

## TVNZ Standard Contractor Services Terms

These terms and conditions (**Terms**) apply from 15 August 2022 to the supply of all services ordered by TVNZ, except where TVNZ and the Contractor have signed a formal written agreement that applies to the supply of those particular services at that time. TVNZ may change these Terms from time to time. Changes to these Terms will be published on our website 30 days before the date those changes become effective and apply to any Orders made from the date those changes become effective. It is the Contractor's responsibility to check our website regularly for any changes.

### 1. DEFINITION

**Business Day** means a day when New Zealand government agencies and suppliers are normally open and excludes Saturdays and Sundays, New Zealand (national) public holidays and all days between Boxing Day and the day after New Year's Day.

**Confidential Information** means any and all information which has been designated as confidential by a party or that reasonably ought to be considered as confidential (however conveyed or on whatever media stored) including information which relates to the business, affairs, properties, assets, trading practices, Services, developments, trade secrets, intellectual property rights, know-how, personnel, customers and and/or Contractors or agents of that party.

**Contract** means the contract formed between TVNZ and the Contractor under clause 2.12 for the sale and purchase of Services in accordance with these Terms.

**Contractor** means the entity from whom TVNZ purchases the Services.

**Intellectual Property Rights** means any patent, trade mark, service mark, copyright, moral right, right in a design, know-how and any other intellectual property rights, whether registered, in the course of being registered or unregistered.

**Order** means TVNZ's order for the Services which incorporates these Terms by reference, such order may take the form of a contract, email and/or purchase order (provided that where a contract, email or purchase order contains an estimate, that estimate has been subsequently confirmed by TVNZ to the Contractor in writing, which TVNZ will do within a reasonable time of TVNZ issuing the order).

**Services** means the services, to be provided to TVNZ by the Contractor, as set out in the relevant Order.

**TVNZ** means Television New Zealand Limited, a Crown owned commercial broadcaster.

### 2. BASIS OF CONTRACT

- 2.1. Each Order placed by TVNZ constitutes an offer by TVNZ to purchase the Services in accordance with these Terms. The Order will be deemed to be accepted on the earlier of the Contractor:
  - (a) issuing a written acceptance of the Order; or
  - (b) doing any act consistent with fulfilling the Order,
- 2.2. Where a Contract or an Order contains an estimate (for example as to quantity, units, or amounts), that estimate is subject to TVNZ's written confirmation to the Contractor. TVNZ will provide written confirmation, amendment or rejection, of the estimate within a reasonable time of issuing the Order.
- 2.3. Any special conditions agreed between TVNZ and the Contractor will be set out in the Order.
- 2.4. To the extent the Contractor sells TVNZ any goods, such sale will be subject to TVNZ's Standard Purchase Terms.

### 3. GOOD WORK STANDARDS

- 3.1. The Contractor agrees to provide the Services in a manner that is consistent with good work standards and in accordance with appropriate professional standards and any applicable codes of practice.
- 3.2. In providing the Services the Contractor will meet any performance dates for the Services that TVNZ (acting reasonably) notifies to the Contractor (time being of the essence) and co-operate with TVNZ in all matters relating to the Services and comply with all reasonable instructions of TVNZ.

### 4. ENVIRONMENTAL SUSTAINABILITY

- 4.1. TVNZ is committed to continuously improving the environmental sustainability of its business practices and seeks to achieve positive environmental outcomes through sustainable supply chains that minimise impacts on the environment.
- 4.2. Consistent with the above objective, the Contractor agrees to:
  - (a) Comply with all applicable laws, regulations and standards relating to the mitigation of impacts on, and protection of, the environment, in providing the Services;
  - (b) Use best endeavours to reduce the environmental impact of the Contractor's Services and improve environmental sustainability at all stages of performance of the Contract;
  - (c) Continually review and improve its policies, systems, and procedures to reduce environmental impacts and improve environmental sustainability associated with the supply of the Services; and
  - (d) Consider opportunities to introduce innovative solutions in delivering the Services to reduce environmental impacts and improve environmental sustainability.
- 4.3. TVNZ may, acting reasonably, request information from the Contractor to demonstrate how the Contractor is complying with the Contractor's obligations at clause 4.2 above. The Contractor will respond to any information request within 30 working days or as otherwise agreed with TVNZ.

## **5. NO OBLIGATION**

- 5.1. TVNZ will be under no obligation whatsoever to provide any particular volume of work to the Contractor.

## **6. TVNZ PREMISES AND EQUIPMENT**

- 6.1. The Contractor will treat TVNZ's premises and equipment with all reasonable care and will reimburse TVNZ for, what TVNZ reasonably considers to be, any damage inflicted on such premises or equipment which is the direct result of the negligence or recklessness of the Contractor.

## **7. DEFECTIVE WORK**

- 7.1. If TVNZ reasonably considers that any work performed by the Contractor is defective or not performed in accordance with the provisions of this Contract, then the Contractor will promptly remedy such work at its own cost, except to the extent TVNZ has contributed to the failure.

## **8. INDEPENDENT CONTRACTOR**

- 8.1. The Contractor is in all respects an independent contractor and not an employee or partner or subsidiary of TVNZ and is not entitled to pledge the credit of TVNZ. The Contractor will be solely liable for all of its debts, losses, expenses, taxation on its income, insurances, duties or levies which may be payable for payments or benefits provided by TVNZ under this Contract.

