Creative Technology (Asia Pacific) Co. Ltd - Terms Of Business

1. Interpretation

1.1. In these Terms Of Business ("**these Terms**"), unless the context otherwise requires, the following expressions have the following meanings: "**CT**" means Creative Technology (Asia Pacific) Co. Ltd; "**Client**" means the legal entity(ies) or individual(s) accepting CT's quotation for the supply of Equipment or Services or whose order for Equipment or Services is accepted by CT or the party otherwise commissioning Services in each case as named on CT's invoice; "**Equipment**" means all and each item of equipment referred to in the Deal Terms (defined in clause 2.1 below) to be supplied by CT and all additions, alterations and replacements to that Equipment; "**Dry Hire**" means the hire of Equipment without the supply of operational personnel; "**Fees**" means CT's charges for provision of Equipment and/or Services; "**Services**" means the installation, operation and removal of Equipment and/or other services as described in the Deal Terms; "**working day**" means any day (other than Saturdays and Sundays) on which banks in Hong Kong are generally open for business; and "**writing**" includes email.

2. Provision of Equipment and Services

2.1. CT shall provide Equipment and Services and Client shall accept Equipment and engage Services of CT at the location(s) ("**Venue**") as described in CT's hire agreement or order acceptance or, if none, CT's most recent quotation for the event ("**Deal Terms**"), all of which shall together with these Terms, form the entire agreement between CT and Client (such Deal Terms and these Terms are collectively, the "**Agreement**"). The Agreement applies to the exclusion of, and supersede, any other terms and conditions. Save as otherwise expressly provided in these Terms, no variation to these Terms shall be effective unless it is in writing and is signed by a duly authorized representative on behalf of CT.

2.2. Client acknowledges that Equipment and Services were selected by Client as suitable for its purpose. Client has not been induced to enter into the Agreement by, and it has not relied upon (and Client will have no remedy in respect of) any prior or contemporaneous representations, agreements or understandings (whether written or verbal, whether innocently or negligently made, or otherwise) or statement which is not specifically contained in the Agreement.

2.3. In the event any terms and conditions set forth in these Terms conflict with any terms set forth in the Deal Terms, the terms set forth in the Deal Terms shall supersede the conflicting terms in these Terms.

2.4. Unless otherwise expressly agreed in writing by CT and signed by an authorized representative on behalf of CT, all Equipment is supplied by CT on hire in accordance with the Agreement and no title to or any ownership interest in the Equipment shall pass to Client or any third party.

2.5. CT will use reasonable efforts to ensure Equipment is in good working order on delivery and of satisfactory quality and will provide Services using reasonable care and skill and in accordance with the Agreement.

3. Order Acceptance, Postponement and Cancellation

3.1. No order or booking made by Client shall be deemed accepted unless and until it is expressly accepted and confirmed by an authorized representative of CT in writing or unless CT in its discretion waives any such requirement, provided that in any event, all acceptance of CT will be subject to these Terms.

3.2. Client shall be responsible for ensuring the accuracy of any order but CT reserves the right to make changes in the manner of performance of Services at any time in order to comply with the applicable legal requirements.

3.3. Following acceptance by CT, Client may not cancel, postpone or terminate the Agreement except with CT's consent in writing. Without prejudice to clause 3.4 below, Client shall indemnify and keep CT (and the Indemnified Persons) indemnified in full against all losses (including, without limitation, loss of profits and reimbursement of all costs) incurred prior to or as a result of cancellation, postponement or termination.

3.4. If Client cancels, postpones or terminates its order or booking, Client must pay CT all or a proportion of the Fees in the below manner unless CT agrees in writing otherwise:

3.4.1. where Client gives CT less than 30 days' but more than 14 days' notice of cancellation, postponement or termination of an order or a booking prior to the date of supply of the Equipment or Services, Client must pay 50% of the Fees;

3.4.2. where Client gives CT 14 days' or less but more than 7 days' notice of cancellation, postponement or termination of an order or a booking prior to the date of supply of the Equipment or Services, Client must pay 75% of the Fees; and

3.4.3. where Client gives CT 7 days' or less notice of cancellation, postponement or termination of an order or a booking prior to the date of supply of the Equipment or Services, Client must pay 100% of the Fees.

