



Picador Design Consultants

Standard Terms and Conditions

GENERAL:

1.1 All business undertaken by Picador Design International (hereinafter called "the company") is transacted subject to the conditions hereinafter set out each of which shall be deemed to be incorporated in and to be a condition of any agreement between the Company and its customers.

1.2 The company will only sell or supply Goods or Services on these conditions, which in the case of conflict shall override any terms or conditions imposed by the customer. Each sale contract between the customer and the Company as the supplying company is hereinafter referred to as "the Contract".

1.3 Any variation to these conditions can only be made, and must be in writing signed by, a Director or other proper officer of the Company duly authorised.

1.4 The Company's employees or agents are not authorised to make any representation concerning the Goods or Services unless confirmed by the Company in writing. In entering into the Contract the customer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.

1.5 Any typographical, clerical, or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Company shall be subject to correction at any time without liability on the part of the Company.

ACCEPTANCE:

2.1 The Company's quotations and estimates are without commitment and an order is not binding on the Company unless accepted in writing signed by a Director or other proper officer duly authorised and any action taken by the Company pursuant to the Order shall only be taken as acceptance solely upon these conditions.

PRICES:

3.1 The company shall establish the prices to be charged to the customer for its Goods or Services from time to time as it thinks fit.

3.2 The price of the Goods sold or the Services rendered by the Company shall be the price ruling at date of delivery; and where delivery of the Goods or supply of the Services is made by instalments the price applicable for each instalment shall be that ruling at the date of despatch of each instalment unless otherwise agreed in writing between the Company and the customer.

3.3 The price of the Goods or of the Services shall mean and include (where applicable) the Company's costs of standard packing, normal insurance and delivery of Goods where delivery is effected in the Bristol area but where delivery is to an address outside the Bristol area the Company shall charge such additional sum as shall reflect reasonable cost of standard packing, normal insurance and delivery to the address in the United Kingdom specified in writing by the customer to the Company on or with the Order. Unless otherwise indicated prices are exclusive of value added tax which shall be chargeable to and payable by the customer in addition to the price. The cost of any special packing and of all other transport requested by the customer shall be for the account of the customer and the customer must make its own special insurance agreements.

PAYMENT:

4.1 The customer shall make payment in full without any deduction or withholding whatsoever on any account within 14 days of the date of invoice notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the customer. The time of payment of the invoice shall be of the essence of the Contract.

4.2 If payment is not received in full when due the customer shall pay interest on the unpaid amount at a rate per annum which is 4% above the Bank base lending rate from time to time.

4.3 The Company reserves the right to issue stage or advance invoices on jobs lasting more than one month.

4.4 If payment is to be made by instalments the failure of the customer to pay an instalment in due time shall entitle the Company to treat such failure as a repudiation of the whole Contract by the customer and to recover damages for breach of contract.

4.5 The Company reserves the right to defer without penalty delivery of any Goods which have been ordered by the customer or defer supply of any Services which have been ordered by the customer for so long as any amounts remain overdue for payment or any credit limit is exceeded.

4.6 No claim counterclaim or right of set-off by the customer in respect of Goods compromised in any one delivery of Goods shall entitle the customer to withhold payment of the whole or any part of the price payable in respect of any other delivery of Goods.

PERFORMANCE:

5.1 Although the company shall endeavour (subject to 5.2 below) to meet the customer's delivery or completion requirements the Company will be under no obligation to deliver Goods or supply Services by any specified date. Delivery and completion dates quoted by the Company or included in the Contract are given in good faith but are estimates only and without engagement.

5.2 The Company may suspend or cancel the whole or any part of the Contract if by reason of circumstances beyond its control, (including but without limitation to the foregoing) strike; lock-out; labour dispute; damage to or loss or failure of machinery; insufficient supply of electricity, gas, oil or water; fire; flood; government intervention; export restriction; confiscation; mobilisation; war; blockade; act of God; adverse weather and a shortage of carriage or shipping facilities.) the Company is prevented or hindered in or from performing its obligations or performance of those obligations is to a substantial degree rendered difficult, if the Company exercises its right of suspension, the customer may within seven days cancel any remaining part of the Contract upon payment of all or any expenses incurred by the Company to date together with its proper and reasonable charges for work done and services provided up to and including the date of exercise of its right of suspension. The Company shall have no liability for any such suspension and on any such cancellation, whether by the Company or the customer the liability of the Company (if any) is limited to repayment of any part of the price received less its proper and reasonable charges and expenses already incurred by the company.

