

Northern Monkeys Creative Ltd Conditions of Trading

In these conditions ("the Conditions"), ("the Company") means Northern Monkeys Creative Ltd, ("the Customer") means the person, firm or company who commissions the services of the Company and to whom the Company addresses a quotation, offer, tender, or written proposal and ("the Services") means the Services which are the subject of such quotation, offer, tender or written proposal.

1. Application of Conditions

- 1.1. These Conditions shall apply to all contracts between the Company and Customer for the provision of Services by the Company ("the Contract") and all quotations, offer, tender; or proposals are made and all orders are accepted by the Company subject to these Conditions. Except as otherwise stated provided in these Conditions or agreed in writing by the Company, all other terms, conditions or warranties are excluded from any Contract between the Company and the Customer.
- 1.2. All offer tenders or written proposals, are approximate only and intended merely to give a general idea of the Services described therein and shall not form part of the Contract.
- 1.3. Northern Monkeys Creative Ltd issues a copy of its standard terms and conditions to all new clients via email at the point of engagement. These terms and conditions are deemed as accepted, unless queried at the time of receipt.

2. Performance of the Services

- 2.1. Any time or date for the performance of the Services is given as accurately as possible but is not guaranteed. The Customer shall have no right to cancel the Contract if the Company fails to meet any agreed time of performance in any event provided that is (Subject to Clause 2.2 and Clause 6) performance is more than 30 days late, the Customer shall be entitled to claim compensation.
- 2.2. In no event shall the Customer be entitled to cancel the Contract or claim any compensation for delays to the agreed time of performance of the Services which has arisen or resulted from any act, omission, breach, neglect or fault of the Customer, its servants, agents or employees or any other person connected to the Customer.

3. Fees

- 3.1. All fees will either be part charged on a monthly basis or in full on completion of project, dependant on Services carried out and timescales involved, unless otherwise agreed in writing beforehand.
- 3.2. The fees for the Services shall be subject to the addition of Value Added Tax and other taxes, the cost of providing specialist support, disbursements and out of pocket expenses incurred in connection with the Services including photocopying, postage, faxes, travel and subsistence.
- 3.3. The Company reserves the right to ask the Customer for a reasonable payment in advance on account either of their fees, costs, disbursements or out of pocket expenses.

4. Payment

- 4.1. Unless otherwise agreed in writing by the Company, the Customer shall be invoiced on completion of the project or at monthly intervals for work to date (notwithstanding that it has not completed performance of the Services) and all accounts shall be paid on or

before the 30th day after the date of invoice. Cheques and money orders shall be made payable to or to the order of the Company or its nominated payee, as detailed on the invoice. Only the official receipt of the Company or its nominated payee shall be treated as valid.

- 4.2. Where the Company undertakes any work in pursuance of or by way of tender for any project or commission from a Customer, such work shall become duly payable in accordance with Clause 4.1 upon successful appointment of the Company to undertake the project or commission for which such work was produced.
- 4.3. Where the Customer defaults in payment, the Company shall (without prejudice to any other right or remedy) be entitled to charge compound interest monthly at the rate of 8% above the base rate of the Bank of England on the outstanding balance from time to time until payment in full is made and/or suspend, cancel or terminate any or all of the Services under the Contract and under any other contract between the Company and Customer. The Customer shall pay the Company's costs, charges and expenses directly or indirectly incurred in obtaining or otherwise enforcing payment of the same.

5. Cancellation

- 5.1. Cancellation of the Contract cannot be made without the company's consent in writing.
- 5.2. If the Company accepts cancellation by the Customer in relation to any or all of the Services, the Company shall give the right to charge the Customer for its fees incurred to date and an administration charge which shall reflect any costs expenses or disbursements incurred by the Company as a result of a breach and/or cancellation including payment to cover the Company's loss or other damage resulting.
- 5.3. The Customer shall at all times reimburse the Company for any costs, charges and/or fees incurred by the Company as a result of a breach and/or cancellation by the Customer of any contract entered into by the Company on the Customer's behalf.

6. Guarantee

- 6.1. The Company undertakes to carry out the Services with reasonable skill and care. All other warranties and conditions whether expressed or implied by statute, common law or otherwise are hereby excluded.
- 6.2. If the performance of the Services is such might or would (subject to these Conditions) entitle the Customer to claim damages, to repudiate the Contract or to reject the Services, the Customer must first ask the Company to re-perform the Services or to credit the Customer with such proportionate part of the fees for the Services as the Company in the circumstances deems fit, provided that the Company shall be under no liability under this guarantee if (a) the Customer has not paid in full for the Services or (b) the Customer has failed in any other respect to adhere strictly to the Conditions hereof or (c) the Company has not been notified within one month of it becoming apparent that the Services have been performed defectively or (d) the Customer undertakes all or any proof reading of any products produced pursuant to the Services and any defects in such products shall be notified to the Company within such time as reasonably agreed between the Customer and the Company.

