



Evolutions Post Production Limited Terms and Conditions of Business

1. Definitions

In these Conditions:

“the Company” means Evolutions Post Production Limited which may also trade under other names.

“the Customer” means the person, firm, company or other body using the services of the Company.

“Services” means the services forming the subject of the contract between the Company and the Customer.

2. Incorporation of Conditions

These Conditions are the only terms or conditions on which the Company gives quotations, accepts bookings or orders or supplies the Services and (subject to the provisions of this Clause 2) override any other representations, terms or conditions stipulated, referred to or implied by the Customer or the Company, its servants or agents whether in any order or in any document or in any negotiation or discussion. No variation of these Conditions shall be effective unless made in writing by a Director of the Company.

3. Bookings and Orders

A contract shall exist between the parties upon and only upon the Company accepting the Customers booking or order and accordingly each booking when accepted in accordance with these Conditions constitutes a separate contract between the parties.

4. Charges and Rate Card

The charges applicable are those appearing in the Company’s published Rate Card current at the time of the acceptance of the booking or order. Charges are quoted in Pounds Sterling exclusive of VAT, which shall be paid by the Customer. The Company reserves the right to alter the terms of its Rate Card at any time without prior notice provided that unless an increase in charges is solely the result of an increase in the cost to the Company of fulfilling the booking or order the Customer shall be entitled to cancel the booking or order. To be effective a cancellation in the circumstances of the last preceding sentence must be in writing and received by the Company within 24 hours of the increase in charges being communicated to the Customer.

5. Payment

Payment for the Services shall be due within 30 days of the date of invoice (“the due date for payment”). The Customer shall provide written notification to the Company of any dispute in relation to such invoices within 14 days of the date of the invoice, otherwise, the invoice shall be deemed to be acceptable to the Customer. In the case of default, the Company reserves the right to retain all materials associated with the defaulting client and to charge interest on payments outstanding after the due date for payment at the rate of 1.5 per cent per month calculated on the outstanding balance (including interest) due from the due date for payment down to receipt by the Company of payment such interest compounding and being added to the outstanding balance due at weekly intervals. The Company reserves the right to require payment in part or in full in advance of the date of performance of the Services. In the case of agreed credit card payment, a 3% service charge will be added. Should full payment still not be received within a period of six months from date of any invoice not queried in writing and sent by recorded delivery to the registered office of the Company, and a repayment scheme not having been agreed and adhered to, the Company reserves the right without further notification, to recover part or all of the debt by the sale of any materials being held on behalf of the defaulting Client irrespective of whether legal proceedings have already been initiated.

6. Performance

The Company shall use its best endeavours to undertake every job ordered by a Client in an appropriate and professional manner. Responsibility rests with the Client to ensure that all material generated by the Company meets their requirements and, if not, must notify the Company in good time for it to have the opportunity to inspect the material, and at its discretion and in consultation with the Client make any changes as may be deemed necessary. The Company shall not be liable for any charges or other consequences of its non-performance. Any dates, times or periods quoted by the Company for performance of the Services are estimates only and the Company shall not be liable for failure to meet such estimates or for any costs, charges or expenses incurred as a consequence of such failure and accordingly the Customer shall not be entitled to refuse to accept Services merely because of such failure. The Company may employ subcontractors to perform part or parts of the Service.

7. Cancellations

At its absolute discretion, the Company may at any time permit cancellation of a booking or order and reserves the right to cancel any booking or order in the event of any breach of any of these Conditions by the Customer. Cancelled bookings will be chargeable at the full quoted rate, unless a lower amount is mutually agreed between the parties.

