

Terms and Conditions of Supply of Services

1. Definitions

"the Client" means the person who purchases the Services supplied by Silverglade and shall where relevant be deemed to include all of its offices, employees, sub-contractors and/or agents, engaged in any way in the Contract.

"Booking" means the hire of the Facility and/or the supply of the Services during the period of booking in accordance with the terms of the Contract.

"these Conditions" means these terms and conditions of supply of services as amended from time to time in accordance with clause 2.5.

"Charges" means the rates agreed and payable for the Services.

"Commencement Date" shall have the meaning given to it in clause 2.2 of these Conditions.

"Contract" means the contract between Silverglade and the Client for the supply of Services in accordance with and incorporating these Conditions.

"Deliverables" means the results of the Services supplied by Silverglade to the Client.

"Equipment" means any equipment and all articles, material, software hired out or supplied by Silverglade to the Client or any replacements, substitutes and all accessories and additions made thereto.

"Silverglade" means Silverglade Associates Limited (company number 01705245) a company registered in England and Wales whose registered address is Waverly House, 7 – 12 Noel Street, London, W1F 8GT.

"Facilities" means those parts of the Silverglade premises made available to the Client pursuant to the Contract.

"Intellectual Property Rights" all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

"Material(s)" means any good or material provided by the Client to Silverglade in connection with the Contract, including but without limitation, any tapes, computer discs, hard disks, drives and devices intended to store Recordings made by the Client as well the Recordings stored on such media.

"Order" the Client's written order for Services as set out in the Client's purchase order from or the Client's written acceptance of Silverglade's quotation, which shall include the description and specification of the Services.

"Personnel" means the employees, agents, sub-contractors or other representatives of Silverglade whose services are employed by the Client in conjunction with the Services.

"Recordings" means any recording made by or on behalf of or at the direction of the Client prior to or after the commencement of the Contract.

"Services" means the services to be supplied by Silverglade to the Client and subject to these Conditions, in accordance with any Order accepted by Silverglade, which shall include, without limitation the supply of the Deliverables, Equipment, Personnel and/or Facilities as applicable.

"Working Days" means Monday to Friday (inclusive) but excluding statutory public holidays.

2. Basis of the Contract

2.1 All Orders for Services shall be deemed to be an offer by the Client to purchase Services pursuant to these Conditions and will not be binding until accepted by Silverglade.

2.2 The Order shall be deemed accepted when Silverglade issues written acceptance of the Order at which point and on which date the Contract shall come into existence ("Commencement Date"). The Contract constitutes the entire agreement between the parties. The Client acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Silverglade which is not set out in the Contract.

2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.4 In the event of any conflict between the terms and conditions in the Order and these Conditions, these Conditions shall prevail to the extent of any conflict or inconsistency.

2.5 No variation of these Conditions will be binding unless agreed in writing between Silverglade and the Client

3. The Services

3.1 Silverglade will supply the Services in all material respects in accordance with each Order accepted by Silverglade.

3.2 Silverglade will use its reasonable endeavours to perform the Services and deliver the Deliverables by the dates agreed with the Client, however (except to the extent it has not used its reasonable endeavours) such dates shall be estimates only and Silverglade will not be in breach of these Conditions or liable to the Client under any Contract for any delay in providing the Services and/or Deliverables.

3.3 The Client acknowledges and agrees that the time for performance of the Services and/or delivery of the Deliverables shall in every case be dependent upon the prompt receipt of all necessary information, final instructions and/or approvals from the Client. Alteration by the Client of its requirements and/or failure by the Client to comply with its obligations under these Conditions may result in delay in performance of the Services and/or completion of the Deliverables, for which Silverglade shall bear no liability. If any such delays causes the Booking to overrun, then Silverglade may (but shall not be obliged) to allow the Booking to continue beyond the expiry of the Booking upon the same terms and conditions in the Contract and the Client shall be charged and shall pay for any additional time spent at the Facility at Silverglade's then standard charge out rates.

3.4 Silverglade warrants that the Services will be performed with all reasonable care and skill.

3.5 Except as provided in clauses 3.2 and 3.3, Silverglade makes no warranties in relation to its performance of its obligations hereunder and accordingly all terms, conditions, warranties, representations or guarantees that would otherwise have been implied or otherwise imported into these arrangements by statute, common law or custom are hereby expressly excluded to the fullest extent permitted by law.

