



Clear Channel UK Ltd

# Terms and Conditions of Purchase

Updated 23rd January 2020

CCUK only purchases goods and services (“Deliverables”) on these terms and conditions (“the Terms”). If you accept a purchase order from CCUK you will be bound by these Terms. These Terms are important and should be studied carefully.

## 1. The Contract

- 1.1 CCUK's contract with you will comprise CCUK's purchase order, these Terms, anything else we expressly agree under clause 1.2, any content imposed by law, but nothing else.
- 1.2 If you want us to accept a term of yours, or accept a particular responsibility, or if you wish to rely on a representation we have made, you must obtain CCUK's express written agreement.
- 1.3 If any of the terms of the contract conflict with or contradict each other those terms will over-ride each other in the following order of priority: (1) any express written agreement from us; (2) CCUK's purchase order; (3) these Terms.
- 1.4 We are not contractually bound until we place a formal purchase order and then only to the extent of the issues specifically covered by that purchase order. We will only be contractually bound to you when you accept CCUK's purchase order with a formal acknowledgement in writing or (if later) when we accept Performance by you (see below).

## 2. Price

- 2.1 The price of the Deliverables will be as stated in CCUK's purchase order and, unless otherwise stated, will be:
  - 2.1.1 exclusive of any applicable VAT (which will be payable by us subject to receipt of a valid VAT invoice);
  - 2.1.2 inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery, commissioning or performance of Deliverables to or at the delivery address, and of any duties or levies other than VAT;
  - 2.1.3 payable in pounds sterling; and
  - 2.1.4 fixed for the duration of the Contract.
- 2.2 We will be entitled to any discount for prompt payment, bulk purchase or the like normally granted by you in comparable circumstances.
- 2.3 If we will be reliant on you for any supplies of maintenance, training, spare parts, consumables or other goods, rights or services to benefit fully from the Deliverables ("Follow-on Deliverables") then you will provide those Follow-on Deliverables or procure them to be provided, for at least 36 months following full Performance, at fair and reasonable prices which take no advantage of CCUK's dependence on you for their supply.

## 3. Payment

- 3.1 Invoices for the Deliverables may be sent to us on, or after, completion of Performance. Each invoice must quote the number of CCUK's purchase order. No sum may be invoiced more than six months late.
- 3.2 Unless otherwise stated in the purchase order, we will pay the fees within 45 days of the end of month in which we receive the invoice.
- 3.3 We will be entitled to set off against the fees any money owed to us by you under this contract.

## 4. Specifications

- 4.1 If we order goods, then unless otherwise stated the purchase order is deemed to include the supply of all relevant documentation and certification, and of any commissioning of those goods, necessary to enable CCUK to use them for their intended purposes. If we order services then, unless otherwise stated, CCUK's purchase order includes the complete performance of those services including any employee instruction, manuals, explanations or certifications necessary to enable CCUK to benefit from them for their intended purposes. If we order goods or services then, unless otherwise stated, CCUK's purchase order includes any legal rights necessary to use those goods or services for their intended purposes. References in these Terms to "Performance" are to complete performance of all your contract obligations as described in these Terms.
- 4.2 The quantity, quality and description of Deliverables will be as specified in CCUK's purchase order or as agreed by us in writing, subject to which then in full accordance with your representations (see clause 7.1).
- 4.3 You must comply with all applicable laws and regulations concerning performance of the contract, and for ensuring that we can fully utilise the Deliverables for their intended purposes.
- 4.4 We will be allowed to inspect any contract goods during (and your premises for) manufacture and storage as long as we request an inspection by reasonable written notice. If, as a result of the inspection, we are not satisfied that the quality of the goods or the standards of their manufacture, storage or handling conforms with the contract, you will take such steps as are necessary to ensure compliance. If, after that, we are still not satisfied we can terminate the contract without penalty.
- 4.5 If, before Performance has occurred, we notify you in writing of any change in specification (including as to quality and time frame) the following process will apply:
- 4.5.1 If the change would reduce your costs, the contract price will reduce to fairly reflect that saving;
  - 4.5.2 If the change would increase your costs you may notify us promptly, in writing, of a proposed revision of the contract price fairly and proportionately reflecting any unavoidable such increased cost. You and we will then use CCUK's reasonable efforts to agree the revised terms in full, including as to price, pending which the contract variation will not take effect;
  - 4.5.3 If the change would for any reason be unachievable you may notify us of that promptly and in writing, with reasons. Both parties will then use reasonable efforts to reach a mutually acceptable contract variation.
- Failing notice under clause 4.5.2 or 4.5.3, CCUK's proposed change will be deemed to have been accepted, and the contract will be deemed to have been varied with immediate effect to reflect the requested specification change with no price increase. The contract price will not in any circumstance increase except with CCUK's express written agreement under, or referring explicitly to, this sub-clause.
- 4.6 To protect CCUK's business we may need, sometimes urgently, information as to precisely how Deliverables were performed, and as to all relevant activities of any suppliers or sub-contractors of yours. You will meet any reasonable such request as soon as reasonably possible, and will keep records adequate for that purpose for at least two years after completion of Performance. Without limitation, these records must provide full traceability for all goods comprised in, or used in making, any contract goods which are in any respect safety-critical. They must also demonstrate compliance of the contract work with all legal or regulatory requirements and with all contractually binding quality and Performance standards.

