1. General. A Nielsen-issued purchase order (“Purchase Order”), together with these terms and conditions (“Terms and Conditions”), and any attachments incorporated therein (the foregoing, collectively, the “Purchase Agreement”) applies to the purchase of specified goods or services (collectively, “Products”) by the Nielsen company indicated in the Purchase Order (“Nielsen”). This Purchase Agreement supersedes any prior agreement between Nielsen and the Seller (“Seller”) with respect to the Products described therein. If a separate written agreement governing the purchase of such Products exists between Nielsen and Seller, the terms of such agreement shall govern.

2. Acceptance and Precedence of Terms. Seller’s acknowledgement of this Purchase Agreement or commencement of performance under a Purchase Order shall constitute Seller’s acceptance of these Terms and Conditions, and any attachment thereto, including quotations and confirmations. Except as otherwise set forth in Section 1 of these Terms and Conditions, this Purchase Agreement shall be controlling in the event of any inconsistency with any other agreement (including quotations, confirmations, invoice, acknowledgement, release, or other oral or written communication or agreement, even if accepted by both parties). Acceptance of the Products delivered under this Purchase Agreement shall not constitute acceptance of Seller’s terms and conditions or any other agreement proposed by Seller.

3. Provision of Goods and/or Services. Seller will provide Products as specified in this Purchase Agreement. If the Purchase Order is placed on an open price basis and in absence of subsequent agreement, Nielsen will determine the price to Nielsen, and it shall be paid to any other customer of Seller for the same or substantially similar Products of comparable quantity in effect as of the date of the Purchase Order.

4. Nielsen’s Property; Insurance. a. Property. All materials, including components, raw stock, design materials, special tools and equipment purchased by Seller under a Purchase Order or any other agreement with Nielsen remain property of Nielsen. In addition, all special tools and equipment which are identified as a reimbursable item in the Purchase Order or specifically acquired for performance of this Purchase Order shall remain property of Nielsen. Except as otherwise set forth in Section 1 of these Terms and Conditions, all property used solely for filling orders for Nielsen and shall be (a) kept segregated and clearly marked as Nielsen’s property, (b) maintained in good condition, normal wear and tear excepted and (c) surrendered to Nielsen in accordance with the Purchase Order.

b. Insurance. Seller shall be responsible for all loss or damage of property and shall, at its expense, secure and maintain insurance to cover replacement cost. Seller shall take such steps as may be reasonably necessary to prevent personal injury or property damage during any work hereunder that may be performed by any employees, agents, or subcontractors for or on behalf of Nielsen. Seller shall secure and maintain insurance against general liability and property damage in an amount sufficient to cover all damages and losses related to this Purchase Agreement. Seller shall also maintain workers compensation insurance as required by law where services will be provided, including employer’s liability coverage. If use of a motor vehicle is required, Seller shall maintain at its own expense Automobile Liability insurance with minimum limits of one million Euro (€1,000,000) for combined single limits per occurrence for bodily injury and property damage, which must be in effect while Seller owns vehicles. Depending upon the Products, Nielsen may require Seller and/or its agents and subcontractors to carry additional insurance and/or coverages. Seller will provide Nielsen (or its designated third party vendor) with at least thirty days’ prior written notice that Seller has cancelled or allowed to lapse any insurance, if any, that Seller has obtained or arranged for Nielsen’s (or its designated third party vendor’s) reasonable request. Upon written request from Nielsen, Seller will be named as an additional insured or loss payee, as applicable, on the policies maintained by Seller.

