

PART A INTERPRETATION

1. In these Conditions

- 1.1. **“Applicable Laws”** means any law, statute, statutory instrument, regulation, rule or by-law in force in any jurisdiction in which either party performs its obligations or receives a benefit under this Contract;
- 1.2. **“Confidential Information”** means any non-public information, in whatever form, which is confidential in nature, is designated orally or in writing as confidential, or which may reasonably be considered by a business person to be commercially sensitive, and which is provided by DADC or a member of DADC’s Group to the Supplier, including (i) the content of this agreement, (ii) information relating to DADC’s clients, customers, suppliers, products, services, finances, operations, processes, formulae, plans, strategy, know-how, market opportunities, customer lists, commercial relationships, and general business affairs, and (iii) material created by the Supplier that contains, or otherwise reflects or is generated or derived from, the information referred to above;
- 1.3. **“Contract”** means the agreement between the Supplier and DADC for the supply of Goods and/or Services;
- 1.4. **“Goods”** means the goods agreed to be supplied to DADC by the Supplier;
- 1.5. **“Intellectual Property Rights”** means copyright, rights in inventions, patents, know-how, trade secrets, trade marks and trade names, service marks, design rights, rights in get-up, database rights and rights in data, rights in software, semiconductor chip topography rights, the right to sue for passing off, mask works, utility models, domain names and all similar rights and, in each case, (i) whether registered or not, (ii) including any applications to protect or register such rights, (iii) including all renewals and extensions of such rights or applications, (iv) whether vested, contingent or future, and (v) wherever existing;
- 1.6. **“liability in relation to”** shall mean **“liabilities, losses, damages, costs (including without limitation legal costs on a full indemnity basis and value added tax and other applicable taxation), expenses, actions, claims, proceedings and demands whatsoever arising directly or indirectly out of or in connection with”**;
- 1.7. **“Order”** or **“Purchase Order”** means the order form, including any applicable specification, submitted by DADC to the Supplier for Goods and/or Services;
- 1.8. **“Price”** means the agreed cost of the Goods and/or Services, as set out in a Order or as separately agreed in writing by the parties;
- 1.9. **“Services”** means the services agreed to be provided to DADC by the Supplier;
- 1.10. **“Sony DADC Europe”** or **“DADC”** means Sony DADC Europe Limited and/or each or any of: Sony DADC France SAS, Sony DADC Czech Republic s.r.o, Sony DADC Germany GmbH, Sony DADC Iberia S.L and ENS Entertainment Network Scandinavia AB as are applicable in the context;
- 1.11. **“Supplier”** means the supplier of Goods and/or Services from DADC; and
- 1.12. **“Supplies”** means the Goods and/or Services to be supplied under the Contract

2. In these Conditions, unless the context requires otherwise:

- 2.1. clause headings shall not affect the interpretation of this Agreement;
- 2.2. a **“person”** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person’s legal and personal representatives, successors and permitted assigns;
- 2.3. a reference to **“writing”** or **“written”** includes e-mail but not fax;
- 2.4. a reference to one gender includes a reference to all genders;
- 2.5. a reference to the singular includes the plural, and vice versa;
- 2.6. any obligation on a Party not to do something includes an obligation not to allow that thing to be done;
- 2.7. **“including”, “include”, “in particular”,** and similar expressions are illustrative and do not limit the sense of the words preceding those terms;
- 2.8. If there is a conflict between a provision of these terms and conditions and a provision of any Confirmed Order, the provision of the Confirmed Order shall take precedence in the matter of construction

PART B TERMS OF PURCHASE

1. Status of these Conditions

- 1.1. No obligations
Nothing in these Conditions:
1.1.1. requires DADC to make any Orders; or
1.1.2. grants any exclusivity to the Supplier in respect of the Goods and/or Services it may supply to DADC

1.2. Other terms

No other terms and conditions of the supplier, and no terms or conditions implied by industry practice, shall apply to these Conditions. The Supplier confirms that it shall not seek to put in place between the parties any other terms or conditions in respect of the matters contemplated by these Conditions

2. Orders

2.1. Request for Goods and/or Services

Should DADC require goods and/or services, it will make a request to the Supplier. Promptly on receiving such request, the Supplier will provide DADC with a proposed schedule of work, offer or quotation, setting out:

- 2.1.1. the nature of the goods and/or services to be supplied;
- 2.1.2. the specific Deliverables to be created and delivered;
- 2.1.3. date(s) for delivery;
- 2.1.4. the Price; and
- 2.1.5. any other information required by DADC

2.2. Review of proposed Offer

DADC will review the proposed Offer, and will either accept it in full, reject it in full, or ask for any aspects of it to be amended, in which case the Supplier will provide an amended Offer promptly, and in any event within one (1) business day

