

Fink Creative Limited - Terms and Conditions of Trading

Definitions

In these conditions “the Customer” means the person, firm or company who commissions the services of Fink Creative Limited “the Company”. By commissioning the Company to undertake work “the project” on their behalf, the Customer agrees that these Terms and Conditions of Trading define our working relationship. All projects, services or goods that the Company may be contracted to produce or provide for the Customer will be subject to the following:

Fees

For each project, the Customer will receive an estimate outlining the project specifications and estimated fees for our time based on our current hourly rate and, where appropriate, any goods and professional services commissioned by us in order to complete the project. We will begin work upon the Customer’s written or oral approval of the estimate and this will constitute an agreement between us. The Customer agrees to pay the Company in accordance with the terms specified in each proposal/estimate. Estimates are valid for only 30 days from the date on the estimate.

Payment

Unless otherwise agreed in writing by the Company all Customers that have not submitted a credit application and been approved by our accounts department will be required to pay 50% of the project cost before work can begin and all subsequent balances due are payable upon artwork approval. All credit accounts shall be paid up on or before the 30th day after the date of the invoice. We reserve the right without notice to charge interest on past due balances at the rate of 12% per annum or 1% per month. We reserve the right to refuse completion or delivery of work until past due balances are paid. The Customer shall pay the Company’s costs, charges and expenses directly or indirectly incurred in obtaining or otherwise enforcing payment of outstanding accounts.

Revisions and alterations

New work requested by the Customer and performed by the Company after a proposal/estimate has been approved is considered a revision or alteration. If the job changes to an extent that substantially alters the specifications described in the original estimate, we will submit a revised proposal/estimate to you, and a revised additional fee must be agreed to by both parties before further work proceeds. It is normal practice for contact reports to be issued by the Company’s staff of meetings between the Customer and the Company. If the subject matter of a contact report is not questioned by the Customer within three working days of its receipt, it will be taken to be a correct record of the meeting to which it refers. Author’s alterations and other copy changes requested after layouts or mechanicals are completed are billed at our standard hourly rates.

Overtime and rushed orders

Estimates are based on a reasonable time schedule, and may be revised to take into consideration your “Priority Scheduling” requests requiring overtime and/or weekend working. Knowledge of your deadlines is essential to provide an accurate estimate. In addition, our suppliers may mark up their charges in respect of work required in a hurry.

Exclusion of liability

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. Without prejudice to the other provisions of these conditions, the Company’s liability shall not exceed the total of the contract fees for the project. The fees for any project are based on the assumption that the liability of the Company and Customer are as set out herein.

Nature of copy and property belonging to others

The Customer agrees to exercise due diligence in its direction to us regarding preparation of materials and must be able to substantiate all claims and representations. The Customer is responsible for all trademark, copyright and patent infringement clearances and is responsible for arranging, prior to publication, any necessary legal clearances, licenses, usage or royalty payments.

Errors and omissions

It is the Customer’s responsibility to check proofs carefully for accuracy in all respects, including but not limited to prices, spelling, dimensions and distances. The Company is not liable for errors or omissions. The Customer’s signature or that of his authorized representative is required on all proofs or artwork prior to release for printing or other implementation.

Over runs and under runs

Some printers' terms enable them to deliver over or under the quantity ordered and to charge accordingly. In such cases the Customer will accept over runs or under runs that do not exceed +/- 10% of the quantity ordered and the Company will bill for the actual quantity delivered within this tolerance.

Placement of advertising

At your request, we will purchase media space on your behalf which will be billed to you at current rates plus the standard agency commission. The Company cannot be held liable for advertising which does not appear on a particular time/date or issue or in a particular position or break.

Property and suppliers performance

The Company will take all reasonable precautions to safeguard property entrusted to us. In the absence of negligence on our part, however, we are not responsible for loss, destruction or damage or unauthorized use by others of such property. We will use our best efforts to ensure quality and timely delivery of all printed matter. Although we may use our best efforts to guard against any loss arising from the failure of our suppliers, media, or others to perform in accordance with their commitments, the Company is not responsible for failure on their part. We cannot in any way be held responsible for quality, price, performance or delivery of materials made or supplied by others where the work has been placed directly by the Customer or his agents.

Lien

All materials or property belonging to the Customer, as well as work performed, may be retained as security until all just claims against the Customer are satisfied.

Rights of ownership

Once a project has been delivered by us and is fully paid for by the Customer, the Company will assign the reproduction rights of the design for the use(s) described in the proposal. According to copyright law, the rights to all design and artwork, including but not limited to photography, music and or illustration created by independent photographers, artists or illustrators retained by the Company, or purchased from a stock agency on behalf of the Customer, remain with the individual designer, artist, photographer or illustrator. Unless a purchase of "All Rights" (a Buyout) is negotiated on behalf of the Company, you may not use or reproduce the design, work or the property therein for a purpose other than the one(s) originally stipulated. If you wish to use the design we have created and/or the images within it for another purpose or project, including a reprint or exhibition, you must contact us to arrange the transfer of rights and the payment of any additional fees before proceeding. Master artwork including roughs, visuals, mock-ups and presentations is the property of the Company and will not be released or copied for the Client or any third party to use in any way whatsoever without prior written agreement by a director of the Company. We reserve the right to photograph and/or distribute or publish for our firm's promotional and marketing needs any work we create for you, including roughs, visuals, mock-ups and presentations, as samples for our portfolio, newsletter, brochures, presentations and website and for entry for awards. We will endeavour to store files on computer disks for a period of 6 months beyond the delivery of a job. Thereupon, we reserve the right to discard them without notice.

Limitation

The Customer will indemnify and hold the Company harmless for any loss or expense (including legal fees), and agree to defend the Company in any actual lawsuit, claim or action arising in any way from our working relationship. This includes, but is not limited to claims made against the Customer and any of its products and services arising from the publication of materials that we prepare and the customer approves before publication.

Force majeure

Production schedules, storage of files and property belonging to the Client will be established and adhered to by both Customer and the Company, provided that neither shall incur any liability, penalty or additional cost due to delays caused by a state of war, riot, civil disorder, fire, industrial dispute or strike, accidents, energy failure, equipment breakdown, delays in shipment by suppliers or carriers, action of government or civil authority, and acts of God or other causes beyond the control of the Customer or the Company. Where production schedules are not adhered to by the Customer, final delivery date or dates will be adjusted accordingly.

General

The validity and enforceability of this agreement will be interpreted in accordance with the laws of England but the Company reserves the right to bring proceedings in connection with this contract in any other court of competent jurisdiction. Failure by the Company to enforce any of these conditions shall not be construed as a waiver of that condition or any other condition.