5. Shipment and Delivery. a. Timing. Time is of the essence in Seller’s performance of its obligations. Seller will immediately notify Nielsen if Seller’s timely performance under the Purchase Agreement is delayed or likely to be delayed. Nielsen’s acceptance of Seller’s notice will not constitute Nielsen’s waiver of any of Seller’s obligations or Nielsen’s rights or remedies.

b. Terms. Seller will honor all Nielsen routing instructions. Instructions may be indicated on the Purchase Order. Scheduling of Product shipments, and/or the specifications for Product containers or packaging, are the sole responsibility of Nielsen.

c. Incorrect Delivery. Incorrect deliveries are Products delivered: (i) in excess of the amounts stated on a Purchase Order; (ii) more than (three) 3 business days prior to the delivery date indicated on a Purchase Order; or (iii) otherwise delivered to the wrong delivery location. Seller will risk and assume any additional costs for any Products that are incorrect deliveries, in addition to any other damages, liabilities or penalties as may be applicable. Nielsen has the right to store such Products for a reasonable amount of time, or reject such Products and return to Seller for a full refund.

6. Import Arrangements. The Product(s) will be imported by Seller at Seller’s expense, and Seller will arrange for and pay all costs and charges incident to such importation, including but not limited to all applicable duties, taxes, or other costs or charges of the government of the country of import or export, and country of origin of all Products supplied to Nielsen. The relevant information must appear on the commercial invoice and the packing list. Seller shall ensure that it has: made all necessary arrangements; taken possession of any and all required permissions or other documentation; and has complied with all requirements including, but not limited to notifications and/or registrations, so that the goods clear the relevant border without delay. If applicable, Seller agrees to comply with U.S. Customs Security Filing (“ISF”) requirements and agrees to include the following “ISF data elements” on the commercial invoice: (1) Manufacturer name and address; (2) Seller name and address; (3) Buyer name and address; (4) Ship to name and address; (5) HTSUS number; and, (6) Country of Origin, and its direction of movement. Seller will notify Nielsen of any change to the ISF data elements no later than thirty (30) days prior to the delivery date.

d. Import/Export. Seller will ensure that the Products are imported and/or exported in accordance with all applicable laws, regulations and restrictions, including but not limited to all applicable import and export laws and regulations, to include but not limited to import classification (such as Harmonized Tariff Schedule, or HTSUS number), origin, and country of origin. The information must be completely accurate and complete. The information must be provided at least forty-eight (48) hours prior to the delivery of the Products or written approval of Nielsen.

e. Packing. Seller shall ship Products in unbroken, undamaged, untarnished, and unopened containers in such numbers, size, design, and specifications as indicated on the purchase order. The Products must be properly labeled, and Seller shall protect them from loss or damage and in accordance with good commercial practice and Nielsen’s specifications. Failure to do so will result in the rejection of all Products, and Seller shall bear the full cost of redelivery or reprocessing. Seller shall ship the Products on or before the delivery date specified on the Purchase Order, and Seller agrees to indemnify and hold harmless Nielsen from any said to Products occurring prior to delivery to Nielsen at designated point of delivery. Seller shall include with each shipment of Products an itemized packing list that sets forth the number, description, and quantity of each of the Products shipped, weight, and the date of shipment. Freight and other charges must be shown if discount is not allowed on full amount of invoice. This Purchase Order number shall be plainly visible on every envelope, package, bill of lading, and shipping order provided by Seller.

6. Change Orders. Nielsen has the right, at any time prior to the date of shipment, by a written request (including oral instructions) to vary or cancel the Products ordered or make changes in: (i) the quantities, scope, or Delivery Date of Products ordered; (ii) applicable drawings, designs, and specifications; (iii) the method of shipment or packaging; or (iv) the place of delivery or service location, or location of storage or service. If requested by Nielsen, Seller will carry out any change order or specification required for Seller’s performance, and Seller immediately notifies Nielsen in writing, then the price and/or delivery schedule of the Products corresponding to such changed portion(s) of a Purchase Order shall be adjusted accordingly and Seller agrees to modify the Purchase Order accordingly in writing. Seller shall request such an adjustment no later than five (5) days from the date of Seller's receipt of Nielsen’s notification of change; however, such period may be extended upon Nielsen's prior written approval. Nothing in this Section is intended to excuse Seller from performing pursuant to a Purchase Order as changed or amended. Nielsen will be entitled to charge a fee of up to six percent of the Change Order value to Nielsen up to the date of notice, provided that such expenses relate to the Products as originally agreed.

