

STUDIO EVERETT LTD TERMS & CONDITIONS

These Terms and Conditions shall apply to the provision of all Services by us, Studio Everett Ltd, a company registered in England under number 13983487, whose registered office address is Flat 2, 25 Cambridge Road, Hove, BN3 1DE ("the Company").

1. DEFINITIONS AND INTERPRETATION:

- In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:
"Acceptance" means the acceptance of our Proposal, the placement of an order and/or the Client's written consent to receive the Services, and includes acceptance of these Terms and Conditions;
"Client" means you, the individual, firm or corporate body purchasing the Services;
"Contract" means the contract formed upon Acceptance by the Client as detailed above for the provision of the Services;
"Consumer" means a consumer (as defined in the Consumer Rights Act 2015);
"Proposal" means the written estimate to provide the Services, which remains open for acceptance for a period of 30 days unless otherwise specified and shall constitute our entire scope of works; and
"Services" means the graphic design, web design, illustration, mural painting, printing and/ or any other services provided by us to the Client.
- Unless the context otherwise requires, each reference in these Terms and Conditions to:
 - "we", "us" and "our" is a reference to the Company and includes our employees, subcontractors and agents;
 - "writing" and "written" includes emails and similar transmissions;
 - a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
 - "these Terms and Conditions" is a reference to these Terms and Conditions as may be amended or supplemented at the relevant time;
 - a clause is a reference to a clause of these Terms and Conditions;
 - a "Party" or the "Parties" refer to the parties to these Terms and Conditions.
- The headings used in these Terms and Conditions are for convenience only and shall have no effect upon their interpretation.
- No terms or conditions stipulated or referred to by the Client in any form whatsoever shall in any respect vary or add to these Terms and Conditions unless otherwise agreed by us in writing.
- Words imparting the singular number shall include the plural and vice versa. References to any gender shall include the other gender. References to persons shall include corporations.

2. THE CONTRACT

- We will provide you with a written Proposal for our Services. The acceptance of our Proposal, electronically or otherwise, or the placement of an order, creates a legally binding Contract between you and us, and includes the acceptance of these Terms and Conditions, which will apply between us.
- You are responsible for the accuracy of any information you submit to us and for ensuring that our Proposal reflects your requirements. Our Proposal is based on the information provided to us at the time we prepare it. If any errors or discrepancies become evident, we reserve the right to make adjustments to it.

3. DESIGN: THE FOLLOWING CLAUSE APPLIES IF WE ARE PROVIDING DESIGN SERVICES ONLY

- We will use our own exclusive judgement when carrying out the works and deciding upon artistic factors required for the provision of the Services.
- We will provide you with a design proof, which must be signed off by you in writing. Any copy you provide must be correct and checked at every stage we send a proof to you. It is your responsibility to check for mistakes, including spelling and grammar mistakes, and we accept no responsibility for the same. The works will not progress until we receive your written approval.
- Any alterations required after approval of the final design, any changes to the brief following the initial consultation or any additional visits required above the allowance included for in the Proposal will be chargeable at our standard rate applicable at the time.

4. WEBSITE DESIGN: THE FOLLOWING CLAUSE APPLIES IF WE ARE PROVIDING WEBSITE DESIGN SERVICES ONLY

- We will provide you with one design concept in accordance with the brief received from you, which must be signed off before we commence building the site.
- Any alterations required after approval of the design, any changes to the brief or any additional visits required above the allowance included for in the Quotation will be chargeable at our standard rate applicable at the time.
- We can provide copy and source images for the website if we have included for this in our Quotation. Otherwise, you will be required to send us all logos, copy and graphics to be included on the website, in the agreed format.
- It is your responsibility to check for mistakes, including spelling and grammar mistakes, at all stages and we accept no responsibility for the same.
- We design our websites using editable platforms. Once the website goes live, we will provide you with a login to access your site. This will enable you to edit the text and images on certain pages. However we do not recommend editing the home or core pages, or updating any plugins or content management systems, unless otherwise agreed, to avoid errors being made.
- Any errors made by you which will need to be corrected by us will be chargeable at our then current rate.

