



## KROW TERMS & CONDITIONS

### Applicable for all goods and services purchased or commissioned by krow Communications Ltd

1. These terms and conditions ("these Terms") apply to the supply of any goods/services specified in any krow Purchase Order or otherwise acquired or commissioned by krow. These Terms are the only terms and conditions upon which krow is prepared to deal with the Supplier and, along with any Purchase Order, they govern the supply of the Work to the entire exclusion of all other terms and conditions (the "Agreement").

#### 2. Definitions

"Agreed "Usage"	means the media territory, period and other parameters of proposed use;
"Client"	means krow's client or ultimate user of the Work if different;
"Creative Work"	means a Work in respect of which any intellectual property rights subsist which are to be licensed or assigned to krow or the Client to enable the Work to be exploited;
"Krow"	means krow communications Limited (Company no: 05560715 England) and whose registered office is at 80 Goswell Road, London EC1V 7DB;
"Licence"	means any licence granted pursuant to the provisions of Clause 13B below;
"Physical Work"	means Work in tangible form which is capable of delivery;
"Purchase Order"	means any formal purchase order issued by krow and/or any other instruction or order, in writing, delivered by krow to the Supplier with similar effect;
"Work"	means goods or an item, file, creation or other deliverable.

3. Any Purchase Order issued by krow for Work from the Supplier shall be deemed to be an offer by krow to purchase the Work subject to these Terms and no Purchase Order shall be accepted until the Supplier either: expressly by giving notice of acceptance; or impliedly by fulfilling the order, in whole or in part, accepts the offer. Any purported variation to the Purchase Order or to these Terms shall have no effect unless expressly agreed in writing by an authorised signatory of the Company.

4. The maximum amount that krow will pay for the Work is specified in the Purchase Order or otherwise as agreed in writing by krow. Payment will be made in Sterling ("STG") unless krow has accepted a quotation expressed in a currency other than STG.
5. If costs are likely to rise above the amount specified in the Purchase Order or otherwise as agreed in writing between the parties, the Supplier should request a further Purchase Order for these additional costs. Without this further Purchase Order krow shall have no obligation in respect of such additional costs.
6. Satisfactory quality, fitness for purpose, conformity to brief, delivery times and instructions are of the essence of the Agreement and krow shall be entitled to reject the Work if it is not in conformance with these Terms or is delivered late, however slight the breach may be.
7. The Supplier shall comply with all applicable standards, regulations and/or other legal requirements concerning the supply of the Work.
8. Where quality is not to an agreed, required, accepted or satisfactory standard (as defined in the Sale of Goods Act 1979 (as amended), where goods are unfit for the use required, where the Work does not meet the brief, specification or delivery times (time being of the essence), or where goods are defective or instructions are not met, krow may withhold payment wholly or in part or terminate this agreement and the Supplier shall indemnify krow in full from and against all direct, indirect or consequential liability, loss, damage, injury, costs and expenses (including legal expenses) awarded against or incurred or paid by krow including any sums paid or payable by krow to the Client consequent on such breach. The Supplier should be satisfied that it is fully aware of what is required, and the fact that the Work may largely or wholly be for the benefit of the Client, before proceeding.
9. Transport, telephone and delivery charges are all included within the costs set out in the Purchase Order unless otherwise stated.
10. krow reserves the right to regard any Purchase Order as invalid unless it has been properly authorised by krow (in accordance with clause 3 above) and bears a unique Purchase Order number.
11. Risk and liability for loss or damage to any Physical Work remains with the Supplier until delivery of the Work. Title passes to krow on delivery.
12. All information acquired by the Supplier in relation to a Purchase Order or regarding a Client is confidential and may not be used by or communicated to any third party unless necessary for the completion of the Work except with the express written authority of the Company. This condition shall apply and be notified to any other party where information must be passed on. If required, the Supplier will provide a confidentiality undertaking in a form required by the Company.
13. CREATIVE WORK: Where Creative Work is commissioned or acquired then either:

- i. If no Agreed Usage is specified in the Purchase Order all rights in such Creative Work(s) will be assigned to krow as set out below under 13A "ASSIGNMENTS".
- ii. If Agreed Usage is specified, then krow shall be licensed to use the Work on the terms set out below under 13B "LICENCES".

