

# TERMS AND CONDITIONS

## 1 Interpretation

1.1 In these Conditions:

“CLIENT” means the person named on the Instruction Letter for whom the Supplier has agreed to provide the Service in accordance with these Terms;

“CONTRACT” means the contract for the provision of the Service;

“DOCUMENT” includes, in addition to a document in writing, a map, plan, design, drawing, picture or other image, or any other record of any information in any form (including any electronic format);

“CLIENT MATERIAL” means any Documents or other materials, and any data or other information provided by the Client relating to the Service;

“PFK MATERIAL” means any Documents or other materials, and any data or other information provided by PFK relating to the Service;

“INSTRUCTION LETTER” means the letter or quotation to which these Terms are appended;

“SERVICE” means the service to be provided by PFK for the Client and referred to in the Instruction Letter;

“PFK” means Pauline Foster trading as PFK Creative whose principal place of business is 118 London Road, Peterborough, PE2 9BY;

“CHARGES” means the charges agreed between PFK and the Client for the provision of the Service at PFK’s published rates (if any) as in force from time to time.

1.2 The headings in these Terms are for convenience only and shall not affect their interpretation.

## 2 Supply of the Specified Service

2.1 PFK shall provide the Service to the Client subject to these Terms. Any changes or additions to the Service or these Terms must be agreed in writing by PFK and the Client.

2.2 The Client shall at its own expense supply PFK with all necessary Documents or other materials, and all necessary data or other information relating to the Service, within sufficient time to enable PFK to provide the Service in accordance with the Contract. The Client shall ensure the accuracy of all Client Material.

2.3 The Client shall at its own expense retain duplicate copies of all Client Material and insure against its accidental loss or damage. PFK shall have no liability

for any such loss or damage, however caused. All PFK Material shall be at the sole risk of the Client from the time of delivery to or to the order of the Client.

2.4 The Service shall be provided in accordance with the Instruction Letter and otherwise in accordance with PFK’s current brochure or other published literature relating to the Service (if any) from time to time, subject to these Terms.

2.5 PFK may correct any typographical or other errors or omissions in any brochure, promotional literature, quotation or other document relating to the provision of the Service without any liability to the Client.

2.6 PFK may at any time without notifying the Client make any changes to the Service which are necessary to comply with any statutory or other legal requirements, or which do not materially affect the nature or quality of the Service.

## 3 Charges

3.1 Subject to any special terms agreed, the Client shall pay the Charges and any additional sums which are agreed between PFK and the Client for the provision of the Service or which, in PFK’s sole discretion, are required as a result of the Client’s instructions or lack of instructions, the inaccuracy of any Client Material or any other cause attributable to the Client.

3.2 PFK shall be entitled to vary the charging rates from time to time by giving not less than 30 days written notice to the Client.

3.3 All charges quoted to the Client for the provision of the Service are exclusive of any Value Added Tax, for which the Client shall be additionally liable at the applicable rate from time to time.

3.4 PFK shall be entitled to invoice the Client at the times agreed with the Client, and in any event no later than conclusion of the Service.

3.5 The Charges and any additional sums payable shall be paid by the Client (together with any applicable Value Added Tax, and without any set off or other deduction) within 30 days of the date of PFK’s invoice.

3.6 If payment is not made on the due date, PFK shall be entitled, without limiting any other rights it may have, to charge interest on the outstanding amount (both before and after any judgment) at the rate determined by operation of law from time to time from the due date until the outstanding amount is paid in full.

## **4 Rights in Client Material and PFK Material**

- 4.1 The property and any copyright or other intellectual property rights in:
- 4.1.1 any Client Material shall belong to the Client; and
- 4.1.2 any PFK Material shall, unless otherwise agreed in writing between the Client and PFK belong to PFK until such time as the Client has paid the Charges in accordance with clause 3.5 above at which time the property and any copyright or other intellectual property rights in the PFK Material shall transfer to the Client.
- 4.2 Any Client Material or other information provided by the Client which is so designated by the Client and any PFK Material shall be kept confidential by PFK, and all PFK Material or other information provided by PFK which is so designated by PFK shall be kept confidential by the Client; but the foregoing shall not apply to any Documents or other materials, data or other information which are public knowledge at the time when they are so provided by either party, and shall cease to apply if at any future time they become public knowledge through no fault of the other party.
- 4.3 The Client warrants that any Client Material and its use by PFK for the purpose of providing the Service will not infringe the copyright or other intellectual property rights or other rights of any third party, and the Client shall indemnify PFK against any loss, damages, costs, expenses or other claims arising from any such infringement.
- 4.4 Subject to Clause 4.3 above, PFK warrants that any PFK Material and its use by the Client for the purposes of utilising the PFK Service will not infringe the copyright or other rights of any third party, and PFK shall indemnify the Client against any loss, damages, costs, expenses or other claims arising from any such infringement.