5. DESIGN IN A DAY: THE FOLLOWING CLAUSE APPLIES IF WE ARE PROVIDING DESIGN IN A DAY SERVICES ONLY

- 100% of the quoted fee is due 48 hours prior to the booked day.
- The scope of the works is agreed in the Proposal, and can not be amended.
- You agree to be available for the day to provide prompt feedback. If delays occur through no fault of our own and the Services cannot be completed in the booked day, we reserve the right to charge additional costs to complete or deliver to you the uncompleted works.

6. FEES

- Unless otherwise agreed by us in writing or for the Services listed in Clause 5, our payment terms are as follows:
 - 50% of the quoted fee is due upon acceptance of our Proposal. Orders shall not be deemed confirmed until the deposit is paid in full. This deposit is non-refundable, subject to the provisions of clause 8;
 - 50% of the quoted fee will be due on completion of the works, or 1 month after a draft version has been issued to you if we have received no communication from you, whichever is the sooner.
- Notwithstanding the above, we reserve the right to request 100% of the quoted fee up front at our sole discretion.
- All invoices are payable upon receipt of invoice, unless otherwise specified. Final versions for digital works will not be delivered until payment is receipt in full.
- You agree to pay for any additional services provided by us that are not specified in the Proposal. These additional services shall be charged in accordance with our current rate in effect at the time of the performance or such other rate as may be agreed.
- All sums payable by are exclusive of VAT where applicable for which that Party shall be additionally liable. All payments shall be made in pounds sterling without any set-off, withholding or deduction except such amount (if any) of tax as you are required to deduct or withhold by law.
- We may agree a payment plan with you, however, this will be subject to you complying with deadlines for approvals and responding to communications from us in a timely manner. Time will not be of the essence in the performance of our Services.
- All projects are to be completed within 6 months from the date of Acceptance, unless otherwise agreed. If delays occur through no fault of our own and our costs increase during the period of delay, we reserve the right to pass on such costs to you and/or change any sub-contractor we have used for the project, regardless of whether you have paid in full in advance for the Services.
- The time of payment shall be of the essence. If you fail to make any payment by the due date then, without prejudice to any right which we may have under to any statutory provision in force from time to time, we shall have the right to suspend the Services and charge you interest at a rate of 8% per annum above the Bank of England base rate from time to time, in accordance with the Late Payment of Commercial Debts (Interest) Act 1998. Such interest shall be calculated on a daily basis and will accrue after as well as before any judgment.

7. CLIENT'S RESPONSIBILITIES

- You agree, where applicable, to:
 - provide us with any information, advice and assistance relating to the Services as we may reasonably require within sufficient time to enable us to perform the Services;
 - provide us with suitable and sufficient material and images to enable us to perform the Services;
 - ensure all content sent by you or your employees, or provided to us, is suitably backed up and thoroughly proofread for mistakes;
 - nominate a suitably qualified individual to act as your representative to liaise with us regarding the Services. This individual needs to be a decision-maker within the company;
 - obtain and maintain all necessary licences, permissions and consents in connection with the Services.
- If you fail to meet any of the provisions of this clause 7, without limiting our other rights or remedies, we shall:
 - have the right to suspend performance of the Services until you remedy the default;
 - not be held liable for any costs or losses sustained or incurred by you arising directly or indirectly from our failure or delay in performing any of our obligations as a result; and
 - be entitled to claim for any costs or losses sustained or incurred by us arising directly or indirectly from your default.

8. ERRORS OR DISCREPANCIES: You are responsible for the accuracy of any information submitted to us and for ensuring that the Proposal reflects your requirements. Our Proposal is based on the information provided to us at the time we prepare it. Should any errors or discrepancies become evident which affect the order value, we reserve the right to make adjustments to it.