### 13A. ASSIGNMENTS

- (a) The Supplier hereby assigns to krow (or, at krow's request, to the Client directly) absolutely, unconditionally and with full title guarantee the entire copyright, design right and all other intellectual property rights throughout the world for their full duration in the Work and in all preparatory, concepts, drafts, roughs and other work carried out in connection with the performance of this Agreement ("Associated Materials"). The Supplier undertakes to execute such documents and do such things as krow may require in order to give full effect to such assignment.
- (b) The Supplier hereby waives absolutely and unconditionally waives all moral rights throughout the world in the Work in favour of krow and the Client and their respective licensees, assigns and successors in title. The Supplier undertakes to procure moral rights waivers in the same terms signed by all individuals and other persons who may have any moral rights in the Work. In the event that this is not possible, the Supplier must advise the company.
- (c) The Work and all Associated Materials, including without limitation all documents, drawings, artwork, copy, design files, prints and any reasonable media or other material on which the Work and Associated Materials are stored, shall be the property of krow. The Supplier undertakes to deliver any Associated Materials to krow if so requested.
- (d) The Supplier may use the Work for its own publicity purposes with krow's prior consent.

### 13B. LICENCES

- (a) The Supplier grants to krow and the Client a licence to use the Work in any form (including any adaptation or alteration at the Company's discretion) in connection with the advertising, marketing or other promotion of the Client.
- (b) Save as otherwise specified within the Agreed Usage the term of the licence shall be for the duration of copyright, the licensed territory shall be worldwide and the Work may be used in all media. Where a licence term is specified in a Purchase Order, the licence shall commence on the date of delivery of the Work and shall continue until the specified period of time has elapsed after the first commercial publication of the Work pursuant to any Agreement.
- (c) Unless otherwise specified in a Purchase Order the licence shall be exclusive to krow and the Client and the Supplier undertakes during the term of the licence not itself to use or to grant any licence to any third party to use the Work or any similar work, or any associated material except (with the krow's prior consent, which krow may grant or withhold at its discretion) for its own publicity purposes.
- (d) The Supplier undertakes to offer to krow in good faith and at a reasonable fee additional usage rights if at any time before the term of the licence has expired krow notifies the Supplier that additional or extended usage rights beyond the Agreed

Usage are required. Any additional usage rights shall (unless otherwise agreed) be subject to these Terms and shall be subject to the payment by krow.

- (e) The Supplier hereby absolutely and unconditionally waives all moral rights throughout the world in the Work in relation to all uses of the Work hereby licensed and the Supplier undertakes to procure waivers of moral rights in the same terms signed by all individuals and other persons who may have moral rights in the Work. In the event that this is not possible, the supplier must advise the company.
- (f) krow and the Client shall be licensed in all cases to use the Work in the licensed territory during the term of the licence for editorial and PR purposes in all media.
- (g) krow and the Client shall be licensed in all cases to use the Work at any time throughout the world for the following purposes: advertising awards and submissions; the krow web site, showreel and other promotional purposes; advertising trade press editorial and other publications in any format primarily intended for the advertising industry; training; internal PR, archival and all other internal purposes and all other forms of secondary usage customary in the advertising industry.
- (h) Unless otherwise specified, the physical property in any Creative Work and all Associated Materials shall remain the property of the Supplier but krow shall be entitled to possession of it until the term of the Licence has expired.

14. The Supplier warrants that krow and the Client will be entitled to use the Work free from all third party copyright or trade mark infringement or any other claims of any nature (including without limitation any claims by models, Creatives or performers) and the Supplier agrees to indemnify krow and the Client against any losses, expenses, actions, demands or costs (including legal costs and disbursements on an indemnity basis) arising out of or occasioned by any breach of this warranty.

