



Creative Engine Room Standard Terms & Conditions

These terms and conditions apply to all assignments carried out on behalf of you, the client, by us, Creative Engine Room trading at 1 Emperor Way, Exeter Business Park, Exeter EX1 3QS ("CREATIVE ENGINE ROOM") or by CREATIVE ENGINE ROOM's affiliates, agents and sub-contractors. References to CREATIVE ENGINE ROOM throughout include our affiliates, agents and sub-contractors where appropriate. You will be deemed to accept these terms and conditions in full unless you notify us and we agree to any variation in writing. These terms and conditions apply across our business including our specialist services.

Initial consultation

Our first meeting with you is free of charge and is without obligation. Subsequent time spent on the assignment, including attendance at meetings and other expenses, forms part of the billable assignment.

Price

Generally, at CREATIVE ENGINE ROOM we charge for our time in half-hour increments at an hourly rate quoted to you at the outset. Where appropriate we will agree a fixed package price or a monthly retainer either with a specific deliverable or a set number of hours committed. Once sufficient information has been provided to CREATIVE ENGINE ROOM we will provide you with a written estimate. You will be deemed to have accepted this upon the earlier of written confirmation or payment of the first instalment. If the specifications and/or schedules change during the assignment we will discuss with you any impact on the price and will agree a revised estimate with you in writing.

Billing and payment terms

At CREATIVE ENGINE ROOM we generally split the settlement of our bill into two or three payments to ensure both your and our cash flow is maintained. For example, one third of the bill is payable upon acceptance of the written estimate; the second third is due upon approval of the first creative submission; and the final third must be paid within 14 days of completion of the assignment. These due dates will be specified in the estimate. If none is specified payment is due within 14 days of invoice date. CREATIVE ENGINE ROOM reserves the right not to commence work on the assignment until the first payment has been received. If any phase of the assignment is delayed for longer than 30 days for reasons outside our control we reserve the right to invoice for work completed to date. "Cash flow is king": we aim to pay our suppliers on time; we respect clients who pay us likewise. In order not to penalise those who do, we reserve the right to charge interest on overdue payments at the rate of 8% per annum accruing daily from the due date.

Duration of contract

Unless we agree a fixed term contract with you our contractual relationship shall be indefinite unless terminated by either party with one month's notice. The duration and notice period for a fixed term contract will be specified in our written proposal to you.

Ownership

The ownership of designs, inventions, concepts, layout, scripts, films, tapes, artwork and display materials or other material delivered by CREATIVE ENGINE ROOM to the Client does not pass to the Client when the Client has paid all amounts due to CREATIVE ENGINE ROOM in respect of that work, paper, or other materials. The Client shall have the right to use such designs, images and artwork

royalty free for the purposes for which they were commissioned once payment has been made, but any unauthorised use shall result in further charges becoming payable by the Client to CREATIVE ENGINE ROOM. Copyright does not pass to the client on payment of invoice. Where CREATIVE ENGINE ROOM has commissioned photography, illustration or other items originated by an outside Creator, the ownership of these items may belong to the Creator and not to CREATIVE ENGINE ROOM. Therefore copyright will remain with the Creator. CREATIVE ENGINE ROOM shall be indemnified by the Client in respect of any claims, costs and expenses arising out of any extension to the use of any music, copy, photographs, illustrations, film or video material supplied by CREATIVE ENGINE ROOM which contains elements for which only limited use has been agreed by CREATIVE ENGINE ROOM, the Client and the owners of suppliers of such property.

Your sign-off

While we make every effort to ensure the accuracy of the output material, we cannot be responsible for the correctness of the final copy and will require your written sign-off prior to completion of the assignment. If we do not receive your sign-off in writing you will be deemed to have accepted the copy within 24 hours of us submitting to you the copy for final review. We will assume that any of your employees or agents who purports to sign off material in writing has your actual authority to do so unless you notify us otherwise in advance.

Limitation of our liability

Here's the small print: the liability of CREATIVE ENGINE ROOM to you for any loss or damage of whatsoever nature and howsoever caused shall be limited to and in no circumstances exceed the price of the services or goods supplied. In particular, CREATIVE ENGINE ROOM shall not be liable for any costs, claims or damage arising out of any act of tort or omission or breach of contract or statutory duty calculated by reference to profits, income production or accruals or loss of such profits, income production or accruals or by reference to accrual or such, claim, damages or expenses on a time basis. However, nothing in these terms and conditions excludes or restricts our liability to you in the unlikely event of death or personal injury resulting from the negligence of CREATIVE ENGINE ROOM.

Confidentiality and privacy

We will treat all materials provided by you confidentially. CREATIVE ENGINE ROOM is registered under the Data Protection Act 1998 (Z8690300): all reasonable steps are taken to ensure that your data is secure. Please note that unless you specify otherwise we will use email as the preferred medium for sending you material for approval and you accept the risks of doing so.

Conflict of interest

As CREATIVE ENGINE ROOM is involved in advertising and marketing we will not accept new instructions from a prospect that, in our opinion, is your direct competitor. However, we reserve the right to work for businesses in the same sector as your business where we feel we have developed a specialist niche. In such cases if there appears to be an indirect conflict of interest we will ask the first client permission before accepting the assignment of the second client.