4. Charges and payment

4.1 The Charges for the Services will be set out in the price list supplied by Silverglade to the Client from time to time. Any items not set out in the price list will be charged at the rate agreed by Silverglade and the Client for that item.

4.2 The Client will also reimburse to Silverglade all travel and subsistence expenses incurred in providing the Services and any costs of shipment of the Deliverables.

4.3 All Charges are exclusive of Value Added Tax which the Client will additionally pay to Silverglade at the same time as payment is due for the supply of Services.

4.4 Silverglade will be entitled to invoice the Client in accordance with the payment schedule agreed between Silverglade and the Client for the Services. A pro forma invoice will be issued prior to a tax invoice being issued, you will have 3 working days to review this pro forma and raise any queries. If no payment schedule has been agreed, Silverglade may invoice the Client monthly in arrears and the Client shall pay each such invoice submitted by Silverglade within 30 days of the date of invoice in full and cleared funds to the bank account nominated in writing by Silverglade.

4.5 The time of payment shall be of the essence of the Contract. Silverglade reserves the right to require payment in part or full in advance of the date of performance of the Services.

4.6 All payments shall be made in full without deduction or withholding except as required by law and the Client shall not be entitled to assert any credit, set-off or counterclaim against Silverglade in order to withhold payment of any such amount in whole or in part.

4.7 Without limiting any other right or remedy of Silverglade, if Client fails to make payment of any amount due under the Contract by the due date for payment, Silverglade reserves the right to: (a) withdraw any discounts or rebates that have been agreed between the parties in respect of the Contract or any other Contract between Silverglade and the Client; and/or (b) require immediate payment of all outstanding invoices rendered to the Client under the Contract or any other Contract between Silverglade and the Client; and/or (c) Silverglade shall be entitled to charge the Client interest on the overdue amount, at the rate of 4 per cent per annum over the base rate for the time being of Barclays Bank PLC on a daily basis from the due date until the date of actual payment of the overdue amount is made, whether before or after judgement and compounding quarterly.

5. Client's obligations

5.1 The Client warrants that it will:

- (a) Provide on a timely and on-going basis all Materials and information in respect of which the Services are to be provided and which are reasonably required to execute the Contract, and will obtain such information, licences, input and approvals as are required to enable Silverglade to perform the Services;
- (b) Obtain and pay for (or procuring that the same are obtained or paid for) any and all necessary authorities, licences and/or third party consents required to make or exploit the Materials it supplies in connection with the Services;
- (c) Notify Silverglade of the identity of the Client's representative who will be available at all reasonable times in connection with the Services and who will have authority to approve the results of the Services on behalf of the Client;
- (d) abide by Silverglade's studio rules, regulations and health and safety policy and shall be responsible for the actions of any Client personnel upon Silverglade's premises;
- (e) leave the Equipment and/or Facilities in a good condition;
- (f) at the end of the Booking, promptly vacate the Facilities and/or cease using the Equipment and/or Services and where applicable return the Equipment to Silverglade.

6. Intellectual Property

6.1 Ownership of the Intellectual Property Rights in any third party materials which form part of the Deliverables shall remain with that third party. The Client is granted a licence to use those Intellectual Property Rights on the terms on which that third party has granted a licence to Silverglade.

6.2 The Intellectual Property Rights in any parts of the Deliverables which are specifically developed for the Client as part of the Services will vest in the Client and in each case on payment in full for the relevant Services Silverglade hereby automatically assigns such Intellectual Property Rights to the Client.

6.3 The Intellectual Property Rights in any materials owned by Silverglade prior to the date of the relevant Contract or developed independently by Silverglade of the Services (and all developments and modifications to such items) shall remain vested in Silverglade. Silverglade hereby grants to the Client a non-exclusive, royalty free licence to use, perform, display, copy, sub-licence and distribute such Intellectual Property Rights as part of the Deliverables.

6.4 Notwithstanding any other provision of these Conditions, the Client agrees that Silverglade shall be entitled to use any expertise, know-how, ideas, methods, processes or techniques used in the Deliverables for the purposes of Silverglade's business from time to time.