- 4.7 You will comply with any reasonable requirements we may have as regards the packaging and packing of any contract goods, and as to information to be displayed on packaging or included on dispatch documentation and bills of lading. Packaging and packing will be undertaken in a way that has minimal impact on the environment and you will endeavour to use recycled and recyclable materials wherever possible. Subject to that, you will ensure that all packaging, packing, labelling and documentation is such as to ensure full compliance with legal requirements throughout the scheduled delivery process.
- 4.8 You agree to provide Deliverables which accord with CCUK's environmental policy and sustainable procurement policy. You shall, when working at CCUK's premises, perform the contract in accordance with CCUK's environmental policy and sustainable procurement policy, which is to conserve energy, water, wood, paper and other resources, minimise waste and avoid the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

## 5. Delivery

- 5.1 Any goods will be delivered to, and any services performed at, the address and on the date stated in the purchase order during usual business hours. If no address is specified, then delivery will be at CCUK's usual or main UK premises.
- 5.2 The date of delivery and or performance of any Deliverables will be of the essence of this contract.
- 5.3 A packing note quoting the number of the purchase order must accompany each delivery or consignment of goods.
- 5.4 Where Deliverables are to be supplied in instalments, the contract is still to be treated as a single contract. If you fail to deliver or perform any instalment we may treat the whole contract as repudiated.
- 5.5 We may reject any Deliverables which are not fully in accordance with the contract. Acceptance does not occur until we have had a reasonable time to inspect or consider the relevant Deliverables following supply and, in the case of latent defect, a reasonable time after the defect becomes apparent.
- 5.6 If we supply any goods or other articles to you, e.g. for modification or copying, they stay CCUK's property at all times. Those goods or other articles must be kept confidential and secure and we can enter your premises at any time on reasonable written notice to ensure that this is so. While those articles are in your custody you must not use them, copy them or disseminate them, electronically or otherwise, except in the performance of this contract. We retain copyright and any other available intellectual property rights in any plans, design drawings, computer programs, compilations of data, specifications or the like which we supply to you. You must indemnify us against any loss caused to us, and account to us for any profit which you make, through breach of this provision.
- 5.7 If any Performance occurs on CCUK's premises this sub-clause will apply. You will ensure that best industry standards are adopted for the health and safety both of your personnel and of any other individuals affected by your actions. We may refuse or terminate access to any individual whom we reasonably consider undesirable to have on CCUK's premises. Your personnel must, while on CCUK's premises, comply with CCUK's reasonable requirements as to security, health and safety routines, times and areas of access, and otherwise. You will be responsible to us on a full indemnity basis for all damage and injury caused by your staff.

5.8 If the contract terms refer to terms such as F.O.B and C. & F. which bear defined meanings in the current edition of Incoterms, those defined meanings will apply unless expressly stated otherwise.

## 6. Risk and title

6.1 Risk of damage to or loss of any Deliverables passes to us on delivery.

6.2 Title to any Deliverables will pass to CCUK on delivery unless we have paid in whole or in part for the Deliverables in advance. In that case title will pass to CCUK as soon as the Deliverables have been appropriated to the contract.

