

# **Cinemagine Media Limited**

## **Terms of Business (Sale of Goods)**

### **1. Applicability**

- 1.1 These terms and conditions shall apply to all offers, proposals, and agreements, made between Cinemagine Media Limited ("Cinemagine") and any third-party or its agent ("Client") relating to the products and/or services of Cinemagine ("The Products/Services"), and along with the relevant Cinemagine order acknowledgement, shall form the entire agreement between the parties.
- 1.2 These terms and conditions supersede any previous supply terms and conditions.
- 1.3 Where general terms of business are proposed by the Client, these shall not apply and the terms and conditions contained within this agreement shall prevail.
- 1.4 These terms and conditions are subject to change without notice. The most recent version of these terms and conditions will always be available online at <http://www.cinemagine.com>.

### **2. Offer and Acceptance/Description**

- 2.1 Each order for the Products/Services by the Client from Cinemagine shall be deemed to be an offer by the Client to purchase the Products/Services subject to the terms and conditions contained herein.
- 2.2 No order placed by the Client shall be deemed to be accepted until a written acknowledgement or order is issued by Cinemagine or, if earlier, Cinemagine delivers the Products or issues the invoice to the Client or commences performance of the Services for the Client.
- 2.3 All product orders are accepted subject to availability.
- 2.4 Cinemagine shall use commercially reasonable efforts to comply with descriptions of the Products/Services agreed by both parties in the relevant order.
- 2.5 All drawings, descriptive matter, specifications and advertising issued by Cinemagine and any descriptions or illustrations contained in Cinemagine's catalogues, brochure, or web sites, are issued or published for the sole purpose of giving an approximate description of the Products/Services described in them. They will not form part of these terms and conditions. Publishing errors, including but not limited to, typographical errors, having no significant effect on the editorial content or design characteristics of the Products/Services, cannot be considered a reason for rejecting delivery, or as in the case may be, modifying the agreed price.

### **3. Rates and Prices**

- 3.1 Unless otherwise agreed in writing by Cinemagine, the prices/rates for the Products/Services shall be those set out in Cinemagine's current price/rate list (whether printed or online).
- 3.2 All such prices/rates shall be exclusive of any handling, packing, loading, freight, transportation, and insurance charges unless otherwise agreed in writing. All prices/rates shall also be exclusive of any taxes, import duties, or other levies imposed on the sale or import of Products/Services by local or national authorities.

#### **4. Payment**

- 4.1 Unless otherwise agreed in writing, payments shall be effected within thirty (30) days of the invoice date in the currency invoiced.
- 4.2 Any queries relating to the invoice supplied must be raised by the Client within seven (7) days of receipt of the said invoice.
- 4.3 Legal and beneficial title in any tangible Products supplied by Cinemagine to the Client shall remain with Cinemagine until such time that Cinemagine has received in full (in cash or cleared funds) all sums due to it in respect of the Product/Service.
- 4.4 For the avoidance of doubt, no intellectual property rights in any Cinemagine Products shall transfer to the Client.
- 4.5 Products shall be at the Client's risk as of the point of delivery.
- 4.6 Under the Late Payment of Commercial Debts Act (1998), as amended, Cinemagine may opt exercise its right to charge interest on overdue payments. Where Cinemagine chooses to exercise this right, interest will be charged from the date payment becomes due at a rate of 2.5% of the outstanding amount per month, compounded on a monthly basis until such time as payment of the original debt, plus any accrued interest, is received in full.
- 4.7 Where an invoice remains unpaid after a period of ninety (90) days, the Client shall be liable to pay any collection costs incurred by Cinemagine, including but not limited to, legal fees and collection agency fees. If it becomes necessary to issue legal proceedings, Cinemagine will also seek to recover all Court costs from the Client.

#### **5. Cancellation, Returns, and Refunds (Private Individuals)**

- 5.1 Clauses in this section are deemed to be in force where the Client is a private individual. For the avoidance of doubt, a private individual shall be a Client who is purchasing the Products for their own personal usage, and are not representing a company, business, educational institution, government body, or any other type of organisation.
- 5.2 The Client shall have the right to cancel an order prior to delivery and during a period of up to seven (7) days from the date of delivery.
- 5.3 Notification of the intention to cancel shall be made in writing and the Client shall follow every direction and/or procedure provided by Cinemagine in relation to the returns process.
- 5.4 The Client shall have a duty to take reasonable care of the Products whilst in possession of them. Cinemagine reserves the right to charge a restocking fee for products returned where it is deemed that the Client's duty to take reasonable care of the Products has been breached.
- 5.5 In the event of cancellation or a return the Client shall pay all costs related to returning the Products to Cinemagine. The Client shall be responsible for the Products until such time as they are received by Cinemagine.
- 5.6 Any refunds due to the Client in relation to a cancellation or return will be made, subject to the other clauses in this section, by Cinemagine within thirty (30) days of receipt of the returned Products.

