

In these Terms and Conditions of Trading 'the Client' means the person, firm or company who commissions the services of The Electric Pencil Company. By commissioning The Electric Pencil Company to undertake work on their behalf the Client agrees that these Terms and Conditions of Trading define our working relationship and that all projects, services or goods that The Electric Pencil Company may be contracted to produce or provide for the Client will be subject to the following agreement.

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| <p><b>1 FEES</b></p> <p>1.1 For each project, the Client will receive a proposal/estimate outlining the project specifications and estimated fees for our time based on The Electric Pencil Company's current hourly rate (<b>Creative – £60; Artwork – £45; reduction for Charities – £30</b>) and, where appropriate, any goods and professional services commissioned by The Electric Pencil Company in order to complete the project.</p> <p>1.2 Work will begin upon the Client's written or oral approval of the estimate and this will constitute an agreement.</p> <p>1.3 The Client agrees to pay The Electric Pencil Company in accordance with the terms specified in each proposal estimate. Estimates are valid for 30 days from the date on the estimate.</p> <p>1.4 Any travel, subsistence or sundry expenses incurred as a direct result of performance of the agreement shall be reimbursed by the Client as agreed or at least at cost plus 5%.</p> <p><b>2 TAXES</b></p> <p>2.1 Prices quoted are exclusive of all taxes including, but not limited to, any value added tax applicable to any services provided. Such taxes shall be invoiced in addition to the price, if applicable.</p> <p>2.2 All taxes shall be paid by the Client unless the Client provides The Electric Pencil Company with an exemption certificate acceptable to the relevant taxing authority.</p> | <p><b>3 PAYMENT</b></p> <p>3.1 Unless otherwise specified in the proposal/estimate, all prices are expressed in, and shall be paid in, pounds sterling.</p> <p>3.2 Full payment must be made to The Electric Pencil Company within thirty (30) days of the date of invoice, unless otherwise agreed in writing.</p> <p>3.3 The Electric Pencil Company shall be notified immediately or no later than fourteen (14) days of any error on an invoice.</p> <p>3.4 For some projects The Electric Pencil Company may charge stage payments or monthly payments.</p> <p>3.5 If any payment is overdue The Electric Pencil Company shall be entitled, without prejudice to any other right or remedy, to suspend all further performance of services for the Client without notice and/or to charge interest on any amount overdue at the applicable statutory default interest rate or, if none, at the rate of ten percent (10%) per annum compounding daily.</p> <p>3.6 If, despite any default by the Client, The Electric Pencil Company elects to continue to provide services, The Electric Pencil Company's action in so doing shall not constitute The Electric Pencil Company's waiver of any default by the Client or in any way prejudice The Electric Pencil Company's legal remedies for such default.</p> | <p>3.7 If, at the request of the Client, The Electric Pencil Company provides materials in conjunction with the provision of services, and this agreement is terminated under condition 15, or the Client does not provide a current Purchase Order, The Electric Pencil Company shall invoice the Client for the value of the said materials and the Client agrees to pay such an invoice within 14 days from the date of invoice.</p> <p>3.8 The Client shall pay The Electric Pencil Company's costs, charges and expenses directly or indirectly incurred in obtaining or otherwise enforcing payment of outstanding accounts.</p> <p><b>4 REVISIONS AND ALTERATIONS</b></p> <p>4.1 New work requested by the Client and performed by The Electric Pencil Company after a proposal/estimate has been approved is considered a revision.</p> <p>4.2 If the project changes to an extent that substantially alters the specifications described in the original proposal/estimate, The Electric Pencil Company will submit a revised proposal/estimate to the Client, and a revised additional fee must be agreed by both parties before further work proceeds.</p> <p>4.3 The Client's alterations or changes to copy or content requested after the artwork is completed will be billed at our standard hourly rates.</p> <p>4.4 Where production schedules are not adhered to by the Client, final delivery date or dates will be adjusted accordingly.</p> | <p><b>5 EXCLUSION OF LIABILITY</b></p> <p>5.1 Under no circumstances shall The Electric Pencil Company be liable for losses special to the particular circumstances of the Client, indirect or consequential loss including loss of profits, damage to property or wasted expenditure.</p> <p>5.2 Without prejudice to the other provisions of these Terms and Conditions of Trading, The Electric Pencil Company's liability shall not exceed the total of the agreement fees for the project.</p> <p>5.3 The fees for any project are based on the assumption that the liability of The Electric Pencil Company and Client are as set out herein.</p> <p><b>6 NATURE OF COPY AND PROPERTY BELONGING TO OTHERS</b></p> <p>6.1 The Client agrees to exercise due diligence in its direction to The Electric Pencil Company regarding preparation of materials and must be able to substantiate all claims and representations.</p> <p>6.2 The Client is responsible for all trademark, copyright and patent infringement clearances and is responsible for arranging, prior to publication, any necessary legal clearances, licenses, usage or royalty payments.</p> <p><b>7 ERRORS AND OMISSIONS</b></p> <p>7.1 It is the Client's responsibility to check proofs carefully for accuracy in all respects including but not limited to prices, spelling, dimensions and distances.</p> | <p>7.2 The Electric Pencil Company is not liable for errors or omissions. The Client's approval or that of his authorised representative is required on all proofs or artwork prior to release for printing or other implementation.</p> <p><b>8 OVER RUNS AND UNDER RUNS</b></p> <p>Some printers' terms enable them to deliver over or under the quantity ordered and to charge accordingly. In such cases the Client will accept over runs or under runs that do not exceed +/- 10% of the quantity ordered and The Electric Pencil Company will invoice for the actual quantity delivered within this tolerance.</p> <p><b>9 PLACEMENT OF ADVERTISING</b></p> <p>At the Client's request The Electric Pencil Company will purchase media space or airtime which will be billed at current rates including any agency commission. The Electric Pencil Company cannot be held liable for advertising which does not appear on a particular time/date or issue or in a particular position or break.</p> <p><b>10 PROPERTY AND SUPPLIERS' PERFORMANCE</b></p> <p>10.1 The Electric Pencil Company will take all reasonable precautions to safeguard property entrusted to it. In the absence of negligence on its part, however, The Electric Pencil Company is not responsible for loss, destruction or damage or unauthorised use by others of such property.</p> <p>10.2 The Electric Pencil Company will use its best efforts to ensure quality and timely delivery of all artwork, printed matter and other materials.</p> |
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- 10.3 The Electric Pencil Company will use its best efforts to guard against any loss arising from the failure of its suppliers, media, or others to perform in accordance with their commitments but The Electric Pencil Company is not responsible for failure on their part.
