

#### **1. SCOPE**

All work carried out by or at the responsibility of Alternative Minds Limited ('AM') for the client ('Client') is subject to these terms of business, which constitute an agreement between AM and the Client unless or until they are varied or excluded in whole or part by written agreement signed by authorised representatives of AM and the Client. Approval (as defined in paragraph 16) to proceed with an assignment will constitute the Client's acceptance of these terms.

#### **2. STATUS**

Unless otherwise specifically agreed in writing we shall not be regarded as your agent for any purpose nor shall we be regarded as having any relationship as partners but you and we shall at all times be regarded as each contracting independently as principals at law.

#### **3. CO-OPERATION**

The Client agrees to supply AM in a timely and accurate manner with whatever information and materials as are readily available to it which AM reasonably requests or which will assist AM to carry out the assignment. AM shall not be responsible for loss of or damage to anything supplied by the Client unless the requirement to return it intact and in the same condition has been expressly stated at the time when it was supplied.

#### **4. CONFIDENTIALITY**

All documents, data and information supplied by the Client to AM, and by AM to the Client, or which are obtained by either party during the relationship, shall be treated by the other party as confidential and shall not be shown, discussed, transmitted or otherwise disclosed to any third party without written permission, save that which is already in the public domain or necessary in order to carry out agreed actions. AM may use the name and logo of the Client in marketing materials, including client lists, advertising and press releases.

#### **5. SUB-CONTRACTORS**

AM reserves the right to employ, retain, discharge or replace at any time any sub-contractor or associate in carrying out an assignment for the Client. AM shall be solely responsible for ensuring due performance by sub-contractors and associates and shall not be obliged to disclose or supply any information or documentation relating to them.

#### **6. FEES AND COSTS**

All budgets, fees and costs payable by the Client to AM will be estimated in advance by AM and are subject to the approval process defined in paragraph 16. All work carried out by AM for the Client is subject to fee-based remuneration, which will be calculated at the prevailing hourly rates for AM personnel. All fees proposed, quoted or estimated by AM are inclusive of management time as specifically defined in that proposal, quote or estimate, and are exclusive of all other internal or external costs. All fees, costs, expenses, goods and services are quoted exclusive of delivery charges and VAT unless otherwise stated.

#### **7. PAYMENT**

All fees, costs, expenses and other sums payable to AM by the Client shall be paid in every case within 30 days of the date of each invoice or demand submitted by AM. Fees will be invoiced upon the first day of the period to which they relate. Without prejudice to any other right of AM, if payment is not made by the due date, then until payment is made it shall not be obliged to carry out further work on the assignment concerned or upon any other assignment for the Client and shall be entitled to a lien upon all documents products and materials belonging to the Client which are in its possession. AM reserves the right to charge interest on all invoices which are not paid on the due date, at the rate of 5% above the prevailing base rate of NatWest Bank plc. Where AM is unable to obtain normal credit from its sub-contractors and suppliers, payment is due upon presentation of invoice. AM cannot accept any liability for the consequence of late receipts and the Client shall be liable for any surcharge or accrued interest levied by a supplier to AM as a result of late payment by the Client. Where an invoice is disputed, AM must be notified in writing within 14 days of receipt of the invoice. If only part of the invoice is disputed, the balance should be paid in accordance with the terms herein referred.

#### **8. COSTS AND EXPENSES**

AM will charge all reasonable out-of-pocket costs and expenses incurred when transacting business on behalf of the Client or attending meetings with or on behalf of the Client. Travelling expenses outside Greater London will be charged at AA or RAC quoted mileage rates, British Rail 1st class return fares, business class air fares or equivalent. Taxis, bikes and courier services used in connection with Client business will be charged to the Client. Office charges such as photocopying, postage, telephone and secretarial services will not be charged, except where these arise directly from work undertaken for Clients.

#### **9. DATA PROTECTION**

Each party shall ensure that any mailing list or customer data supplied to the other party shall comply with the requirements of all legislation in force from time to time, including legislation relating to data protection. Each party shall comply with other relevant obligations of such legislation. All data and information created by or acquired by AM relating to the Client or the business of the Client shall be the property of AM save where the same shall have been supplied to AM by the Client or specifically commissioned by the Client and paid for ("client data"). The Client shall at all times be entitled to hard copies of Client data and (where available) tape or disc copies thereof provided that the client shall pay all reasonable costs of AM in connection with the manipulation or use of any data.

