

## **Aquilanta Limited Standard Terms & Conditions**

### **1. Definitions**

In these terms and conditions, the following expressions shall have the following meanings:

“Agreement” means these terms and conditions, as they may be amended or modified from time to time by the Company, together with any separate written agreement between and signed by the Company and the Client;

“Charges” means any fees, profit participations, commissions, royalties or other sums due and payable to the Company hereunder in return for rendering the Services, including any agreed amounts in respect of expenses;

“Client” means the person, firm, organisation, company or other entity engaging the Company to provide the Services;

“Company” means Aquilanta Limited (company registration number 11454346) with registered office at 8 Stone Buildings, Lincoln's Inn, London WC2A 3TA;

“Confidential Information” of a party means any information in whatever form relating to that party’s business, customers and/or suppliers which is not publicly available, including any information specifically described as confidential and any other information which a reasonable recipient would in the circumstances regard as confidential;

“Deliverables” means any written documents and other materials to be supplied by the Company to the Client as part of performing the Services;

“Intellectual Property Rights” mean all intellectual property rights, however arising and in whatever form, whether or not registered, including copyright, patents, trademarks and designs and any applications for the protection or registration of these rights;

“Services” means the commercial consultancy services, business affairs services, talent agency services, format representation services and/or other services to be provided by the Company to the Client as agreed in writing by them.

### **2. Engagement**

- (a) The Company shall perform the Services and provide any Deliverables to the Client in accordance with the terms of the Agreement.
- (b) When any timescales are agreed for the supply of Deliverables, the Company shall use reasonable endeavours to comply with such timescales.

### **3. Duration**

Unless terminated earlier in accordance with its terms, the Agreement shall continue until the Services have been fully performed, the Deliverables delivered and all Charges have been paid.

### **4. Deliverables**

The Deliverables are supplied to the Client for its own internal use in the ordinary course of business and may not be re-sold or otherwise made available to any third party.

### **5. Charges & Payment**

- (a) Where the Charges comprise a fee or fees, the Company shall invoice the Client for payment of the Charges and the Client shall pay them to the Company as specified in the invoice.

- (b) Where a royalty is due to the Company, the Client shall pay, or procure payment of, the royalty to the Company on the date(s) agreed with the Company, together with detailed royalty statements.
- (c) Where the Charges comprise commission or a profit share, and the Company is taking receipt of the gross sums out of which such commission or profit share is payable, the Company shall deduct such commission or profit share from the gross sums and remit the balance to the Client within 14 days.
- (d) Where the Charges comprise commission or a profit share, and the Client is taking receipt of the gross sums out of which such commission or profit share is payable, the Client shall pay such commission or profit share to the Company within 14 days of receiving such gross sums.
- (e) Where the Charges comprise commission, profit share or royalty, such commission, profit share or royalty shall be payable to the Company for the life of deals to which they relate, including (without limitation) renewals, extensions, re-commissions (eg. further series of a television programme).
- (f) All sums are described exclusive of VAT, which shall be payable, if and to the extent applicable.
- (g) Any agreed expenses incurred by the Company shall either be reimbursed by the Client or deducted from sums due to the Client hereunder.
- (h) In respect of payment to the Company of Charges, time of payment is of the essence.
- (i) Where sums due under the Agreement to the Company are not paid in full by the due date, the Company may, without limiting its other rights, charge interest on such sums at the statutory interest rate (as defined by the Late Payment of Commercial Debts (Interest) Act 1998). Interest will accrue on a daily basis and apply from the due date for payment until actual payment in full, whether before or after judgment.

### **6. Company Warranty**

- (a) The Company warrants that it shall perform this Agreement using the reasonable care and skill to be expected of a professional supplier of the Services and Deliverables.
- (b) All other representations, conditions, warranties or other terms which might have effect between the parties or be implied or incorporated into this Agreement whether by statute, common law or otherwise, are excluded to the full extent permitted by law. Without prejudice to the foregoing, the Company makes no warranty as to the amount, type or value of work or deals that it will secure for Clients for whom it provides agency or representation services.

### **7. Client Warranties**

The Client warrants that it will provide the Company with reasonable and prompt co-operation to facilitate the Company’s performance of the Services in a timely and efficient manner, including the provision of any information the Company may request and ensure that such information is accurate in all material respects; and that it will carefully read through and consider any draft documents the Company sends it to ensure they accurately reflect the Client’s business, requirements, processes and any commercial terms the Client may have agreed.

### **8. Intellectual Property Rights**

- (a) The Company and the Client shall each retain ownership of its own Intellectual Property Rights.
- (b) The Company shall retain copyright in all written material prepared for the Client and hereby grants to the Client a royalty free licence to use the written material to obtain the benefit of the Services, revocable only in the event of a material breach by the Client of the terms of this Agreement. On payment in full of