- 10.4 The Electric Pencil Company cannot in any way be held responsible for quality, price, performance or delivery of materials made or supplied by others where the work has been placed directly by the Client or his agents.
- 11 LIEN**  
All materials or property belonging to the Client, as well as work performed, may be retained as security until all just claims against the Client are satisfied.
- 12 RIGHTS OF OWNERSHIP**
- 12.1 The Electric Pencil Company shall retain all right, title and interest in and to, and possession of, any know how, technical information, specifications or documents, ideas, concepts, methods, processes, techniques, systems and inventions developed or created by or on behalf of The Electric Pencil Company relating to the service supplied by The Electric Pencil Company under any agreement.
- 12.2 All such information shall be kept confidential by the Client and shall not be disclosed to any third party unless and until the same is or becomes public knowledge nor shall any such information be used by the Client for any purpose other than in connection with the receipt of services without The Electric Pencil Company's prior written consent.
- 12.3 Once a project has been delivered by The Electric Pencil Company and is fully paid for by the Client, The Electric Pencil Company will assign the reproduction rights of the design for the use(s) described in the proposal.
- 12.4 The rights to all design and artwork, including but not limited to photography, music and or illustration created by independent photographers, artists or illustrators commissioned by The Electric Pencil Company, or purchased from a stock agency on behalf of the Client, remain with the individual designer, artist, photographer or illustrator or their agents.
- 12.5 The Client may not use or reproduce the design, work or the property therein for a purpose other than the one(s) originally stipulated unless a transfer of rights and the payment of any additional fees (typically 50% of the agreement costs) has been made.
- 12.6 The Electric Pencil Company reserves the right to photograph and/or distribute or publish for its promotional and marketing needs any work created, including roughs, visuals, mock-ups and presentations, as samples, company newsletter, brochures, presentations and website and for entry for awards.
- 12.7 The Electric Pencil Company will endeavour to store digital files on computer archive for a period of 6 months beyond the delivery of a job, thereupon The Electric Pencil Company reserves the right to discard them without notice.
- 13 LIMITATION**
- 13.1 The Client will indemnify and hold The Electric Pencil Company harmless for any loss or expense (including legal fees), and agree to defend The Electric Pencil Company in any actual lawsuit, claim or action arising in any way from the working relationship.
- 13.2 This includes but is not limited to claims made against the Client and any of its products and services arising from the publication of materials prepared by The Electric Pencil Company and which the Client approves before publication.
- 14 FORCE MAJEURE**
- 14.1 Production schedules, storage of digital files and property belonging to the Client will be established and adhered to by both the Client and The Electric Pencil Company, provided that neither shall incur any liability, penalty or additional cost due to delays caused by a state of war, riot, civil disorder, fire, industrial dispute or strike, accidents, energy failure, equipment breakdown, delays in shipment by suppliers or carriers, action of government or civil authority, and acts of God or other causes beyond the control of the Client or The Electric Pencil Company.
- 14.2 The Electric Pencil Company shall promptly inform the Client of any event of force majeure, its expected duration and cessation respectively.
- 15 TERMINATION**
- 15.1 If the Client commits any act of bankruptcy or, being a company, has a receiver appointed or an administration order made against it or goes into liquidation or if a similar event occurs under applicable insolvency laws, (except for the purpose of reconstruction or amalgamation), then all sums due to The Electric Pencil Company under these Terms and Conditions of Trading shall immediately become due and payable and The Electric Pencil Company may, notwithstanding any previous waiver, terminate this agreement forthwith by written notice, or suspend performance of all or any of its obligations, and at any time during such suspension terminate this agreement or any part.
- 15.2 In the event of any termination of this agreement, the Client will pay for all materials ordered as well as for services performed and expenses incurred by The Electric Pencil Company as of the date of termination.
- 15.3 The Electric Pencil Company may terminate this agreement on seven (7) days' prior written notice to the Client in the event of a failure by the Client to comply with any material provision of this agreement.
- 16 GENERAL**
- 16.1 This document, together with any other documents agreed between The Electric Pencil Company and the Client, constitutes the entire agreement between The Electric Pencil Company and the Client relating to the provision of the services. This agreement shall inure to the benefit of and shall be binding upon The Electric Pencil Company and the Client and their respective successors and permitted assigns, including any entity with which either party may merge or consolidate.
- 16.2 In performing the services under this agreement, The Electric Pencil Company shall be deemed to be an independent contractor and its personnel and representatives shall not act as nor be Client agents or employees.
- 16.3 The Electric Pencil Company shall have complete charge and responsibility for personnel employed by The Electric Pencil Company.
- 16.4 The validity and enforceability of this agreement will be interpreted in accordance with the laws of England but The Electric Pencil Company reserves the right to bring proceedings in connection with this agreement in any other court of competent jurisdiction. Failure by The Electric Pencil Company to enforce any of these conditions shall not be construed as a waiver of that condition or any other condition.