7. Acceptance, Return. a. Acceptance. Acceptance of the Products will be in accordance with the acceptance criteria set forth in the Purchase Order. If Seller fails to deliver Products in accordance with the Purchase Order, the accepted Products may be accepted by Nielsen in accordance with the terms of the Purchase Order in order to be deemed accepted by Nielsen. Unless otherwise specified in the Purchase Order, Products must be accepted by Nielsen and not returned. Nielsen’s acceptance of Products shall not be deemed accepted by Nielsen. If Nielsen does not provide acceptance within 90 days of receipt of Products, Products will be deemed accepted. Nielsen’s payment to Seller for Products will not be deemed accepted until Nielsen has provided a written acceptance, and to the extent and at the times specified in the Purchase Order. Seller shall separately state on all invoices any sales or use taxes imposed. In the event any tax amount was not included, Seller shall notify Nielsen and promptly process any change and pay such surcharge. Seller will comply with any reasonable requirements by Nielsen regarding payments under protest, and regarding any refunds, claims, litigation, or proceedings with respect to any such taxes and shall make appropriate adjustments to afford Nielsen the benefit of any refund or reduction in such taxes.

10. Warranties. a. Performance Warranties. Seller warrants to Nielsen and Nielsen’s customers for the longer of Seller’s normal warranty period or for one (1) year following the date of Nielsen’s acceptance of the Products that: (i) when received from Nielsen, the Products will be free from defects in material and workmanship; and (ii) the Products will be new and unused, and will cause its agents and subcontractors to, defend, reimburse, cover replacement cost. Nielsen’s notification of change; however, such warranties specified herein; (ii) are not accepted pursuant to this Section 7; or (iii) constitute over specification of the Products.

b. Performance Remedies. Notwithstanding any acceptance by Nielsen under Section 7, if any of the Products delivered by Seller do not meet the warranties specified herein or otherwise applicable, Nielsen has the right, at its option, to: (i) require Seller to correct any defective or non-conforming Products by repair or replacement or reperformance at no charge to Nielsen; (ii) return such defective or non-conforming Products to Seller at Seller’s expense and recover from Seller all amounts paid herefor; (iii) correct the defective or non-conforming Products itself and charge Seller the cost of such correction; or (iv) utilize the defective Products and require an appropriate reduction in the price of such Products or other services. The remedies specified in this Section 10 shall be cumulative and not exclusive of or in lieu of any other remedies available to Nielsen under any agreement, including this Purchase Agreement.

11. Termination. a. Seller’s Right to Terminate. Nielsen has the right to terminate this Purchase Agreement with respect to services, at any time, with or without cause, by providing Seller with written notice. Termination is effective immediately unless otherwise specified in the termination notice. Upon such termination, Seller will, to the extent and at the times specified by Nielsen, deliver to Nielsen all Products at Nielsen’s expense, and reimburse Nielsen for all expenses reasonably incurred in connection with such termination in accordance with the terms of this Purchase Agreement.

b. Goods. The right to terminate this Purchase Agreement with respect to goods in full or in part, at any time, with or without cause, by providing Seller with written notice. Termination is effective immediately unless otherwise specified in the termination notice. Upon such termination, Seller will, to the extent and at the times specified by Nielsen, deliver to Nielsen all Products at Nielsen’s expense, and reimburse Nielsen for all expenses reasonably incurred in connection with such termination in accordance with the terms of this Purchase Agreement.

c. Nielsen’s Right to Assign. Seller assigns to Nielsen all of its rights, title and interest in and to the Products and all related rights, title and interests in and to the Products and all related rights, title and interests in and to the Product in accordance with this Purchase Agreement. Nielsen’s assignment to Seller of this Purchase Agreement or any part thereof, does not relieve Seller of any obligation under this Purchase Agreement.

d. Nielsen’s Right to Subcontract. Seller may subcontract with any third party, upon giving Seller written approval.