5.3 The Company may in its absolute discretion employ instruct or entrust others with the performance of any instructions or orders given to or placed with the Company upon such conditions as such others may stipulate to perform part or all of the Services and any such term or condition so stipulated shall be deemed incorporated herein and the customer will be bound by such terms and conditions as if herein contained and set out.

TITLE AND RISK:

6.1 Risk of damage to or loss of the Goods shall pass to the Customer:

6.1.1 In the case of Goods to be delivered at the Company's premises at the time when the Company notifies the customer that the Goods are available for collection.

6.1.2 In the case of Goods to be delivered otherwise than at the Company's premises at the time of delivery or, if the customer wrongfully fails to take delivery of the Goods, the time when the Company has tendered delivery of the Goods.

6.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods, or any other provision of these conditions, the property in the Goods shall not pass to the customer until the Company has received in cash or cleared funds payment in respect of the Goods together with any amounts due in respect of VAT or interest payable. Where payment is to be made by instalments the property in respect of all the Goods supplied under the Contract shall not pass to the customer until such time as all instalment payments together with any amounts due in respect of VAT and interest have been made.

6.3 Until such time as the property in the Goods passes to the customer, the customer shall hold the Goods as bailee, and shall keep the Goods separate from any other assets of the customer and third parties, and property stored, protected, and insured and clearly marked as the Company's property and the Company shall be entitled to require the customer to deliver up to the Company the Goods or any of them on demand. If the customer fails so to deliver the Goods forthwith the Company shall be entitled to enter upon any premises of the customer or any third party where the Goods are stored for the purpose of collecting and to collect the Goods or any of them and the customer shall be responsible for all the Company's costs and expenses in connection with doing so.

6.4 The customer may sell the Goods by way of bone-fide sale in the ordinary course of business on its standard terms and conditions but may not otherwise deal with, sell, part with possession of, change the character of, convert or otherwise dispose of or handle any of the Goods sold hereunder until title therein has passed to the customer in accordance with 6.2 above.

6.5 The customers' license to deal with the Goods under 6.4 above shall forthwith terminate in the event that the customer fails to observe any of the terms of the Contract or compounds with its creditors or becomes bankrupt or has a Receiver or Administrator appointed of all or any part of its assets or business or suffers the presentation of a winding-up petition or passes a resolution for its winding-up (otherwise than for the purpose of amalgamation or reconstruction) or suffers any distress or execution to be levied or threatened on any of its assets or fails to satisfy any judgement against it within 14 days or in the opinion of the Company is unable to pay its debts.

6.6 Notwithstanding the permission granted by clause 6.4 herein such resale by the customer.

6.6.1 will constitute a sale by the customer of the Company's property;

6.6.2 shall give rise to no obligations whether contractual or otherwise on the Company.

COPYRIGHT:

7.1 The company alone will own copyright throughout the world for the full term of copyright in all materials (including without limitation designs, illustrations, documents, plans, prototypes, schemes, models, exhibitions, promotions, artwork, proofs, sound recordings, video recorded visual in all forms, television, or cinematographic recordings or play backs, photographs, transparencies, advertising campaigns or conferences) produced by the company when tendering for or pursuant to the customers commission.

7.2 All such copyright material shall be available for use by the customer only in respect of the particular service contracted for and shall not be used by the customer for any other purpose at any time except with the prior written agreement of the Company (not to be unreasonably withheld) upon such terms as the Company may in all the circumstances deem appropriate.

7.3 In addition the customer shall not reproduce, sell, give away, let, hire, assign or licence any such copyright material and for these purposes "reproduce" shall mean and include storage in a retrieval system or transmission in any form and by any means, whether electronically, mechanically by means of facsimile transmission photocopying or howsoever.

DELIVERY, SHORTAGES, DAMAGE AND DEFECTS:

8.1 The customer shall inspect the Goods immediately upon delivery and shall within 7 days of such delivery give notice in writing to the Company if it is alleged that the Goods are not in accordance with the Contract. Any claim made outside 7 days will not be accepted.

8.2 The customer shall in respect of alleged visible damage to the Goods at the time of delivery make a note of the alleged damage on the packing/delivery note submitted with the Goods and shall additionally within 7 days give notice in writing to the Company of such alleged damage.

8.3 Any finished printed matter or Goods shall be inspected by the customer upon delivery, and all visible errors will be notified to the Company with 7 days of delivery.

8.4 If the customer shall fail to give notice as required in 8.1, 8.2 and 8.3 hereof (as applicable) the Goods shall be deemed in all respects to be in accordance with the Contract and the customer shall be deemed to have irrevocably and unconditionally accepted the Goods as being completely satisfactory.