4. Fees

4.1. CT's charges for provision of Equipment and/or Services shall be as stated in the Deal Terms. Any additional Equipment or Services is subject to additional charges. Client shall be liable for continuing Equipment rental Fees if any Equipment is lost, stolen, damaged or destroyed, until its repair or replacement; and in the case of a Dry Hire or where Client arranges transit, if Equipment is returned late, until date of its actual return to CT.

4.2. Client shall pay Fees (and any applicable tax), notwithstanding that performance may not have taken place, to be received by CT in cleared funds on or before the date(s) specified for payment or, if none, on or before the earlier of (i) 3 working days prior to the date of supply of the Equipment or Services and (ii) 30 days from the date of CT's invoice. It is a condition that each payment due under the Agreement is paid on time without any deduction, set-off or counterclaim. Any discounts quoted or agreed may be forfeited at CT's discretion if payment is received after the due date.

4.3. If Client fails to pay any sum on the due date, then, without limiting any other right or remedy, CT may: (a) cancel or suspend provision of Services and Equipment to Client under the Agreement; (b) apply any payment made by Client (notwithstanding any express instruction by Client) towards the discharge of any sums due to CT under the Agreement or any other agreement between the parties; and/or (c) charge Client interest (both before and after judgement) on the amount unpaid at the rate of 1% per month (or, after judgment, at the judgment rate, whichever is higher) calculated on a daily basis until payment in full, together with all costs, charges and expenses reasonably incurred by CT (including legal fees) in recovering the overdue amounts.

4.4. CT may, at any time before performance, increase its Fees to reflect any matter apparent on subsequent site surveys, any increase in cost due to any factor beyond the control of CT or change or delay caused by Client. CT will provide timely notice to Client of any such increase. To the extent the Agreement has not been performed (but not otherwise), if Client, following consultation with CT, does not accept the increase and CT does not waive it, Client may cancel the Agreement by written notice given within 5 working days of notice of increase (but not less than 3 working days prior to commencement of Equipment hire or Services) whereupon Client shall forthwith settle all Fees incurred up to cancellation and indemnify CT in full against all other costs, charges and expenses incurred by CT prior to or as a result of cancellation.

4.5. All payments of Fees from Client shall be made in clear fund and without withholding or deduction of, or in respect of, any tax, levy, impost, duty, charge or fee unless required by law. If any such withholding or deduction is required, Client shall, when making the payment to which the withholding or deduction relates, pay to CT such additional amount as will ensure that CT receives the same total amount that it would have received if no such withholding or deduction had been required.

5. Risk and Insurance

5.1. Equipment shall be at the risk of Client from the time of delivery at the Venue or, if earlier, delivery to Client's carrier, until its return to CT's premises or, if earlier, possession is taken by CT's carrier.

5.2. Client shall at its own expense insure Equipment with an insurance company of repute (naming CT as a loss payee): (a) against all losses or damages (whether or not Client's or CT's fault) in an amount equal to its replacement cost new; and (b) against liability for any continuing Fees under clause 4.1 above until the earlier of: the return of Equipment to CT in good working order and condition (fair wear and tear excepted) or (if not capable of economic repair) its replacement with equivalent new equipment; or receipt by CT of payment in full of its replacement cost and all other sums due hereunder.

5.3. Client hereby irrevocably authorises CT in the name and on behalf of Client (but at Client's cost) to make any claims under the insurance in respect of loss of or damages to Equipment, to settle or compromise such claims, and to receive and give good discharge to insurers for any moneys payable. Client shall not do or allow to be done any act or thing whereby insurance of Equipment may be invalidated.

5.4. If Equipment is lost or damaged, Client shall notify CT forthwith, assist in making appropriate claims under such insurance and not without CT's consent settle or compromise any claim.

5.5. Client will on request at any time produce to CT the insurance policy and receipt for current premium. If Client fails to keep Equipment insured to CT's satisfaction or to produce policy or receipt or if CT so agrees in writing, CT may insure Equipment, in consideration of which Client will pay CT a further sum equal to 12.5% of CT's charges (before any discount) for relevant Equipment or Services.

5.6. CT accepts no responsibility for loss or damage to any equipment or materials of Client or any third party, which CT may agree to store or transport, and any such equipment or materials shall at all times be at the Client's risk.