2.3. Confirmation

The Supplier acknowledges that any confirmation or acceptance of Offers by DADC, in order to be effective, must be made in writing and shall be in the form of a Purchase Order

3. Supply of Goods and/or Services

3.1. Supplier’s obligations

The Supplier will ensure that and all supplies of goods and/or services: comply with all Applicable Laws;

- 3.1.1. are made using at least a standard of reasonable skill and care and in accordance with industry best-practice;
- 3.1.2. are free of material defects and comply with the specifications set out in the Purchase Order;
- 3.1.3. are fit for any purpose notified to the Supplier or that should have been reasonably apparent to the Supplier;
- 3.1.4. in respect of goods, are delivered in the quantities agreed, and not in instalments unless agreed in a Purchase Order;
- 3.1.5. are delivered by any agreed dates, with time being of the essence in these Conditions (and the Supplier shall immediately inform DADC if there is any impending delay in delivery)

3.2. Consequence of late or inadequate delivery

If the Supplier fails to deliver on time or in the agreed quantities or manner, DADC may, without restricting any further right or remedy

- 3.2.1. accept delivery; or
- 3.2.2. reject delivery, in which case it may do one or more of the following:
- 3.2.3. cancel the Purchase Order in whole or in part, with no obligation to pay for any rejected or cancelled goods or services;
- 3.2.4. order replacement goods and/or services from a third party, in which case the Supplier will reimburse DADC for any increased costs involved;
- 3.2.5. terminate the Contract.

4. Acceptance Testing

4.1. Performance of test

Within ten (10) days of receipt of deliverables in respect of either Goods and/or Services provided (“Deliverables”), DADC will, to the extent practical, inspect such Deliverables, and will confirm to the Supplier whether or not the Deliverables are accepted. If any Deliverables are not accepted, DADC will, without limiting any other right or remedy, have the following rights:

- 4.1.1. to reject such Deliverables, in which case it may exercise any or all of the rights and remedies under clause 3.2.2 of this Part B; or
- 4.1.2. to request that such Deliverables be modified at the Supplier’s own cost so as to be acceptable, and, in the event that such modified Deliverables are still not accepted, to exercise its rights under clause 4.1.1 of this Part B

4.2. Effect of Acceptance

No acceptance by DADC pursuant to clause 4.1. of this Part B:

- 4.2.1. will be construed as confirmation that any Deliverable is, in fact, free of defect;
- 4.2.2. will prevent DADC from disputing any invoice;
- 4.2.3. covers any defect that is latent or that could not reasonably be expected to have been apparent to DADC at the time of its inspection

5. Price and Invoicing

5.1. Price

Subject to satisfactory delivery by the Supplier and acceptance by DADC, the Supplier may invoice DADC the Price in the amount, in the manner and at the intervals stated in the relevant Purchase Order

5.2. Invoices

Unless stated otherwise in a Confirmed Order, DADC shall pay each undisputed invoice either within (i) fourteen (14) days taking a 3 % cash discount; or (ii) within sixty (60) calendar days of the date of receipt of the Supplier’s correctly prepared invoice which must comply with clause 5.3 of this Part B

5.3. Format of invoices

All invoices must contain DADC’s PO number stated on the Purchase Order and must fulfil all legal billing requirements without exception. The periods specified in clause 5.2 commence on the later of (i) receipt by DADC of the appropriate, correct invoice; and (b) receipt of the relevant Goods or (as appropriate) proper performance of the Services

6. Confidential Information

6.1. Use of Confidential Information

The Supplier shall not disclose or use (other than as properly required by these Conditions) any Confidential Information and will use its best endeavours to keep such information confidential during and after termination of these Conditions

7. Indemnity and Insurance

7.1. Supplier's indemnity

The Supplier shall indemnify and hold harmless DADC and any member of DADC's group of companies in respect of all costs (including legal and other professional costs), fines, losses, damages, claims or proceedings, or any demands, arising out of or in connection with:

- 7.1.1. any breach by the Supplier of these Conditions;
- 7.1.2. a claim by any third party that any Deliverables breach that third party's rights;
- 7.1.3. any breach of Applicable Laws; and
- 7.1.4. any unauthorised disclosure of Confidential Information

7.2. Insurance

The Supplier will take out with a reputable insurer, and maintain in force during these Conditions and for three years after its termination, suitable insurance policies to cover its obligations and potential liabilities under these Conditions

8. Termination

8.1. Term of these Conditions

This Agreement will run from the Commencement Date and until terminated in accordance with its terms

8.2. Termination for convenience by DADC

DADC may terminate:

- 8.2.1. these Conditions at any time on giving the Supplier not less than sixty (60) days' notice in writing;
- 8.2.2. any Confirmed Order by giving the Supplier not less than thirty (30) days' notice in writing

