NATALIE COCKRILL

FREELANCE GRAPHIC DESIGN

FOR PRINT AND WEB

TERMS AND CONDITIONS

THE FOLLOWING TERMS AND CONDITIONS APPLY TO ALL PRODUCTS AND SERVICES PROVIDED BY DESIGN THAT. ALL WORK IS CARRIED OUT BY DESIGN THAT ON THE UNDERSTANDING THAT THE CLIENT HAS AGREED TO THESE TERMS AND CONDITIONS IN FULL.

INTERPRETATION AND DEFINITIONS

AGREEMENT	The detail of agreement between the Client and Design That consisting of: (a) these Terms and Conditions; (b) any Statements of Work agreed between the parties; (c) any Schedules of Work agreed between the parties (d) any amendments to the Agreement
CLIENT	means the person, firm or corporate body together with any subsidiary or associated company as defined by the Companies Act 1985 requiring the services of the Design that
DESIGN THAT / THE DESIGNER	Natalie Winter Trading as Design That
WORKING DAY	means any week day, other than a bank or public holiday in England
EFFECTIVE DATE	the date from which all the contractual rights and obligations begin and from which point the project commences

PROPOSAL

Charges for any services provided by Design That, will be set out in the written estimate or quotation that is provided to the client. The proposal will be dated and is valid for a period of 30 days from that date. Acceptance of proposal can be through official order, email, or verbal.

In the event the Client does not execute this agreement within the time identified, the proposal, together with any related terms and conditions and deliverables, may be subject to amendment, change or substitution

FEES AND CHARGES

All invoices are payable in full within 30 days from the date of our invoice.

Accounts unpaid 30 days after the date of invoice will be considered in default.

Cheques returned by the bank as unpaid for any reason will attract a "returned cheque" charge of £25 and bank costs, accounts will immediately be considered to be in default until full payment is received.

We reserve the right to charge for costs and expenses incurred in recovering late payments, and to charge interest on overdue amounts at the rate in force pursuant to the Late Payment of Commercial Debts (Interest) Act 1998 as at the due date.

ADDITIONAL CHARGES

The pricing includes The Designer's fee only. Any additional costs including, but not limited to, printed materials, artwork, photograph and digital media licences, courier and shipping services, will be billed to Client unless specifically otherwise provided for in the Proposal.

CHANGES

Unless otherwise provided in the Proposal, The Client shall pay additional charges for changes requested by Client which are outside the scope of the Services on a time and materials basis, at Designer's standard hourly rate. Such charges shall be in addition to all other amounts payable under the Proposal, despite any maximum budget, contract price or final price identified therein.

The Designer may extend or modify any delivery schedule or deadlines in the Proposal and Deliverables as may be required by such Changes.

If Client requests or instructs substantial changes to the deliverables, and or the value or scope of the Services, Designer shall be entitled to submit a new and separate Proposal to Client for approval.

DELIVERY

Design That will deliver the completed Project to the Client by way of email, compact disc (CD) or other suitable method selected by Design That.

If the Client requires the completed Project to be loaded onto a fileserver, the Client is responsible for ensuring that the intended fileserver or disk space on the fileserver is of sufficient capacity and properly configured.

CLIENT RESPONSIBILITIES

Client acknowledges that it shall be responsible for performing the following in a reasonable and timely manner:

a) coordination of any decision-making with parties other than the Designer;
b) provision of Client Content in a form suitable for reproduction or incorporation into the Deliverables without further preparation, unless otherwise expressly provided in the Proposal; and
c) final review and/or proofreading and provision of written comments and/or corrections sufficient to identify the Client's concerns, objections or corrections to Designer.

In the event that Client has approved Deliverables but errors, such as, by way of example, but not limited to, typographic errors or misspellings, remain in the finished product, Client shall incur the cost of correcting such errors.

Client acknowledges and agrees that Designer's ability to meet any and all schedules is entirely dependent upon Client's prompt performance of its obligations to provide materials and written approvals and/or instructions pursuant to the Proposal and that any delays in Client's performance or Changes in the Services or Deliverables requested by Client may delay delivery of the Deliverables. Any such delay caused by Client shall not constitute a breach of any term, condition or Designer's obligations under this Agreement.

Client warrants that

a) Client owns or has licence to all right, title, and interest in, or otherwise has full right and authority to permit the use of the Client Content,
b) to the best of Client's knowledge, the Client Content does not infringe the rights of any third party, and use of the Client Content as well as any Trademarks in connection with the Project does not and will not violate the rights of any third parties,
c) Client shall comply with the terms and conditions of any licensing agreements which govern the use of Third Party Materials, and
d) Client shall comply with all laws and regulations as they relate to the Services and Deliverables.