9. VARIATION AND AMENDMENTS

- If you wish to vary the Services to be provided, you must notify us as soon as possible. We will endeavour to make any required changes and any additional costs incurred by us as a result will be invoiced to you.
- If, due to circumstances beyond our control, we have to make any change in the arrangements relating to the provision of the Services, we will notify you immediately. We will endeavour to keep such changes to a minimum and will seek to offer you arrangements as close to the original as is reasonably possible in the circumstances.

3. Any agreed variation or amendment will be carried out in accordance with these Terms and Conditions and any price increase required as a result of an agreed variation or amendment will be payable in accordance with the terms for payment above.

10. CANCELLATION

1. The Services will commence upon your acceptance of our Proposal, therefore, you will not be entitled to cancel the Services at any time after acceptance of our Proposal. Should you wish to cancel the Services, any payments made shall be retained and we will invoice for any Services carried out as at the date of cancellation, which will become immediately due and payable.
2. If you are a Consumer in the United Kingdom, you have a legal right to a "cooling off" period within which you can cancel the Contract for any reason.
3. However please note that due to the nature of the Services as they are either personalised or custom-made for you, you may lose this legal right to cancel.
4. Either Party has the right to terminate the Contract immediately if the other Party:
 1. has committed a material breach of this Contract, unless such breach is capable of remedy, in which case the right to terminate immediately will be exercisable if the other Party has failed to remedy the breach within 14 days after a written notice to do so; or
 2. goes into bankruptcy or liquidation either voluntary or compulsory (save for the purposes of bona fide corporate reconstruction or amalgamation) or if a receiver is appointed in respect of the whole or any part of its assets.
5. In the event of a cancellation for any reason, any licence granted under clause 12 will be immediately revoked.

11. CONFIDENTIALITY: Each Party undertakes that throughout the duration of the Contract, the Parties may disclose certain confidential information to each other. Both Parties agree that they will not use the confidential information provided by the other, other than to perform their obligations under this Contract. Each Party will maintain the confidential information's confidentiality and will not disseminate it to any third party, unless authorised by the other Party in writing.

12. FORMAT AND DATA

1. Any designs or other works created by us will be kept on file for a period of 1 year from completion of the Services, unless otherwise agreed in writing. After this time, they will be securely and irretrievably deleted from our system. Any copies required within this timeframe will be provided only at our discretion and may be chargeable. If you require additional copies after the data has been deleted, you will need to recommence the Proposal process with us.
2. We include for any documentation or other media to be submitted in our normal standard format only. If additional copies or specific requirements are needed, we reserve the right to apply additional charges.
3. We provide our designs in high resolution PDF format, EPS format, or such other format as may be agreed. The original source files for any designs we create remain our property at all times. If you wish to obtain these, you must notify us at the time of our Proposal and we will provide a price.
4. We shall retain title to the documentation and no documentation shall be handed over until all payments as detailed above have been paid in full.
5. Both parties agree to comply with all applicable data protection legislation including, but not limited to, the Data Protection Act 2018 and the General Data Protection Regulation 2016 and any subsequent amendments thereto.

13. LITERATURE AND REPRESENTATIONS: Any marketing literature is presented in good faith as a guide to represent the Services offered and does not form a part of the Contract. None of our employees or agents are authorised to make any representation concerning the Services unless confirmed by us in writing. In entering into the Contract, you acknowledge that you do not rely on and waive any claim for breach of any such representations, which are not so confirmed.

14. INTELLECTUAL PROPERTY

1. The copyright in any Services provided by us is and will become your property. Subject to a written agreement to the contrary, the Contract will give you ownership rights in the Services provided by us provided all payments due under the Contract have been received by us in full.
2. The ownership will apply only to final versions provided by us for digital works and will not apply to any draft versions or Mural paintings.
3. We reserve the right to take such actions as may be appropriate to restrain or prevent infringement of our intellectual property rights.
4. We reserve the right to use any materials, copy, or any other Services provided by us, together with your company name, for our own advertising or promotional purposes.
5. You warrant that any logo, design, image, document or instruction supplied or given by you will not cause us to infringe any intellectual property rights of any third party (including, but not limited to, any letter patent, registered design or trade mark) in the execution of our Services. You will indemnify us against all loss, damages, costs and expenses awarded against us or incurred by us in settlement of any claim for infringement of any patent, copyright, design, licence, trademark or any intellectual property rights which results from our use of your information.