7. Termination

7.1 If any confirmed Booking the subject of a Contract is cancelled by the Client, then without prejudice to Silverglade's other rights and remedies available, Silverglade may charge the Client a cancellation fee of: (a) 100% of the Charges that would have been due if the Services had been performed in accordance with the Contract, if notice of a cancellation is received by Silverglade less than one Working Day prior to the scheduled commencement date of the Services; or (b) 50% of the Charges that would have been due if the Services had been performed in accordance with the Contract if notice of the cancellation is received by Silverglade more than one Working Day but less than 5 Working Days prior to the scheduled commencement date of the Services.

7.2 In addition to the cancellation fee under clause 7.1 above, Silverglade shall be entitled to charge the Client for any uncancellable amounts payable to third parties in connection with the Booking.

7.3 Cancellations of any Bookings will only be effective if given in writing or by email by the Client.

7.4 Without prejudice to any other rights or remedies which Silverglade may have, Silverglade may cancel any Booking and/or terminate the Contract (whether or not any services in connection therewith have been provided by Silverglade) with immediate effect and without liability to the Client if:

- (a) the Client is in breach of any of the terms of the Contract; or
- (b) the Client becomes insolvent or bankrupt, goes into administration or has a receiver appointed over any of its assets; or
- (c) the Client suspends or ceases, or threatens to suspend or cease to carry on all or a substantial part of its business;
- (d) Silverglade in its absolute discretion considers a Client's Material(s) are or might be offensive or obscene or that copying or other reproduction thereof might infringe the rights of any third party or be otherwise illegal.
- (e) If any Booking is cancelled and/or the Contract terminated by Silverglade in the circumstances set out in clause 7.4 then, without prejudice to Silverglade's other rights and remedies available at law or otherwise, Silverglade may charge the Client a cancellation fee in accordance with clause 7.1 above.

