



design develop deliver

BLUECOFFEE LIMITED Standard Terms and Conditions

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T 0845 625 0045

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www.bluecoffee.com

1. DEFINITIONS

In these terms and conditions the following shall have the meaning set opposite them

- BlueCoffee : BlueCoffee Limited of Franklin House, Maple Road, Bramhall, Cheshire, SK7 2DJ and 11 Riverview, Embankment Business Park, Stockport, Cheshire, SK4 3GN.
- the Services : the design and digital works undertaken by BlueCoffee within the scope of the Contract between the Client and BlueCoffee.
- the Products : materials produced from the Services, or equipment and/or software from third party manufacturers offered for sale or supply by BlueCoffee within the scope of the Services.
- the Client : The person, organisation, company, partnership or firm who accepts a BlueCoffee quotation for the sale of Services and/or Products or whose order for them is accepted by BlueCoffee.
- the Contract : A Contract for the supply of Services and/or Products. Writing includes print, facsimile, email and comparable means of written communication.

2. BASIS OF SUPPLY

- (a) BlueCoffee shall supply and the Client shall acquire the Services and/or Products in accordance with a BlueCoffee quotation which is accepted in Writing by the Client or any order of the Client which is accepted in Writing by BlueCoffee subject in either case to these Conditions.
- (b) These Conditions constitute the only conditions upon which BlueCoffee shall supply the Services and/or Products and shall prevail over any other conditions which the Client's purchase order or instruction to proceed may purport to impose. No variation of these Conditions shall be binding upon BlueCoffee unless agreed in Writing by a duly authorised representative of BlueCoffee.
- (c) BlueCoffee employees or agents are not authorised to make any representations concerning the Services and/or Products unless confirmed by BlueCoffee in Writing. In entering into the Contract the Client acknowledges that it does not rely on and waives any claim for breach of any such representations which are not so confirmed.
- (d) Any advice or recommendation given by BlueCoffee or its employees or agents as to the application or use of the Services and/or Products which is not confirmed in Writing by BlueCoffee is followed or acted upon entirely at the Clients own risk and accordingly BlueCoffee shall not be liable for any such advice or recommendation which is not so confirmed.
- (e) Proposals and quotations are valid for a period thirty (30) days from the date issued. BlueCoffee is not bound to honour proposals and quotations that have expired. Any order confirmation or acceptance of a BlueCoffee quotation must be made in Writing to BlueCoffee, by completing the Order Confirmation contained within the written quotation.
- (f) BlueCoffee may make and the Client shall accept partial provision or delivery of the Services and/or Products. Each provision or delivery shall be considered to be the subject of a separate Contract and failure or delay by BlueCoffee to make one or more provisions or deliveries in accordance with the Contract or any claim by the Client in respect of any one or more provisions or deliveries shall not entitle the Client to treat the Contract as a whole as repudiated.
- (g) The Client is to supply promptly upon request all materials and information required for BlueCoffee to complete the provision of Services and/or Products in accordance with the agreed specification. Such materials and information may include, but are not limited to, imagery, written copy, logos and printed materials. Where the Client's failure to supply materials prevents progress on the Services for more than seven (7) days BlueCoffee has the right to invoice the Client and be paid for any part or parts of the Services already carried out.

3. PRICES AND PAYMENT

- (a) Prices are those agreed in accordance with paragraph 2(a) and are exclusive of V.A.T. which shall be added at the rate and in the manner from time to time prescribed by law.
- (b) Subject to paragraph 8 of these Terms and Conditions, full payment of invoices will be due either immediately upon completion of the provision or dispatch of the Services and/or Products, or fourteen (14) days after invoice date, which shall be on completion of the provision or dispatch of the Services and/or Products.
- (c) On Contracts with a total value in excess of £1000.00 excluding V.A.T., BlueCoffee will require staged payments: 50% non-refundable deposit payment payable and to be cleared in BlueCoffee's account immediately prior to commencement of the Services and/or procurement of associated third party Products, 50% final payment payable immediately upon completion of the provision or dispatch of the Services and/or Products.
- (d) On Contracts with a total value in excess of £4000.00 excluding V.A.T., BlueCoffee will require staged payments: 50% non-refundable deposit payment payable and to be cleared in BlueCoffee's account immediately prior to commencement of the Services and/or procurement of associated third party Products, 30% payment payable immediately prior to the completed provision of Services or dispatch of Products, 20% final payment payable fourteen (14) days following the completed provision of Services.
- (e) Interest on overdue accounts shall be payable at the rate of eight per cent (8%) per month or part of a month, plus the Bank of England base rate for business to business transactions, until payment in full is received by BlueCoffee.

(f) If payment has not been received by the due date, BlueCoffee has the right to suspend ongoing work for the Client, until such time that full payment of the outstanding balance has been received. If full payment has still not been received 21 (twenty one) days after the due date, BlueCoffee has the right to replace, modify or remove web sites and other online media from the internet until full payment has been received. By removing the web site from the internet, BlueCoffee does not remove the Client's obligation to pay any outstanding monies owing.

(g) BlueCoffee may vary the price of the Services and/or Products by notice in Writing given to the Client at any time prior to completed provision or delivery.

4. TERMINATION

If the Client breaches any of these terms and conditions BlueCoffee shall be entitled to treat the Contract as repudiated without prejudice to other rights and remedies in respect of such a breach. Any indulgence by BlueCoffee in respect of this paragraph shall not be deemed a waiver. BlueCoffee reserves the right to terminate the Contract forthwith without prejudice to BlueCoffee's other rights in the event of any proceedings voluntary or involuntary against or by the Client in bankruptcy or insolvency or in the event of the appointment of a receiver of any of the Client's assets or if the Client should make or attempt any composition or arrangement with its creditors.

5. INTELLECTUAL PROPERTY RIGHTS

- (a) The Client acknowledges and agrees that any and all copyright and any other Intellectual Property Rights (IPR) connected with the designs, web sites and digital assets created by BlueCoffee within the Services shall belong to BlueCoffee until full and final settlement of all related invoices and BlueCoffee have transferred the IPR to the Client in Writing.
- (b) BlueCoffee reserves the right to be identified as authors of the designs, web sites and digital assets by including its name, logo and a hyperlink to its web site within the end product. BlueCoffee may publish drafts of the designs and/or software to www.bluecoffee.com or other BlueCoffee-owned media, for the purposes of review, demonstration and promotion, subject to any non-disclosure agreement in force between the Client and BlueCoffee.
- (c) Proposals made by BlueCoffee to potential clients shall be treated as trade secrets and remain the property of BlueCoffee. Such offers and proposals or the information contained within them must not be passed to third parties or publicly disseminated without prior written authorisation from BlueCoffee. This includes, but is not limited to, design concepts and other aspects of design, media functionality and pricing information.
- (d) The Client will obtain all the necessary licenses, permissions and authorities in respect of the use of all copy, imagery, registered company logos, names and trademarks or any other material it supplies to BlueCoffee for inclusion in BlueCoffee Services and indemnifies BlueCoffee from any claim or action howsoever related to such use.

6. THIRD PARTY PRODUCTS

- (a) Risk in the Products shall pass on delivery but title and property therein shall not pass until the purchase price has been paid in full.
- (b) Until such payment the Client undertakes to mark or otherwise identify the Products as being the property of BlueCoffee and hereby irrevocably authorises BlueCoffee to enter upon the premises where the Products are kept from time to time for the purpose of repossessing the same in the event of termination of the Contract by virtue of non-payment of the price or otherwise.
- (c) BlueCoffee may maintain an action for the price of the Products notwithstanding that title to the property in the Products may not have passed to the Client.
- (d) The Client's rights to use software Products is limited to those rights BlueCoffee is legally empowered to grant and the Client agrees to observe the conditions of any license agreements applicable to such software.
- (e) It is the Client's obligation to register third party manufacturers Products with that manufacturer to obtain their manufacturer's warranty cover. BlueCoffee at its sole discretion may activate a warranty claim as agent and on behalf of the Client with the manufacturer. BlueCoffee accepts no other responsibility for loss, damage, failure or defect of the third party Product under warranty.

7. DELIVERY AND ACCEPTANCE

- (a) Any provision or delivery date agreed by BlueCoffee shall be an estimate only and not of the essence. BlueCoffee shall not be liable for any delay in the performance of its obligations or any loss, damage or other consequences arising therefrom where such delay or non-performance is due to circumstances outside BlueCoffee's reasonable control.
- (b) The Client will be deemed to have accepted the Services and/or Products provided by BlueCoffee once provided or delivered, unless within seven (7) days of provision or delivery, the Client notifies BlueCoffee in Writing of specific deficiencies, shortages or discrepancies in the Services and/or Products provided or delivered. Upon expiry of the aforementioned period or upon remedy by BlueCoffee of any valid and specifically notified deficiencies, shortages or discrepancies, BlueCoffee shall be entitled to invoice and be paid for the Services and/or Products concerned.
- (c) BlueCoffee shall have no responsibility in respect of damage or shortages caused by the acts or the omissions of the Client or other causes beyond BlueCoffee's control.

CONTINUED OVERLEAF

web design	web dev	search	emarketing	presentations	branding	marketing	print	motion	events
corporate websites blogs / podcasts video / animation domains / hosting	content management ecommerce web applications extranets / intranets	optimisation (seo) marketing (sem) social media (smo) pay-per-click (ppc)	email marketing campaign control surveys / response web splash pages	presentation design motion / sound pc / mac formats iphone / ipad formats	branding / identity corporate logos vehicle graphics apparel / signage	advertising design marketing collateral imaging / photography copywriting	brochures / leaflets corporate stationery pdf literature large format / solid	motion graphics corporate video animation / 3d photo-realistic	event collateral exhibition graphics exhibition stands branded promos

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(d) If a claim is validly made under this paragraph which might entitle the Client to return the Products, BlueCoffee shall not be bound to accept such return or exchange of the Products unless the Client complies strictly with BlueCoffee's Return Procedures which are available on request. Where appropriate, BlueCoffee reserves the right to charge a restocking fee as set from time to time.

(e) If the Client will not approve subsequent work performed by BlueCoffee to remedy any points reported by the Client as unsatisfactory, and BlueCoffee considers that the Client is unreasonable in his/her repeated rejection of the Work, the Contract will be deemed to have expired and BlueCoffee can take any legal measures to recover both payment for the completed Work and reasonable expenses incurred in recovering payment.

8. CREDIT LIMIT

(a) A Credit Account may be granted to the Client from time to time at the sole discretion of BlueCoffee, following BlueCoffee's receipt of a correctly completed BlueCoffee Credit Account Application Form.

(b) BlueCoffee may vary the level of credit given and reserves the right to withdraw credit facilities and to suspend the provision or delivery of the Services and/or Products which are the subject of the Contract with the Client should payment not be made within the credit period or where sums due by the Client to BlueCoffee exceed the credit limit.

(c) Where no credit is given payment is due with order.

9. PROJECT AND ON-LOCATION SUPPORT

(a) The Client is solely responsible for stored data and the maintenance of such data. BlueCoffee accepts no liability whatsoever for any consequential loss of such data or any loss incurred arising directly or indirectly as a result of technical support services provided.

(b) BlueCoffee shall make every reasonable endeavour to ensure a skilled BlueCoffee representative is available at the Client's premises or at an agreed location or venue in connection with ongoing project works, to provide on-location support if agreed and required.

(c) Any parts exchanged or replaced by BlueCoffee become the express property of BlueCoffee and include those items which have failed due to normal wear and tear or items regarded as consumable by the manufacturer.

(d) BlueCoffee will charge for exchanged or replaced items and time costs incurred where repairs are a result of operator misuse, accidental or malicious damage however caused, damage caused by power surge, incorrect location of the equipment, unforeseen outside influences or the failure of a consumable item as defined in paragraph 9(b).

10. WARRANTIES AND LIABILITIES

(a) BlueCoffee will use all reasonable skill, care and diligence in the provision of the Services. Warranty in respect of Products including Software Products is provided solely by the manufacturer pursuant to paragraph 6(e) of these Conditions.

(b) BlueCoffee accepts liability for death or personal injury to the extent the same is due to the negligence of BlueCoffee or its employees in performing a Contract.

(c) BlueCoffee accepts liability for any breach by BlueCoffee of the warranties as to title quiet possession and freedom from encumbrance which may be implied by law.

(d) Where Software with the agreement of the Client is commissioned or ordered by BlueCoffee from a third party, BlueCoffee's sole liability in respect of such Software shall be limited to assigning to the Client those rights if any which it may have against the third party.

(e) BlueCoffee takes no responsibility for services provided by third parties as part of BlueCoffee's Services to the Client or otherwise. BlueCoffee endeavours to ensure minimum downtime of Client web sites and online media as part of our Services but takes no responsibility for their hosting performance. Host Service Level Agreements (SLAs) are available separately upon request.

(f) BlueCoffee takes no responsibility for content on any Client web sites and other online media generated by parties other than BlueCoffee. Any illegal content or content that violates copyright laws is the responsibility of the Client, including content generated by BlueCoffee under instruction from the Client.

(g) Under no circumstances will BlueCoffee be responsible or liable for financial or other loss or damage caused by the failure or use or misuse of Services and/or Products. The Client should ensure that their data is regularly backed up and that a contingency plan is in place to minimise possible losses as a result of Service and/or Product failures.

(h) In the event that BlueCoffee is proved to be in breach of the provisions of the Contract and after having been given a reasonable opportunity to correct any such breach fails to do so then it shall be liable to the Client up to an amount not exceeding that part of the price of the Services and/or Products (excluding V.A.T.) actually paid by the Client to BlueCoffee at the date of a claim by the Client.

(i) The liabilities expressly specified in these Conditions represent the only and total limit of liabilities accepted by BlueCoffee howsoever arising unless such claims arise as a result of a breach of paragraph 10(b).

(j) BlueCoffee shall have no liability whether under these Conditions or otherwise for claims for loss of use, loss of profit, loss of income, loss of reputation or loss of any contract or for any claims, costs, charges, damages and expenses of an analogous nature whether direct or indirect or for any claims of whatever nature, made six months or more after the occurrence of the breach on the part of BlueCoffee.

(k) In these Conditions, the words 'liable' and 'liability' include liability arising in contract, tort (including but not limited to negligence) and by way of indemnity, misrepresentation and breach of duty.

11. GENERAL

(a) These Conditions may be modified or otherwise amended only by written agreement signed by or on behalf of the Client and BlueCoffee.

(b) The invalidity of any provision or obligation hereunder or the contravention thereby of any statute law or regulation of any competent government authority shall not relieve either party of its other obligations nor deprive either party of the advantages of any other provision of the Contract.

(c) The right whether past, present or future and whether pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise of any third party to enforce the terms of the Contract directly are expressly and wholly excluded.

(d) The Client and BlueCoffee each undertakes with the other to keep confidential information disclosed to it by the other for the purposes of or in the course of the Contract which relates to the other's business.

12. GOVERNING LAW

The laws of England shall govern this Contract and the parties hereby submit to the jurisdiction of the English Courts.

web design

corporate websites
blogs / podcasts
video / animation
domains / hosting

web dev

content management
ecommerce
web applications
extranets / intranets

search

optimisation (seo)
marketing (sem)
social media (smo)
pay-per-click (ppc)

emarketing

email marketing
campaign control
surveys / response
web splash pages

presentations

presentation design
motion / sound
pc / mac formats
iphone / ipad formats

branding

branding / identity
corporate logos
vehicle graphics
apparel / signage

marketing

advertising design
marketing collateral
imaging / photography
copywriting

print

brochures / leaflets
corporate stationery
pdf literature
large format / solid

motion

motion graphics
corporate video
animation / 3d
photo-realistic

events

event collateral
exhibition graphics
exhibition stands
branded promos