6. Health and Safety

6.1. Client shall take all reasonable steps to safeguard the health, safety and welfare of CT's personnel while at the Venue, to safeguard Equipment from theft, loss or damage and to give CT adequate notice of any unusual risks. Without prejudice to the foregoing, Client acknowledges that CT shall not be obliged to continue to supply Equipment or Services (and may take down all or any Equipment previously installed) where, in CT's reasonable opinion, the installation poses a material risk to health and safety or to Equipment.

6.2. Where a support structure is supplied by Client, Client shall ensure that the surface, on which Equipment and structure will be installed, will be stable under load and that the structure will be fit for the purpose (taking account

© Creative Technology (Asia Pacific) Co. Ltd 2023

of the prevailing wind speeds) and will comply with all health and safety and other relevant regulations. Client shall provide CT on request with copies of certificates of compliance and structural engineering calculations verifying the adequacy of Client's structure. Equipment dimensions and weights and representational drawings of structures are available on request from CT but are approximate and representational only and do not obviate the need for Client to obtain appropriate professional advice.

6.3. Client shall at its cost conduct all necessary risk assessments of the Venue and provide all personal protective equipment to CT's personnel to enable them to provide Services in a safe environment.

7. Client's Undertakings

Client undertakes to CT that Client shall:

7.1. grant or procure access for CT to and from the Venue at such times as CT may reasonably require to discharge its obligations;

7.2. cooperate with CT in the performance by CT of Services;

7.3. be responsible for the performance of its personnel and agents;

7.4. where applicable, provide free of charge within a reasonable distance of the operating position of Equipment at the Venue: a video feed of the relevant format; an uninterrupted power supply terminated in an appropriate connection; and such other facilities as CT may reasonably require;

7.5. where CT's Services are dependent on provision of equipment or services by Client or its contractor, ensure that all such equipment and services are provided on time when required; the equipment is in good working order and of adequate quality and specification; and services are provided by persons of adequate competence and experience using reasonable care and skill;

7.6. obtain all necessary licences and consents relating to the Venue and the use of Venue for the purpose and communication or use by CT of live or pre-recorded material;

7.7. if transit of Equipment is arranged by Client, arrange any necessary customs clearances (in both ports where Equipment is exported and imported), comply with all applicable import/export regulations and pay all related duties;

7.8. (except in the case of a Dry Hire) not permit Equipment to be operated other than by CT's personnel nor open the outer case or otherwise interfere with Equipment;

7.9. in the event of Equipment breakdown or malfunction, not attempt or arrange any repair without CT's prior written authorisation;

7.10. not sell, sub-let or otherwise dispose of or part with Equipment or any interest therein or do or permit to be done any act or thing which may prejudice or jeopardise CT's rights in Equipment but to keep Equipment in its or CT's possession and control free from any lien, charge or encumbrance so that Equipment shall at all times remain property of CT and that CT shall remain as its legal owner;

7.11. permit or procure for CT or its agents access to any premises to inspect or remove Equipment;

7.12. notify CT in writing of any change in Client's contact details and forthwith upon request to inform CT of the location of Equipment;

7.13. comply with all applicable legal requirements when carrying out its obligations under the Agreement; and

7.14. (notwithstanding termination of the Agreement) indemnify CT, CT Affiliates (as defined in clause 10.1 below) and sub-contractors (together, the "**Indemnified Persons**") and keep them indemnified against all liabilities whatsoever arising out of the operation and use of Equipment, the provision of Services and any breach by Client of the Agreement (including without limitation loss, damage or injury caused by any negligent act or omission or misconduct of Client, its affiliates, officers, employees, advisers, agents or sub-contractors or any claim that any such use or communication of any material infringes any patent, copyright, trade mark, registered design, design right or other intellectual property right of any third party) and against all costs, claims, demands, expenses and liabilities incurred by the Indemnified persons in connection therewith, provided such indemnity shall not extend to liability for the Indemnified Persons' negligence.

8. Additional Client Undertakings (Dry Hire Only)

Client undertakes during the continuance of the Agreement and until return of Equipment to CT:

8.1. to check Equipment before taking into use, to notify CT in writing forthwith of any repair or maintenance required for Equipment and not to permit such repair or maintenance other than by CT or with its authority;

8.2. to ensure Equipment is only used in a proper manner without risk to health and safety and not contrary to any law or for any purpose for which Equipment is not designed or reasonably suited; and not to make any modification to Equipment, open the outer case (unless required in normal use) or remove any notices or serial numbers on Equipment.