15. NO EMPLOYMENT: Nothing in the Contract shall render or be deemed to render us an employee or agent of yours or you an employee or agent of ours.

16. ASSIGNMENT AND SUB-CONTRACTING

1. We will be free to sub-contract any of our obligations under these Terms and Conditions. Any act or omission of any sub-contractor will be an act or omission of ours.
2. We may transfer (assign) our obligations and rights under the Contract to a third party (if, for example, we sell our business). If this occurs we will inform you in writing. Your rights under the Contract will not be affected and our obligations under the Contract will be transferred to the third party who will remain bound by them.
3. You may not transfer (assign) your obligations and rights under the Contract without our express written permission, which will not be unreasonably withheld.

17. LIABILITY AND INDEMNITY

1. Except in respect of death or personal injury caused by our negligence, we will not be liable for any representation, implied warranty, condition or other term, or any duty at common law or under the express terms contained herein, be liable for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by our servants or agents or otherwise) in connection with the performance of our obligations under the Contract.
2. All warranties or conditions whether express or implied by law are expressly excluded to the full extent permitted by law.
3. In the event of a breach by us of our express obligations under these Terms and Conditions, your remedies will be limited to damages, which in any event, shall not exceed the fees and expenses paid by you for the Services.
4. We may provide professional advice and recommendations in relation to the Services but we cannot accept responsibility for any actions taken as a result of such advice or recommendations, nor can we guarantee the success or outcomes of any marketing campaign or any of the other Services provided. Further, we shall not be liable for any consequences should any professional advice not be taken. We may provide introductions or referrals to other companies, however, under no circumstances shall we be liable for the actions or lack of actions of said other companies.

18. RESTRICTIVE COVENANTS: Neither we nor the Client will, during the term of the Contract and for a period of 12 months after its expiry or termination, without the other's prior written consent, appoint in any way or cause to be employed, engaged or appointed an employee, agent, director, consultant or independent contractor of the other.

19. FORCE MAJEURE: Neither Party shall be liable for any failure or delay in performing their obligations under the Contract where such failure or delay results from any cause beyond that Party's reasonable control. Such causes include, but are not limited to: power failure, Internet service provider failure, industrial action, fire, flood, earthquake, act of terrorism or war, governmental action or any other event beyond the control of the Party in question.

20. WAIVER: No failure or delay by either Party in exercising any of its rights under the Contract shall be deemed to be a waiver of that right, and no waiver by either Party of a breach of any provision of the Contract shall be deemed to be a waiver of any subsequent breach of the same or any other provision.

21. SEVERANCE: The Parties agree that, in the event that one or more of the provisions of these Terms and Conditions are found to be unlawful, invalid or otherwise unenforceable, that/those provisions will be deemed severed from the remainder of these Terms & Conditions (and the Contract, as appropriate). The remainder of these Terms and Conditions will be valid and enforceable.

22. THIRD PARTY RIGHTS: No part of the Contract is intended to confer rights on any third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to the Contract.

23. NOTICES: Notices will be deemed to have been duly received and properly served 24 hours after an email is sent or three working days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that it was properly addressed to the address provided, stamped and placed in the post and in the case of an email, that it was sent to the specified email address of the addressee.

24. LAW AND JURISDICTION

1. These Terms and Conditions and the relationship between you and us (whether contractual or otherwise) will be governed by, and construed in accordance with, the laws of England and Wales.
2. Any dispute, controversy, proceedings or claim between you and us relating to the Contract or these Terms and Conditions (whether contractual or otherwise) will be subject to the jurisdiction of the courts of England and Wales.