## **5 Warranties and Liability**

- 5.1 PFK warrants to the Client that the Service will be provided using reasonable care and skill and, as far as reasonably possible, in accordance with the Instruction Letter and at the intervals and within the times referred to in the Instruction Letter. Where PFK supplies in connection with the provision of the Service any goods (including PFK Material) supplied by a third party, PFK does not give any warranty, guarantee or other term as to their quality, fitness for purpose or otherwise, but shall, where possible, assign to the Client the benefit of any warranty, guarantee or indemnity given by the person supplying the goods to PFK.

- 5.2 PFK shall have no liability to the Client for any loss, damage, costs, expenses or other claims for compensation arising from any Client Material or instructions supplied by the Client which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late arrival or non arrival, or any other fault of the Client.
- 5.3 Except in respect of death or personal injury caused by PFK's negligence, or as expressly provided in these Terms, PFK shall not be liable to the Client by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the negligence of PFK, its servants or agents or otherwise) which arise out of or in connection with the provision of the Service or their use by the Client, and the entire liability of PFK under or in connection with the Contract shall not exceed the amount of the Charges for the provision of the Service, except as expressly provided in these Terms.
- 5.4 PFK shall not be liable to the Client or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of PFK's obligations in relation to the Service, if the delay or failure was due to any cause beyond PFK's reasonable control.

## **6 Termination**

- 6.1 The Client shall be entitled to terminate the Contract at any time by giving not less than 28 days written notice to PFK.
- 6.2 Either party may (without limiting any other remedy) at any time terminate the Contract by giving written notice to the other if the other commits any breach of these Terms and (if capable of remedy) fails to remedy the breach within 7days after being required by written notice to do so, or if the other goes into liquidation, becomes bankrupt, makes a voluntary arrangement with its creditors or has a receiver or administrator appointed.
- 6.3 Nothing in clauses 6.1 or 6.2 shall remove the Client's liability to pay the Charges or, where agreed by PFK (at PFK's sole discretion) the charges incurred by the Client at the date of termination of the Contract.

## **7 General**

- 7.1 These Conditions (together with the terms, if any, set out in the Instruction Letter) constitute the entire agreement between the parties, supersede any previous agreement or understanding and may not be varied except in writing between the parties. All other terms, express or implied by statute or otherwise, are excluded to the fullest extent permitted by law.
- 7.2 A notice required or permitted to be given by either party to the other under these Terms shall be in writing addressed to the other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 7.3 No failure or delay by either party in exercising any of its rights under the Contract shall be deemed to be a waiver of that right, and no waiver by either party of any breach of the Contract by the other shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 7.4 If any provision of these Terms is held by any court or other competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Terms and the remainder of the provision in question shall not be affected.
- 7.5 English law shall apply to the Contract, and the parties agree to submit to the non exclusive jurisdiction of the English courts

# TERMS OF SUPPLY

## 1 Interpretation

### 1.1 In these Conditions:

“CLIENT” means the party set out in the Purchaser Order with whom PFK has contracted to provide the Services;

“CONTRACT” means the contract for the provision of the Service;

“DOCUMENT” includes, in addition to a document in writing, a map, plan, design, drawing, picture or other image, or any other record of any information in any form;

“PFK MATERIAL” means any Documents or other materials, and any data or other information provided by either PFK or the Client relating to the Service;

“SUPPLIER MATERIAL” means any Documents or other materials, and any data or other information provided by the Supplier relating to the Service;

“PFK” means Pauline Foster trading as PFK Creative whose principal place of business is 118 London Road, Peterborough, PE2 9BY;

“PURCHASER ORDER” means the sheet to which these Terms are appended;

“SPECIFIED SERVICE” means the service to be provided by the Supplier for PFK and referred to in the Purchase Order;

“SUPPLIER” means the person named on the Purchase Order has agreed to provide the Service to PFK in accordance with these Terms;

“SUPPLIER CHARGES” means the charges to be paid by PFK for the provision of the Service as agreed between PFK and the Supplier;

### 1.2 The headings in these Terms are for convenience only and shall not affect their interpretation.

## 2 Supply of the Specified Service

2.1 The Supplier shall provide the Service to PFK subject to these Terms. Any changes or additions to the Service or these Terms must be agreed in writing by the Supplier and PFK.