9. Warranties

Client represents, warrants and undertakes that:

9.1. it has full capacity and authority to enter into the Agreement;

9.2. it has obtained all approvals, certifications, registrations, licenses, consents and/or permits necessary or appropriate for the purpose of CT to provide Services and performance of the Agreement; and

9.3. it will not obligate nor instruct CT to perform in such way that is in conflict with any law or regulation, or rights of third party. It will comply with all law and regulations applicable to the Agreement, and shall not do or omit to do anything which may cause CT to breach the same.

10. Exclusion and Limitation of Liability

10.1. CT (including its affiliates and CT's and its affiliates' respective shareholders, directors, officers, employees and agents (collectively, "**CT Affiliates**")) will have no liability whatsoever for any delays or non-performance from any act of god, war or other violence, insurrection, riot, civil commotion, act or threat of terrorism, natural disasters, material weather conditions, accidents, fire, flood, typhoon, theft, malicious damage, strike, lock-out, industrial or labour disputes, change in applicable laws, rules and regulations, any law, order or requirement of any governmental agency or authority, failure to cooperate by other party, any other events or circumstances which are beyond the reasonable control of CT (and inability of CT to obtain essential supplies or material as a result of such events or circumstances beyond its reasonable control), or any cause which CT could not avoid and the consequences whereof it could not be prevent by exercise of reasonable diligence (each, a "**Force Majeure Event**"). CT shall be entitled not to install or, if installed in which case Client shall remain liable to pay the Fees in full, may take down all or any of Equipment upon the occurrence of any Force Majeure Event.

10.2. CT and CT Affiliates will have no liability whatsoever for any indirect, incidental, consequential, exemplary, punitive or special damages. In particular, CT and CT Affiliates will not be liable for any loss of profit, revenue, product, sales, business opportunity, goodwill, reputation, savings, margin (in each case, whether direct or indirect) or any loss of use or value of any data or software, wasted management, operational or other time; any liability of Client to any third parties, even if such loss was reasonably foreseeable or CT was advised of the risk of its occurrence.

10.3. The Agreement is entered into and will be performed by or on behalf of CT. None of the CT Affiliates will be liable to Client.

10.4. Client acknowledges that equipment may suffer breakdown or malfunction from time to time without fault and that consequences to Client of breach of the Agreement by CT may be disproportionate to CT's Fees. Client also acknowledges that CT and CT Affiliates shall not be held responsible for any claims, costs, suits and damages arose from the event or for liability of injuries suffered by any person at the Venue.

10.5. All Equipment is supplied "as is" and no warranty is given as to performance, functionality, fitness for purpose or that it is of satisfactory quality, unless otherwise agreed by CT in writing.

10.6. Client agrees that CT's entire liability to the Client in respect of the Agreement and any breach or negligence or omission (including liability for acts or omissions of CT's Affiliates and sub-contractors) shall be limited as follows:

10.6.1. except as specifically provided in the Deal Terms in writing, all conditions, warranties and representations concerning Services and Equipment, their state, quality, description, fitness for purpose or otherwise are excluded to the fullest extent permitted by law;

10.6.2. to the fullest extent permitted by law, CT's liability in respect of each event or series of connected events shall not exceed the total Fees received by CT and without prejudice to the above, CT maximum aggregate liability to Client shall be limited to HK$10,000,000;

10.6.3. CT shall not be liable for any claim unless Client gives CT reasonable details of any claim in writing without delay no later than 90 days of occurrence of the matter giving rise to the claim; and

10.6.4. Client shall not be entitled to any claim as a consequence of fraud, misrepresentation, non-disclosure or non-cooperation on the part of Client or any of its respective officers, employees, advisers, agents or sub-contractors.