- 7.5 The Client may cancel any Booking and/or terminate the applicable Contract with immediate effect in writing if Silverglade are in material breach of any of the terms of these Conditions and (if such a breach is remediable) fails to remedy the breach within 30 days of that party being notified in writing of the breach,
- 7.6 On termination of a Contract for any reason:
- (a) the Client shall immediately pay to Silverglade all of Silverglade's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Silverglade may submit an invoice, which shall be payable immediately on receipt;
 - (b) the accrued rights, remedies, obligations and liabilities of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination;
 - (c) the Client shall arrange for the Materials to be removed in accordance with clause 8; and
 - (d) clauses which expressly or by implication have effect after termination shall continue in full force and effect, including the following clauses: clause 6 (Intellectual property rights), clause 8 (Removal of Material), clause 9 (Indemnity), clause 10 (Confidentiality), clause 11 (Risk and Liability), clause 14 (General).
8. **Removal of Material**
- 8.1 The Client shall, within twelve (12) months from, whichever is sooner (a) termination of a Contract for any reason, or (b) the issue by Silverglade of an invoice to the Client for the Services, remove all Material utilised in relation to that Contract or invoice.
- 8.2 If the Client fails to remove all, or any of the Material in accordance with clause 8.1, Silverglade shall at its own option either:
- (a) return all such Material to the Client; or
 - (b) destroy or dispose of all Material,
- and Silverglade shall be entitled to charge the Client for all related delivery charges, costs, expenses and / or all other charges incurred in returning or destroying (as applicable) the Materials in accordance with this clause 8.2.
- 8.3 Silverglade shall store the Material until it is removed, returned, destroyed or disposed of in accordance with this clause 8 and Silverglade shall be entitled to charge the Client for all its reasonable related costs and expenses in doing so.
- 8.4 Except as set out in these Conditions, Silverglade shall have no liability to the Client or any other third party whatsoever for any loss or damage to the Material whilst in Silverglade's possession (otherwise than in consequence of any negligence on the part of Silverglade), which shall be stored at the Client's sole risk and Silverglade shall not be under any obligation to maintain insurance against any risks whilst the Material is in its possession. The Client shall therefore ensure that it takes out and maintains sufficient insurance against loss or damage of the Materials in the full replacement value thereof.
9. **Indemnity**
- The Client undertakes to indemnify Silverglade and its Personnel and keep it indemnified fully at all times against all claims, demands, actions, proceedings, damages, losses, costs, expenses, fine and charges or other liabilities made against or incurred or suffered by Silverglade or its Personnel by reason of or in respect of:
- (a) any breach by the Client of the terms of the Contract; or
 - (b) deficiencies in the Materials or data or the like supplied to Silverglade by the Client in connection with the Services; or
 - (c) which Silverglade may suffer as a result of a failure to obtain any licences, consents or permissions as required under clause 5 herein; or
 - (d) any infringement of any third party Intellectual Property Rights or any civil or criminal action or prosecution for defamation or obscenity or for any breach of confidence or misuse of any confidential information arising out of or in connection with the Services except to the extent any such liability is attributable to the negligent act or omission of Silverglade or its Personnel.
10. **Confidentiality**
- 10.1 Any information relating to either party and coming into the possession of the other party as a result of the operation of these Conditions or any Contract shall be treated as confidential and shall not be disclosed to any person other than employees (or in the case of Silverglade, its sub-contractors) of such other party requiring such information pursuant to these Conditions or any order without the prior written approval of the party to whom it relates (such approval not to be unreasonably withheld or delayed).
- 10.2 Nothing contained in these Conditions shall be construed to impose a confidentiality obligation in respect of any matter which is at the time of disclosure known to the public unless through the act or omission on the part of the non-disclosing party or which is required to be disclosed by any applicable law, court order or any governmental or regulatory authority.
11. **Risk and Liability**
- 11.1 Nothing in these Conditions or any Contract shall exclude or limit Silverglade's liability for: death or personal injury to the extent arising from the negligence of Silverglade or its Personnel; or anything which it cannot limit or exclude by law.
- 11.2 Subject only to clause 11.1 Silverglade's aggregate liability to the Client whether in respect of negligence, breach of contract, tort, misrepresentation or otherwise for any loss or damage arising out of or in connection with the Contract shall in no circumstances exceed an amount equal to the greater of the total charges paid by the Client to Silverglade in connection with the Contract and £50,000.
- 11.3 Subject only to clause 11.1, Silverglade shall not in any event be liable to the Client or any third party whether in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise, arising out of or in connection with any Contract for any:
- (a) loss of profits;
 - (b) loss of sales or business
 - (c) loss of agreements or contracts;
 - (d) loss of anticipated savings;
 - (e) loss or damage to goodwill;
 - (f) loss of use or corruption of software, data or information; or
 - (g) any indirect, consequential, incidental or special damages.
- 11.4 The Client shall be responsible for the quality and integrity of the Materials and risk in the content of such Materials (including without limitation any master Recordings) held by Silverglade for the Client will at all times remain with the Client. Where such Materials comprise Recordings, it is the responsibility of the Client to keep back-up copies of any such Recordings and to insure them where required and the Client acknowledges that Silverglade's sole liability for any loss or damage to any of the Client