15. No part of the Work shall be sub-contracted without the prior approval in writing of the Company.

16. To the extent that any data belonging to krow and/or the Client is personal data within the meaning of the Data Protection Act 1998 ("DPA") the Supplier will process such data only in accordance with krow's instructions and will take such technical and organisational measures against unauthorised or unlawful processing of such data and accidental loss or destruction of or damage to such data as is required under the DPA.

17. The Supplier must quote the number of the Purchase Order and, if applicable, the numbers of any further relevant Purchase Orders at the time of invoicing krow on the face of such invoice and/or credit note. The Supplier will, upon request, supply a breakdown of costs and expenses and other charges contained in any invoice.

18. Unless otherwise stated in the Purchase Order or agreed with krow, payment terms are 60 days from the date of invoice. The Supplier may not issue an invoice until delivery of the Work.

19. In the case of print work, the Supplier will supply goods to the minimum quantities specified in the Purchase Order. Krow reserves the right to withhold payment to the value of the amount required to print the additional quantity where minimum quantities

are not met. Excess printing charges will only be accepted as an additional charge outside the value of a Purchase Order to the percentage (if any) quoted in such Purchase Order.

20. Krow may terminate any Agreement with the Supplier if a petition is presented for an administration or winding up or bankruptcy order against the Supplier or a receiver, administrative receiver or manager is appointed over any of the Supplier's assets or an order is made or a resolution passed for the Supplier's winding up or if the Supplier's winding up or if the Supplier enters into any composition with the Supplier's creditors or if any of these appear to krow to be likely to happen or if for any other reason whatsoever it appears to krow that the Supplier may become unable to perform its obligations under this agreement or to perform them in time.

21. Krow reserves the right to enter the premises of the Supplier in order to protect its rights and those of the Client to the property in any Physical Works which have been or are to be provided to the Supplier. Krow will only exercise this right if it has reason to believe that the circumstances in Clause 20 are likely to occur.

22. Krow reserves the right to defer the date of delivery or alter the quality or volume of Work stated in a Purchase Order if it is prevented from or delayed in the carrying out of its business through any circumstances beyond its reasonable control including any change in instructions from the Client.

### 23. Insurances, Liability and Indemnity

(a) The Supplier shall have in force and maintain at its own cost such policy or policies of insurance with insurers of repute to include :

(i) Employers Liability with a limit of no less than £5,000,000;

(ii) Public Liability with a limit of no less than £1,000,000 each and every loss;

(iii) Product Liability with a limit of no less than £1,000,000 each and every loss and in the period of insurance;

(iv) Professional Indemnity with a limit of no less than £1,000,000 each and every loss

(v) Any other insurance as required by law or krow or the Client deems is necessary in order to cover the Supplier's duties under this Agreement."

(b) The Supplier shall keep krow indemnified in full against all costs, expenses, damages and losses, including any interest, legal and other professional fees and expenses awarded against or incurred or paid by krow as a result of or in connection with any claim made against krow by the Client or any third party arising out of, or in connection with, the supply of the Works, to the extent that such claim arises out



of the breach, negligent performance or failure or delay in performance of these Terms by the Supplier, its employees, agents or subcontractors. This clause 23(b) shall survive termination of this Agreement for a 5 year period.

(c) Nothing in this Agreement excludes or limits the liability of either party to the other for:

- death or personal injury resulting from negligence;
- fraud or fraudulent acts; or
- any other loss which by law cannot be excluded or limited.

(d) Krow shall not be liable to the Supplier for any special, indirect or consequential losses

24. The Client may enforce these Terms subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

25. Each Purchase Order including the Terms and any document referred to in a Purchase Order shall together constitute the entire agreement between krow and Supplier in relation to the Work. Each clause of these Terms shall be construed as distinct and separate.

26. Each right or remedy of krow under these Terms is without prejudice to any other right or remedy of krow under these Terms or otherwise. Failure of krow to enforce or partially enforce any provision of these Terms will not be construed as a waiver of any of its rights hereunder.

27. This Agreement shall be governed and construed in accordance with English Law and the parties hereby submit to the exclusive jurisdiction of the English Courts.