

TERMS AND CONDITIONS OF BUSINESS

Contract Terms

1. These are the general terms and conditions which apply to all Montpellier Creative ("the Consultancy") contracts with you ("the Client"). In these terms and conditions, any contract the Consultancy makes with the Client is referred to as "the Contract."
2. Unless otherwise agreed in writing by a director of the Consultancy, these terms and conditions shall apply to all Contracts entered into by the Consultancy to the exclusion of any terms and conditions contained in a Client's order or which are referred to by the Client in correspondence or negotiations. No employee of the Consultancy other than directors of the Consultancy has the authority to vary these terms and conditions.
3. Unless otherwise agreed in writing, these terms and conditions and the Contract shall be subject to and construed in accordance with English Law.
4. If any provision in these terms and conditions is held by any court or other competent authority to be void or unenforceable in whole or in part, the other provisions and the remainder of the affected provision shall continue to be valid.
5. No failure or delay by any party in exercising any of its rights under these terms and conditions shall be deemed to be a waiver of any thereof.
6. The Consultancy shall not be bound by any Contract until its estimate has been signed by the Client.
7. Estimates are valid for 30 days inclusively
8. All orders are accepted subject to the availability of materials
9. The Consultancy reserves the right to amend estimates where supplier prices have been raised or where technical specifications, quantities or other factors reasonably apply. The client shall be informed at all stages and prior to any work being carried out.

Tax

10. Estimates do not include VAT. Where applicable, VAT will be added to invoices at the appropriate rate.
11. Where the Consultancy does not charge Value Added Tax to the Client and the body responsible for implementing or administering the tax rules finds that the tax is in fact payable and requires the Consultancy to make payment of the undercharge then the Consultancy shall be entitled to invoice the Client for the amount of the undercharge.

Price Variation

12. The Consultancy reserves the right to charge the Client for any additional costs incurred as a result of any of the following:
 - a) any delay on the part of the Client. In particular, unforeseen courier costs may be charged in addition to those specified in the estimate.
 - b) the quality of any materials or data supplied by the Client
 - c) any corrections, alterations or amendments made by the Client to the specification on which the Consultancy's estimate is based
 - d) the handling and storage of supplied materials, or items and materials produced in the course of this Contract.
 - e) any corrections, alterations or amendments beyond the second proof will be charged
 - f) unless otherwise agreed in writing, the quotation will be 'ex -works' and delivery shall be charged extra
 - g) any additional work required of the Consultancy by reason of the Client supplying inadequate copy, incomplete or incorrect instructions or insufficient materials; or late delivery of the same shall be charged
 - h) estimates are based on the Consultancy's current costs of production and, unless otherwise agreed in writing, are subject to amendment to meet any rise or fall in such costs that have taken place by the time of delivery

Payment

13. The Consultancy has the right to invoice the Client:
 - a) on the completion of any specific and identifiable part of the Contract
 - b) if the Client requests the suspension of work, or delays the completion beyond the agreed date, for work already carried out, any material specially ordered and additional costs incurred.
 - c) at any time for the costs of services to be carried out by third parties on behalf of the Client
14. All payments shall be made within 30 days of the date of the relevant invoice, save for payments due in respect of third party services which the Client has agreed to pay on demand or in advance. If the Client defaults on these payment terms the Consultancy shall have the right to:
 - a) suspend or cancel immediately any Contract made with the Client and
 - b) to charge interest at 2 per cent above Lloyds Bank Base Rate on the balance outstanding with effect from the due date of the relevant invoice until the outstanding amount is paid in full before and judgement.

Illegal or Libellous Material

15. We shall not be required to print or publish any matter which in our opinion is or may be of illegal or libellous nature or an infringement of the proprietary or other rights of any third party.

Indemnity

16. The Client acknowledges that advertising and communication materials prepared by the Consultancy are prepared on the basis of information supplied by the Client. Accordingly, the Client will indemnify us against any claims, costs and expenses arising out of any illegal, libellous or otherwise actionable matter including any infringement of copyright, patent, design or of any proprietary rights. The indemnity shall extend to any amounts paid on the advice of our solicitors in settlement of any claim.