11. Use of Information and Intellectual Property

11.1. To the extent that CT utilizes or develops any of its material or property (whether tangible or intangible) in connection with the Agreement, such material or property, including deliverables, plans, templates or work products (whether finished or not), will remain the property of CT solely. CT will have the sole ownership (including, without limitation, copyright and other intellectual property ownership) and all rights to use, apply and disclose its ideas, concepts, know how, methods, techniques, processes and skills, and rights to adaptations thereof, in conducting its business, and Client will not assert or cause to be asserted any claim against CT or its personnel any prohibition or restraint from so exercising the foregoing rights.

11.2. Client acknowledges that CT, in connection with performing Services, may develop or acquire general experience, skills, knowledge and ideas that are retained in the memory of its personnel. Client acknowledges and agrees that CT may use, apply and disclose such experiences, skills, knowledge and ideas in conducting its business.

11.3. Client's trademarks and logos provided to CT for performing Services will remain the property of Client, except that CT asserts its full rights as copyright owner of all such material that has been captured, processed and/or reproduced by CT in its work products (whether finished or not). To the extent Client is not the owner of any intellectual property and proprietary rights in the material provided to CT, Client acknowledges that it is Client's duty and obligations to obtain all necessary or appropriate permission from the original owner. Without prejudice to any rights of CT (in particular, its rights under clause 11.4 below), CT may (but is not obliged to) request the Client to provide proof of such permission.

11.4. Client agrees and acknowledges that CT may use and rely on

the © Creative Technology (Asia Pacific) Co. Ltd 2023

information, data and materials furnished by or on behalf of Client without verification. Client shall indemnify and keep CT (and the Indemnified Persons) indemnified for all liabilities (including, without limitation, loss of profits and reimbursement of all costs) incurred as a result of or in connection with any actual or alleged infringement of intellectual property or proprietary rights in material provided to CT. Client grants CT a non-exclusive, royalty-free, worldwide license to use, copy, adapt, reformat, recompile, manipulate, communicate by telecommunication and/or modify any part of the information provided, and for display, public and distribution.

11.5. CT assigns to Client a licence to use CT's work product in its complete delivered form only. CT does not give permission for any work product to be altered, edited or used as part of another production, unless this is expressly agreed by CT in writing.

11.6. Any rights, titles and interests not expressly granted in the Agreement are reserved by CT and all implied licenses are disclaimed.

12. Termination

In addition to other provisions allowing termination or cancellation specifically set forth in the Agreement, the Agreement may be terminated under any of the following circumstances:

12.1. the Agreement shall forthwith terminate by CT without notice if Client (being an individual) dies or is subject to an interim order (within the meaning of the Bankruptcy Ordinance, Chapter 6, Laws of Hong Kong) or the presentation of a bankruptcy petition (if applicable); or enters into any arrangement or composition with creditors; or (being a limited company) enters into compulsory or voluntary liquidation (not being for the purpose of reconstruction or amalgamation on terms previously approved by CT in writing); or has a receiver appointed or a petition presented for its winding up or a winding up order is made against it; or has any distress, execution or other legal process made in respect of Client's property; or if anything analogous to the foregoing under the laws of any jurisdiction occurs in relation to Client;

12.2. CT may terminate the Agreement forthwith by notice without liability to Client if: (a) Client fails to pay in full any sum owing to CT or any CT Affiliates on its due date for payment; (b) Client commits a breach of any other provision of the Agreement or any other agreement with CT or any CT Affiliates; (c) performance by CT is prevented by any Force Majeure Event; or (d) CT or Client is unable to obtain insurance for Equipment and CT's personnel on terms (including insurance premium) to CT's satisfaction;

12.3. upon termination and without prejudice to clause 3.4 above, all sums due under the Agreement shall become immediately payable by Client and, in the case of a Dry Hire, Client shall no longer be in possession of Equipment unless with CT's express consent in writing and (without prejudice to Client's obligations and other rights and remedies of CT) and shall at its expense return Equipment to CT in good working condition (fair wear and tear excepted) and in default, CT may forthwith without notice repossess Equipment and all costs and expenses (including without limitation, any legal costs and expenses) incurred by CT in locating, repossessing or restoring Equipment shall be payable by Client; or

12.4. termination or cancellation shall not limit any other right or remedy of either party against the other under the Agreement or at law and all sums then owing to CT by Client shall become immediately due and payable.

