

**TERMS AND CONDITIONS OF SALE**  
**PRITCHARDS CREATIVE COMMUNICATIONS LTD**

All transactions are based upon and subject to the terms and conditions set out below.

**1 Definitions**

1.1 In these Conditions the following expressions have the following meanings:

"Agency" means Pritchards Creative Communications Limited (company number 3102226). "Client" means the person, firm, company or body accepting a quotation of the Agency for the supply of the Product or whose order for the Product is accepted by the Agency. "Conditions" means the standard terms and conditions of sale set out in this document and includes any special terms and conditions agreed in writing between the Client and the Agency. "Contract" means the contract for the supply of the Product and incorporates these terms and conditions. "Product" means the services and any associated goods which the Agency is to supply in accordance with these Conditions.

**2 Basis of the Contract**

2.1 The Agency agrees to provide for the Client the Product detailed in the agreed quotation. 2.2 The Client agrees to purchase the Product in accordance with the agreed quotation. 2.3 Any alteration to the Product or the agreed quotation required by the Client shall only be binding if agreed in writing. 2.4 The Client agrees to co-operate with the Agency in the development of the Product. 2.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other documentation or information issued by the Agency including as part of the Product shall be subject to correction without any liability on the part of the Agency.

**3 Orders**

3.1 The Client shall confirm any order in writing before the Agency carries out any work. Any work carried out by the Agency at the Client's request prior to receipt of the written instructions shall be deemed to have been carried out pursuant to verbal instructions of the Client. 3.2 The Client shall be responsible to the Agency for ensuring the accuracy of the terms of any order submitted by the Client, and for giving the Agency any necessary information relating to the Product that the agency requests within a sufficient time to enable the Agency to perform the Contract in accordance with its terms. 3.3 Where the Agency agrees to accept verbal instructions from the Client, the Agency shall not be liable for any misunderstanding or misrepresentation that arises there from whether on the Client's part or on the Agency's part. 3.5 If any part of the service provided by the Agency is to be carried out in accordance with a specification design or purported rights submitted by the Client, the Client shall indemnify the Agency against all loss, damages, costs and expenses awarded against or incurred by the Agency in connection with or paid or agreed to be paid by the Agency in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Agency's use of such specification design or rights. 3.6 No order which has been accepted by the Agency verbally or in writing may be amended, deferred or cancelled by the Client except with the express agreement in writing of the Agency and on terms that the Client shall indemnify the Agency in full against all loss (including loss of profit), costs (including those committed to and the cost of all labour and materials used), damages, charges and expenses incurred by the Agency as a result of cancellation.

**4 Price**

4.1 The Client agrees to pay the Agency the price quoted in the quotation. The quoted price is valid for 30 days only, or until earlier acceptance by the Client, after which time it may be altered by the Agency. 4.2 The Agency reserves the right, by giving notice to the Client at any time before delivery, to increase the price of the Product to reflect any increase in the cost to the Agency which is due to any factor beyond the control of the Agency (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in costs of labour, materials or other costs of manufacture), any change in production deadlines, quantities or specifications for the Product which is requested by the Client, or any delay caused by any instructions of the Client or failure of the Client to give the Agency adequate information or instructions. 4.3 The price is exclusive of any applicable value added tax, which the Client shall be additionally liable to pay to the Agency.

**5 Terms of Payment**

5.1 The Agency shall be entitled to invoice the Client for the Product on or at any time after completion of the Product unless otherwise agreed in writing between the Agency and the Client. 5.2 The Client shall produce any required purchase order within 30 days of the Agency's request. If it is not received by the Agency by this time or on completion of the Product (whichever is the later) then the Agency shall be entitled to send the invoice (which shall be valid even without any required purchase order) to the addressee with whom the Agency has previously communicated. 5.3 The Client shall pay the price of the Product (without any deduction, abatement or set-off whatsoever) within 30 days of the date of the Agency's invoice, unless otherwise agreed in writing. 5.4 The Agency reserves the right to request payment on account in advance of the performance of the contract. If such advance payment is requested no work shall be carried out by the Agency until payment is received. 5.5 If the Client fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Agency, the Agency shall be entitled to: 5.5.1 cancel the contract or suspend any further deliveries to the Client; 5.5.2 charge the Client interest (both before and after any judgement) on the amount unpaid, in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 and any statutory instrument following there from and from time to time in force, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest). 5.6 Receipts for payment will be issued only upon request.

**6 Approval**

6.1 The Client's approval, which may be either written or verbal, of: 6.1.1 any creative, artwork, campaign or printed material shall be the Agency's authority to proceed with the production of the Product. 6.1.2 proofs, films, recordings new media, websites or multimedia shall be the Agency's authority to publish or transmit. 6.1.3 schedules or estimates shall be the Agency's authority to enter contracts with the media, suppliers or others as appropriate. 6.1.4 concept, copy, layouts, television, video, or radio scripts and storyboards shall be the Agency's authority to proceed to make the commercial where appropriate. 6.2 Subject to clause 3.6 the Client may request the Agency to amend, defer or cancel any or all of the Contract and the Agency shall take all reasonable steps to comply, provided that the Agency can do so within its contractual obligations to the media and any suppliers.

