

## **Planetbuilders Ltd - TERMS AND CONDITIONS OF BUSINESS ("TERMS OF BUSINESS")**

Like all professional people, it helps both our clients and ourselves if we explain the way in which we work for you. These terms of business apply to all work undertaken for our clients unless, in exceptional circumstances, some other arrangement is agreed in advance in writing. The giving of instructions following receipt by the client of these Terms and Conditions of Business will constitute acceptance.

The Client wishes to engage the services of Planetbuilders Limited ("Planetbuilders") (collectively referred to as the Parties) in accordance with the provisions contained in this Agreement.

The Client may address all queries and questions to Planetbuilders Limited at 71 The Avenue, Highams Park, London, E4 9RX or by e-mail to support@planetbuilders.co.uk or by telephone on 020 8531 9443.

### **1. IN THESE TERMS OF BUSINESS:**

'Company' and 'The Company' mean Planetbuilders Ltd and all its associated divisions.

'Client' means the person, firm or company ordering or buying Services from the Company.

'Services' means the subject matter of the relevant Order.

'Order' means the Order placed by the Client for the supply of consultancy, design, software development, Information Technology assistance, or any other Service or Goods supplied by the Company.

'Artwork' means any visual, design, board or disc comprising: paste/up, typography, illustrations, photographs, positional guides and print specifications.

'Documents' refers to any printed or electronic images or other media supplied to the Company.

'Goods' means actual products or items supplied.

### **2. ORDER & CONTRACT**

No contract in respect of Services between the Company and the Client shall exist until the Client's Order has been accepted by the Company and the Company's estimate signed by an authorised signatory of the Client and returned to the Company. No conditions or terms stipulated in any other communication or document shall vary or annul any of these Terms except insofar as the same is expressly consented to in writing by the Company.

### **3. PRICES**

Prices are based on the Company's current pricing policy but the Company reserves the right to amend its quoted prices at any time.

### **4. ADDITIONAL WORK / PRELIMINARY WORK / VARIATION TO ORDER**

Where the Client has requested preliminary or additional work or a variation to the Order or Company's estimate, then such additional or preliminary work, whether experimental or otherwise, or such variation to Order shall be charged to the Client.

### **5. DELIVERY & PAYMENT**

- a. Delivery of goods and services shall be accepted when tendered whereupon payment shall become due in full 7 days from the date of the Company's invoice.
- b. The Company reserves the right at its sole discretion to charge interest on all monies outstanding after 30 days from the date of the Company's invoice.
- c. The rate of interest applied will be 5% above Bank of England Base Rate.
- d. A charge will be made to cover any additional costs incurred by the Company for delivery of goods or services to addresses other than those specified in the Order.
- e. Should work be suspended at the request of or delayed by the Client for more than 14 days the Company reserves the right to apply for interim payment by way of invoicing the Client for goods and services supplied to date. "Delayed" includes the instance where the Company requests information or materials from the Client which are required in order to progress work and these are not supplied within 14 days.
- f. In certain circumstances the Company would in agreement with the Client arrange that payment for services and goods be made in 2 or more stages. The Company reserves the right to cancel its commitments to continue production in the case of non-payment of any instalment, and to remove goods which have been delivered in the case of non-payment of a second or subsequent instalment or, in the case of website work, take down the actual website.
- g. In the case of the Company supplying services only (e.g. design, consultancy etc) then payments shall on those occasions be required in accordance with the following arrangements: a total of half the agreed fee becomes payable immediately, balance becoming payable immediately on delivery of the finished artwork, goods, or service.
- h. In the case of corrections or other work arising, these shall be paid in full strictly on 7 days from the date of invoice from the Company.
- i. All Intellectual Property Rights in all work supplied by the Company remain the sole and exclusive Property of the Company until such time as the Client has paid all outstanding bills in full.

- j. Late Payment - In accordance with the Late Payment of Commercial Debts [interest] Act, interest becomes payable if any debt is not paid after 30 days from the date of invoice. Legally, the rate that can be charged is 8% above the prevailing Bank of England base rate at that time. Policy is currently to charge interest at 5% above Bank of England base rate. The company reserves the right to amend this rate at any time.
- In addition to the above, compensation for late payment is also now legally applicable and will be
  - invoiced at the following rates per invoice:
  - Up to £999.99 - £40.00
  - £1,000.00 - £9,999.99 - £70.00
  - £10,000.00 or more - £100.00
  - Interest and/or compensation will be payable at the rate/rates described above on all outstanding
  - invoices dated after 1 October 2002 if payment is not received in full on or within 30 days from the
  - date of invoice, in line with Government legislation.

## **6. LIABILITY**

The Company's liability in respect of defects in the Services provided shall be limited to the replacement of the faulty items, or the issue of credit notes or the granting of a refund, or such other compensatory measures as the Company in its sole discretion considers appropriate in the circumstances.

No liability will be accepted for defective work directly resulting from inferior materials supplied by the Client. Where the Client has supplied images or documents film for reproduction purposes by the Company and such documents are damaged or destroyed whilst in the Company's possession, then the Company shall only be liable for the replacement cost of the said documents and the Company shall not in any circumstances be liable to the Client in respect of indirect or consequential loss or damage or loss of profits sustained by the Client.

Any assets supplied to the Company by the Client are deemed to be the copyright of the Client, or that the Client has obtained the necessary copyright clearance for. The Company cannot be held responsible either in whole or part for any copyright breaches that occur as a result of the use of assets supplied to the Company.