8.3. Termination for cause

Subject to the rights of termination under clauses 3.1.5 and 4.1 of this Part B, a Party may terminate these Conditions and all Confirmed Orders at any time on written notice under this clause 8.3 should the other Party:

- 8.3.1. commit a material breach of these Conditions and, if such breach can be remedied, fail to remedy such within fifteen (15) business days of being given notice in writing of the breach;
- 8.3.2. suspend, or threaten to suspend, performance of its obligations (excluding payment of disputed fees), or be unable to pay its debts as they fall due, or begin negotiations with any class of its creditors with a view to rescheduling any of its debts, or be the subject of a court order for winding-up, or have a receiver appointed over its assets (or entitle any person to appoint one), or enters into any compromise or arrangement with its creditors, or be the subject of a notice, resolution or order for or in connection with its winding-up (other than for the sole purpose of a solvent amalgamation or solvent reconstruction), or if any analogous event occurs or proceeding is taken with respect to the other Party in any jurisdiction

9. Obligations on Termination

9.1. Supplier's duties

On termination, for any reason, the Supplier will:

- 9.1.1. return any of DADC's equipment or materials then in its possession or under its control;
- 9.1.2. destroy all Confidential Information; and
- 9.1.3. give reasonable assistance to enable DADC or a replacement Supplier to take over all or some of the duties performed by the Supplier under these Conditions

9.2. Survival

Any provision of these Conditions that survives termination expressly or by implication shall survive.

10. Audit

10.1. Right of audit

DADC shall have the right, on reasonable notice, to audit the Supplier (or to have the Supplier audited) to ensure:

- 10.1.1. the Supplier's compliance with Applicable Laws;
- 10.1.2. that all sums charged under these Conditions were correct and properly chargeable

PART C

LIMITATIONS OF LIABILITY

1. Limitation of Liability, Warranties and Indemnity

- 1.1. The Supplier hereby warrants, represents and undertakes to DADC and its affiliates that at all times during the Contract the Supplier shall:
 - 1.1.1. comply with the Sony Supply Chain Code of Conduct (https://www.sony.net/SonyInfo/csr_report/sourcing/supplychain/index2.html) as amended from time to time;
 - 1.1.2. that these Conditions shall apply to the Contract to the exclusion of any terms and or conditions of the Supplier;
- 1.2. Nothing in these Conditions shall limit or exclude either party's liability for:
 - 1.2.1. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
 - 1.2.2. fraud or fraudulent misrepresentation;
 - 1.2.3. wilful misconduct or wilful default;
 - 1.2.4. breach of the terms implied by section 12 of the Sale of Goods Act 1979;
 - 1.2.5. defective products under the Consumer Protection Act 1987;
 - 1.2.6. any matter in respect of which it would be unlawful for DADC to exclude or restrict liability;
 - 1.2.7. Supplier's liability in respect of any indemnity given under these Conditions
- 1.3. Subject to clause 1.1 of this Part D, DADC's maximum total liability under these Conditions, however arising, shall be the aggregate of all sums paid by DADC under these Conditions at the date on which liability was incurred.

PART D

MISCELLANEOUS

1. General Provisions

- 1.1. DADC's rights shall not be prejudiced by any indulgence, forbearance or previous waiver extended to the Supplier. The Supplier shall not assign, charge, or otherwise dispose of any Contract or any of its rights thereunder without DADC's prior written consent
- 1.2. All notices or other communications under a Contract shall be in writing in English addressed to the addressee's registered office or address stated in the Order (or other address notified to the other party) and shall be sent by hand (and thereby be deemed served when properly left at such address) or by first class pre-paid post (and thereby be deemed served 48 hours after posting)
- 1.3. No person who is not a party to the Contract shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract but this does not affect any right or remedy which is available apart from that Act
- 1.4. Whenever the due date for payment of any amount under this Agreement is not a Working Day that payment shall instead be due on the next following day which is a Working Day
- 1.5. Not more frequently than once in any calendar year DADC by written notice to the Supplier may change any provisions of these Conditions; any such change will have effect in respect of all Orders issued more than thirty (30) days after the date upon which such notice is given by DADC to the Supplier.
- 1.6. The obligations of the Supplier and the rights of DADC under these Conditions are independent of and shall not be affected by any other rights or securities from time to time held by DADC or any affiliate of DADC from the Supplier or any other person
- 1.7. If any provision or part-provision of these Conditions is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted
- 1.8. The Supplier may not sub-contract the Services or the provision of any Goods under the Contract, whether in whole or in part without the express written consent of DADC (which may be withheld or conditioned at DADC's sole discretion)
- 1.9. The Contract shall be governed and construed in all respects in accordance with the laws of England and the parties irrevocably submit to the exclusive jurisdiction of the courts of England provided that (and without prejudice thereto) DADC shall be entitled to apply for any provision of conservatory measures or interim relief in any other court having jurisdiction