Complaints and resignation

The team at CREATIVE ENGINE ROOM is responsible for providing you with material which we believe best reflects your creative brief. The team at CREATIVE ENGINE ROOM wants you to be happy with our work. We realise you may occasionally take a different view; if so, please notify us immediately to give us an opportunity to rectify or clarify the matter. If we cannot satisfy your needs CREATIVE ENGINE ROOM will resign from the assignment and make all reasonable efforts to find an alternative solution, whether in-house or externally. If we resign from an assignment or you choose not to use any material we have completed following your instructions, we will only invoice for the amount of time spent on it.

Sub-contracting and third party costs

There may be aspects of the assignment which are supplied by a third party, for example, website development, website and email hosting, copywriting and printing. Prior to engaging the third party we will notify you in writing whether CREATIVE ENGINE ROOM is: (1) sub-contracting the services and providing you with an umbrella service in which case we will invoice you for the services; or (2) merely introducing you to the third party, in which case you will be contracting directly with the provider and

responsible to them directly for payment. Under option (1) unless referred to below we will notify you on a case-by-case basis of any additional terms and conditions which will apply. Where we incur external costs on your behalf we may require advance payment and reserve the right not to proceed with the assignment if prompt payment is not received.

Website development

Together with you we will compile and agree a specification at the outset. Any subsequent change to the specification will be charged extra. CREATIVE ENGINE ROOM's policy is to release and upload the final website only following payment of the final account. There will be circumstances where we retain the rights to certain generic programming code. Where this is the case, for example because we have developed a generic code for use across other clients, CREATIVE ENGINE ROOM grants you a non-exclusive indefinite licence to use that element of the code for the original purpose. Should you decide to move the hosting of your site to another provider, provided your account is up-to-date, CREATIVE ENGINE ROOM will co-operate fully and within a reasonable timescale, subject to payment of a reasonable administration fee to cover our time costs.

Website and email hosting with Fasthosts

CREATIVE ENGINE ROOM reserves the right to suspend without notice any email or web hosting services if your account is in arrears. CREATIVE ENGINE ROOM is an authorised reseller of Fasthosts Internet Services Limited ("Fasthosts"). All website and email hosting services provided to you through CREATIVE ENGINE ROOM are provided subject to the terms and conditions of Fasthosts from time to time as set out in full at www.fasthosts.co.uk/companyinfo/termservice. These Fasthosts terms and conditions are incorporated into our contract with you and deemed to be accepted by you by your continued use of the services. Please familiarise yourself with them at the outset and revisit the Fasthosts terms and conditions regularly. In particular, CREATIVE ENGINE ROOM draws your attention to the following Fasthosts provision: "Disclaimer: Fasthosts will not be responsible for any damages your business may suffer. Fasthosts makes no warranties of any kind, expressed or implied for services we provide. Fasthosts does not back up your data/website unless it is placed on a load balanced server, and whilst every attempt would be made in the unlikely event of any corruption or hardware failure, Fasthosts cannot guarantee to be able to replace lost data. Fasthosts disclaims any warranty or merchantability or fitness for a particular purpose. This includes loss of data resulting from delays, nondeliveries, wrong delivery, and any and all service interruptions caused by Fasthosts and its employees. Fasthosts reserves the right to revise its policies at any time."

Ecommerce and merchant account

CREATIVE ENGINE ROOM is not responsible for the provision, operation or security of your merchant account.

Your own website terms and conditions

Depending on the purpose and content of your own website, there will be a need for you to have your own privacy policy and terms and conditions. Particular care must be taken where you are selling online, as there are considerable legal pitfalls to be aware of in terms of customer protection and rights. CREATIVE ENGINE ROOM is not responsible for the drafting of these on your behalf. However, should you require assistance we would be happy to put you in touch with a specialist web law solicitor with whom we have negotiated a selection of fixed rates. If you elect to take this offer up you will be a direct client of the law firm in relation to this advice with the resulting comfort and protection.

Search engine optimisation and registration

The optimisation of a website is an art not a science. At CREATIVE ENGINE ROOM, unlike some of our competitors, we make no rash promises that we can get you to the top of every search engine. We or our sub-contractors will use all reasonable endeavours within the budget you allocate us to optimise and register the site in whatever manner we feel is appropriate and in our absolute discretion. While we do ensure that coverage is monitored by the use of "seeds" and random checks, we make no specific warranty as to results or coverage.

Direct marketing including by telephone, mail and email

CREATIVE ENGINE ROOM will use all reasonable endeavours within the budget you allocate us to

maximise the effectiveness of your campaign in whatever manner we feel is appropriate and in our absolute discretion. We make no warranty as to results.

Event management

CREATIVE ENGINE ROOM is proud of its organisational abilities. Sometimes, however, there are circumstances beyond our reasonable control. Our liability is limited as set out above. We recommend that you consider taking out specific insurance to cover cancellation and other risks.

Delivery

CREATIVE ENGINE ROOM assumes no risk for losses or damage to products once they have left our or our agents' office, workshop, print works, warehouse or similar. Please consider insuring any goods in transit or making arrangements for personal collection for valuable items.

Amendments

CREATIVE ENGINE ROOM reserves the right to make reasonable amendments to these terms and conditions, such changes shall be deemed to come into effect within 30 days of us notifying you of the changes by email.

Governing law

These terms and conditions are governed by English law, and you and CREATIVE ENGINE ROOM submit to the exclusive jurisdiction of the courts of England and Wales.