- the Charges for the Deliverables, this licence will become a perpetual licence.
- (c) In relation to materials supplied by the Client to the Company, it is the Client's responsibility to ensure that either it owns the Intellectual Property Rights in the materials or has obtained a licence from the third party owner to allow the materials to be used for the purpose of this Agreement. The Client will indemnify the Company against all liabilities, costs, expenses, damages and losses (including any legal costs) suffered or incurred by the Company arising out of or in connection with a breach of this sub-clause.
- (d) In relation to Clients for whom the Company provides format representation services, the Client acknowledges that the Company acts for other persons, companies and entities in the same capacity and therefore receives or becomes aware of other television formats which may by coincidence be the same as or similar to the formats of the Client. Where two formats are the same or substantially similar, the Company shall act only represent the format which it received first and not represent the other. The Company shall respect the confidentiality of its Clients' formats at all times in accordance with Clause 9.
- 9. Confidential Information**
- (a) If either party receives the other party's Confidential Information, it shall:
- (i) not use it for any purpose other than performance of this Agreement;
  - (ii) keep it secret and protect it at least as well as it would protect its own Confidential Information;
  - (iii) disclose it only to those of its employees, subcontractors and advisers who need to know the Confidential Information for the performance of this Agreement;
  - (iv) inform anyone to whom it discloses the Confidential Information that the information is confidential and take all reasonable steps to ensure that such recipients will comply with the terms of this Agreement.
- (b) The obligations in Clause 9 will not apply to Confidential Information which:
- (i) has ceased to be confidential through no fault of either party;
  - (ii) was already in the possession of the recipient before being disclosed by the other party;
  - (iii) has been lawfully received from a third party who did not acquire it in confidence; or
  - (iv) is required to be disclosed by law.
- (c) Each party's duty of confidence shall continue after termination of this Agreement.
- 10. Data Protection**
- (a) The parties shall comply with their obligations under the Data Protection Act 2018 and the General Data Protection Regulation.
- (b) The Client consents to the Company holding and processing data relating to it for legal, personnel, administrative and management purposes and in particular to the processing of any "sensitive personal data" for such purposes.
- 11. Exclusions & Limitations of Liability**
- (a) Neither party excludes or limits its liability for death or personal injury caused by its negligence or the negligence of its officers, employees, contractors or agents; for fraud or fraudulent misrepresentation; or for any liability which may not be excluded by law.
- (b) Subject to Clause 11(a), neither party shall be liable for any loss of profit, loss of business, loss of or damage to goodwill, loss of savings, claims by third parties, loss of anticipated savings, loss of revenue, loss of contracts or loss of opportunity, whether direct or indirect, or for any indirect loss or damage or consequential loss or damage whatever and however caused (even if caused by that party's negligence and/or breach of contract and even if that party was advised that such loss would probably result) nor for any aggravated, punitive, exemplary and/or special damages.
- (c) Subject to Clause 11(a), each party's total aggregate liability for any claims, losses, damages or expenses whatever and however caused (even if caused by its negligence and/or breach of contract) shall be limited for each event or series of linked events to a maximum sum equal to the total Charges (excluding VAT) actually paid to the Company by the Client in the twelve month period prior to the relevant claim arising.
- 12. Termination**
- (a) Either party may terminate this Agreement by written notice to the other party:
- (i) on one week's written notice;
  - (ii) immediately if the other party commits any material breach of the terms of the Agreement and, in the case of a breach capable of being remedied, such breach is not remedied within 30 days of a written request to do so;
  - (iii) immediately if the other party goes bankrupt or commits or threatens to commit or is threatened with any act of insolvency under the Insolvency Act 1986 or any similar procedure or step is taken in any jurisdiction.
- (b) Termination of this Agreement will not affect any accrued rights or liabilities of either party or the continuance in force of any provision which is expressly or by implication intended to come into or continue in force on or after termination.
- (c) Termination shall be without prejudice to the Company's right to receive any Charges payable to it hereunder, whether they be fees, royalties, profit shares, commissions or other sums.
- 13. Audit Rights**
- Where the Charges comprise a royalty, commission or profit share, each party shall have the right to audit the other's books of account relating specifically to such royalty, commission or profit share, upon reasonable notice once in any twelve month period. In the event of any underpayment, the underpaying party shall pay for the costs of such audit and will pay to the other such underpayment within 10 days of its discovery, together with interest thereon calculated in accordance with Clause 5(i).
- 14. Force Majeure**
- Neither party will be liable for any delay or failure in performing its obligations under this Agreement if caused by circumstances beyond its reasonable control. Provided the party in default notifies the other party promptly in writing of the reasons for and likely duration of the failure or delay, then the performance of the parties' obligations shall be suspended during the period that the circumstances persist.
- 15. Third Parties**
- A person who is not a party to the Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 or otherwise to enforce any term of the Agreement.
- 16. Assignment**
- Neither party may assign this Agreement without the prior written consent of the other (such consent not to be unreasonably withheld or delayed).
- 17. Variations**
- No variation of this Agreement is valid unless it is in writing and signed by or on behalf of each of the parties.
- 18. Waiver**

The failure to exercise, or delay in exercising, a right or remedy under this Agreement shall not constitute a waiver of the right or remedy, or a waiver of any other rights or remedies.

**19. Severance**

If any provision of this Agreement (or part of one) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force. If any invalid, unenforceable or illegal provisions would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

**20. Entire Agreement**

This Agreement constitutes the entire agreement between the parties and supersedes any arrangements, understanding or previous agreement between the parties relating to the subject matter of this Agreement.

**21. Dispute Resolution**

If a dispute arises out of or in connection with this Agreement, the parties will attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure.

**22. Governing Law & Jurisdiction**

This Agreement and any dispute arising out of or in connection with it is governed by the laws of England and Wales. Each of the parties submits to the exclusive jurisdiction of the courts in England and Wales.