

Terms and Conditions

Terms of Business

Definition

The Agency is fruition Design (sw)LLP. The Client is the person(s) to whom this document is addressed and/or who accepts any offer contained herein.

Terms

The Agency is only prepared to do work on these Conditions and they shall apply in all cases.

No one has authority to alter, vary or amend them verbally.

The Agency can alter, vary or add to them in writing and such document, to be of any effect, must be signed by Martin McCully

Proofs

Proofs of work will be submitted for Client's approval and the Agency shall incur no liability for any errors not corrected by the Client in proofs so submitted.

If the Client is unable or unavailable to check proofs, then the Agency cannot be held responsible for any errors and omissions.

Accuracy in colour representation and paper stocks, texture and other physical characteristics are governed by suppliers and by the final production process. Therefore all proofs and visuals supplied to the Client are representative only and are not to be taken as the finished item. The Agency will not be responsible for the cost of rectifying, or the consequences of any errors other than those notified by the Client to the Agency in writing, prior to such authority to proceed.

Delivery and Payment

Unless otherwise specified the price quoted is for delivery of the work to the Client's address as set out in the estimate. A charge may be made to cover any extra costs involved for delivery to a different address (plus VAT if payable).

Should expedited delivery be agreed extra may be charged to cover any extra costs.

Should work be delayed by the Client at any stage of the production the Agency shall

i) not be responsible for meeting the quoted deadline for delivery of work and

ii) charge any additional costs involved (plus VAT if payable).

Should work be suspended at the request of or delayed through any fault or default of the Client for a period of 30 days the Agency shall then be entitled to payment for work already carried out, materials specially ordered and other additional costs including storage (plus VAT if payable).

After an initial meeting or conversation The Agency will produce an Estimate for the Client which will itemise all costs to be incurred. The Estimate will be as accurate as possible and will be valid for 30 days. The Client will provide an order or other such paperwork to confirm their acceptance of the Estimate or alternately will sign a work request form supplied by the agency. Once work has been commenced the Client shall be liable to pay for any design/creative/artwork produced by the Agency as detailed on the Estimate. The Agency does not produce design or concept work speculatively unless agreed in writing prior to commencement.

Extensive projects and/or those requiring a significant proportion of bought out costs will be invoiced in stages and which at the discretion of the Agency may be charged in advance.

(g) The Agency shall notify the Client of their credit limit from time to time. In the event that this limit is exceeded, a sum may be required to be paid on account representing the value of any additional Services required and may, at the Agency's option, suspend performance of the services until such further sums are paid.

(h) The Client shall be liable to pay interest on the over due amount at an annual rate of 5% above the prevailing base rate of The Bank of England. Such interest shall accrue on a daily basis from the date on which payment becomes overdue until the date payment is received of the full overdue amount together with any accrued interest.

(i) The Agency shall have the right, at their option, to suspend performance of the Services until the Client have paid all outstanding amounts together with all accrued interest due.

(j) The Client shall be liable for the Agency's incidental costs of collection and recovery of amounts due.

Ownership

The ownership of designs, inventions, concepts, layout, films, artwork and display materials or other material delivered by the Agency to the Client does not pass to the Client when the Client has paid all amounts due to

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the Agency in respect of that work, paper, or other materials. The Client shall have the right to use such designs, images and artwork royalty free for the purposes for which they were commissioned once payment has been made, but any unauthorised use shall result in further charges becoming payable by the Client to the Agency.

Copyright does not pass to the client on payment of invoice unless otherwise stated in writing from the Agency.

Where the Agency has commissioned photography, illustration or other items originated by an outside Creator, the ownership of these items may belong to the Creator and not to the Agency. Therefore copyright will remain with the Creator.

Limitations of use

The Agency shall be indemnified by the Client in respect of any claims, costs and expenses arising out of any extension to the use of any music, copy, photographs, illustrations, film or video material supplied by the Agency which contains elements for which only limited use has been agreed by the Agency, the Client and the owners of suppliers of such property.