**7 Custody of Material**

7.1 The Agency shall take reasonable precautions to safeguard the Client's property entrusted to its care, but in the absence of negligence on its part, cannot be held responsible for any loss, damage, destruction or unauthorised use of the property. The Agency's liability shall be limited to the cost of replacement. If any property entrusted to the Agency's care is of special value to the Client, then the Client must advise the Agency in advance. 7.2 The Agency shall be entitled to destroy any such property in its custody two years after delivery to the Agency unless such property continues to be used by the Client in its marketing, or after one months notice given to the Client in writing.

**8 Intellectual Property Rights**

8.1 All intellectual property rights of any nature throughout the world devised by the Agency shall vest in and belong to the Agency. 8.2 The Agency hereby grants an exclusive royalty free licence to the Client to use the intellectual property throughout the world upon receipt by the Agency of all payments due under the Contract. 8.3 No use may be made by the Client prior to the conclusion of the Contract of any ideas or materials created by the Agency except pursuant to the Contract or as otherwise agreed in writing by the Agency. 8.4 The Agency shall obtain such usage rights in commissioned work as may be necessary for the Client's advertising requirements of which the Agency has been advised in writing including, if requested by the Client and subject to payment by the Client of all the costs involved, the copyright in such work. 8.5 If the Client so requests and provided that all obligations under the contract have been complied with, the Agency shall assign to the Client such copyright and other intellectual property rights throughout the world in the Client's promotional material (subject to 8.7 below) as may be vested in the Agency and capable of assignment. 8.6 The Agency reserves the right to use for its own promotional purposes any product created by the Agency for the Client, but only once the current contract is concluded. 8.7 Following the termination of this contract, any unused material prepared by the Agency shall remain the

property of the Agency and shall not be used by the Client thereafter, regardless of whether or not such material is in the Client's possession in any form whatsoever.

#### **9 Liability**

9.1 Subject as expressly provided in these conditions, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law. 9.2 The Agency shall not be liable for any error in or claim arising from the product unless caused solely by default or neglect on its part. In any event the liability of the agency will be limited to the amount paid or payable by the Client for the Product. 9.3 Any claim by the Client which is based on any material defect in the quality or condition of the Product shall be notified to the Agency within 14 days from the date of the invoice or (where the defect was not apparent on reasonable inspection) within a reasonable time after discovery of the defect. If the Client does not notify the Agency accordingly, the Client shall not be entitled to reject the Product and the Agency shall have no liability for such defect, and the Client shall be bound to pay the price as if the Product had been delivered in accordance with the Contract. 9.4 Where any valid claim is made in respect of the Product in accordance with clause 9.3 above, the Agency's liability shall be restricted to the amount of the agreed quotation and the Agency shall have no further liability to the Client whatsoever. 9.5 Where the Product is approved by the Client in accordance with clause 6 above, or the Client declines the right to approve the Product, and the Agency completes the Product in accordance therewith then the Agency shall not be liable to the Client for any defect in quality or condition or any consequential loss whatsoever. 9.6 Except in respect of death or personal injury caused by the Agency's act or omission, the Agency shall not be liable to the Client by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for consequential compensation whatsoever (and whether caused by the negligence of the Agency, its employees or agents or otherwise) which arise out of or in connection with the supply of the Product or its use or resale by the Client, except as expressly provided in these Conditions. 9.7 The Agency 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 the Agency's obligations in relation to the Product, if the delay or failure was due to any cause beyond the Agency's reasonable control.

#### **10 Indemnity**

10.1 The Client shall keep the Agency fully indemnified against any loss or expense it might incur as the result of any claims, proceedings or complaints brought, or threatened to be brought, against the Agency or the Client based on or connected with any material prepared for the Client by the Agency and approved by the Client. 10.2 The Client shall supply the Agency with all information necessary to enable it to comply with any applicable codes of practice.

#### **11 Confidentiality**

11.1 The Agency acknowledges a duty not to disclose without the Client's permission either during or after the conclusion of the contract any confidential information relating to the Client and/or its business which the Agency acquires as a result of the contract. This clause does not apply to information already in the public domain or which subsequently enters the public domain other than as a result of the Agency's neglect. The client in turn acknowledges the Agency's right to use as it sees fit any general intelligence from the field of the Client's product or service which the Agency has gained in the course of its appointment.

#### **12 General**

12.1 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby. 12.2 No waiver by the Agency of any breach of the Contract by the Client shall be considered as a waiver of any subsequent breach of the same or any other provision. 12.3 The Contract shall be governed by and construed in accordance with the laws of England. 12.4 Clause headings are inserted for convenience only and shall not affect interpretation.

MW0316.119.001 01 August 2000