## 7. Warranties and representations

7.1 You warrant and represent that:

7.1.1 the quantity, quality, description and specification for the Deliverables will be those set out in CCUK's order, apart from which then of the best standards reasonably to be expected in the market for that kind of Deliverable;

7.1.2 any goods will be free from defects in materials and workmanship;

7.1.3 any Deliverables will comply with all statutory requirements and regulations, and with all normally applicable quality standards, relating to their sale or supply;

7.1.4 all claims made by you about any Deliverables are correct and can be relied upon;

7.1.5 any services will be performed by appropriately qualified and trained personnel; and

7.1.6 neither the sale and supply of any Deliverable, nor its proper use by us for an intended purpose, will breach any property rights in or about that Deliverable, including intellectual property rights, of any other person.

7.2 All warranties, conditions and other terms implied by statute or common law in CCUK's favour will apply to any Deliverables bought from you.

7.3 It is your responsibility to find out from CCUK the purposes that we intend the Deliverables to be put to (including any applicable deadline affecting us). You promise that they will be suitable for those intended purposes, save only for any unsuitability which you have, as soon as might reasonably have been expected of you (and in any case before starting Performance) expressly notified to us.

7.4 If you fail to comply with any obligation under the contract we will be entitled, at CCUK's discretion, to reject any Deliverable and you will not be entitled to receive payment for that Deliverable.

7.5 If any Deliverables do not comply with all contract requirements we can demand that you repair them or supply replacement Deliverables within seven days or, at CCUK's sole discretion, we can reject the Deliverables and demand the repayment of any sum already paid for them.

7.6 If any Deliverables were bought or obtained by you from a third party then any benefits or indemnities that you hold from that other party, in respect of those items, will be held on trust for us.

## 8. Intellectual Property Rights

- 8.1 Where the Deliverables are of your design, you indemnify CCUK against any and all liability arising out of any claim in respect of the infringement of any patent, trademark, registered design, copyright or any other proprietary right whether in the United Kingdom or elsewhere resulting from its design, manufacture, use, supply or re-supply of the Deliverables.
- 8.2 You warrant that you will not apply for any Letters of Patent or registered design for Deliverables supplied against CCUK's specifications, drawings, samples or descriptions, and that you will not supply goods as supplied against such specifications, drawings, samples or descriptions, or similar goods, to a third party.
- 8.3 All copyright design and other rights including all and any moral rights in any design, plan, model, software or any such original work or adaptation commissioned, purchased or acquired pursuant to this contract shall vest in CCUK absolutely free of any claim whatsoever. If required by CCUK you will enter into a document to confirm such vesting.

## 9. Liability and indemnity

- 9.1 Without prejudice to any other term of this contract, You will indemnify us and keep us indemnified immediately upon CCUK's written demand against any cost, claim, expense or liability arising from any breach of this contract for which you are responsible.
- 9.2 To the extent permitted by law:
- 9.2.1 CCUK will not be liable to you for any indirect or consequential loss (including but without limitation loss of profit, loss of goodwill, loss of opportunity and loss of contract) suffered or incurred by you; and
- 9.2.2 CCUK's total liability to you will not exceed the total fees paid or payable by CCUK under this contract.

## 10. Force majeure

Neither party will be liable to the other party for any delay or failure to perform any of their obligations under this contract if the delay or failure was due to a cause beyond that party's reasonable control.

## 11. Insurance

You will insure yourselves, and keep insured until Performance is complete, against all normal insurance risks relevant to your work for or with us, on terms and for amounts consistent with normal business prudence. You will demonstrate to us the terms and currency of any such insurance on reasonable written request.

## 12. Termination

- 12.1 If goods have been offered by you as, or if they are, standard or stock items we can, by notice to you, at any time up to delivery cancel CCUK's commitment to buy them. Any other commitment of CCUK's to receive and pay for Deliverables may be cancelled by us provided that CCUK will be bound to reimburse you for all irrecoverable costs incurred, or unavoidably committed, by you up to the point of cancellation. CCUK will be entitled, if we wish it, to the benefit of the part-finished Deliverables in question.