Claims

The Client must raise any query with regard to invoices with the Agency within 14 days of receipt of the invoice, otherwise the invoice shall be deemed correct and payment will be due within 30 days of the invoice date or in accordance with any other trading terms otherwise agreed in writing. Advice of damage, delay or partial loss of goods in transit or of non delivery must be given in writing to the Agency and the carrier within three clear days of delivery (or, in the case of non-delivery, within 14 days of despatch of the goods) and any claim in respect thereof must be made in writing to the Agency and the carrier within 7 days of delivery (or in the case of non-delivery, within 42 days of despatch). All other claims must be made in writing to the Agency within 14 days of delivery.

Liability

The Agencies liability to the Client in contract law or in court or otherwise howsoever arising in relation to the contract is limited to the Agencies charges for the Goods.

Where artwork or other material is sent to the Client for final approval, the Client shall check it carefully and notify the Agency by e-mail, or post of any errors or alterations. The Agency will use its reasonable endeavours to effect any changes so notified but the Agency reserves the right to charge extra if any of these alterations either go beyond the original Brief. Where notification of errors is either delayed in this way or does not occur at all before publication, The Agency will not be liable in respect of any such errors. The Agency will also not be liable in respect of errors occurring where the Client either does not pay for proofs or mock-ups or oversees the print and production process or does not allow enough time in the production schedule to check layouts, copy, pagination or other content aspects. The Agency cannot guarantee that any or all colours will be exactly replicated in the final version as published.

The Client is ultimately responsible for checking proofs for any errors or omissions in design work however produced. Upon signing off a proof the Client will be responsible for any and all errors that they have not informed in writing to the Agency. The Agency shall only be liable upto and not exceeding the amount the Agency will charge for the work it has undertaken. The Agency will not be responsible for the cost of rectifying, or the consequences of any errors other than those notified by the Client to the Agency in writing, prior to such authority to proceed. The Agency shall not be liable for any loss to the Client arising from unavoidable delays in the production or delays in transit not caused by the Agency.

Client's Property

Client's property and all property supplied to the Agency by or on behalf of the Client shall, while it is in the possession of the Agency or in transit to or from the Client, be deemed at the Client's risk unless otherwise agreed in writing and the Client should insure accordingly.

Printed Matter

Estimates for printing are subject to the terms and conditions of contract of printers and their suppliers in addition to the Agency's conditions of contract and are often conditional upon margins of up to 10 per cent allowed for overs and shortages which may be charged or deducted from the invoice.

Media Buying

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Where media is booked by the Agency on behalf of the Client the terms and conditions of the media supplier and, where appropriate, media broker shall apply. The Agency cannot be held responsible for deviations from specified times, placements and/or positions of advertisement made by media suppliers. Charges made by media suppliers for late booking and/or cancellations will be charged on to the Client.

Termination

Either party may terminate the business arrangement forthwith by notice in writing if the other party:

(1) Commits a material or persistent breach(es) of any of these Terms and in the case of a breach or breaches capable of remedy, fails to remedy such breach within 30 days of receipt of written notice giving full particulars of the breach(es) and requesting that the same be remedied.

(2) Becomes insolvent, enters into liquidation or bankruptcy, passes a resolution for its winding up, has a receiver or administrator appointed over the whole or any part of its assets, makes any composition or arrangement with its creditor or takes or suffers any similar action in consequence of its debt or

(3) Ceases, or threatens to cease, to carry on business

Termination of the business arrangement for any reason shall not affect any rights, duties or responsibilities accrued to the parties prior to such termination. Upon such termination, the Client shall pay all sums due in respect of Services performed and expenditure incurred (or committed to) by the Agency up to and including the effective date of termination.

Illegal Matter

(1) The Agency shall not be required to produce matter which, in their opinion, is or may be of an illegal or defamatory nature or an infringement of the proprietary or other rights of any third party.

(2) The Agency shall be indemnified by the Client in respect of any claims, costs and expenses arising out of any defamatory matter or any infringement of copyright, patent or of any other proprietary or personal rights contained in any material produced for the Client.

Force Majeure

The Agency shall be under no liability if it shall be unable to carry out any provision of the contract for any reason beyond its control including (without limited foregoing) Act of God, legislation, war, fire, flood, drought, unsuitable weather, failure of power supply, mechanical breakdown.

Law

These conditions and all other express terms of the contract shall be governed and constructed in accordance with the laws of England.