8.5 Any item (hereinafter called the "defective item") alleged to be defective through faulty manufacturing, design, reproduction, printing or bad workmanship shall be reported in writing to the Company within seven days discovery of such defect and in any event within fourteen days of the date of delivery such report giving full details of the alleged defect. Failure to make such a report will preclude the customer from making any claim (save in respect of any damage by way of death or personal injury resulting from the negligence of the Company) arising out of such alleged defect. The handing to the Company its servant or agents of the Company's standard form of satisfaction or delivery note duly signed and without alteration or comment noted thereon shall be regarded as conclusive evidence of proper performance of all or any of its obligations to the customer.

8.6 Any of the Goods in respect of which the customer makes claim hereunder shall be preserved by the customer intact as delivered and at its risk for a period of twenty-one days from notification of the claim within which time the Company or its authorised agent shall have the right to investigate the complaint and inspect the Goods. All original packings should be retained until inspected by the Company or its duly authorised agent.

8.7 The Company undertakes that where a report is made pursuant to sub-clause 8.5 hereof to make good or replace (at its option) any defective item provided that it shall in no case be liable (save in respect of any damage by way of death or personal injury resulting from the negligence of the Company) for more than the invoice value of the said defective item.

8.8 In case any claim shall lie against the Company for non-delivery or short delivery of Goods howsoever caused the Company shall not be liable for more than the invoice value of the items in question nor for any indirect or consequential loss or damage.

DELIVERY DATES:

9.1 The Company shall not be liable for any loss, cost, damage or expenses, suffered by the customer, or any other person or Company, howsoever arising, whether directly or indirectly, out of any failure to meet any estimate delivery.

9.2 Delivery against order(s) placed for the Goods shall be clearly evidenced by the return to the Company of its or its authorised carriers official delivery note which must be signed and dated by an employee of the customer whose signature should be legibly identified in capital letters on the delivery note. Receipt by the Company of the signed delivery note howsoever signed as acknowledgement of receipt of Goods shall be absolute and irrevocably proof of delivery of the specified numbered items entered on the delivery note and no claim for shortages will be accepted or delivered.

9.3 The customer shall be responsible for effecting all necessary insurance with an insurance company of repute in respect of any loss, damage, costs, or expense, that it may suffer directly or indirectly in relation to the provision or non-provision of the Company's services or the supply by the Company of the Goods and the customer shall produce to the Company on demand evidence of such insurance.

SPECIFICATIONS:

10.1.1 Except where the customer otherwise agrees in writing the selection and choice of the Company's Goods and Services and the assessment of the company's Goods and Services suitability and fitness for the customer's purpose is the customer's sole responsibility.

10.1.2 Any specification, formulation, data, literature, design, layout, artwork and the like, statements as to content, suitability, performance or otherwise issued, and descriptions and samples, given by the Company in connection with its Goods or Services are offered in good faith but are intended to be intended to be approximate only and will be deemed not to constitute any representation in relation to such Goods and/or Services.

LIMITATION OF LIABILITIES AND INDEMNITY:

11.1 The Company hereby expressly excludes to the extent permitted by law any liability arising in contract or in tort, or howsoever otherwise arising for:

11.1.1 consequential loss or damage caused by or arising out of the use of the Goods occurring in respect of the Goods; and

11.1.2 loss or damage due to fair wear and tear and negligence or improper use, operation, storage, assembly or handling or (without prejudice to the generality of the foregoing) the use or operation of the Goods other than strictly in accordance with the Company's written instructions or advices when where applicable supplied with the Goods; and

11.1.3 loss injury or damage (including consequential loss) arising from fire, flood, accident, industrial dispute, civil disturbances or any other act or accidental default interfering with the manufacture despatch or delivery of the Goods and beyond the control of the Company; and

11.1.4 consequential loss or damage caused by or arising out of whether directly or indirectly services provided by the Company to and at the request of the Company.

11.2 The customer will indemnify the Company and its employees, servants or agents, against all third party claims relating in any way to Goods or Services supplied by the Company or arising from breach of or negligence in connection with the contract.

11.3 When the Company supplies Goods or Services for the customer to and at the special request or for the special purposes of the customer whether or not incorporated in whole or in part in any specification supplied by the Company as such specifications are referred to in Clause 10 hereof the customer will provide all necessary specifications in reasonable time to enable the Company to complete and effect delivery and the Company will have no liability for any defect, industrial property infringement, or intellectual property infringement, derived wholly or partly from or within any specifications given by the customer to the Company and the customer will indemnify the Company against all claims arising in consequence of the Company complying with the customers requirements or purposes.

