

1 **Conditions of Engagement** as laid down by the Chartered Society of Designers.
Splash! Creative Design Limited – Assurance of Quality

Chartered Society of Designers

Extract from *Guide to business practice and conditions of engagement*

Conditions of Engagement

These standard conditions of engagement are intended to cover the wide variety of commissions which may be entrusted to a designer and may be varied according to the circumstances of a particular contract. Not all the conditions will necessarily apply to a particular commission. If they are to form the basis of the contract, designers are advised to give a copy of these conditions to the client at the outset of the job when fees are being discussed.

1.0 The project

The commission and brief shall be confirmed in writing before proceeding, the services and fees being stated, together with an estimate of the cost for the various stages. No work will be commenced without written agreement.

2.0 Conduct

The designer undertakes to abide by the Code of Professional Conduct of the Chartered Society of Designers.

3.0 Confidentiality

The designer undertakes not to disclose any confidential information obtained from the client concerning the business methods, know-how and affairs of the client without the client's prior approval. The designer shall ensure that his staff and any sub-contractor involved in the commission shall be bound by the same conditions of confidentiality.

4.0 Payment

The designer shall be paid such a fee or fees in such currency as have been agreed (including where relevant VAT or other statutory additions) together with all related costs and expenses. All monies so due shall be paid during the month following the submission of the account by the designer.

5.0 Expenses

In addition to fees the designer shall be reimbursed at cost for all reasonable out-of-pocket expenses (whether by the designer or by any other person engaged on the commission) actually and properly incurred in the execution of the commission.

6.0 Costs

Costs incurred by the designer for such items as prints and other reproductions of drawings, typesetting, the provision of dummies etc furnished at the client's request or with the client's approval (unless they comprise the design proposals or are included in a fixed fee agreement) shall be charged separately. The designer is entitled to add a handling fee for this service.

7.0 Non-payment

Until all fees, costs and expenses have been paid the ownership in all artwork or any other physical material produced by the designer (including but without limitation sketches, drawings, or dummies) shall remain with the designer.

8.0 Free specimens

The client shall provide the designer, free of charge, with a reasonable number of specimens of any work carried out in connection with the commission.

9.0 Use of work

The design or any other work carried out in accordance with the commission shall not be used for any purpose other than that for which it was commissioned (without the prior written approval of the designer).

In no circumstances may any work in rough or uncompleted form be used or published as finished work without the prior written approval of the designer.

The designer shall at all times be entitled to use for purposes of promotion any of the commissioned work or any description or illustration of the commissioned work (even if the intellectual property rights have been assigned to the client).

10.0 Modifications

No modifications or alterations to any design or other work created for the commission shall be made without the consent of the designer. Any agreed modifications or alterations shall only be carried out by or under the supervision of the designer and shall be paid for at a rate agreed with the designer in advance. In the event of any reprints being obtained by the client, these shall not differ in any way from the originals supplied, without the consent of the designer.

11.0 Design credits

The designer asserts his right to be identified as author of any design work which has been created as a result of the commission and any publication of that work or reproductions thereof on any finished product shall bear a clear and distinctive credit to the designer as approved by the designer.

The designer's name, signature or trading style shall not be registered in any way or used upon or in relation to any of the commissioned work unless asserted as above or approved in advance by the designer in writing.

12.0 Intellectual property rights

Any design rights arising in all or any of the work created by the designer shall be assigned by the client and belong to the designer.

All intellectual property rights arising in all or any of the work created by the designer are and shall remain the property of the designer unless assigned in writing after payment of all fees, costs and expenses have been paid. Any fees paid to the designer shall not be deemed to include the assignment of any such intellectual property rights.

13.0 Registration

If any intellectual property rights arising in respect of the commissioned work are acquired from the designer by the client, the designer shall, where reasonably requested, assist in any application for the registration of any such rights. Any costs incurred by the designer shall be paid by the client.

14.0 Legal requirements

It is the client's responsibility to ensure that the work complies with the laws of the country for which it is intended.

15.0 Termination of agreement

Any agreement between the designer and the client shall terminate (a) if either party commits a breach of it and fails to remedy the breach within fourteen days after receiving notification in writing from the other party specifying the breach and requiring its remedy (b) if the other party commits any act of bankruptcy or commences any proceedings for winding up (other than for the purposes of amalgamation or reconstruction) or if any Administrator or Receiver or Liquidator is appointed for the whole or any part of the business of such party.

16.0 Consequences of termination

On termination or postponement of the commission, or any part of it, for any reason the designer shall be entitled to full remuneration or the work completed to the date of termination or postponement, together with all costs and expenses.

If any of the intellectual property rights in any of the commissioned work have been assigned to the client, such rights shall in the event of any such termination or postponement automatically revert in and shall be assigned to the designer and the client shall sign all documents and do all such acts in order to fulfil the same.

17.0 Resumed commission

If a postponed commission is resumed without substantial alteration within a period of one year from the date of postponement, any fees paid shall rank as payments on account towards the total final fee payable on completion of the work. Where a commission has been postponed for a period exceeding one year and then resumed, any fees paid shall be regarded as final payment for the services originally rendered. The resumed commission shall be deemed to constitute a separate contract for which fees shall be renegotiated.

18.0 Interpretation

Any questions of interpretation arising out of these conditions of engagement may be referred by the designer or the client to the Director of the Chartered Society of Designers for decision at any time, provided always that such decision is sought on a statement of undisputed facts and submitted jointly by both parties who undertake to accept the decision as final.

19.0 Arbitration

Where any difference or dispute arising out of these conditions of engagement cannot be determined in accordance with the 'Interpretation' provisions above, the matter can be referred to the arbitration of a person appointed by agreement between both parties or, failing agreement within fifteen days after either party has given to the other a written request to agree to the appointment of an arbitrator, a person nominated at the request of either party by the President or Vice-President, for the time being, of the Chartered Institute of Arbitrators. (Note: parties should be aware that this procedure can be more expensive than having the matter settled by direct reference to the courts.)