
Richmond Medical Communications Limited

Terms and Conditions

The following terms together with the documents referred to by them set out the agreement for the supply of services purchased from Richmond Medical Communications Limited.

Please ensure you have read and understand these terms as you will be bound by them once you order any services. Your attention is drawn in particular to the provisions of Clause 11. If you do not understand any term, please contact us before ordering.

Richmond Medical Communications Limited can be contacted by:

(1) Phone: +44(0) 207 193 3009

(2) Email: info@richmond-medcomms.com

(3) Post: Richmond Medical Communications Limited, 39 Sheendale Road, Richmond, Surrey, TW9 2JJ, United Kingdom.

1. INTERPRETATION

In these Conditions the following words and phrases shall have the following meanings unless the context requires otherwise:

- 1.1 **Charges** means the charges payable by the Client for the supply of the Services in accordance with clause 5.
- 1.2 **Conditions** means these terms and conditions as amended from time to time in accordance with clause 17.7.
- 1.3 **Client** means the person, company or firm who purchases the Services from the Company.
- 1.4 **Client Material** means any documents or other materials, and any data or other information provided by the Client relating to the Services;
- 1.5 **Company** means Richmond Medical Communications Limited a company incorporated and registered in England and Wales with company number 09153987 whose registered office is at 39 Sheendale Road ,Richmond, Surrey, TW9 2JJ, United Kingdom;
- 1.6 **Company Material** means any documents or other materials, and any data or other information provided by the Company in connection with or relating to the Services;
- 1.7 **Contract** means the contract between the Company and the Client for the supply of Services in accordance with these Conditions.

- 1.8 **Deliverables** means the relevant products and materials produced by the Company for the Client.
- 1.9 **Intellectual Property Rights** means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other Intellectual Property Rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
- 1.10 **Services** means the services, including Deliverables, supplied by the Company to the Client as set out in the Specification.
- 1.11 **Specification** has the meaning given in clause 3.1.

2. BASIS OF CONTRACT

- 2.1 An order by the Client for the supply of Services will be set out in a purchase order form (**Order**). The Order constitutes an offer by the Client to purchase Services in accordance with these Conditions. The Order shall only be deemed to be accepted when the Company issues written acceptance of the Order at which point and on which date the Contract shall come into existence. The Contract cannot be amended or withdrawn without our prior written agreement.
- 2.2 The Contract constitutes the entire agreement between the parties. The Client acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Company which is not set out in the Contract.
- 2.3 The Company makes no express warranties and specifically disclaims any implied warranties, including any implied warranty of merchantability or fitness for a particular purpose, with respect to the performance of Services under the Contract and these Conditions to the extent permissible by law.
- 2.4 The Company does not guarantee, and nothing contained in the Contract or these Conditions shall be construed as a guarantee, that the Service performed or to be performed by the Client will achieve any projected level of results.
- 2.5 Whilst every care is taken to avoid mistakes, the Company cannot accept liability for any errors and/or omissions due to third parties, subcontractors or inaccurate copy instructions.
- 2.6 While the Company will use reasonable endeavours to verify the accuracy of any samples, drawings, descriptive matter or advertising it issues, and any descriptions or illustrations contained in the catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.
- 2.7 These Conditions apply to the Contract to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.8 Any quotation given by the Company shall not constitute an offer, and is only valid for a period of 21 days from its date of issue.

3. SUPPLY OF SERVICES

- 3.1 The Company shall, so far as is reasonably practicable, supply the Services to the Client in accordance with the description or specification for the Services agreed in writing between the Company and the Client (**Specification**) in all material respects.
- 3.2 The Company shall use all reasonable endeavours to meet any performance dates specified in the Specification, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 3.3 The Company shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Company shall notify the Client in any such event.
- 3.4 The Company warrants to the Client that the Services will be provided using reasonable care and skill.

4. OBLIGATIONS OF THE CLIENT

- 4.1 Unless otherwise agreed by the parties in writing, the Client shall at its own expense supply the Company with all necessary Documents or other materials, and all necessary data or other information relating to the Services, within sufficient time to enable the Company to provide the Services in accordance with the Contract and the Conditions. The Client shall ensure the accuracy of all Client Material and clarity of any instructions.
- 4.2 The Client shall afford to the Company all reasonable co-operation in all matters relating to the performance of the Company's obligations under the Contract. In particular but without limitation to this clause, the Client shall:
 - (a) ensure that the terms of the Order and any information it provides in the Specification are complete and accurate;
 - (b) provide the Company with such information and materials as the Company may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects;
 - (c) promptly and fully respond to all communications of the Company relating to the provision of the Services and ensure (if applicable) that appropriate and suitably qualified members of the Client's staff are at all reasonable times available to liaise with the Company on matters relevant to the provision of the Services;
 - (d) obtain or assist the Company to obtain at the Client's cost all necessary licences and consents required or reasonably necessary to enable the Company to properly and lawfully provide the Services to the Client;
 - (e) provide proper and clear instructions to the Company in respect of its requirements in relation to the Services or in connection with the Contract; and
 - (f) pay all Charges promptly when due and if not paid on the due date to pay such applicable default interest at the specified rate from time to time in force.
- 4.3 If the performance of the Company of any of its obligations under the Contract is prevented or delayed by any act or omission by the Client or failure by the Client to perform any relevant obligation (**Client Default**):

- (a) the Company shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Client remedies the Client Default, and to rely on the Client Default to relieve it from the performance of any of its obligations to the extent the Client Default prevents or delays the performance of the Company of any of its obligations;
- (b) the Company shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from the failure or delay of the Client to perform any of its obligations as set out in this clause 3.2; and
- (c) the Client shall reimburse the Company on written demand for any costs or losses sustained or incurred by the Company arising directly or indirectly from the Client Default.

5. CHARGES AND PAYMENT

- 5.1 The Charges for the Services are due and payable as specified in the order form or any charges sheet and shall be paid promptly in GBP pounds sterling or the currency specified therein.
- 5.2 In the absence of an agreement on Charges, the Company's standard charges and rates shall apply. The Company shall be entitled to vary its standard charges from time to time by giving not less than fourteen (14) days' written notice to the Client.
- 5.3 The Client shall reimburse the Company for any copyright permission or licensing fees charged by copyright holders for any materials or elements of text, graphics, photos, designs, trademarks, information or other copyright work required to provide the Service, the copyright of which is not held by the Client.
- 5.4 Unless otherwise agreed in writing, the Company shall submit an initial invoice to the Client for 50% of its charges on acceptance of the order and a final invoice for the remainder upon completion of the Services.
- 5.5 The Client shall pay each invoice submitted by the Company:
 - (a) within 30 days of the date of the invoice; and
 - (b) in full and in cleared funds to a bank account nominated in writing by the Company, andtime for payment shall be of the essence of the Contract.
- 5.6 All amounts payable by the Client under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Company to the Client, the Client shall, on receipt of a valid VAT invoice from the Company, pay to the Company such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 5.7 If the Client fails to make any payment due to the Company under the Contract by the due date for payment, then the Client shall pay interest on the overdue amount at the rate of 4% per annum above the base rate of Lloyds Bank from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Client shall pay the interest together with the overdue amount.

5.8 The Client shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Company may at any time, without limiting its other rights or remedies, set off any amount owing to it by the Client against any amount payable by the Company to the Client.

6. AUTHORISATION AND MATERIALS

6.1 The Client represents to the Company and unconditionally guarantees that any elements of text, graphics, photos, designs, trademarks, information or other copyright work provided to the Company for the Services are owned exclusively by the Client, or that the Client has permission from the rightful owner to use such material, and will indemnify the Company and its sub-contractors from any claim, liability or suit arising from the use of such elements or materials furnished by the Client.

6.2 The Client warrants that any Client Material provided to the Company does not contravene any Law or Act of Parliament, nor in any way is illegal or defamatory or an infringement of either any other party's rights and/or the British Code of Advertising Practice.

6.3 The Client confirms and authorises the Company to access and use the Client's data, database and materials in respect of the project and provision of the Services. The Client shall indemnify the Company on a full indemnity basis against any loss, damages, costs, expenses or other claims arising from any infringement resulting from use of the information supplied.

6.4 The Client warrants that any Client Material and its use by the Company for the purpose of providing the Services will not infringe the copyright or other rights of any third party. The Client shall indemnify the Company against any loss, damages, costs, expenses or other claims arising from any such infringement.

7. COMPLETION AND ACCEPTANCE

7.1 The Company and the Client will work together to complete the relevant project in a timely manner. The Company agrees to work expediently to provide the Services on the agreed terms and no later than the agreed date in respect of the Contract. The parties shall agree the relevant sign off and acceptance for the Services in accordance with the Company's standard procedures. The Company will endeavour to furnish the Client with a proof of copy prior to printing the publication and any amendments of or alterations to such proofs must be returned to the Company by the date of the proof copy. The Company accepts no responsibility for non-receipt or non-delivery of any material.

7.2 The Client shall be deemed to have accepted the work in relation to the project and/or Services if they have not been rejected on or before the fourteenth (14th) day after completion (where applicable).

8. INTELLECTUAL PROPERTY RIGHTS

8.1 The property, copyright and other Intellectual Property Rights in any of the independent editorial materials commissioned by the Company shall belong to the Company.

8.2 The property, copyright and any other Intellectual Property Rights in any other Company Material shall belong to the Company, subject only to the right of the Client to use the Company Material during the of the Contract.

- 8.3 The property, copyright and any other Intellectual Property Rights in any Client Material shall belong to the Client.
- 8.4 Any product specifically produced by the Company for the client (including creative designs, copy or artwork, mechanical art, illustrations, photographs, letters, brochures, mailing packages), shall be the sole property of the client. The Company agrees that such work product may not be provided to a third party without the express written consent of the client.
- 8.5 Save as otherwise provided, any intellectual property in any client database shall belong to the client, and the intellectual property in any software, specifications, material, procedures, data or intellectual property of the company used in the preparation of or which is embedded within the material produced by the Company shall remain the property of the Company.
- 8.6 All confidential information, copyright works, database rights, toolsets, inventions and patent rights and all other Intellectual Property Rights subsisting at the commencement of the services and which may be utilised by either party in the course of performing the services or the project shall remain the property of the originating party.
- 8.7 Notwithstanding any provision to the contrary, nothing in these conditions or in relation to any project or the provision of services shall deprive the company or grant the client rights to any of the Company's research, know-how functionality or methodology document, supplementary knowledge and design or technology process including as used by the Company in its general business or for its database management business.
- 8.8 In the event that new inventions, designs or processes evolve in performance of the services or as a result of the contract, the client acknowledges that the same shall be the property of the company unless otherwise agreed in writing by the company.

9. CONFIDENTIALITY

A party (**receiving party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (**disclosing party**), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause 9 shall survive termination of the Contract.

10. DATA PROTECTION

The Client is responsible for ensuring that any "Personal Data" (as defined by the Act) it supplies to the Company has been collected within the terms of the Data Protection Act 1998. The Company agrees to process the data in accordance with lawful and reasonable written instructions provided by the Client.

11. LIMITATION OF LIABILITY

- 11.1 Nothing in these Conditions shall limit or exclude the liability of the Company for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors; or
- (b) fraud or fraudulent misrepresentation; or
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

11.2 Subject to clause 11.1:

- (a) the Company shall under no circumstances whatever be liable to the Client, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- (b) the total liability of the Company to the Client in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the Charges.

11.3 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

11.4 This clause 11 shall survive termination of the Contract.

12. TERMINATION

12.1 Without limiting its other rights or remedies, either party may terminate the Contract by giving the other party 1 months' written notice.

12.2 In the event that the Client elects to terminate any project or Services prior to completion, the Client agrees to pay the in full the agreed charge for the Service.

12.3 Without limiting its other rights or remedies, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of receipt of notice in writing to do so;
- (b) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- (c) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) other

than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

- (e) the other party (being an individual) is the subject of a bankruptcy petition order;
- (f) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
- (h) the holder of a qualifying floating charge over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (j) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 12.3(b) to clause 12.3(i) (inclusive);
- (k) the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business;
- (l) the other party's financial position deteriorates to such an extent that in the opinion of the Company the capability of the Client to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
- (m) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

12.4 Without limiting its other rights or remedies, the Company may terminate the Contract with immediate effect by giving written notice to the Client if the Client fails to pay any amount due under this Contract on the due date for payment and fails to pay all outstanding amounts within 28 days after being notified in writing to do so.

12.5 Without limiting its other rights or remedies, the Company may suspend provision of the Services under the Contract or any other contract between the Client and the Company if the Client becomes subject to any of the events listed in clause 12.3(b) to clause 12.3(m), or the Company reasonably believes that the Client is about to become subject to any of them, or if the Client fails to pay any amount due under this Contract on the due date for payment.

13. CONSEQUENCES OF TERMINATION

13.1 On termination of the Contract for any reason:

- (a) the Client shall immediately pay to the Company all of the outstanding unpaid invoices and interest of the Company and, in respect of Services supplied but for which no invoice has been submitted, the Company shall submit an invoice, which shall be payable by the Client immediately on receipt;

- (b) the Client shall return any Deliverables which have not been fully paid for. If the Client fails to do so, then the Company may enter the premises of the Client and take possession of them. Until they have been returned, the Client shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
- (c) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- (d) clauses which expressly or by implication survive termination shall continue in full force and effect.

14. NON-SOLICITATION

- 14.1 During the term of the Contract and for a period of six (6) months thereafter (except with the prior written consent of the Company), the Client shall not induce, solicit or employ (whether as an employee, agent, partner or consultant or any other form of employment or engagement) any employee, agent or consultant of the Company directly associated with the Contract and the provision of the Services or other management of the Contract or any significant part of it.

15. FORCE MAJEURE

- 15.1 For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of the Company including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Company or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of companies or subcontractors.
- 15.2 The Company shall not be liable to the Client as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.
- 15.3 If the Force Majeure Event prevents the Company from providing any of the Services for more than 12 weeks, the Company shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Client.

16. DISPUTE RESOLUTION

- 16.1 The parties will each use their reasonable efforts to negotiate in good faith and settle any major or material dispute that may arise out of or relate to the Contract, these Conditions, the Services or any breach of contract. If any such dispute cannot be settled amicably through ordinary negotiations by the respective representatives, the dispute shall be referred to the senior representatives nominated by the managing director of the Company and the Client's managing director who will meet in good faith in order to try and resolve the dispute.
- 16.2 If the dispute or difference is not resolved as a result of such meetings either party may (at such meeting or within ten (10) days of its conclusion) propose to the other in writing that structured negotiations be entered into with the assistance of a neutral adviser or mediator ("the Adviser") before resorting to litigation with costs shared equally.

16.3 If the parties fail to reach agreement in the structured negotiations within twenty one (21) days of the Adviser being appointed, either party may then refer any dispute to litigation.

17. GENERAL

17.1 Assignment and other dealings.

(a) The Company may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.

(b) The Client shall not, without the prior written consent of the Company, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.

17.2 **Notices.** All communications between the parties with respect to the Contract shall be delivered by post to the address set out in the written acceptance of the Order or to such other address as the addressee may from time to time have notified in writing for the purpose of this clause. In proving service it shall be necessary only to prove that the communication was contained in an envelope which was duly addressed and posted in accordance with this clause.

17.3 Severance.

(a) If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

(b) If one party gives notice to the other of the possibility that any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

17.4 **Waiver.** A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

17.5 **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

17.6 **Third party rights.** A person who is not a party to the Contract shall not have any rights to enforce its terms.

- 17.7 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by the Company.
- 17.8 **Governing law.** The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.
- 17.9 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).