SUSPENSION AND TERMINATION:

12.1 The Company will be entitled without prejudice to any other right or remedy available accruing or already accrued by notice in writing to the customer forthwith (save as herein provided) to suspend or terminate this agreement at any time.

12.1.1 the customer shall exceed any credit limit or breach any credit terms imposed by the Company; or

12.1.2 there shall be any serious or continuing breach or series of breaches of this agreement by the customer; or

12.1.3 the customer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or

12.1.4 an encumbrancer takes possession, or receiver is appointed, of and/or over any r any part of the property or assets of the customer; or

12.1.5 the customer ceases, or threatens to cease, to carry on business; or

12.1.6 the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the customer and notifies the customer accordingly;

12.2 in the event of any of the foregoing occurring, the Company shall be entitled to cancel the Contract or to suspend further performance of the or any contract in force between the Company and the customer without liability to the customer for such time as the Company shall deem fit and for this purpose stop delivery of any Goods in transit and cease provision of the Services to the customer unless and until in the case of sub-clauses 12.1.1 and 12.1.2 only the event or events giving rise to the suspension or termination be remedied on terms satisfactory to the Company.

12.3 In the event of termination then such termination will be without prejudice to the customer's obligations and the Company's rights under the Contract and any loss that may be sustained by the Company by reason of such suspension or termination howsoever the same shall arise.

ASSIGNMENT:

13.1 Unless otherwise agreed in writing the customer may not assign either the benefit or the burden of any Contract with the Company

RIGHT OF OWNERSHIP:

14.1 The company shall at all times retain ownership of all Goods and materials relating to the goods produced by the Company in consequence of work undertaken by the Company pursuant to the contract with the customer

14.2 Without prejudice to Clause 15 hereof the Company shall retain possession of all such Goods and materials relating to the goods for a period not exceeding six months after completion of the contract unless otherwise agreed in writing.

CONFIDENTIALITY:

15.1 the content of any scheme, design, promotion, exhibition, advertising campaign, conference or other service produced by the Company, whether tendering for or pursuant to any contract with or commission from the customer and whether or not used in the final such scheme, design, promotion, exhibition, advertising campaign, conference or other service shall be treated as having been disclosed to it in confidence and accordingly the customer shall not disclose, duplicate, reproduce, publish, sell, give, away, let, hire, assign, license, or otherwise use the same except with the prior written agreement of, and upon such terms as may be prescribed by the Company.

CUSTOMER PROPERTY:

16.1 Any copy, artwork, designs, plans, maps, film, photographs and photographic transparencies, prototypes, models, proofs, recordings, soundtracks, or other material made available to the Company by the customer shall be held by the Company at the customer's risk and the Company shall not be liable to the customer or any third party or other owner of such material as aforesaid for any loss or damage to such materials howsoever caused.

16.2 The customer shall solely be responsible for taking such legal or other advice as may be appropriate concerning the legality of schemes, designs, promotions, exhibitions, advertising campaigns, conferences, or other services or printed matter relating thereto or independent thereof produced by the Company on behalf of the customer.

WAIVER:

17.1 The Company's failure to insist upon a strict performance of any provision of these conditions shall not be deemed to be a waiver of its rights and remedies, or any subsequent default by the customer in the performance of or compliance with any of the terms and conditions.

SEVERABILITY:

18.1 The invalidity of any individual provision of these conditions shall not effect the validity of the remaining provisions.

RELATIONSHIP OF THE PARTIES:

19.1 both the company and the customer are independent contractors under these conditions and the parties acknowledge that neither of them is an agent or partner of the other for any purpose and that each of them is entirely without authority to act on behalf of the other in any manner. The Company shall not be responsible to third parties for any claim arising out of the activities of the customer and the customer shall hold the Company harmless against any claim arising in connection therewith and indemnify and hold harmless the Company or any amount which the Company may be required to pay as a result of any claim.

CONSTRUCTION:

20.1 the heading of the paragraphs in these conditions are for reference purposes and only and shall not effect in any way the meaning or interpretation of these conditions.

GOVERNING LAW:

21.1 These terms and conditions of sale shall in all respects be governed by and constructed in accordance with English Law

DEFINITIONS:

22.1 The "Company"; Picador Design International.

22.2 the "Conditions"; the terms and conditions of the Company herein contained relating to the supply of the Goods and/or Services

22.3 the "Contract"; the arrangement between the parties for the sale and purchase of the Goods and/or Services from