

TERMS & CONDITIONS

We/Us Simon Saunders and Karen Saunders trading as Simon Saunders Design
of Court Farm Studio, West Woodlands, Frome, BA11 5EN

You The individual contracting with us

1. Definitions

- 1.1. 'Confidential Information' means all business, technical, financial or other information created or exchanged between You and Us in the course of or in preparation or negotiations for the Work
- 1.2. 'You' means the individual entity whose details are set out in the Order Form or contract but in the case of a Limited Company will include any subsidiary or holding company or subsidiary of any holding company, as defined by s.1159 Companies Act 2006.
- 1.3. 'Your Materials' means the materials, specifications or information provided by You to Us
- 1.4. 'Delivery Date' means the date for completion set out in the Order Form
- 1.5. 'Intellectual Property Rights' means any and all patents, trade marks, rights in domain names, rights in designs, copyrights and database rights (whether registered or not and any applications to register or rights to apply for registration of any of the foregoing) rights in confidential information and all other intellectual property rights of a similar or corresponding character which may subsist now or in the future in any part of the world
- 1.6. 'Specification' means any technical specification set out in the Order Form.
- 1.7. 'Work' means the goods and services to be provided by Us for You.

2. Our Duties

- 2.1. We shall use our best endeavours to deliver the Work on or before the Delivery Date
- 2.2. We shall use reasonable skill and care.
- 2.3. Where the Works include arranging printing We will use our best endeavours to ensure colour reproduction matches Your specification, but because of differences in equipment and conditions a reasonable variation must be acceptable. Where the Works do not include arranging printing we accept no responsibility for colour matching.
- 2.4. We will take reasonable care to safeguard Your property while in our care, but not in transit. We will not be responsible for any loss, damage, destruction or unauthorised use except as a direct result of Our negligence or wilful default. We shall have no obligation to keep your physical property or any work either physical or digital. If you do not collect Your property within 30 days or our final invoice ownership in that property passes to Us and we may dispose of it.

3. Your Duties

- 3.1. You warrant that to the best of Your knowledge and belief all information supplied to Us before and during this Agreement will be accurate and not contrary to any applicable law.
- 3.2. Where required You will deliver Your Materials to Us promptly in the agreed format.
- 3.3. You have final responsibility for approving draft Works for accuracy and acceptability. We shall have no liability for any errors not corrected by You in drafts submitted. Any later alterations and additional proofs resulting shall be charged as an extra. We have no responsibility for the accuracy of technical or corporate statements. We cannot warrant any specific outcomes from any Work.
- 3.4. Where Our Work requires Your approval or acceptance We shall tell You that. If you do not notify Us otherwise within 7 days You will be deemed to have approved the Work sent to you.
- 3.5. You shall not edit amend or alter the Work delivered by Us without Our prior written consent.

4. Terms of Payment

- 4.1. The Advance Payment shall be made by You on signing the Order Form and shall be a pre-condition to any obligation upon Us to start work. If the Advance Payment is made late the Delivery Date shall be adjusted by the same period. We may require to put us in funds in advance where we have to commit to a liability to a third party.
- 4.2. Payment in full (less any Advance Payment) is due within 14 days of Delivery.
- 4.3. We will enforce interest and charges under the Late Payment Interest Regulations on payments unpaid after 30 days.
- 4.4. Any queries relating to any invoice must be raised as soon as possible and no later than 21 days from the date of the invoice.
- 4.5. You will not withhold or set off any payment for any reason.

- 4.6. We reserve the right to cease work, revoke any licences and withhold any materials if payment is overdue.
- 4.7. It is Your decision whether to use any Works We supply. If We have complied with our obligations under this Agreement We will still be entitled to be paid in full.
- 4.8. If You terminate your instructions before any Works are completed You must still pay for any part of the Works which We have done in accordance with our obligations under this Agreement, any charges or expenses incurred as a direct or indirect result of Your termination and civil damages.