13. Confidentiality

13.1. Each party shall treat all information obtained from the other pursuant to the Agreement which is marked "confidential" or the equivalent or has the necessary quality of confidence about it as it does with its own confidential information, except if CT is required by law or any competent authority to disclose the confidential information, or such disclosure is required for the purpose of establishing a claim or deference.

13.2. Nothing in the Agreement will prevent or restrict CT from providing equipment or services to other clients or potential clients, including the same Equipment or Services, or services which are similar to Services, or using or sharing for any purpose any knowledge, experience or skills used in, gained or arising from performing Services. CT is not obligated to disclose any information obtained from another client or other third party, or information obtained under any obligation of confidentiality, to Client or to use it for the benefit of Client.

14. Electronic Communications

14.1. Electronic communications, along with their attachments, received by or sent from CT are subject to review. Such communications are retained by and may be produced to regulatory authorities or others with legal rights to the electronic communications or their contents.

14.2. Communications over the Internet cannot be guaranteed to be secure or error-free. Electronic communications and their attachments are subject to being intercepted, becoming corrupted, getting lost or delayed, or may contain viruses. Therefore, CT does not accept any liability for any errors or omissions in the content of electronic messages or problems in their transmission.

15. General

15.1. If Client is more than one person, they shall be liable both jointly and severally.

15.2. CT reserves the rights to amend these Terms from time-to-time and without notice.

15.3. CT may sub-contract, delegate or sublicense all or any of its obligations to its affiliated companies or a competent third party, and may assign its rights to CT Affiliates, in each case, without the approval of Client.

15.4. The parties are fully aware of all terms and conditions contained herein. Any translation of these Terms, if any, is made for reference only, and the English language version shall prevail.

15.5. For their convenience, CT and Client may use, from time to time, their standard terms, purchase orders, sales, release, delivery annexes, acknowledgments, invoices and other similar pre-printed forms. In the event of a conflict between these Terms and any of these documents that purport to govern the same matters set forth herein, these Terms shall prevail.

15.6. Client and CT are independent contractors and nothing in the Agreement shall be construed to create, evidence or imply any agency, employment, partnership or joint venture between Client and CT. Except as otherwise set forth in the Agreement, neither Client nor CT shall have any right, power or authority to create any obligation or responsibility on behalf of the other and the Agreement is not intended to benefit, nor shall it be deemed to give rise to, any rights in, any third party.

15.7. The Agreement is for the benefit of Client and CT only, and not for the benefit of any third party. Except as specifically set out in these Terms, no person other than CT and Client shall have any rights under or to enforce the Agreement. The Contracts (Rights of Third Parties Ordinance) (Chapter 623 of the Laws of Hong Kong) shall not apply.

15.8. Client shall not assign, sublicenses or otherwise transfer the Agreement or any of its rights or obligations under the Agreement.

15.9. Except specifically set out in the Agreement, all warranties, conditions and terms which may otherwise be implied by applicable law (whether by statute, common law or otherwise) are excluded from these Terms.

15.10. Any typographical or clerical error or omission in documents issued by CT may be corrected without liability on the part of CT.

15.11. Any notice under the Agreement shall be in writing in Chinese or in English language and may be served by hand, pre-paid registered post or airmail or such other address as is notified for the purpose.

15.12. Delay in exercising or failure to exercise a right or remedy under or in connection with the Agreement will not constitute a waiver or relinquishment of, and shall not prevent or restrict CT from enforcing any provision of the Agreement. CT's single or partial exercise of a right or remedy shall not prevent or restrict the further exercise of that or any other right or remedy. A waiver of a breach of the Agreement by CT shall not operate as a waiver of a later breach of the same or any other provision.

15.13. If any provision of the Agreement is held to be invalid or unenforceable in whole or in part by a court of competent jurisdiction or other competent authorities, the validity of the remaining provisions shall not be affected and such invalid or unenforceable provision shall be deemed modified or excluded, preserving to the fullest extent permissible the intent of the parties set forth herein.

15.14. Headings in the Agreement are included for convenience only and shall not affect interpretation.

15.15. The Agreement shall be governed and construed in accordance with the laws of the Hong Kong Special Administrative Regions of the People's Republic of China ("**Hong Kong**"). Client agrees to submit to the non-exclusive jurisdiction of the Courts in Hong Kong.

© Creative Technology (Asia Pacific) Co. Ltd 2023