

# Ka-boom Production Limited – General Terms and Conditions

## 1 ORDERS & CANCELLATION

1.1 Each Order placed by the Client shall be deemed to be an offer by the Client to Ka-boom subject to these Conditions. No Order placed by the Client shall be deemed to be accepted by Ka-boom until a Confirmation is given by Ka-boom or (if earlier) Ka-boom delivers the Equipment, New Materials, Personnel and/or Services to the Client. The Client must ensure that the terms of its Order and any applicable specification are complete and accurate. If Ka-boom issues a proposal, the Client's written approval of such Proposal shall be deemed to be an Order.

1.2 Where prices are stated to be estimates, Ka-boom shall use its reasonable endeavours to ensure that the estimates are accurate and, in the event that they are not, to inform the Client of the actual price(s) as soon as it becomes aware that the estimate is inaccurate.

Approval by the Client of any Proposal that contains estimated prices shall infer the client's agreement to pay the actual prices at the date of delivery of the Equipment, New Materials, Personnel and/or Services supplied.

1.3 Unless otherwise agreed, if Ka-boom agrees to accept cancellation of an Order, a cancellation fee shall be payable by the client. This cancellation fee will be the higher of: Ka-boom's expenses incurred in relation to the Order or arising from the cancellation or variation; or a %age of Ka-boom's fees and costs for the Equipment, Personnel and/or Services set out in the Order, determined by the length of notice of cancellation provided by the client in writing as follows:

Over 30 days, 10% of the total order value / 8-30 days, 25% of the total Order value / Up to 7 days 50% of the total Order value / Less than 5 working days 100% of the total Order value.

3.4 If the Client requires any change, variation, addition or deletion to the Order after it has been received by Ka-boom, Ka-boom will inform the Client of the effect of any such change, variation, addition or deletion on delivery times and the costs, fees and expenses and the Client will be responsible for these.

## 2 PAYMENT TERMS

2.1 All Ka-boom invoices are 30 days net unless stated

2.2 Interest will be charged at 8% above Bank of England base rate and backdated to the due date of invoice if terms are exceeded.

## 3 DELIVERIES

3.1 Ka-boom shall use reasonable endeavours to effect delivery and/or collection of the equipment and/or new material and, if applicable, installation of the equipment at such time and place as shall be mutually agreed between the Client and Ka-boom. For the avoidance of doubt, time for delivery and/or provision of Services, Personnel, New Materials, Equipment or installation by Ka-boom shall not be of the essence unless specifically agreed in writing by a board director of Ka-boom. All delivery and installation dates are estimates only and should, if applicable, the delivery and/or installation process be held up by the Client or by its agents

or sub- contractors, Ka-boom will not be held responsible for any delay in the completion of the overall project to which the Equipment and/or Services relate or any losses thereby incurred by the Client.

3.2 When the Equipment and/or New Material is collected from Ka-boom's premises or is delivered by Ka-boom other than under the supervision of the Personnel, the Client or his agent or representative shall sign Ka-boom's delivery note. Such signature shall be conclusive proof of the quantity and the date of delivery/receipt specified and also confirmation that the Equipment and/or New Material has been delivered/ received to the quality and quantity as specified by Ka-boom in accordance with the Order or as otherwise agreed in writing.

3.3 The Client shall make provision to examine the Equipment and/or New Material immediately upon collection from or delivery by Ka-boom to it, its client, end user, agent or other representative and it is the responsibility of the Client in all cases to establish any loss or damage.

3.4 The Client shall notify Ka-boom in writing of any claim that the Equipment and/or New Material is damaged or not in accordance with the quality and quantity as specified by Ka-boom in accordance with the Order or as otherwise agreed in writing within three working days of delivery or collection and all communications must quote Ka-boom's despatch note number. The Equipment and its packaging must be preserved by the Client intact pending investigation by Ka-boom. If the Client fails to notify KA-BOOM within this period, the Equipment and/or New Material shall be deemed to be of the quality and quantity as specified by Ka-boom in accordance with the Order or as otherwise agreed in writing and the Client shall pay Ka-boom accordingly.

