



TERMS AND CONDITIONS OF TELLY TRAFFIC LIMITED

1. INTERPRETATION

1.1 In these Conditions the following words and phrases have the following meanings:

- “Commercial” a radio or television advertisement in a form ready for broadcast on radio or television as appropriate;
- “Contract” a contract between Telly Traffic and the Customer incorporating these Conditions;
- “the Customer” the legal person who engages Telly Traffic to provide the Services under the Contract;
- “Customer Supplier” any third party supplier of goods or services to the Customer or agent of the Customer (including, without limitation, any Media Station, music agent, artiste’s agent, media buying house, production house, independent film producer and the Broadcast Advertising Clearance Centre);
- “Deadlines” deadlines imposed by the Media Station for receipt of Commercials and associated documents;
- “Instructions” a brief detailing the Services required by the Customer together with full supporting information and schedules, delivered by e-mail, facsimile or post;
- “Media Station” the appropriate television or radio broadcaster who will broadcast the Commercial;
- “the Price” has the meaning given to it in clause 2.2;
- “the Services” the services supplied by Telly Traffic under the Contract in accordance with the Instructions;
- “Telly Traffic” Telly Traffic Limited (company number) 07073140 whose registered office is at 44 Carnaby Street, London, W1F 9PP

2. FORMATION OF CONTRACT

- 2.1** Any quotation given by Telly Traffic will be based on the Instructions provided by the Customer and shall be deemed to be Telly Traffic’s invitation to treat.
- 2.2** Acceptance by the Customer of any quotation given pursuant to clause 2.1 shall be deemed the Customer’s offer to engage the Services of Telly Traffic to carry out the Instructions provided for the quoted amount (“the Price”).
- 2.3** Acceptance of the Customer’s offer will be deemed to take place at the point that Telly Traffic accepts the Customer’s Instructions in writing (including, without limitation, by e-mail or facsimile).
- 2.4** In the event that the Customer wishes at any time to amend its Instructions it shall notify Telly Traffic of such changes and Telly Traffic shall have the right to submit a revised quotation based on those revised Instructions and clauses 2.2 and 2.3 shall apply.
- 2.5** In any event, any changes to the Instructions requested by the Customer shall only form part of the Contract once they have been agreed in writing (including, without limitation, by e-mail or facsimile) by Telly Traffic.

3. SERVICES

- 3.1** The Customer acknowledges and accepts that Telly Traffic shall not be responsible for making any payments to any third parties on behalf of the Customer (including, without limitation, any Customer Suppliers or any artistes appearing in the Commercials) unless expressly stated in the Instructions accepted by Telly Traffic in accordance with clause 2.2 or 2.5 or otherwise agreed in writing signed and dated by both parties.
- 3.2** Telly Traffic warrants that the Services shall be carried out by personnel who are appropriately and adequately trained exercising due care and skill and according to good practice in the industry.
- 3.3** Save in respect of clause 3.2 and to the fullest extent permitted in law, Telly Traffic makes no further warranties in respect of the Services.

4. WARRANTIES AND OBLIGATIONS OF THE CUSTOMER

- 4.1** The Customer shall supply all additional information reasonably requested by Telly Traffic in order to supply the Services in accordance with the Instructions, and shall ensure that such information is true and accurate in all respects.
- 4.2** The Customer shall ensure that:
- 4.2.1** all Instructions are complete and accurate; and
- 4.2.2** the Instructions are delivered to Telly Traffic and the Commercials are complete and ready to be broadcasted to meet broadcast deadlines
- 4.3** Without prejudice to any other right or remedy of Telly Traffic, in the event of failure of the Customer to comply with clause 4.2.2, Telly Traffic shall be entitled to pass on to the Customer any charges imposed by a Media Station for failure to meet the Deadlines.
- 4.4** The Customer warrants that the Commercials will comply with all relevant legislation and codes of practice and with best industry practice.
- 4.5** Without prejudice to any other rights or remedies of Telly Traffic, the Customer shall indemnify and hold harmless Telly Traffic against any losses, liabilities, costs, damages, claims, fines and expenses (including, without limitation, legal expenses) which Telly Traffic suffers as a result of or arising out of:
- 4.5.1** any breach by the Customer of the warranties and obligations set out in clause 4; and
- 4.5.2** any breach by the Customer of any of its statutory obligations, including (without limitation) its liabilities to Telly Traffic, its employees, agents or sub-contractors under the Occupiers’ Liability Act 1957.

5. PRICE AND PAYMENT

5.1 In consideration of Telly Traffic providing the Services to the Customer, the Customer shall pay the Price and any other sums payable to Telly Traffic under the Contract in accordance with this clause 5.

5.2 Unless otherwise stated, the Price is exclusive of any value added tax which shall be charged by Telly Traffic to the Customer.

5.3 Telly Traffic will raise its invoices in accordance with any arrangement agreed separately with the Customer in writing and where no such arrangement exists on completion of the Services.

