

## Terms and conditions of business

### Contract Terms

1. These are the general terms and conditions which apply to all Brightsource Limited's ("the Agency") contracts with you ("the Client"). In these terms and conditions, any contract the Agency makes with the Client is referred to as "the Contract."
2. Unless otherwise agreed in writing by a director of the Agency, these terms and conditions shall apply to all Contracts entered into by the Agency 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 Agency other than directors of the Agency 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 Agency shall not be bound by any Contract until its quotation has been signed by the Client.
7. All orders are accepted subject to the availability of materials.

### VAT

8. Quotations may not include VAT. Where applicable, VAT will be added to invoices at the appropriate rate.
9. The Agency will assess the VAT liability of each job and will apply the appropriate VAT rate to services and/or printed items. Where the Client disputes the Agency's assessment of VAT, the Client may ask the Agency to apply for a specific VAT ruling from HMRC. The Agency reserves the right to reissue an invoice if VAT has been omitted through administrative error.

### Price Variation

10. The Agency 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.
- 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 Agency's quotation is based
- d) any changes in the law which result in extra costs to work in progress.

### Payment

11. The Agency 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) in advance for the cost of services – such as special paper makings – being carried out by third parties on behalf of the Client, where this has been agreed with the Client.

12. 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 Agency shall have the right 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.

### Force Majeure

13. 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 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), accidents, or the failure of the other party to the Contract to provide information, materials or facilities.

### Claims

14. Any claim by the Client which is based upon any defect in the quality of goods, or the quantity

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supplied, shall be notified to the Agency within 14 days of delivery. Where the defect is not apparent on reasonable inspection, the Agency shall be notified as soon as practicable following the discovery of the defect.

## **Ownership and Risk**

15. Ownership of the goods described in the Agency's quotations shall remain with the Agency until the Client has paid the Agency in full.
16. No property, title or rights in the computer programs, systems, lists or similar items used or developed by the Agency or its suppliers in the fulfilment of this Contract shall pass to the Client.
17. 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.

## **Liability**

18. The Agency 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 Agency's negligence, the entire liability of the Agency under or in connection with any Contract shall not exceed the value of such Contract.
19. Where materials or equipment are supplied or specified by the Client in connection with the Contract, the Agency shall be under no liability whatsoever for imperfect work caused by defects in or unsuitability of such materials or equipment.
20. Unless specifically agreed in writing, the Agency 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.
21. The Agency 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.
22. The Agency will not be liable for any delay in posting or delivery, in the absence of default or neglect on our part.
23. The Agency will not be liable for any loss of profits, goodwill, consequential, economic, or indirect loss arising in any way in connection with the performance (or non performance) of the obligations related to this Contract.

## **Indemnity**

24. The Client acknowledges that marketing and communication materials produced by the Agency 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.

25. Both parties agree to comply with all relevant provisions of the Data Protection Act 1998 together with any legislation which amends it and to ensure that employees, agents and sub-contractors do likewise, and to obtain and maintain all necessary registrations required by the Act.
26. Both parties agree to fully indemnify and keep indemnified the other against any claim that the indemnified party has infringed the Data Protection Act 1998 as a result of any act or omission of or use of information or data supplied by the other party.

## **Cancellation**

27. Either party can terminate the Contract immediately on written notice, if the other materially breaches any of the terms of the Contract, and if the breach is capable of remedy, fails to remedy the breach within 14 days of receiving notification in writing specifying the breach.
28. Either of us can also end the Contract immediately, by giving notice in writing, if the other:
  - a) convenes a meeting of its creditors; or
  - b) becomes insolvent; or
  - c) is unable to pay its debts; or
  - d) has a receiver or administrator appointed over its assets or business; or
  - e) is the subject of a petition presented to put it into liquidation
29. Termination of the Contract will have no effect on any rights of either party which arose on or before termination

## **Errors and Omissions**

30. The Agency may amend errors or omissions within quotations or promotional literature without liability to the Client.

## **Notices**

31. Any notices to be given by either party under this contract should be delivered by first class post to the address of the other party in use during the Contract. A notice will be deemed to have been served within 48 hours of posting.