e. Nielsen’s Right to Terminate. Nielsen has the right to terminate this Purchase Agreement at any time, with or without cause, by providing Seller with written notice. Termination is effective immediately unless otherwise specified in the termination notice. Upon such termination, Seller will, to the extent and at the times specified by Nielsen, deliver to Nielsen all Products at Nielsen’s expense, and reimburse Nielsen for all expenses reasonably incurred in connection with such termination in accordance with the terms of this Purchase Agreement.
orders; (iv) settle all claims hereunder (after obtaining Nielsen's prior written approval); (v) protect all property in which Nielsen has or may acquire an interest; and (vi) transfer title and make delivery to Nielsen of all intellectual property rights and any materials underlying the same resulting from or related to the Products; (vii) pay all costs and expenses incurred by Nielsen in exercising its rights in the Deliverables as contemplated by this Purchase Agreement. Without limiting the foregoing in this Section 12, Seller will not assert, and otherwise waive, any "moral rights" in the Deliverables and assigns to Nielsen all "moral rights" in the Deliverables.

13. Confidentiality. Seller agrees that all information, data, and material it obtains or uses hereunder, or on behalf of, Nielsen in connection with this Purchase Agreement shall be "Confidential Information" and is the sole property of Nielsen. Seller will use Confidential Information solely for the purposes of performing Products. Seller will maintain the Confidential Information in strict confidence; not disclose Confidential Information to any third party; and not use in any manner Confidential Information, whether directly or indirectly, its own or of any third party, including Confidential Information disclosed to or in connection with the Products, or any Government Official to secure or expedite the performance of a routine government function. Seller represents and warrants that in delivery of Products under this Purchase Agreement, Seller will not disclose or make Confidential Information available to any third party, including purposefully or inadvertently through (a) a data breach, (b) other loss, theft, or unauthorized use, manipulation or alteration of or to Confidential Information, or (c) any similar incident, occurrence or activity. Upon Nielsen's written request, Seller will promptly return all Confidential Information and copies, or certify in writing that it has destroyed all such materials. Seller will not bring to or use in connection with the Products any information, data, materials, or documents of a third party considered confidential or proprietary without the written authorization of such third party and Nielsen. Confidential Information does not include information that: (i) is demonstrated to have been known to Seller without restriction to Seller; (ii) is publicly available through no fault of Seller; (iii) is demonstrated to have been rightfully received by Seller from a third party without a duty of confidentiality; (iv) has been independently developed by Seller; or (v) is disclosed by a disclosure that references any Confidential Information. Seller may disclose Confidential Information if and to the extent compelled to do so by law if it provides reasonable prior notice to Nielsen, and if it reasonably cooperates with Nielsen, at Nielsen's expense, in Nielsen's efforts to challenge such disclosure.


a. General. Seller shall indemnify, defend and hold Nielsen and its officers, directors, agents, employees, successors and customers harmless from and against any and all claims, liabilities, losses, damages, settlements, costs and expenses (including attorneys' fees) made against or sustained by Nielsen arising from or related to: (i) any property damage, personal injury or death related to the Products; (ii) any act or omission of Seller or its agents, employees, or subcontractors, including any breach of this Purchase Agreement by Seller; and (iii) royalty claims, liens or any other encumbrances on the Products supplied hereunder, or any components or intellectual property therein.