- 12.2 We may suspend performance of, or cancel, or suspend and then at any subsequent time cancel, the contract without any liability to you if you breach its terms, or if you suffer an insolvency event.
- 12.3 Your business will suffer an insolvency event if:
- 12.3.1 you make any voluntary arrangement with your creditors;
  - 12.3.2 (being an individual or firm) you become bankrupt;
  - 12.3.3 (being a company) you become subject to an administration order or go into liquidation;
  - 12.3.4 any third party takes possession of, or enforces rights over, any of your property or assets under any form of security;
  - 12.3.5 you stop or threaten to stop carrying on business;
  - 12.3.6 you suffer any process equivalent to any of these, in any jurisdiction; or
  - 12.3.7 we reasonably believe that any of the events mentioned above is about to occur and we notify you accordingly.
- 12.4 Any right of cancellation or suspension under this clause is additional to any rights available to us under the law of any relevant jurisdiction.

## 13 Discrimination

You shall not unlawfully discriminate within the meaning and scope of any law or regulation relating to discrimination (whether in race, gender, religion, disability, age, sexual orientation or otherwise) in employment. You shall take all reasonable steps to secure the observance of this provision by all your servants, employees or agents and all suppliers and sub-contractors employed in the execution of the Contract.

## 14 Confidentiality

You will keep confidential all information which you learn about CCUK or CCUK's customers, and use that information only for the performance, in good faith, of your contractual obligations to CCUK. This restriction will apply until the fifth anniversary of the contract date, and does not apply to information which was demonstrably public knowledge at the time of usage by you.

## 15 GDPR

Both parties shall ensure that they, their employees, agents and sub-Contractors shall observe the requirements of the General Data Protection Regulations 2018 and any amendments or revisions thereto in the provision and use of the subject matter of the Contract and persona data processed under it and shall comply with any request made or direction given to the other which is directly due to the requirements of such Regulation.

## 16. Modern slavery

16.1 You must:

- 16.1.1 comply with all applicable anti-slavery and human trafficking laws, statutes, regulations from time to time in force including the Modern Slavery Act 2015 (“Anti-slavery Legislation”);
- 16.1.2 not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK; and
- 16.1.3 procure that each of your direct subcontractors and suppliers comply with the Anti-slavery Legislation.

## 17. Corruption and bribery

17.1 You shall not by yourself or in connection with any other person:

- 17.1.1 corruptly solicit, receive or agree to receive for itself or for any other person; or
- 17.1.2 offer or agree to give any person in CCUK’s service or any related parties to such person, or any consultant or contractor who has a contract with CCUK, any gift or consideration of any kind as an inducement or reward for doing or not doing anything for showing favour or disfavour to any person, in relation to this contract or any other contract to which CCUK is a party.

## 18. Health and safety

Without prejudice to clause 4.3 above, you must ensure compliance with all applicable health and safety legislation.

## 19. Publicity

Neither party shall, without the prior written consent of the other party, advertise, publicly announce or provide to any other person information relating to the existence or details of the Contract or use the other party’s name in any format for any promotion, publicity, marketing or advertising purpose.

## 20. Assignment and sub-contracting

- 20.1 Our relationship is as independent contractors only, not as partners or as principal and agent. The contract is non-assignable by you. It is assignable by us only to a group company that is a company in the same ultimate beneficial ownership. You may sub-contract or delegate Performance in particular respects but not generally and not as regards your responsibility to us, nor your direct contact with us, in any respect.
- 20.2 You will procure that none of your associates behaves in a way which, had the behaviour been yours, would have breached the contract. We hold the contract on trust for ourselves and all associates of CCUK’s, and the contract is made for the benefit of all of them so that you will be liable for damage caused to CCUK’s associates as well as ourselves. CCUK’s respective associates for this purpose are any parent company or ultimate controlling shareholder and any company owned by either.

## 21. Non-waiver and severability

- 21.1 No waiver by CCUK of any breach of contract by you will be considered as a waiver of any subsequent breach of the same or any other provision, or as a release of the provision which you breached. No delay by us in enforcement is to imply any waiver of CCUK's rights.
- 21.2 If any provision of these Terms is held by competent authority to be invalid or unenforceable in whole or in part the validity of the other Terms and of the remainder of the provision in question will not be affected. Every provision is severable from every other.

## 22. Notices

Any written notice under this contract will be deemed to have been sufficiently served if posted by pre-paid official postal service, or if sent by fax then on receipt of successful answerback, or if sent by e-mail (but in this case only on evidence of successful transmission and only if the parties have regularly communicated on contract matters by e-mail).

## 23. Rights of third parties

A person who is not a party to this contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this contract but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

## 24. Governing law

This contract will be governed by the law of England and Wales, and you submit to the exclusive jurisdiction of the English and Welsh courts.