#### **10. BUDGET CONTROL**

All budgets and costs submitted by AM are prepared in good faith based on information available at the time and will be controlled in a proper and reasonable manner. It is accepted by the Client that all budgets and costs can be subject to variation for reasons not known to AM at the time such costs and budgets were prepared. AM shall not be responsible for any costs

## **Alternative Minds Limited**

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VAT Registration No. 840 3688 23

incurred by, or on behalf of, the Client or any third party when carrying out any work in connection with an agreed assignment and all such costs are the responsibility of the Client.

**11. FORCE MAJEURE**

If the performance of an assignment is rendered wholly or substantially impossible or if the rights of AM or the Client in relation to it are wholly or substantially diminished by reason of force majeure then the further obligations of both parties shall terminate forthwith. In such case the Client shall pay to AM all chargeable fees and expenses and AM shall forthwith terminate all contracts entered into by it with sub-contractors or other third parties in relation to the assignment. The Client shall indemnify AM against all losses, expenses, damage and liabilities incurred or suffered by AM arising out of the termination of such contracts.

**12. TERMINATION**

If the Client terminates an assignment prior to completion or is in serious or repeated breach of its obligations in relation thereto or acts in a manner which renders the performance of the assignment by AM wholly or substantially impossible then AM shall not be obliged to carry out any further work on the assignment and has no further obligations to the Client. In such case the Client shall pay to AM all agreed fees and expenses. In addition the Client shall indemnify AM against all losses, expenses, damage and liabilities incurred or suffered by it in relation to sub-contractors or other third parties arising out of the assignment. Fees are chargeable in full once work on the assignment has been commenced, although in extraordinary circumstances a cancellation fee will be negotiated.

**13. AM PERSONNEL**

AM reserves the right to replace personnel assigned to work on Client business at any time with personnel of similar levels of seniority and experience, provided that fees are in place to cover the cost of such personnel. It is a condition of AM's acceptance of any assignment that the Client will not employ or retain or seek to employ or retain any employee, associate or sub-contractor of AM engaged on or connected with the assignment whether on behalf of the Client or any other company, directly or indirectly. This restriction is to apply at all times during the employment of AM of the employee concerned and for a period of six months immediately following the termination of such employment.

**14. COPYRIGHT**

All original work is presented in strict confidence by AM and remains the intellectual property of AM, until payment of agreed fees, costs and expenses is made. It is the intention that Intellectual Property Rights, Copyright and Moral Rights in all original work created by AM for the Client will be owned by the Client, pursuant to fulfilling the terms of an assignment including payment, where such rights are held by AM. Where such rights do not pertain to AM for any reason (for example, in the case of commissioned work such as photography), they will not vest in the Client unless specifically identified as such.

**15. CONTRACTUAL LIMITS**

Statements, assumptions, forecasts and opinions expressed by AM in anticipation of or during an assignment, whether verbal or written are made in good faith and on the basis of the information before AM at the time. None is to be taken to be in any circumstances as a representation, undertaking, warranty or contractual condition. AM will take all reasonable care to ensure that all activity proposed in relation to an assignment does not contravene any relevant legislation, regulations or code of practice nor infringe the rights of any third party. However AM does not actually or impliedly warrant that there will be no such contravention or infringement, and shall not be held responsible or liable therefore by the client. AM shall not be responsible for any loss, liability or costs incurred by, or on behalf of, the Client or any third party when carrying out any work in connection with an agreed assignment and all such costs are the responsibility of the Client.

**16. APPROVALS**

AM will submit for Client approval all proposals, plans, cost estimates, budgets, artworks or other documents and any other materials related to any work to be carried out by AM for the Client. Such approval by the Client shall, subject to any express reservation, be conclusive and binding upon the Client and will be AM's authority to proceed with the work and incur costs and contractual agreements as approved by the Client. In such case no claim or complaint shall be raised subsequently as to the accuracy, completeness or acceptability of the work carried out provided it fully corresponds with what has been approved. Approval by the Client is defined as any one of: written approval (by letter, fax, client purchase order, or signature of AM documentation); email approval from a business email address; or oral approval in person or over the telephone, provided that such oral approval is confirmed by AM via call report, letter, fax or email within 5 working days. The Client will advise AM at the outset of any relevant procedural requirements relating to the approval process, including Purchase Order systems and levels of purchasing authority by individual Client personnel. Where time constraints or the unavailability of Client personnel have necessitated action by AM in the Client's best interest as defined by AM at that time without full Client approval, AM shall not be responsible for any resultant costs, loss or liability.

**17. CONSTRUCTION**

These terms of business and all documents matters and arrangements to which they refer shall be construed and have effect in accordance with the laws of England, and AM and the Client hereby submit to the non-exclusive jurisdiction of the English Courts.

**18. SEVERANCE**

Illegality and/or enforceability of any of these terms and conditions shall not affect the illegality and/or enforceability of the balance of these terms and conditions.

June 2007

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