



Skyline IFE Ltd Terms and Conditions

DEFINITIONS

“**we**” “**us**”: Skyline IFE Limited, (CRN 1508607) whose registered office is at 122 Feering Hill, Feering, Colchester, Essex, CO5 9PY.

“**Conditions**”: These terms and conditions together with any additional conditions agreed in writing by us.

“**Content**”: All information data, software, executable code, images, audio, video or written material in whatever medium or form provided by us to you under the terms of this Agreement.

“**End User**”: The ultimate user of, the Products and/or the Produced Programmes.

“**Information**”: All details provided by you to enable us to supply the Products and/or the Services including (where relevant) the specification of the system to be utilised in transmitting any films or other audio-visual materials, audio programmes or other material comprising the Products or included in the Content.

“**Products**”: The Products specified in the Confirmation of Order form together with any subsequent Products bought by you from us including (where relevant) Produced Programmes.

“**Produced Programmes**”: Any films, audio-visual material, audio or written material produced by Skyline at the request of the Customer and specified in the Confirmation of Order form.

“**The Price**”: The Price for the Products and/or Services set out in the Confirmation of Order form or in any quotation given to you and referred to in the Confirmation of Order form.

“**Services**”: Any Services agreed to be provided to you by us.

“**Specifications**”: The Specifications of the Products and/or Services as described in any quotation or catalogue issued by us or on our website.

“**System**”: The system or systems on which applicable Product is to be broadcast.

1 AGREEMENT TO BUY AND SELL/SUPPLY SERVICES

- 1.1 If we provide a quotation, then on acceptance, you offer to buy the Products/pay for the Services at the Price subject to the Conditions

- 1.2 We accept this offer, and are bound by this agreement when we have accepted it by a Confirmation of Order form or by any other means chosen by us.
- 1.3 Where no quotation has been given, an order by you for Products or Services is an offer by you to buy them subject to the Conditions and is not binding upon us until we have accepted it by our Confirmation of Order form or by any other means chosen by us.
- 1.4 All agreements, and any other agreement between you and us, are subject to these Conditions to the exclusion of all others, unless we have agreed a prior variation with you in writing.

2 THE PRICE AND PAYMENT

- 2.1 The Price is exclusive of VAT
- 2.2 Payment of the Price is as specified in the quotation and/or the Confirmation of Order form. If no time for payment is specified, then payment is due five days before delivery of the Product.
- 2.3 Interest on any unpaid Price or part of the Price shall accrue from the date when it becomes due until paid at a rate of 3% above Barclays Bank Plc base rate (whether before or after any judgment)
- 2.4 If any part of the Price is not paid by you when it is due, then we reserve the right to immediately end this Agreement but without prejudice to any rights we may have against you at that time.
- 2.5 We reserve the right to charge an administration charge of not less than £100.00 plus VAT if the Price is not paid when due.

3 THE INFORMATION

- 3.1 You guarantee that the Information will be accurate and complete and that if it is not, and the result is an increase in costs to us, then you will be responsible for paying that increased cost subject to us having notified you of this increased cost in advance. If you do not agree to pay such increased costs, then we reserve the right to end this Agreement.
- 3.2 You warrant that the Information is full and complete and will enable us to provide the Products and/or Services contracted for by you. We accept no liability for any failure of the Products and/or Services arising out of your failure to provide such full and complete Information.

4 DELIVERY

- 4.1 Delivery of Product(s) will be made to you electronically or by mail to the official address you provided to us, at which time the responsibility for the product will pass to you.
- 4.2 If we agree to deliver the Products to you at some other place, then the costs of such delivery and of insuring the Products shall be borne by you and added to the Price.
- 4.3 Dates quoted for delivery of Products and/or Content where comprised in the Services are given in good faith but approximate. We do not accept any liability for any loss or damage whatever resulting from us failing to deliver them on any day, since normally any such delay will be due to circumstances beyond our control.