5.4 Telly Traffic's invoices are payable within thirty (30) days of issue.

5.5 Telly Traffic may charge interest on any overdue payment at a rate of 8% over The Bank of England base rate in accordance with the Late Payment of Commercial Debts (interest) Act 1998, as amended and supplemented by the late Payment of Commercial Debts Regulations 2002.

6. LIMITATION OF LIABILITY

6.1 Telly Traffic shall not be liable to the Customer for any loss of profit (direct or indirect), indirect or consequential loss or damage, cost, or expenses or other claims for consequential compensation, whatsoever (howsoever caused) which arises out of or in connection with the Contract.

6.2 The Customer acknowledges and accepts that in its dealings with any Customer Supplier, Telly Traffic is acting as an intermediary only and any contractual relationship with such Customer Supplier is between such Customer Supplier and the Customer and in no circumstances will Telly Traffic be held liable to the Customer for that part of any claim arising under the Contract as a result (in whole or in part) of the negligent acts or omissions or breach of contract of any Customer Suppliers.

6.4 In the event that the Customer fails, to:

6.4.1 deliver the Instructions to Telly Traffic; and/or

6.4.2 make the Commercials ready and complete by broadcast Deadlines Telly Traffic shall use reasonable endeavors to deliver such Commercial to the Media Station by the Deadlines, but Telly Traffic shall not be held liable to the Customer for any losses whatsoever suffered by the Customer or any third party resulting from failure to meet such Deadlines.

6.5 Telly Traffic shall not be held liable to the Customer for any losses whatsoever suffered by the Customer or any third party, where such losses arise from mistakes appearing in any documentation produced by Telly Traffic as part of the Services that are as a result of inaccuracies in:

6.5.1 the Instructions provided to Telly Traffic by the Customer in breach of the Customer's obligations under clause 4.2.2; or

6.5.2 any information or documentation provided to Telly Traffic by any Customer Supplier.

6.6 Nothing in these Conditions shall exclude or limit the liability of either party for its negligent acts or omissions which cause death or personal injury or for fraudulent misrepresentation.

7. TERMINATION AND CONSEQUENCES OF TERMINATION

7.1 Telly Traffic shall be entitled to terminate the Contract in whole or in part, without liability to the Customer, by giving notice to the Customer at any time if:

7.1.1. the Customer has a bankruptcy order made against him or her or makes an arrangement or composition with his or her creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the notice of intention to appoint an administrator is given by the Customer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer, or the Customer suffers or allows any execution, whether legal or equitable, to be levied on his, her or its property or obtained against him, her or it, or fails to observe or perform any of his, her or its obligations under the Contract or any other contract between Telly Traffic and the Customer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act of 1986 or the Customer ceases to trade.

7.1.2 Telly Traffic reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.

7.2 Following completion of the Services of termination of the Contract in accordance with clause 7.1, unless requested by the Customer to return all instructions and other documents supplied by the Customer under the Contract at the Customer's cost, Telly Traffic shall be entitled to retain all such documents until collected by the Customer or destroyed by Telly Traffic in accordance with clause 7.3.

7.3 the Customer acknowledges and accepts that the policy of Telly Traffic is to destroy all such documents after two (2) years of the completion of related Services or early Contract termination in accordance with clause 7.1 and Telly Traffic shall have no liability to the Customer for documents destroyed by Telly Traffic in accordance with such policy.

8. NO POACHING

8.1 During this term of the Contract Agreement and for a period of twelve (12) months following the termination of it for any reason, the Customer shall not directly or indirectly offer employment or engagement to, or employ or engage, any person employed or engaged by Telly Traffic who has been materially involved in the provision of the Services.

8.2 If the Customer breaches the terms of clause 8.1 it shall pay Telly Traffic by way of liquidated damages an amount equal to one half of the final gross annual salary of the person so employed or engaged, and the parties hereby acknowledge that such amount is a reasonable assessment of the costs which would be incurred in the loss of such a person.

8.3 In addition to any other rights which Telly Traffic may have it shall, for the avoidance of any doubt, be entitled to seek injunctive relief for any threatened or actual breach of clause 8.1.

9. FORCE MAJEURE

9.1 Neither Telly Traffic nor the Customer shall be liable to the other in any manner whatsoever for any failure or delay in performing its obligations due to force majeure which expression means any cause beyond the control of either party, which includes without limitation, an Act of God, governmental actions, restrictions or prohibitions, war, sabotage, riots, civil commotion, fire, flood, epidemic, currency restrictions or atmospheric conditions.

10. GENERAL

10.1 These terms shall not be deemed to create a partnership or agency relationship between the Parties.

10.2 If any part of this Agreement is or becomes unenforceable, such part will be construed as far as possible to reflect the parties' intentions and the remainder of the provisions will remain in full force and effect.

11.3 No waiver, failure or delay by either party to enforce its rights shall prejudice or restrict its rights in future.

11.4 These terms are made and shall be construed in accordance with the laws of England and the parties submit to the non-exclusive jurisdiction of the English courts.

Signed on behalf of Telly Traffic Ltd:

Patsy Barry: Director

Date:

Signed on behalf of:.....

Name:

Date: