



Finely Fettle Limited

Marketing Services Agency Terms and Conditions

1. Interpretation

1.1. In these Terms and Conditions the following definitions apply:

“Finely Fettle Limited”	means Finely Fettle Limited or any of its sub-contractors providing related goods and services;
“Sub-Contractor”	means an authorised sub-contractor of Finely Fettle Limited who provides Finely Fettle Limited goods and services, bound by a services agreement;
“Customer”	means the individual or company to whom the invoice is addressed;
“Service”	means the goods or services specified in the Proposal;
“Proposal”	means the quotation providing detail and scope for the project, which may refer to supporting documentation and is authorised in writing by the Customer;
“Deliverable”	means a set of goods or services that may be delivered at one time, for example but not exhaustive: a marketing plan document, copywriting drafts, creative artwork, data profiling and print services;
“Purchase Price”	means the price for Service as detailed in the Proposal;
“Business Day”	means any day which is not a Saturday, Sunday or a bank or public holiday in England;
“Confidential Information”	for each party the terms of this agreement and all information and/or data belonging to or relating to that party, its associates, its or their businesses, activities, affairs, products, services, suppliers, customers or prospective customers disclosed (whether in writing, verbally or by any other means and whether directly or indirectly) by that party, its representatives or advisers, to the other party, its representatives or advisers whether before, on or after the date of this agreement.

1.2. In these Terms & Conditions (except where the context otherwise requires):

1.2.1. the clause headings are included for convenience only and shall not affect the interpretation of these Terms & Conditions;

1.2.2. use of the singular includes the plural and visa versa;

1.2.3. use of any gender includes the other genders;

1.2.4. any reference to “persons” includes natural persons, firms, partnerships, companies, corporations, associations, organisations, governments, states, foundations, and trusts (in each whether or not having separate legal personality);



1.2.5. any reference to a statute, statutory provision or subordinate legislation (“legislation”) shall (except where the context otherwise requires) be construed as referring to:

- a) such legislation as amended and in force from time to time and to any legislation which (either with or without modification) re-enacts, consolidates or enacts in rewritten form any such legislation; and
- b) any former legislation which re-enacts, consolidates or enacts in rewritten form.

1.2.6. any phrase introduced by the terms “including”, “include”, “in particular” or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

2. Notices

2.1. Any notice or other communication pursuant to this agreement must be in writing and signed by or on behalf of the party giving it and may be served by pre-paid first class post to the address of the relevant party as set out in this agreement, or subject to the provisions of clause 2.2 by email. All such notices or demands shall be deemed to have been received in the case of pre-paid first class post two Business Days after posting.

2.2. A communication sent by email shall not be effective unless the addressee acknowledges receipt of such communication, such authorisation to take the form of a reply email to include the communication being acknowledged.

3. Acceptance of the Proposal

3.1. Finely Fettle Limited shall provide a Proposal to the Customer for each project. The Proposal forms part of this agreement.

3.2. The Customer assumes sole responsibility for ensuring that the Service described in the Proposal meets its requirements before authorising the Proposal in writing.

3.3. Upon receipt of this order authorisation, a contract shall be created between Finely Fettle Limited and the Customer for the supply of the Service.

3.4. By purchasing the Service, the Customer acknowledges that it has read these Terms and Conditions, understands them and agrees to be bound by them.

4. Payment Terms

4.1. For printing and physical goods, unless otherwise stated in the Proposal, the Purchase Price shall be payable to Finely Fettle Limited on receipt of the order authorisation.

4.2. For ad-hoc project work, the Purchase Price shall be agreed by prior arrangement by Finely Fettle Limited and the Purchaser in the Proposal.

4.3. For retained work billed monthly, unless otherwise stated in the Proposal, the agreed monthly element of the Purchase Price shall be payable to Finely Fettle Limited by the first working day of the month, in advance of the work to be carried out.

4.4. For project work consisting of multiple deliverables, unless otherwise stated in the Proposal, the Purchase Price shall be payable to Finely Fettle Limited as follows:-

4.4.1. In full and final settlement of the Purchase Price, payable on receipt of the order authorisation, as agreed within the Proposal; and

4.4.2. In full and final settlement of the Purchase Price of any and all services provided by a sub-contractor that are not within the scope of Clause 4.4.1 on receipt of the order authorisation.

4.5. Prior to each payment, Finely Fettle Limited shall issue an invoice to the Customer. The terms for payment will be clearly stated on the invoice.

4.6. Finely Fettle Limited is not obliged to carry out any work related to a Proposal before an invoice has been issued and payment has been duly received. In the event that any preliminary work is carried out prior to receipt of the payment and the order is then cancelled, Finely Fettle Limited will invoice the Customer for this work.

4.7. All payments shall be paid in full without setoff, deduction or counterclaim whatsoever.

5. Variations to Pricing

5.1. Where the Proposal includes design work, the Purchase Price includes an allowance for one change to each deliverable. Additional changes shall be chargeable. Any such variation shall be advised by Finely Fettle Limited in writing and confirmed by the Customer in writing before either the work proceeds further or any charges are incurred.

5.1.1. Proofs of all work may be submitted for Customer's approval and Finely Fettle Limited shall incur no liability for any errors not corrected by the Customer in proofs so submitted. Customer's alterations and additional proofs necessitated thereby shall be charged at an extra charge.

5.2. The charge for carriage of goods is at additional cost to the Customer, unless otherwise stated in the Proposal.

5.3. Finely Fettle Limited reserves the right to vary the Purchase Price according to further requirements made by the Customer subsequent to order authorisation. Any such variation shall be advised by Finely Fettle Limited in writing and confirmed by the Customer in writing before either the work proceeds further or any charges are incurred.

5.4. The Purchase Price, once accepted by both parties in writing, is applicable for 12 months from the date of agreement or for the length of the respective Proposal whichever the lesser. Finely Fettle Limited reserves the right to increase the price of any work outstanding after that period.

5.6. If payment is not made on the due date, interest may be charged pursuant to the Late Payment Act of Commercial Debts (Interest) Act 1998, to recover interest and all costs involved in recovering outstanding monies.

6. Cancellation

6.1. The contract may not be cancelled following order acceptance unless a trial or rejection period has been agreed in advance. At the sole discretion of Finely Fettle Limited, a contract may be cancelled either wholly or in part subject to timing, and only once agreement in writing has been notified to the Customer according to clause 2.

6.2. For retained work billed monthly and where no contract period has been explicitly stated on the Proposal, the contract may be terminated by the Customer giving 3 months' notice in writing according to clause 2.

6.3. Unless otherwise stated in the proposal or subject to clause 6.1 and clause 6.2, the contract may not be cancelled except by agreement in writing of both parties and upon payment to Finely Fettle Limited of such amount as may be necessary to meet the costs incurred to Finely Fettle Limited up to the date of cancellation and to indemnify Finely Fettle Limited against all loss resulting from the said cancellation.

6.4. The Customer shall have no right to seek any cancellation or repayment of job costs on the basis of style or composition. Any changes or amendments to the signed Proposal will not be agreed without discussion and mutual consent.

6.5. Finely Fettle Limited shall not be liable for any loss, damage or delay which arises as a result of the termination of the contract between us, or for our compliance with relevant statutory or regulatory requirements.

7. Compliance and Intellectual Property Rights

7.1. It is the responsibility of the Customer to ensure that the deliverables comply with all laws, regulations and codes in all countries where the deliverables are used. The Customer agrees to indemnify Finely Fettle Limited against any costs arising from the use or misuse of the deliverables.

7.2. Once the project has been completed, signed off, and full payment made, the ownership of the rights to the artwork and any imagery created will pass to the Customer.



7.3. Third party materials, such as imagery, used in the deliverables may be subject to usage liabilities such as royalties and license fees. The Customer shall procure such license as necessary for the use of third party materials for use within the scope of the Proposal. The Customer should obtain written consent from Finely Fettle Limited for use of any part of the deliverables outside of the scope of the Proposal.

7.4. Unless otherwise stated in the Proposal, Finely Fettle Limited reserves the continuing right to use any deliverables it produces for the promotion of its services.

8. Confidentiality

8.1. During the period of this agreement and for a period of 3 years after both parties undertake:

8.1.1. to keep the Confidential Information confidential;

8.1.2. not to use the Confidential Information for any purpose except the performance of its obligations under this agreement; and

8.1.3. not to use the Confidential Information so as to procure any commercial advantage over the other party.

8.2. The obligations contained in clause 8.1 above shall not apply to any Confidential Information which:

8.2.1. is already in the possession of the disclosing party other than as a result of a breach of this agreement;

8.2.2. is at the date of this agreement or at any time after the date of this agreement comes into the public domain other than through breach of this agreement; or

8.2.3. is required to be disclosed by any applicable law or regulation or by any governmental or administrative authority or by an order of any court of competent jurisdiction.

8.3. Each party undertakes to take all such steps as shall from time to time be necessary to ensure compliance with the provisions of clause 8 by its employees, agents and sub-contractors.

8.4. The Customer agrees that the ideas, materials and other documents relating to the Service are confidential and all proprietary rights belong to Finely Fettle Limited and shall not be used or disclosed except as permitted by this agreement.

8.5. This clause 8 shall survive the termination of this agreement for whatever reason.

9. Limited Warranty

9.1. The following provisions set out the entire financial liability of Finely Fettle Limited (including any liability for the acts or omissions of its employees, agents or subcontractors) to the Customer in respect of:

9.1.1. any breach of this agreement; and

9.1.2. any representation, statement or tortious act or omission including negligence arising under or in connection with the contract.

9.2. 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.

9.3. Nothing in these conditions excludes or limits the liability of Finely Fettle Limited for death or personal injury caused by negligence or for fraudulent misrepresentation.

9.4. Subject to clauses 9.2 and 9.3:

9.4.1. Finely Fettle Limited shall not be liable to the Customer for any loss or damage, costs or expenses (whether direct, indirect or consequential and whether relating to loss of profit, loss of business, business interruption, loss of data, depletion of goodwill or other such losses), suffered by the Customer which arise out of or in connection with the supply of the Service or their use by the Customer.

9.4.2. The Customer assumes all risks as to the suitability, quality, and performance of the Service.

9.4.3. Finely Fettle Limited's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise arising in connection with the performance or contemplated performance of this contract shall be limited to, and in no event shall exceed, the amount originally paid to Finely Fettle Limited for the Service.

9.5. No verbal or written information or advice given by Finely Fettle Limited or its dealers, distributors, employees or agents shall in any way extend, modify or add to the foregoing warranty.

9.6. Where a deliverable includes goods to be received by the Customer:

9.6.1. The passing of risk shall occur on the day of the delivery to the Customer.

9.6.2. If goods are received by the Customer in any way damaged upon delivery, the Customer must advise Finely Fettle Limited within 24 hours of delivery of the nature of the damage and must retain the Goods as delivered.

9.6.3. The maximum extent of Finely Fettle Limited's liability for damaged goods will be, at its sole discretion depending on the circumstances: a return of the Purchase Price related to the goods or replacement of the goods.

9.6.4. Goods remain the property of Finely Fettle Limited and title remains with Finely Fettle Limited until payment has been made in full.

9.7. All times or dates given for delivery of the Service are given in good faith and shall not be of the essence of any contract.

9.8. Finely Fettle Limited shall make every effort to achieve any quoted delivery dates and execute any obligations set out in the Proposal but will not be under any liability if delivery is delayed or prevented by events beyond its control or as a result of delays by the Customer.

9.9. Finely Fettle Limited will ensure that it has insurance in place and shall maintain such insurance throughout the projects which arise out of or in connection with the supply of the Services, to include professional indemnity insurance for £500,000 and relevant public liability insurance for £1,000,000 (unless otherwise agreed in writing between the Customer and Finely Fettle Limited).

10. Force Majeure

10.1. Finely Fettle Limited shall not be liable for any delay or failure in performance of its obligations under this agreement which is due to or results from any circumstances beyond its reasonable control. In any such event Finely Fettle Limited shall be entitled to delay or cancel delivery of the Product or performance of the Services.

11. Severability

11.1. If at any time one or more of the terms of provisions of this agreement becomes in whole or in part void, invalid, or unenforceable then the remainder of this agreement shall nevertheless be valid and enforceable.

12. Waiver

12.1. No failure or delay by either party in exercising, wholly or partially, any of its rights with regard to any breach or default of this agreement by the other party shall constitute a waiver of such rights and no waiver of any such breach or default shall be deemed to constitute a waiver of any other rights or any subsequent or continuing breach of default.

13. Assignment

13.1. Finely Fettle Limited reserves the right to assign or transfer this Agreement to any other party, without the express written permission of the Customer. The Customer does not have the



right to assign its rights or obligations under this agreement without the express written consent of Finely Fettle Limited. This Agreement shall be binding upon each party's successors.

14. Agreement Documentation

14.1 Each party acknowledges that it has entered into this agreement in reliance only on the representations, warranties, promises and terms contained or expressly referred to within the Proposal and as expressly set out in these terms and conditions. Neither party shall have any liability in respect of any other representation, warranty or promise unless it was made fraudulently.

15. Changes to Terms and Conditions

15.1. Finely Fettle Limited reserves the right to change these Terms and Conditions at any time. The most current version of these Terms and Conditions may be found on our website.

15.2. When changes are made to the Terms and Conditions a notice shall be placed in our email newsletter. The Customer shall be deemed to have accepted such changes if they have not notified any objections to such changes within one calendar month of the notice.

15.3. The most current version of the Terms and Conditions shall supersede all previous versions.

16. Third Party Rights

16.1 Unless expressly provided in this agreement, no term of this agreement is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.

17. Governing Law and Jurisdiction

17.1 This validity, construction and performance of this agreement shall be governed by and construed in all respects in accordance with the laws of England and Wales whose courts are the courts of exclusive jurisdiction to which the Parties submit.

Should you have any questions concerning these Terms and Conditions, contact Finely Fettle Limited before providing written agreement to the Proposal.