- 4.4 The Products and/or Content may be delivered by us in advance of any quoted delivery date upon giving notice to you.
- 4.5 If you fail to take delivery of Products and/or Content after you have requested delivery, or fail to give us adequate delivery instructions then (without prejudice to any other remedies) we may at our option:
- 4.5.1 retain the Products and/or Content until actual delivery and charge you our reasonable costs (including insurance) of so doing; and/or
- 4.5.2 after having given you 48 hours notice of our intention so to do, end the agreement between us at which point payment of the Price, in full, shall be due from you.

5 INTELLECTUAL PROPERTY

- 5.1 We undertake and agree with you that to the best of our knowledge and belief the Produced Programmes do not infringe in the territory any rights of copyright or any other intellectual property rights belonging to any third parties and agree to indemnify you against any losses you may sustain solely as a result of a negligent breach of this undertaking.
- 5.2 You will not make any copies of any Product without our prior written consent (which may be withheld without reason) and if you become aware of any misuse of any Content then you will, at your expense, immediately tell us and fully co-operate with us to remedy this issue as soon as reasonably practicable or allow or enable any third party to do so.
- 5.3 You will indemnify us from and against all costs (including without limitation legal costs) claims, proceedings, awards, actions and damages arising as a result of any breach by you or any End User of copyright or other Intellectual Property rights whether belonging to us or to third parties or which might arise directly or indirectly as a result of any breach or non performance by the Customer of any of its undertakings, warranties or obligations under the terms of this Agreement.
- 5.4 You acknowledge that damages may be an inadequate remedy for any breach of the provisions of this clause and hereby acknowledge that upon such breach you shall be entitled, in addition to any other remedy, to injunctive or other equitable relief restraining you from any continued breach.
- 5.5 You will keep all copies of Product safe and secure and will not release them to any third party without the prior written authorisation of us.

6 PRODUCED PROGRAMMES

- 6.1 Where the Content comprises or includes the production and delivery of material which is licensed from third parties, then we will pay such licence fees. You are responsible for making all necessary arrangements, and paying all necessary fees, to enable the Produced Programmes in question to be played thereafter and you will indemnify us against any costs, claims, actions, demands or liability which we may incur as a result of your failure to do so.
- 6.2 We hereby grant you a non transferable and non exclusive licence to use the Content in the Produced Programmes during the term of this agreement as specified in our Confirmation of Order Form.

- 6.3 You will not grant any sub licences, in whole or in part, of any of the rights granted to you under this agreement without our prior written consent save that you may grant sub licences to any End User specified in the Confirmation of Order Form.
- 6.4 You will comply with all applicable laws, whether in the United Kingdom or elsewhere in utilising the Content and will indemnify us against all costs (including without limitation legal costs) claims, proceedings, awards, actions, and damages arising as a result of any breach by you or by any End User of this undertaking.

7 INTELLECTUAL PROPERTY RIGHTS

- 7.1 We retain ownership of all our Intellectual Property Rights in the Content and in the Produced Programmes and you will not make any copies of any Product without our prior written consent (which may be withheld without reason) or allow or enable any third party to do so.
- 7.2 You will indemnify us from and against all costs (including without limitation legal costs) claims, proceedings, awards, actions and damages arising as a result of any breach by you of copyright or other Intellectual Property rights (whether belonging to us or to third parties) or which might arise directly or indirectly as a result of any breach or non performance by you of any of your undertakings, warranties or obligations under the terms of this agreement.
- 7.3 You acknowledge that in certain circumstances, damages may be an inadequate remedy for any breach and hereby acknowledge that upon such breach we shall be entitled, in addition to any other remedy, to injunctive or other equitable relief restraining you from any continued breach.
- 7.4 You will keep all copies of Product safe and secure and will not release them to any third party without the prior written authorisation of Skyline.