3.5 Any claim for non-delivery of Equipment and/or New Material must be made in writing and received by Ka-boom within 14 days of the invoice date and any claim must quote Ka-boom's invoice number.

3.6 Any claim for damage to the Equipment due to defective installation by Ka-boom must be communicated to Ka-boom in writing within three working days of installation and all communications must quote Ka-boom's despatch note number. The Client should not repair or attempt to repair or request a third party to repair or attempt to repair the Equipment or the installation without the prior written consent of an authorised representative of Ka-boom.

3.7 Ka-boom shall be entitled to charge the Client for delivery and, as appropriate, installation costs, including delivery affected by an agent, carrier or supplier of Ka-boom and for subsistence costs of the Personnel effecting delivery and/or installation where the delivery/installation address is more than 50 miles from any of Ka-boom's premises. Where the delivery/installation address is outside the UK, the Client shall be responsible for all delivery costs and for securing any and all customs clearances.

3.8 Where the Equipment and/or New Material is delivered in instalments and the Client either fails to accept any delivery or permit installation when due or defaults in making payment in respect of any instalment when due, Ka-boom may cancel

any outstanding deliveries and, if applicable, installation and the Client shall compensate Ka-boom in full for any loss or expense arising from such cancellation.

#### **4 LIMITATIONS AND EXCLUSIONS OF LIABILITY**

We will not be liable to you in respect of any losses arising out of any event or events beyond our reasonable control.

We will not be liable to you in respect of any business losses, including (without limitation) loss of or damage to profits, income, revenue, use, production, anticipated savings, business, contracts, commercial opportunities or goodwill.

We will not be liable to you in respect of any loss, malfunction or corruption of any 3rd party data, database or software.

We will not be liable to you in respect of any special, indirect or consequential loss or damage.

Ka-boom assumes that all client media has been backed up and verified prior to delivery to any of the Ka-boom facilities. Ka-boom cannot be held responsible in any way for media or data corruption, missing files or accidental deletion.

#### **5 INDEMNITIES**

You hereby indemnify us and undertake to keep us indemnified against any losses, damages, costs, liabilities and expenses (including without limitation legal expenses and any amounts paid by us to a third party in settlement of a claim or dispute on the advice of our legal advisers) incurred or suffered by us arising out of any breach by you of any provision of these terms and conditions, or arising out of any claim that you have breached any provision of.

Acceptance of the quotation is also acceptance of Ka-boom full terms and conditions, which is available on the web site.

#### **6 TERMINATIONS**

Any agreement by Ka-boom to supply Equipment, New Materials, Personnel and/or Services to the Client may be terminated immediately by Ka-boom giving written notice to the Client to that effect on the happening of any of the following events:

If the Client fails to pay any charges, fees or costs due to Ka-boom in accordance with these Conditions within seven days of the same having become due (whether demanded or not);or

If the Client fails to observe or perform any other of its obligations set out in these Conditions; or

If the Client shall make any arrangement with its creditors; or

If in the opinion of Ka-boom, the Client shall be unable to pay its debts as and when they fall due; or

If an order shall be made or an effective resolution passed for the winding up of the Client (other than for the purposes of a reconstruction or amalgamation); or

If an administrator, receiver or manager or administrative receiver shall be appointed of the whole or any part of the undertaking or assets of the Client, or

If, in the opinion of Ka-boom, the Client, its employees, authorised agents and/or subcontractor(s) are guilty of dishonesty, misconduct, incompetence or wilful neglect of their duties.

Termination shall not affect any other right or remedy of Ka-boom against the Client and shall not affect the right of Ka-boom to recover from the Client any charges, fees or costs or other monies due to Ka-boom at the date of such termination and shall not affect Ka-boom's right to recover damages from the Client in respect of any breach of these Conditions.

## **7. CREDITS AND COPYRIGHT**

Ka-boom does not retain any copyright over client media or editing nor does it retain creative copyright over work undertaken on its premises or externally by members of Ka-boom, unless the originating agreement of terms, contract or quotation states otherwise.

Unless previously agreed Ka-boom assumes that the company will be credited on all programme end credits.

Unless previously agreed Ka-boom assumes that the company creative staff involved in the execution of the contracted work will be credited on all programme end credit

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