## **7. LIMITATION OF LIABILITY AND DISCLAIMERS**

- a. Save as expressly set out in these Terms of Business, all conditions or warranties which may be implied or incorporated into this Agreement by law or otherwise are hereby expressly excluded to the extent permitted by law.
- b. The liability of Planetbuilders (if any) in contract, tort, negligence or otherwise arising out of or in connection with this Agreement, in respect of all defaults related or unrelated, occurring will not exceed in aggregate the payment received by Planetbuilders from the Client for the Service.
- c. In no event will Planetbuilders be liable for any indirect or consequential loss or damage of any kind (including without limitation loss of profits, business interruptions, or loss, corruption or mis-delivery of data) however caused and whether arising under contract, tort (including negligence) or otherwise.
- d. In no event will Planetbuilders be liable for any damages resulting from loss of data or use, lost profits, loss of anticipated savings, nor for any damages that are an indirect or secondary consequence of any act or omission of Planetbuilders whether such damages were reasonably foreseeable or actually foreseen.
- e. The Client agrees to indemnify Planetbuilders against any claims brought by a third party resulting from the Client's use of the Service and in respect of any losses or liabilities incurred directly by Planetbuilders as a result of the Client's breach or non-observance of any of these Terms of Business.
- f. The Client shall pay all costs, damages, awards, fees (including any reasonable legal fees) and judgements awarded against Planetbuilders arising from any such claims, court proceedings or actions and shall provide Planetbuilders with notice of such claims, full authority to defend, compromise or settle such claims court proceedings or actions and reasonable assistance necessary to defend such claims, at the Client's sole expense.
- g. The provisions of this Clause 7 shall survive any termination of this Agreement.

## **8. CANCELLATION**

If the Client cancels the Order, they shall reimburse the Company in respect of all costs and expenses incurred by the Company in connection therewith up to the date of the cancellation. The Company may withhold or cancel any further deliveries under the Order, and may recover from the Client all losses resulting there from, for materials and work carried out to date.

## **9. INSOLVENCY OR BANKRUPTCY**

If the Client ceases to pay its debts in the ordinary course of business or cannot pay its debts as they fall due or (being a company) is deemed to be made to pay its debtors or has a winding up petition presented against it or (being a natural person) has a bankruptcy petition presented against him, the Company shall have the right not to proceed further with any contract between it and the Client and shall be entitled to be paid forthwith for all costs incurred, work done and materials purchased for the Client.

## **10. ILLEGAL MATTER**

- a. The Company may at its discretion refuse to process or include on web sites any matter which in its opinion is or may be of an illegal or libellous nature or an infringement of the proprietary or other rights of any third party.
- b. The Client shall indemnify the Company against all claims made against it and all costs and expenses incurred or paid by it (including any damages costs and other sums paid either on legal advice in settlement of any claim or under a court order) in

respect of any illegal or libellous matter or any infringement of copyright, patent, design or other proprietary or personal rights of whatsoever is contained in any material printed, produced or supplied to the Company by the Client.

#### **11. CLAIMS**

Advice of damage, dissatisfaction of condition, delay or partial loss of goods in transit or of non-delivery, must be given in writing to the Company within three clear days of delivery. (In the case of non-delivery, within 28 days of despatch of the goods) All other claims must be made in writing to the Company within 7 days of delivery. The Company shall not be liable in respect of any claim unless the aforementioned requirements have been complied with except in any particular case where the Client proves that it was not possible to comply with the requirements.

#### **12. SUB-CONTRACTING**

The Company shall be at liberty to sub-contract the work described in the estimate either in whole or in part to any person firm or company it shall think fit without notice thereof to the Client.

#### **13. FORCE MAJEUR**

The Company shall be under no liability if the Company is unable to carry out any provision of the contract for any reason beyond its control including (without limiting the foregoing) Act of God, legislation, war, fire, flood, drought, failure of power supply, lock out, strike or action taken by employees or contractors in contemplation or furtherance of a dispute or owing to any inability to procure materials required for the performance of the contract. During the continuance of such contingency the Client may give a written notice to the Company electing to terminate the contract and pay for work done and materials used, but subject thereto shall otherwise accept delivery when available.

#### **14. COPYRIGHT**

The Company reserves the rights of title to any work or items prepared for the Client and retains all Copyright and Intellectual Property Rights in connection therewith until such time as the Client has purchased such Copyright or rights of the title by payment in full in accordance with this agreement and confirmation of same is made in writing by the Company.

#### **15. RIGHT TO USE**

The Company reserves the right to use, for the purposes of its own marketing, all work produced for the Client, on the understanding that such marketing for the Company shall not damage the Client's brand or perception of the Client's brand in any manner whatsoever.

#### **16. AMENDMENTS**

Planetbuilders is entitled to make any and all necessary amendments to these Terms of Business. The Client acknowledges and agrees that continued use of the Service after notice of changes to these Terms of Business constitutes acceptance of the revised Terms of Business as posted on Planetbuilders's website.

#### **17. LAW**

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

#### **18. ACCEPTANCE**

The Client acknowledges that they have read and accept the terms of the Terms of Business. Sign off of the Company's estimate or order (in writing, or electronically by email confirmation) by the Client is deemed to be acceptance of all the above Terms and Conditions of business. Continued discussion with the Company, or further requests for quotes or Service are also deemed to be acceptance of all the above Terms and Conditions of business.