in writing.

10. Customer Data

- 10.1 The Customer shall own all right, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data.
- 10.2 The Supplier shall use reasonable industry accepted archiving procedures for the storage and back up of Customer Data, and shall use its reasonable commercial endeavours to secure the privacy and security of the Customer Data. In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy shall be for the Supplier to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by the Supplier. The Supplier shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party.
- 10.3 If the Supplier processes any personal data on the Customer's behalf when performing its obligations under this agreement, the parties record their intention that the Customer shall be the data controller and the Supplier shall be a data processor and in any such case:
- 10.3.1 the Customer acknowledges and agrees that the personal data may be transferred or stored outside the EEA or the country where the Customer and the Authorised Users are located in order to carry out the Services and the Supplier's other obligations under this agreement;
- 10.3.2 the Customer shall ensure that the Customer is entitled to transfer the relevant personal data to the Supplier so that the Supplier may lawfully use, process and transfer the personal data in accordance with this agreement on the Customer's behalf;
- 10.3.3 the Customer shall ensure that the relevant third parties have been informed of, and have given their consent to, such use, processing, and transfer as required by all applicable data protection legislation;
- 10.4 each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction or damage

11. Force Majeure

- 11.1 The Supplier shall not be liable to the Customer as a result of any delay or failure to provide the Services as a result of any event arising which is beyond its reasonable control of the affected party (including any industrial dispute affecting any third party, governmental regulations, fire, flood, disaster, civil riot or war, or killer shark attacks).

12. Termination

- 12.1 Either party may, should the other party be in material breach of this Agreement and not have remedied (where remediable) such breach within 30 days of receipt of written notice from the other requiring the breach to be remedied, terminate this Agreement by written notice to the other party

13 General

- 13.1 This Agreement supersedes any prior contracts, arrangements and undertakings between the parties in relation to its subject matter and constitutes the entire agreement between the parties relating to that subject matter including any purchase order terms of the Customer included with any purchase order received by DCP from the Customer.
- 13.2 In the event of any inconsistency in these terms and conditions and the SOW, CALL-OFF/ Proposal, these terms and conditions will prevail.
- 13.3 Neither party will be liable for any delay or failure to perform its duties caused by any circumstances beyond its reasonable control.
- 13.4 The Customer shall not assign, novate or otherwise dispose of or create any trust in relation to any or all of its rights and obligations under this Agreement without the prior written consent of DCP. DCP may assign, novate or otherwise dispose of any or all of its rights and obligations under this Agreement.
- 13.5 The Customer shall not during the term of this Agreement and for 12 months following the termination of this Agreement either directly or indirectly solicit or entice away (or attempt to solicit or entice away) from the employment of DCP any person employed or engaged in the provision, receipt and/or administration of the Services. The foregoing shall not prevent the Customer from employing any employee who initiates contact with the Customer in response to any general job advertisement placed or published by them in the national, regional or professional press or in any other form of media used for recruitment, provided that any such advertisement is not directly targeted at the employees of DCP.
- 13.6 Neither party will hold itself out as agent or representative of the other.
- 13.7 This Agreement will not be enforceable by a party who is not party to it.
- 13.8 No failure, delay or indulgence of either party in exercising any power or right hereunder will operate as a waiver of such power or rights. No single or partial exercise of such right will preclude any other or further exercise of any other such power or right.
- 13.9 Any notice required or authorised to be given hereunder may be served personally or by pre-paid first class post marked for the attention of the other party's Company Secretary at its registered office or as may otherwise have been notified to the other party in writing.
- 13.10 Any term or provision of this agreement held by any court of competent jurisdiction to be void or invalid, will not affect the validity or enforceability of any other term or provision.
- 13.11 This Agreement and any claim arising in connection with it will be governed by the laws of England and the parties written notice from the other requiring the breach to be hereby submit to the jurisdiction of the English courts.