6.3 If the Company does so supply satisfactory substitute Services or credit, the Customer shall be bound to accept such substituted Services or repayment and the Company shall be under no further liability in respect of any loss or damage of whatever nature arising in relation to those Services.

7. Exclusion of Liability

- 7.1 Nothing contained in this Condition shall limit or restrict the Company's liability for death or personal injury caused as a result of the Company's negligence, nor does the Company limit or restrict its liability for fraudulent misrepresentation under the Misrepresentation Act 1967.
- 7.2 Under no circumstances whatever shall the Company be liable for losses special to the particular circumstances of the Customer, indirect or consequential loss including loss of profits, damage to property or wasted expenditure.
- 7.3 Without prejudice to the other provisions of this Condition, the Company's liability, whether in respect of one claim or their aggregate of various claims shall not exceed the total of the Contract fees for the Services.
- 7.4 The fees for the Services are based on the assumption that the liability of the Company and Customer are set as set out herein. The Customer is advised to insure against any risk not accepted by the Company.

8. Customers Obligation and Indemnity

- 8.1 The Customer undertakes to fulfil any obligations put upon them which have been agreed by the parties to enable the Company to provide the Services.
- 8.2 Pursuant to Clauses 7.1 and 2.2, the Customer shall at all times fully and promptly indemnify and keep indemnified the Company, its servants and agents against any liability, loss, expenses, claims or proceedings whatsoever arising whether direct, indirect or consequential and of any kind arising or resulting from any breach of these Conditions, acts omissions, neglect or default on the part of the Customer, its employees, servants or agents or any other person connected to the Customer.

9. Intellectual Property

- 9.1 All trade marks, registered or unregistered design rights, copyrights, confidential information, know-how and other intellectual property rights of any nature in all drawings, documents, proposals, confidential records, computer software and other information supplied by the Company, whether produced by itself or a third party, are owned by the Company unless otherwise agreed in writing.
- 9.2 The Customer warrants that any instructions furnished or given by the Customer in execution of the Customer's order shall not cause the Company to infringe any Intellectual Property of any third party and indemnifies the Company against any such claims of infringement.

10. Termination

- 10.1 Without prejudice to any other rights or remedies to which the Company may be entitled, if the Customer shall be in breach of any of its obligations under these Conditions or ceases or threatens to cease during the period of the Contract to carry on business, becomes insolvent, has a receiver; administrative receiver or manager appointed over the whole or any part of its assets, enters into any composition with creditors generally, or has an order made or resolution passed for it to be wound up (otherwise than in furtherance of any scheme for amalgamation or reconstruction) or otherwise undergoes any similar process in any other jurisdiction, the Company may, without prejudice to its other rights, demand immediate payment by the Customer of all unpaid accounts and suspend further performance of the Services, cancel this and any other contract between the Company and the Customer, without any liability attaching to the Company in respect of such suspension of cancellation and debit the Customer with any loss sustained thereby.

11. Force Majeure

- 11.1 The company shall have the right to cancel or delay performance of the Services if it is prevented from, hindered or delayed through any circumstances beyond its reasonable control, including but not limited to war, riot, government requisitions of any kind, suspension or loss of means of transport, terrorist attacks, strikes, lock outs, governmental decrees, quality control non release. Carrier delays, labour disputes, fire, electrical failure, explosion, flood, accident, failure of any third party to supply the Company or breakdown of machinery.
- 11.2 During any such period of cancellation the Company shall have the right at its option (a) to suspend further performance of the Contract until such time as the cause of the delay shall no longer be present or (b) to be discharged from further performance of and liability under the Contract exercises such rights the Customer shall thereupon pay the Company's out of pocket expenses, fees and disbursements to date.

12. General

- 12.1 The Contract is between the Company and the Customer as principal and is not assignable without the consent of the Company.
- 12.2 If any of these Conditions are held by any competent authority to be invalid or unenforceable, in whole or in part, the validity of the other Conditions and the remainder of the Condition in question, shall thereby not be affected.
- 12.3 Failure by the Company at any time to enforce any of these Conditions shall not be construed as a waiver by the Company of such Condition or any other conditions and the Company shall be entitled to enforce any such breach at any time.
- 12.4 The Contract shall be governed and interpreted according to the laws of England and shall be subject to the jurisdiction of the English courts. Nothing in this clause shall limit the right of the Company at its sole discretion to bring proceedings in connection with this Contract in any other Court of competent jurisdiction.
- 12.5 Any notice required to be given under the Contract shall be in writing and delivered personally or sent by facsimile or first class post to the registered office of the Company and if sent by facsimile a copy shall be sent by first class post or delivered personally on the same day.