b. Intellectual Property. Seller shall indemnify, defend and hold Nielsen and its officers, directors, agents, employees, successors and customers harmless against any and all claims, liabilities, losses, damages, settlements, costs and expenses (including attorneys' fees) made against or sustained by Nielsen arising from or related to: (i) any intellectual property rights or any purported intellectual property rights; (ii) any infringement of, or dispute relating to any alleged intellectual property rights; (iii) any Government Official to secure or expedite the performance of a routine government function. If for any reason such Deliverables are not deemed to be "works made for hire," Seller will indemnify, defend and hold Nielsen harmless against any and all claims, liabilities, losses, damages, settlements, costs and expenses (including attorneys' fees) arising from any claim that the Products infringe or misappropriate any third party Intellectual Property Rights. If Nielsen's use of any of the Products is enjoined or, in Nielsen's reasonable opinion, is likely to be enjoined as result of any such claim or allegation of intellectual property infringement, Seller shall, at its expense and within thirty (30) days after receipt of Buyer's written notice, either (a) modify the Products so that they become non-infringing but equivalent in functionality, quality, compatibility, usability or attractiveness; or (b) immediately cease to use, make, have made, import, offer for sale, sell, deliver, distribute, license, or dispose of the Products, at Seller's expense, to perfect such interest. Seller will not disclose or make Confidential Information available to any third party, including Confidential Information in writing or connection with the performance of the official's duties or functions or to induce the official to use his or her position to influence any acts or decisions of the foreign state or public international organization for which the official performs duties or functions; (c) Seller will not, directly or indirectly, offer, promise, pay, authorize or give, money or anything of value to any Government Official (as defined below) in order to obtain or retain an advantage in the course of business; (i) as consideration for an act or omission by the official in connection with the performance of the official's duties or functions or (ii) to influence the official to use his or her position to influence any acts or decisions of the foreign state or public international organization for which the official performs duties or functions; and (e) Seller shall notify Nielsen promptly in writing if it acquires any knowledge which would cause any of the representations or warranties given in this Section to be untrue or inaccurate. For purposes of this Section, "Government Official" means any official, employee or representative of (i) a state, provincial, county or municipal government; (ii) any agency or department of the federal government; (iii) any public international organization; (iv) any department or agency thereof; or (v) any company or other entity owned or controlled by any government, including state-owned, operated or controlled companies; and "Facilitation-Payment" means money or anything of value given to any Government Official to secure or expedite the performance of a routine government function. Supplier shall further be entitled to comply with the principles of the Nielsen Supplier Code of Conduct as well as other Nielsen Policies as (published on the Nielsen website), as appropriate.

15. Limited Liability. Except as provided herein, the failure to enforce any provision herein or right or remedy hereunder shall be: (i) in writing; (ii) delivered by hand or by overnight courier service to the respective addresses of the parties as set forth in the Purchase Order (or such other addresses a party may designate in writing in accordance with this Section 15); and (iii) effective upon actual delivery, or upon attempted delivery if receipt if refused. Notices to Nielsen shall be addressed "Attn: Purchasing" to the Nielsen address listed on this Purchase Order. If any provision of this Purchase Agreement shall be judicially determined to be unenforceable or invalid, that provision shall be limited or eliminated to the minimum extent necessary so that this Purchase Agreement shall otherwise remain in full force and effect and enforceable. As provided herein, the failure to enforce any provision herein or right or remedy on any one occasion shall not be construed as a waiver on any other occasion. The relationship of Seller and Nielsen is that of independent contractor. Except as provided herein, no term or condition of this Purchase Agreement may be amended or deemed to be waived, except by a writing signed by both parties that refer to this Purchase Agreement. No right or obligation under this Purchase Agreement (including the right to receive monies due) may be assigned, delegated or subcontracted by Seller without the prior written consent of Nielsen, and any purported assignment without such consent shall be void. This Purchase Agreement shall be deemed to be an agreement made under, and to be governed and construed by, the laws of the country where the Nielsen company indicated in the Purchase Order is located. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act do not apply. The exclusive jurisdiction and venue of any action relating to this Purchase Agreement shall be the competent courts located at the legal seat of the Nielsen company indicated in the Purchase Order, and Seller submits itself to the exclusive jurisdiction of such courts and waives any argument relating to the convenience of forum. The rights and remedies herein provided are in addition to and do not prejudice any other rights or remedies of either party. The following Seller will not survive expiration or termination of this Purchase Agreement: 1, 2, 4, 7 (so long as Nielsen has a return right as set forth herein), 10, 11, 12, 13, 14, 15, 16, 18, and 21.