17. Where the Consultancy contracts as principal at law with suppliers and with the media (to provide advertising) on behalf of a Client, the Client will indemnify the Consultancy against all losses, costs and expenses the Consultancy may incur in relation to those Contracts.

Variations in Quantity

18. The Consultancy will use all reasonable endeavours to deliver the same quantity of goods as the Client has ordered. However, estimates are conditional upon margins of 17.5%. The Client shall therefore be liable to pay the proportion of the estimate price that corresponds with the quantity of goods delivered.
19. Where the Client supplies materials, adequate quantities (as specified by the Consultancy) must be supplied to cover spoilage.

Claims

20. Any claim by the Client which is based upon any defect in the quality of goods, or the quantity supplied, shall be notified to the Consultancy within 14 days of delivery. Where the defect is not apparent on reasonable inspection, the Consultancy shall be notified as soon as practicable following the discovery of the defect.

Ownership and Custody of Material

21. Ownership of the goods described in this estimate shall remain with the Consultancy until the Client has paid the Consultancy in full. Once fully paid for, all printed or advertising material prepared for and purchased for the Client by the Consultancy will become the Client's property. This does not apply to 'stock' photographs obtained from news or photographic agencies, nor to photographic or film negatives.
22. No property, title or rights in the computer programs, systems, lists or similar items used or developed by the Consultancy or its suppliers in the fulfilment of this Contract shall pass to the Client.
23. Website domains and their contents hosted by the Consultancy remain the property of the Consultancy until full and final settlement has been made in relation to registration and build. The Consultancy reserves the right to remove websites hosted by the Consultancy should the Client default payment.
24. The Consultancy will take reasonable care of advertising material entrusted to us but will not be required to recover films or plates and the like from media and suppliers once we have parted with them.
25. The Consultancy will be entitled to destroy all such material left in its custody after 1 year, or after giving notice to the Client at such earlier time as the Consultancy considers reasonable.
26. Risk in any goods supplied to the Client will pass to the Client when such goods are delivered to the Client or to a third party nominated by the Client.

Warranty and Liability

27. The Consultancy warrants that any services it provides to the Client shall be provided with reasonable care and skill. Except in respect of death or personal injury caused by the Consultancy's negligence, the entire liability of the Consultancy under or in connection with any Contract shall not exceed the Consultancy's fees and commission in respect of any such Contract.
28. Where materials or equipment are supplied or specified by the Client in connection with the Contract, the Consultancy shall be under no liability whatsoever for imperfect work caused by defects in or unsuitability of such materials or equipment.
29. Unless specifically agreed in writing, the Consultancy shall not be responsible for checking property or data received from or on behalf of the Client and shall be entitled to assume that it meets the Client's requirements in all respects.
30. The Consultancy will use reasonable care and skill in the execution of an order involving data entry or computer list processing, but is unable to guarantee total accuracy.
31. The Consultancy will not be liable for any delay in, or omission of, publication or transmission, or any error in any advertisement, nor delay in posting or delivery, in the absence of default or neglect on our part.
32. The Consultancy will not be liable for any loss of profits, consequential, economic, or indirect loss arising in any way in connection with the performance (or non performance) of the obligations related to this Contract.

Force Majeure

33. Neither party is liable to the other for failure to perform the obligations described in the Contract if the failure is due to unforeseen circumstances which are beyond its reasonable control. Some examples of unforeseen circumstances (but not an exhaustive list) are war, riot, explosion, abnormal weather, an act of God, fire, flood, strikes, lock-out, government action or regulation (UK or otherwise), delay by suppliers, accidents, shortages of materials, labour or manufacturing facilities, or the failure of the other party to the Contract to provide information, materials or facilities. In such circumstances the Consultancy shall be entitled to make partial deliveries only or to suspend or cancel the Contract without prejudice to any rights which have accrued to the Consultancy.

Cancellation

34. The Client may not cancel this Contract without the consent of the Consultancy, which if given shall be deemed to be on the express condition that the Client shall indemnify the Consultancy against all loss, damage, third party fees, disbursements, claims or actions arising from such cancellation unless otherwise agreed in writing.

Errors and Omissions

35. The Consultancy may amend errors or omissions within estimates or promotional literature without liability to the Client.