## **6. Cancellation, Returns, and Refunds (Trade Customers)**

- 6.1 Clauses in this section shall be deemed to be in force where the Client is a company, business, educational institution, government body, or any other type of organisation.
- 6.2 All Products supplied to the Client are non-returnable, unless found to be faulty. The Client shall notify Cinemagine of any faulty Products within fourteen (14) days of receipt. After such time, Cinemagine shall deem that the Products have been accepted and are fully fit for purpose.

## **7. Sale or Return Terms (Trade Customers)**

- 7.1 Clauses in this section are applicable to trade customers only. Where there is a conflict between clauses in this section and those in other sections of these terms and conditions, clauses in this section will prevail.
- 7.2 Cinemagine may, at its sole discretion and by prior written notice, offer to supply Products to the Client under a "sale or return" agreement. Under such an agreement, Cinemagine will accept returns of any unsold Products.
- 7.3 Notice of the intention to return unsold Products under a "sale or return" agreement must be received in writing by Cinemagine within six (6) months of the date of the invoice. After such time, all Products will become non-returnable.
- 7.4 The Client shall follow all instructions, procedures, and directions provided by Cinemagine in relation to the return.
- 7.5 The Client shall pay all costs related to returning the Products to Cinemagine.
- 7.6 The Client shall be responsible for the products until such time as they are received by Cinemagine.
- 7.7 Cinemagine will offer the Client a refund on each Product that is returned in new, saleable condition. Products returned by the Client which are not in new, saleable condition will be non-refundable.
- 7.8 Any refunds due to the Client in relation to a cancellation or return will be made, subject to the other clauses in this section, by Cinemagine within thirty (30) days of receipt of the returned Products.

## **8. Intellectual Property**

- 8.1 Copyright and other intellectual property rights to all Cinemagine proposals, publications, and other Products/Services shall remain with Cinemagine unless otherwise agreed in writing.
- 8.2 The rights granted by Cinemagine are restricted to use solely by the Client and may not be assigned, transferred or sublicensed without prior written permission from Cinemagine.
- 8.3 The rights granted by Cinemagine are non-exclusive and for the purpose expressly agreed upon. Any other use shall require the prior written permission of Cinemagine.
- 8.4 No part of the Cinemagine proposals, publications, or Products may be stored in any automated data file and/or reproduced, whether electronically, mechanically, by photocopying, recording or in any other manner or form, without the specific prior written permission of Cinemagine.

## **9. Liability and Claims**

9.1 To the maximum extent permitted by relevant laws, (i) Cinemagine shall not be liable for any of the following losses which may arise by any reason of any breach of the terms and conditions contained herein or any implied warranty, condition or other term, any representation or any duty of any kind imposed on Cinemagine by operation of law: (a) any loss of anticipated profits or expected future business; (b) damage to reputation or goodwill; (c) any damages, costs or expenses payable by Cinemagine to any third-party; (d) loss of any order or contract; or (e) any loss that was not foreseeable by the Client and Cinemagine at the time these terms and conditions took force; or (f) any loss not caused by any breach on the part of Cinemagine; and (ii) Cinemagine's liability for any other loss imputable to it shall be limited to the invoice value to which the liability arises. To the maximum extent permitted by relevant laws Cinemagine expressly excludes any liability for breach of any implied or express warranty of as to merchantability or fitness for a particular purpose. Nothing in this contract shall limit the Client's existing legal or statutory rights where it is acting as a consumer.

## **10. Force Majeure**

10.1 Neither party to this agreement shall be liable in any way for failure to perform our respective obligations under this engagement if the failure is due to causes outside the reasonable control of the party which has failed to perform.

## **11. Governing Law**

11.1 This Agreement will be governed by and construed in accordance with English law and each of the parties agrees to submit to the jurisdiction of the English courts as regards any claim or matter arising under this agreement.