- Recordings shall be limited to the replacement cost of the physical media on which the Recording is stored as if such media were blank and did not embody any Recording whatsoever. Silverglade reserves the right to charge for any Materials that it stores on behalf of the Client.
- 11.5 Silverglade shall retain title to and legal and beneficial ownership of the Deliverables until the Charges for the Deliverables have been paid in full. Notwithstanding any other provision of the Contract, the Client hereby acknowledges and agrees that all risk in the Deliverables when in transit or otherwise off Silverglade's premises shall vest in the Client.
- 11.6 Silverglade has a general and particular lien over any property of the Client situated at any time at the Facility or any other Silverglade premises in respect of all claims and money which the Client may at any time owe to Silverglade under any Contract whatsoever and in any other way whatsoever until the Charges have been received in full. If any lien is not satisfied within 14 days of such moneys becoming due, the Company may, in its absolute discretion, sell or make use of such property as agents for the Client and apply the proceeds towards the moneys due from the Client, and shall upon accounting to the Client for the balance (if any) shall be discharged from all liability in respect of the property.
12. **Assignment and sub-contracting**
- 12.1 Silverglade may engage any person, firm or company as its sub-contractor to perform any of its obligations under these Conditions or any order but shall not be released from any liability therefor.
- 12.2 Each contract between Silverglade and the Client is personal to the Client who may not assign or transfer it without the prior written consent of Silverglade.
13. **Force Majeure**
- 13.1 Silverglade shall not be liable in any way for loss, damage, or failure of, or delay in, performance by it of its duties and obligations under the Contract arising from acts, events, omissions or non-events beyond its reasonable control, which shall include without limitation, acts of God, strikes, lockouts, war, riot, civil commotion, acts of terrorism, fire, flood, storm or earthquake and any disaster and failure of a third party utility service or telecommunications network (including, without limitation, the internet) (a "Force Majeure Event"). Following notification by Silverglade to the Client of any such Force Majeure Event, Silverglade shall be entitled a reasonable extension of time to perform its obligations under the Contract.
14. **General**
- 14.1 These Conditions and the relevant Contract set out the entire agreement and understanding between the parties with respect to the subject matter of the Contract and supersedes any prior agreements, representations, understandings or arrangements (oral or written) in respect of the subject matter of each Contract between the parties.
- 14.2 The Client acknowledges that it has entered into each Contract in reliance only on the representations, warranties promises and terms contained in the Contract; and save as expressly set out in the Contract Silverglade shall have no liability in respect of any other representation, warranty or promise made prior to the date of the relevant Contract unless it was made fraudulently; and the only remedy available in respect of any misrepresentation, untrue statement made to the Client shall be a claim for breach of contract under the Contract.
- 14.3 To the extent that any provision of these Conditions or any Contract are found by any court or competent authority to be invalid, unlawful or unenforceable in any jurisdiction, that provision shall be deemed not to be a part of the contract between the parties, it shall not affect the enforceability of the remainder of the Contract between the parties nor shall it affect the validity, lawfulness or enforceability of that provision in any other jurisdiction.
- 14.4 Any party may, in whole or in part, release, compound, compromise, waive or postpone, in its absolute discretion, any liability owed to it or right granted to it in these Conditions or any Contract by any other party or parties without in any way prejudicing or affecting its rights in respect of that or any other liability or right not so released, compounded, compromised, waived or postponed.
- 14.5 No single or partial exercise, or failure or delay in exercising any right, power or remedy by any party shall constitute a waiver by that party of, or impair or preclude any further exercise of, that or any right, power or remedy arising under these Conditions, any Contract or otherwise.
- 14.6 Silverglade may use the Clients' name and brief details of the Services for the purposes of Silverglade's advertising and promotion of its business. Following the broadcast or exhibition of the work resulting from the Services, Silverglade will have the right to use any part of the work solely for use in its corporate advertising and showreels.
- 14.7 Any notice to a party under these Conditions and any Contract shall be in writing signed by or on behalf of the party giving it and shall, unless delivered to a party personally, be left at, or sent by prepaid first class post or fax to that party's business address or registered office and will be deemed to have been served at the time of delivery if delivered personally or 48 hours after posting in the case of an address in the United Kingdom and 96 hours after posting for any other address
- 14.8 These Conditions and each Contract and any dispute or claim (whether contractual or non-contractual) arising out of or in connection with a Contract, its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 14.9 Each of the parties irrevocably submits for all purposes in connection with these Conditions and each Contract to the exclusive jurisdiction of the courts of England and Wales which shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) arising out of or in connection with any Contract, its subject matter or formation.
- 14.10 In these Conditions, the headings are for convenience only and shall not affect the interpretation of these Conditions.
- 14.11 Unless expressly provided in these Conditions or any Contract no provision of these Conditions or any Contract is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.
- 14.12 Nothing in these Conditions or any Contract is intended or shall operate to create a partnership or joint venture between the parties, or to authorise either party to act as agent for the other and neither party shall have authority to act in the name or on behalf of the other, or to enter into any commitment or make any representation or warranty or otherwise bind the other in any way.
- At its own expense, each party shall, and shall use reasonable endeavours to procure that any necessary third party shall, execute such documents and do such acts and things as the other may reasonably require for the purpose of giving the other the full benefit of all provisions of these Conditions and any Contract.