5. Intellectual Property Rights

- 5.1. We grant You an exclusive, royalty-free, world-wide, non-assignable licence to use the Work and all rights contributed by Us.
- 5.2. We retain all right, title and interest (including all Intellectual Property Rights) in the Work.
- 5.3. We retain the right to display or refer to the Work as an example of our work.
- 5.4. We retain the copyright in any material contained in any presentation made to You prior to this Agreement.

6. Warranties

- 6.1. We warrant that the Work supplied by Us will not, to the best of Our knowledge, but without undertaking any searches, infringe any Intellectual Property Right of any third party or violate any applicable laws or regulations. This warranty shall not apply where the Works are modified or combined with other materials by someone other than Us, after We have provided updated or modified Work, or if the Work is used other than as specified by You to Us.
- 6.2. You warrant and represent to Us that, so far as You are aware, Our use of Your Materials in accordance with the terms of this Agreement will not infringe the Intellectual Property Rights of any third party.
- 6.3. If We perform the Works negligently or materially in breach of this Agreement We will re-perform the relevant part of the Works, if requested by You within 3 months of completion of the Works or the termination of this Agreement.
- 6.4. Save as expressly set out in this agreement all representations, warranties, terms and conditions, whether oral or written, express or implied by law, custom, statute or otherwise and including but not limited to satisfactory quality or fitness for any particular purpose are excluded, save for the statutorily implied terms as to title.

7. Confidentiality

- 7.1. In the course of providing this Agreement We may have access to and be entrusted with confidential information concerning the Your affairs.
- 7.2. To protect the confidentiality of information given or gained in confidence We will not at any time during or after the end of the Agreement disclose or make use of any such information, unless necessary for the performance of this Agreement.
- 7.3. This restriction does not apply to information that the receiving party must by law disclose, or to information that at the time of disclosure is already in the public domain.

8. Limitation of Liability

- 8.1. Notwithstanding any other provision in this agreement, Our liability to You for death or injury resulting from Our negligence or that of employees, agents or sub-contractors for whom we have vicarious liability shall not be limited.
- 8.2. Except in the case of death, personal injury caused by Our negligence Our liability under or in connection with this Agreement whether arising in contract, tort, negligence, breach of statutory duty or otherwise howsoever shall not exceed the Fee(s) paid by You to Us under this Agreement.
- 8.3. We shall not be liable to You for any indirect or consequential loss You may suffer, even if the loss is reasonably foreseeable or We have been advised of the possibility of You incurring it including without limitation any economic loss or other loss of turnover, profits, business or goodwill.
- 8.4. If any advertising or other material produced or published by a third party contains any error, or is delayed or otherwise does not happen as agreed between You and Us then We will not be liable to You unless this is caused by Our breach or neglect.
- 8.5. We shall not be liable to any party other than You.

9. Force majeure

- 9.1. We shall not be deemed to be in breach of this agreement or otherwise liable to the other party

for any delay in performance or any non-performance of any obligations under this agreement (and the time for performance shall be extended accordingly) if and to the extent that the delay or non-performance is due to an event or circumstance beyond Our reasonable control.

10. Waiver

- 10.1. A waiver of any term or breach of this agreement shall be effective only if given in writing and signed by the waiving party.
- 10.2. No failure or delay on the part of any party in exercising any right under this agreement shall operate as a waiver of it, nor shall any single or partial exercise of any such right preclude any other or further exercise of it or the exercise of any other right.

11. Entire agreement

- 11.1. This agreement embodies and sets forth the entire agreement and understanding of the parties and supersedes all prior oral or written agreements, understandings or arrangements relating to the subject matter of this agreement.
- 11.2. Neither party shall be entitled to rely on any agreement, understanding or arrangement not expressly set forth in this agreement save for any representation made fraudulently.

12. Variation

This agreement may be varied only by a document in writing.

13. Governing law and jurisdiction

This agreement is subject to the law of England and Wales and the parties submit to the exclusive jurisdiction of the courts of England and Wales.