2.2 PFK shall at its own expense supply the Supplier with all necessary Documents or other materials, and all necessary data or other information relating to the Service, within sufficient time to enable the Supplier to provide the Service in accordance with the Contract.

2.3 All Supplier Material shall be at the sole risk of the Supplier from the time of delivery to the order of the Client.

2.4 The Specified Service shall be provided in accordance with the Purchase Order.

## 3 Charges

3.1 Subject to any special terms agreed, PFK shall pay the Supplier’s Charges and any additional sums which are agreed between PFK and the Supplier for the provision of the Service.

3.2 All charges quoted to PFK for the provision of the Service are exclusive of any Value Added Tax.

3.3 The Supplier shall be entitled to invoice PFK following completion and delivery up of the Service.

3.4 The Supplier’s agreed charges and any additional sums payable shall be paid by PFK within 30 days of the receipt by PFK of the Supplier’s invoice.

## 4 Rights in PFK Material and Supplier Material

4.1 The property and any copyright or other intellectual property rights in:

4.1.1 any PFK Material shall belong to the Client or PFK (according to who originally provided the PFK Material); and

4.1.2 any Supplier Material shall belong to PFK until the Client has paid PFK for the Service in full, after which the Supplier Material shall belong to the Client.

4.2 The Supplier warrants that any Supplier Material and its use by PFK or the Client will not infringe the copyright or other rights of any third party, and the Supplier shall indemnify PFK and the Client against any loss, damages, costs, expenses or other claims arising from any such infringement.

## 5 Confidentiality

Any PFK Material or other information provided by the Client and/or PFK and any Supplier Material shall be kept confidential by the Supplier; but the foregoing shall not apply to any Documents or other materials, data or other information which are public knowledge at the time when they are so provided by either party, and shall cease to apply if at any future time they become public knowledge through no fault of the other party.

## **6 Client Contact**

- 6.1 The Supplier shall not directly or indirectly approach the Client in connection with the Service or otherwise either during the period of this Contract or at any time thereafter.
- 6.2 In the event that the Client contacts the Supplier with an enquiry in relation to this Contract, the Supplier shall immediately refer the Client's enquires to PFK.

## **7 Warranties and Liability**

- 7.1 The Supplier warrants to PFK that the Service will be provided using reasonable care and skill and, as far as reasonably possible, in accordance with the Purchase Order and at the intervals and within the times referred to in the Purchase Order.
- 7.2 Time shall be of the essence for the supply of all Supplier Material.

## **8 Termination**

- 8.1 PFK shall be entitled to terminate the Contract at any time by giving not less than 7 days written notice to the Supplier.
- 8.2 Either party may (without limiting any other remedy) at any time terminate the Contract by giving written notice to the other if the other commits any breach of these Terms and (if capable of remedy) fails to remedy the breach within 7 days after being required by written notice to do so, or if the other goes into liquidation, becomes bankrupt, makes a voluntary arrangement with its creditors or has a receiver or administrator appointed.

## **9 General**

- 9.1 These Conditions (together with the terms, if any, set out in the Purchase Order) constitute the entire agreement between the parties, supersede any previous agreement or understanding and may not be varied except in writing between the parties. All other terms, express or implied by statute or otherwise, are excluded to the fullest extent permitted by law.
- 9.2 A notice required or permitted to be given by either party to the other under these Terms shall be in writing addressed to the other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 9.3 No failure or delay by either party in exercising any of its rights under the Contract shall be deemed to be a waiver of that right, and no waiver by either party of any breach of the Contract by the other shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 9.4 If any provision of these Terms is held by any court or other competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Terms and the remainder of the provision in question shall not be affected.
- 9.5 English law shall apply to the Contract, and the parties agree to submit to the non exclusive jurisdiction of the English courts.