8 WARRANTIES

- 8.1 If any of the Products carry manufacturers' warranties these will be passed to you. Any claim under the warranties should be addressed to the manufacturer.
- 8.2 You will be deemed to have accepted the Products 24 hours after delivery of them. You should therefore inspect the Products immediately upon delivery.
- 8.3 Any claim which is based on any defect in the quality or condition of the Product or its failure to correspond with any specification referred to in our quotation shall (whether or not you refuse delivery) be notified to us within seven days from the date of delivery or (where such defect or failure is not apparent on reasonable inspection) within a reasonable time of discovery of the defect or failure. If delivery is not refused and you do not notify accordingly, you shall not be entitled to reject the Product and we shall have no liability for any such defect or failure.
- 8.3.1 Where you notify a valid claim as above we are entitled to replace the Product (or the part in question) free of charge or (at our sole discretion) refund the Price (or a proportionate part of the Price) but other than this we shall have no further liability to you.
- 8.4 No warranty on our part, whether express or implied, will apply if damage has been caused to the Products or Content by you. In particular, we accept no liability where a Product is, or becomes defective as a result of

- 8.4.1 any failure to inform us in sufficient detail of the specifications of the System.
- 8.4.2 any failure to follow any servicing schedule recommended by us or by the manufacture.
- 8.4.3 your failure to maintain the Product or Content.
- 8.4.4 any incorrect operation, or misuse, of the Product or Content.
- 8.5 We accept no liability to you if any defect in the Products is, or if we do not perform the Services in the manner provided for in the quotation and/or Confirmation of Order form, as a result of inaccurate or inadequate Information supplied by you.

9 OWNERSHIP OF THE PRODUCTS

- 9.1 Regardless of delivery and acceptance, and the passing of risk, you will not become the owner of the Products until you have paid us the Price in full.
- 9.2 Until you become the owner of the Products you will keep them separately from your own property, although you may use them in the usual way. You will give the Products back to us if we ask you to do so.
- 9.3 If you do not give the Products back to us, then we are entitled to enter into any place owned, occupied or controlled by you where the Products are stored and repossess them.

10 LIMITATION OF LIABILITY

- 10.1 This clause sets out our entire financial liability to you (including any liability for the acts or omissions of our employees, agents and sub-contractors) in respect of:
 - 10.1.1 any breach of the terms of this agreement.
 - 10.1.2 any non-fraudulent representation, misrepresentation (whether innocent or negligent) or statement, or any tortious act or omission (including negligence) arising out of or in connection with this agreement.
- 10.2 All warranties conditions and other terms implied by statute or common law are excluded from this Agreement to the fullest extent permitted by law.
- 10.3 Subject as above, we will not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation (whether innocent or negligent) or otherwise for:
 - 10.3.1 loss of business; or
 - 10.3.2 depletion of goodwill or similar losses; or
 - 10.3.3 loss of use; or
 - 10.3.4 loss or corruption of data or information; or

10.3.5 any special indirect consequential or pure economic loss, costs, damages, charges or expenses.

10.3.6 loss of contract and loss of profit.

and you are advised to insure against all such potential losses or liabilities.

10.4 Our entire liability under this Agreement shall in any event not exceed the Price other than any liability in respect of death or personal injury caused by our negligence or arising as a result of fraud or fraudulent misrepresentation.

11 **ANTI CORRUPTION**

11.1 You and we shall:

11.2 Comply with all applicable laws, regulations, codes and sanctions relating to anti bribery and anti corruption including, but not limited to, the Bribery Act 2010 (“the Act”)

11.3 Not engage in any activity practice or conduct which would constitute an offence under the Act if such activity, practice or conduct had been carried in the UK.

11.4 Have and shall maintain in place throughout the term of this Agreement policies and procedures, including adequate procedures under the Act, to ensure compliance with its requirements and the provisions of this clause and will enforce them where appropriate.

12 **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

12.1 None of the terms of this agreement shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.

13 **SEVERANCE**

13.1 If any provision of this Agreement (or part of a provision) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in full force and effect.

14 **NOTICES**

14.1 Any notice given to a party under and in connection with this agreement shall be in writing and shall be sent to that party at the address given in the Confirmation of Order Form or at any other address which that party notifies to the other at any time.

15 **WAIVER**

15.1 No failure or delay by either party to exercise any right or remedy under this Agreement or by law shall constitute a waiver of that or any other right or remedy nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of any such right or remedy shall preclude or restrict the further exercise of it or any other right or remedy.

16 **APPLICABLE LAW**

- 16.1 These Conditions are governed by, and shall be construed in accordance with, the laws of England and Wales and the Courts of England and Wales shall have exclusive jurisdiction to hear and determine any action or proceedings and to settle any disputes, which may arise out of or in connection with them.