DESIGN THAT RESPONSIBILITIES

Design That will provide the Services identified in the Agreement in a Professional and workmanlike manner and in accordance with all reasonable professional standards for such services.

Design That reserve the right to engage and/or use third party designers or other service providers as independent contractors in connection with the Services ("Design Agents"). Notwithstanding, Design That shall remain fully responsible for such Design Agents' compliance with the various terms and conditions of this Agreement.

The Designer will exercise commercially reasonable efforts to review and check all Deliverables and to make all necessary corrections prior to providing Deliverables to Client. Client, within five (5) business days of receipt of each Deliverable, shall notify Designer, in writing, of any errors. In the absence of written notice from Client, the Deliverable shall be deemed accepted.

The Designer warrants that

i. except for Third Party Materials and Client Content, the Final Deliverables shall be the original work of Designer and/or its independent contractors and,
ii. where necessary all licences, rights, title, and interest in deliverables have been secured and,
iii. to the best of Designer's knowledge, the Final Deliverables provided does not infringe the rights of any party, and use of same will not violate the rights of any third parties.

In the event Client or third parties modify or otherwise uses the Deliverables outside of the scope identified in the Proposal or this Agreement or contrary to the terms and conditions noted herein, all representations and warranties of Designer shall be void

TERM AND TERMINATION

This Agreement shall commence upon the Effective Date and shall remain effective until the Services are completed and delivered.

This Agreement may be terminated at any time by either party, effective immediately upon notice in writing, or the mutual agreement of the parties, or if any party:

a) becomes insolvent, files a petition in bankruptcy, makes an assignment for the benefit of its creditors; or
b) breaches any of its material responsibilities or obligations under this Agreement, which breach is not remedied within ten (10) days from receipt of written notice of such breach.

In the event of termination, Client shall pay all fees together with any Additional Costs incurred through and up and including the date of cancellation.

CONFIDENTIALITY

Each party acknowledges that in connection with this Agreement it may receive certain confidential or proprietary technical and business information and materials of the other party, including without limitation Preliminary Works ("Confidential Information").
Each party, its agents and employees shall hold and maintain in strict confidence all Confidential Information, shall not disclose Confidential Information to any third party, and shall not use any Confidential Information except as may be necessary to perform its obligations under the Proposal except as may be required by a court or governmental authority. Notwithstanding the foregoing, Confidential Information shall not include any information that is in the public domain or becomes publicly known through no fault of the receiving party, or is otherwise properly received from a third party without an obligation of confidentiality.

INTELLECTUAL PROPERTY RIGHTS

The Client undertakes to secure all copyright and any other appropriate licences, clearance or consents where required for the content and materials to be used during the Project.

The Client grants to Design That for the term of this Agreement a non-exclusive, revocable, royalty-free licence to use its name, logos, trade marks or devices ("Intellectual Property") for the purposes of creating the Project.

Neither party shall make any claim to the other party's content, materials or services during or after the expiry of this Agreement.

The copyright and any other intellectual property rights to any designs / material created by Design That shall remain with Design That until payment in full has been made.

Design That reserves the right to display any work created for advertising, promotional, and corporate materials related to Design That services.

Any ideas, concepts or designs put forward by Design That to the Client which are either rejected by the Client or which do not form part of the final implemented Work for any reason are confidential and remain the property of Design That unless otherwise agreed in writing.

INDEMNIFICATION/LIABILITY

The Client agrees to indemnify, save and hold harmless Design That from any and all damages, liabilities, costs, losses or expenses arising out of any claim, demand, or action by a third party arising out of any breach of The Client's responsibilities or obligations.

The services and work product of Design That are sold as is. In all circumstances the total aggregate liability of Design That , its directors, officers employees Design agents and affiliates for any claim in contract, tort, negligence or otherwise arising out of or in connection with the provision of the Services shall be limited to the charges paid in respect of the Services which are the subject of any such claim. In no event shall Design That be liable for any lost data, content , lost profits business interruption or for any indirect incidental, special consequential exemplary or punitive damages arising out of or relating to the materials or services provided by Design That.

FORCE MAJEURE

Neither party shall be liable for delay or failure to perform any obligation under this Agreement if the delay or failure is caused by any circumstances beyond its reasonable control, including but not limited to acts of god, war, civil disorder or industrial dispute. If such delay or failure continues for a period of at least 30 days, the party not subject to the force majeure shall be entitled to terminate this Agreement by notice in writing to the other.

GOVERNING LAW AND JURISDICTION

This Agreement shall be construed in accordance with the laws of England & Wales and all disputes, claims or proceedings between the parties relating to the validity, construction or performance of this Agreement shall be subject to the exclusive jurisdiction of the Courts of England & Wales.