8. Risk and Title

Risk in relation to the Customer's media will at all times remain with the Customer. The Company cannot insure against loss of or damage to the content of Customer's media and accordingly LIABILITY IN RESPECT OF SUCH LOSS OR DAMAGE EVEN WHEN THE RESULT OF NEGLIGENCE ON THE PART OF THE COMPANY, ITS SERVANTS, AGENTS OR SUBCONTRACTORS IS HEREBY EXCLUDED. The Customer should therefore retain copies of the media or insure against any loss or damage. The Customer agrees and acknowledges that the Company shall in no circumstances be liable for any indirect, economic or consequential loss or damage in connection with any act or omission by the Company, including but not limited to any delay in delivery or performance of the Services.

The legal and equitable title to the goods or media that is the subject of the contract or any relevant part thereof shall only pass to the Customer upon the Customer paying to the Company all sums due and payable by it to the Company under the contract and all other prior contracts between the Company and the Customer. The Company may recover goods in respect of which title has not passed to the Customer at any time. Until title to the goods or media has passed to the Customer pursuant to the terms hereof, the Customer shall possess the goods or media as a bailee of the Company on the terms of these conditions. The Customer shall be entitled to re-sell or use the goods or media in the ordinary course of its business but shall account to the Company in respect of the proceeds of sale or otherwise of such goods. The Company shall be entitled to trace the proceeds of sale or otherwise of the goods or media.

9. Intellectual Property and Data Protection

The Customer shall indemnify and keep indemnified the Company against all actions, claims, demands, costs, charges and expenses arising from or incurred by reason of any infringement or alleged infringement of any Copyrights or other intellectual property rights or any defamation or alleged defamation arising out of the processing or reproduction of the Customer's films or tapes by the Company.

The Customer hereby grants to the Company a perpetual and royalty free licence to use all materials processed and/or produced by the Company on the Customer's behalf to promote the Company's business and in connection with appropriate industry awards

The Company is an authorised data controller for the purposes of the Data protection Act 1998 under registration number Z8286416.

10. Force Majeure

The Company shall not be liable in any way for any loss or damage arising directly or indirectly, through or in consequence of performance of the Services being prevented or delayed by happening or occurrences due to or by reason of any matters or things beyond control of the Company.

11. Customer's Undertakings

The Customer shall at all times indemnify the Company in respect of all loss or damage suffered by any person, firm, company or property and against all actions, claims, demands, costs, charges or expenses in connection therewith for which the Company may become liable in respect of the Services. The Customer accepts full liability for and shall at all times indemnify the Company against all actions, claims, demands, costs, charges and expenses whatsoever arising out of any loss or damage to any person, firm or company by reason of deficiencies in the materials or data or the like supplied to the Company by the Customer in connection with the performance of the Contract.

12. General Lien

The Company shall have a general lien over any of the goods or chattels of the Customer in the Company's possession for any monies whatsoever due from the Customer to the Company. If any lien is not satisfied within 14 days of such monies becoming due, the Company may in its absolute discretion sell or make use of such goods or chattels as agents for the Customer and apply the proceeds towards the monies due and the expenses of the sale and shall upon accounting to the Customer for the balance (if any) remaining, be discharged from all liability in respect of such goods or chattels.

13. Assignment

Each Contract is personal to the Customer who shall not assign or charge the benefit thereof without the Company's express written consent.

14. Notices

Notices shall be made in writing and posted in a first-class pre-paid envelope to the Customer's or Company's address at which the one party reasonably believes the other to be carrying on business. A notice shall be deemed to have been given forty eight hours after posting (or ninety six hours after posting where the notice is sent from and/or addressed to an address outside the United Kingdom) and in proving such service it shall be sufficient to show that the envelope was properly addressed and put into the post

15. Proper Law

The validity construction and performance of each contract shall be governed by the Law of England and the parties hereby submit to the sole and exclusive jurisdiction of the courts of England and Wales for the resolution of all disputes arising under any contract.

16. Severance

The Conditions shall apply in full save that if any Act of Parliament or other Statutory Provision for the time being in force shall avoid or make unenforceable any of the provisions hereof these Conditions shall be deemed to apply with the exclusion of the provisions hereof which shall be void or unenforceable as aforesaid.