## **9. PAYMENT**

- 9.1. The price of the Services will be the price as confirmed in the Order.
- 9.2. The price of the Services excludes Goods and Services Tax (GST) (which TVNZ will additionally be liable to pay to the Contractor subject to the Contractor being registered for GST, and TVNZ's receipt of a valid GST invoice).
- 9.3. The Contractor must invoice TVNZ for the price of the Services following provision of the Services to which the invoice relates. The Contractor will ensure that the invoice includes the date of the Order, TVNZ's purchase order number, the Contractor's GST registration number and any supporting documents that TVNZ may reasonably require. Invoices must be sent electronically to the TVNZ invoice mailbox advised by TVNZ. Invoices must not be issued prior to provision of the Services unless agreed by TVNZ.
- 9.4. Subject to the Contractor's compliance, in TVNZ's reasonable opinion, with these Terms and subject to the invoice being received by TVNZ following provision of the Services to which the invoice relates, TVNZ will pay such sums as are due on correctly rendered undisputed invoices within 14 days following the date upon which TVNZ received the invoice. Provided TVNZ has provided the Contractor with reasonable advance written notice, TVNZ will deduct any applicable taxes on scheduled payments (as that term is defined in the Income Tax Act 2007) from the payment, unless the Contractor has provided TVNZ with an exemption certificate.
- 9.5. The Contractor will maintain complete and accurate records of the time spent and materials used (if any) by the Contractor in providing the Services, and the Contractor will allow TVNZ to inspect such records at all reasonable times on request.
- 9.6. To the maximum extent permitted by law, a party's total liability to the other party in connection with any Order to which these Terms apply, is limited to direct loss only, up to a maximum of the value of Services provided by the Contractor in the 12 months prior to the date on which the liability arose. Neither party will be liable under or in relation to this Contract for any indirect or

consequential loss or damage or special loss or loss of profits, arising out of or in connection with this Contract.

9.7. Nothing in clause 9.6 limits or excludes:

- (a) a party's liability to the extent that such a limitation or exclusion of liability is not permitted by applicable law;
- (b) either party's liability for fraud or wilful default;
- (c) either party's liability for breach of clause 9; or
- (c) the Contractor's liability to TVNZ for any liability, expense, cost or damage arising from or relating to any claim brought by a third party against TVNZ that any Intellectual Property supplied by the Contractor to TVNZ under this Contract breaches the Intellectual Property rights of any third party, except where and to the extent that such infringement arises directly from TVNZ's breach of this Contract.

## 10. CONFIDENTIALITY

- 10.1. The Contractor agrees to maintain strict confidentiality with respect to the Services and duties performed for TVNZ.
- 10.2. Both parties agree to maintain strict confidentiality with respect to any Confidential Information provided to them by the other party.

## 11. TERMINATION

- 11.1. TVNZ may terminate this Contract for any reason on providing 5 days' prior written notice to the Contractor.
- 11.2. Without limiting its other rights or remedies either party may immediately terminate the Contract (**Terminating Party**) with immediate effect by giving written notice to the other party (**Terminated Party**) if the Terminated Party:
  - (a) commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of being notified in writing to do so; or
  - (b) ceases operations or becomes subject to any form of insolvency or other external administration.

## 12. COMPLIANCE AND HEALTH AND SAFETY

- 12.1. In performing its obligations under the Contract, the Contractor will comply with all applicable laws, statutes, regulations and codes from time to time in force, including but not limited to complying with the Health and Safety at Work Act 2015 and its successors and all TVNZ health and safety guidelines, directions, rules and procedures which will be advised to the Contractor when it starts to provide the Services. The Contractor also agrees to participate in any compliance or health and safety training requested by TVNZ and comply with any security requirements that apply at any of TVNZ's premises.

## 13. PROPRIETARY RIGHTS

- 13.1. Subject to clause 13.2, any invention, improvement, design, process, patent, trade mark, copyright, system or other Intellectual Property Right whatsoever made or discovered by the Contractor in performing the Services pursuant to this Contract will become the property of TVNZ on creation. TVNZ will not be obligated to produce, distribute or broadcast any programme in respect of which the Contractor renders the Services or to utilise the Contractor's Services in connection therewith and TVNZ's obligations to the Contractor will be fully satisfied by payment to the Contractor of the fees set out in the Order. Where any licence or other authorisation from any person is required to own, possess, use or resell any Services or any component of them, the Contractor will, at no extra cost to TVNZ, procure an irrevocable and unrestricted licence on a non-exclusive and transferable basis for TVNZ to own, possess, use and resell the Services.
- 13.2. Nothing in clause 13.1 prevents the Contractor from using know-how relating to methods or processes of general application which the Contractor develops during the term of the Contract, which are recalled only from its memory or the memory of its personnel and which are not the Confidential Information of TVNZ.

## 14. INDEMNITY

- 14.1. The Contractor indemnifies TVNZ against all loss, cost or damage incurred by TVNZ arising out of or in connection with all claims made against TVNZ that the Services infringe a third party's Intellectual Property Rights.

## 15. NO ASSIGNMENT

- 15.1. The Contractor will not assign, transfer, subcontract or otherwise deal with this Contract or any of its rights or obligations under the Contract whether in whole or part, without the prior written consent of TVNZ, such consent not to be unreasonably withheld. If TVNZ consents to any

subcontracting by the Contractor, the Contractor will remain responsible for all the acts and omissions of its subcontractors as if they were its own.

- 15.2. TVNZ may assign, transfer, subcontract or otherwise deal with the Contract or any of its rights or obligations under the Contract whether in whole or in part, without the prior written consent of the Contractor, and the Contractor will take such action (including execution of documents) as TVNZ requests to facilitate any such assignment or transfer. TVNZ will remain responsible for all the acts and omissions of its subcontractors as if they were its own.

**16. ENTIRE CONTRACT**

- 16.1. The parties agree that this Contract represents the entire agreement between the parties and supersedes all prior written agreements, and/or commitments, including any Contractor standard terms (whether or not provided to TVNZ at any time), that TVNZ may have entered into with the Contractor. Nothing in this clause 16.1 limits the statutory or common law rights of either party.