

# **design understood**

## **TERMS & CONDITIONS**

Updated: 23rd September 2010

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Updated: 21st August 2010

## WEBSITE USAGE

All pages, images, text and code on this web site at <http://www.designunderstood.com/> are copyrighted material.

Any visitors to the web site at <http://www.designunderstood.com/> may not use any of the pages, images, text or code on the web site for use on Client's or visitors own web site or to create a web site, or templates.

Design Understood reserves the right to ban or restrict access to any of the website pages to users who are deemed at Design Understood's discretion as offensive or using the site for misuse including but not limited to hackers and spammers.

## 1. GENERAL TERMS & CONDITIONS

The following terms and conditions apply to all Design Understood services and are a legal agreement between Design Understood hereafter "The Supplier" and the instructing party hereafter "The Client". Further terms and conditions for each service will be detailed in the subsequent sections.

### 1.1 Acceptance of Work

1.1.1 Initial proposals are open for discussion and negotiation.

1.1.2 Quotations expire after 60 days from date of issue unless otherwise stated on the quote.

1.1.3 Our current hourly rate will be stated on our quotes and invoices to the Client.

1.1.4 Any other services on the order which have not been included in the invoice do not form part of the contract. The Client agrees to check that the details of the final quote and invoice are correct and should keep a digital and printed copy for their records.

1.1.5 The Supplier reserves the right to withdraw from the contract at any time prior to acceptance.

### 1.2 Procedure of Work

1.2.1 Any further amendments to what is deemed outside reason by the Supplier and any additional work outside the agreed services detailed on the final agreed quote or initial invoice will be charged at the stated current hourly rate. The Supplier reserves the right to advise the Client of such an event and send a separate quotation to the Client and to request payment for any further alterations. The Supplier reserves the right to request payment be received prior to further alterations being undertaken.

1.2.2 Increased workload and amendments will be agreed by both parties. This can put back completion dates, upon which a new time frame will be set / agreed.

1.2.3 Occasionally unforeseen occurrences and/or problems may arise during the project. If any such events arise the Supplier will inform the Client and a new time frame will be set / agreed. The Supplier accepts no responsibility or liability for such uncontrollable delays.

1.2.4 The Supplier reserves the right to assign subcontractors in whole or as part of a project if required / necessary.

### **1.3 Permissions & Copyright**

1.3.1 The Client hereby agrees that all media and content made available to the Supplier for use in the project are either owned by the Client or used with full permission of the original authors. The Client agrees to protect and defend the Supplier from any claim or suit that may arise as a result of using the supplied media and content.

1.3.2 The Client agrees that the Supplier reserves the right to include any work done for the Client in a portfolio of work, unless Client expressly requests otherwise.

### **1.4 Material & Content**

1.4.1 The Supplier reserves the right to refuse sale for orders from suspect payment or address details or other reason at the Supplier's own discretion. The Supplier reserves the right without notice to cancel, reject, refuse sale to or work with a Client without reason for such rejection or refusal.

### **1.5 Payment Terms**

1.5.1 All prices are exempt of VAT.

1.5.2 All invoices must be paid in full within the stated time frame on the invoice, usually 30 days of the invoice date. Supplier will carry out work only where an invoice has been paid by the Client for the work, unless otherwise agreed at Suppliers discretion.

1.5.3 Additional work requested by the Client which is not specified in the agreed quotation and/or initial invoice is subject to a separate quotation and the Supplier reserves the right whether to quote or accept additional work. If additional work is accepted by the Supplier this may affect timescale and overall delivery time of the project.

1.5.4 Specific payment instructions may be made on a Client and project basis and if so will be detailed on the quotes and invoices.

1.5.5 Once an invoice is sent to the Client it must be paid by bank transfer, made payable to "Design Understood" using the bank details provided. The Supplier does not accept cheques.

1.5.6 The Supplier reserves the right to decline further work on a project if there are invoices outstanding with the Client.

1.5.7 The Client may request that the Supplier cancel a project in writing by email or postal mail to the Supplier and the project is cancelled only if the Supplier confirms that work has not been started on the project. If the Supplier has begun or completed the work and the Client no longer requires the files but has agreed to the work, they remain obliged to pay the Supplier for the work that has been carried out.

1.5.8 All invoices are submitted by email except where required otherwise by regulations or agreed at the Supplier's discretion.

## **1.6 Liability & Warranty Disclaimer**

1.6.1 The Client agrees that the Supplier is not liable for any absence of service as a result of illness or holiday.

1.6.2 The Client agrees that the Supplier is not liable for any failure to carry out services for reasons beyond its control including but not limited to acts of God, telecommunication problems, software failure, hardware failure, third party interference, Government, emergency on major scale or any social disturbance of extreme nature such as industrial strike, riot, terrorism and war or any act or omission of any third party services.

1.6.3 The Supplier is not liable for any consequences or financial losses such as, but not limited to, loss of business, profit, revenue, contract, data or potential savings relating to the services provided.

1.6.4 Should the Client go into compulsory or involuntary liquidation or cannot pay its debts in the normal course of business, the Supplier reserves the right to cancel forthwith any projects and invoice the Client for any work completed.

1.6.5 The Supplier shall have no liability to the Client or any third parties for any damages, including but not limited to, claims, losses, lost profits, lost savings or other incidental, consequential or special damages arising out of the operation of or inability to operate these web pages or web site, even if the Supplier has been advised of the possibility of such damages.

## **1.7 Indemnification**

1.7.1 The Client agrees to defend, indemnify and hold harmless the Supplier against any liabilities arising out of injury to person or property caused by any service provided or agreed to be provided or any product or service sold by the Client or third parties, including but not limited to, infringement of copyright, infringement of proprietary rights, misinformation, delivery of defective products or services which is harmful to any person, business, company or organisation.

## **1.8 Nondisclosure**

1.8.1 The Supplier and any third party associates agrees that, except if directed by the Client, it will not at any time during or after the term of this agreement disclose any confidential information. Likewise, the Client agrees that it will not convey any confidential information about the Supplier to another party.

## **1.9 Privacy Policy**

1.9.1 The Supplier and any third party associates shall use information provided by the Client in relation to this agreement in accordance with the Data Protection Act 1998 and also for the following purposes 1) to identify the Client in communications with them 2) to contact the Client from time to time to offer them services or products which may be of interest to or benefit the Client.

## 1.10 Interpretation

1.10.1 The Supplier reserves the right to terminate a project with the Client at any time without prior notification if it finds the Client in breach of these terms and conditions. The Supplier shall be the sole arbiter in deciding what constitutes a breach. No refunds are given in such circumstances.

1.10.2 This agreement shall be governed by the laws of England and Wales which shall claim venue and jurisdiction for any legal motion or claim arising from this agreement. This agreement is void where prohibited by law.

1.10.3 Where one or more terms of this contract are held to be void or unenforceable for whatever reason, any other terms of the contract not so held will remain valid and enforceable by law.

1.10.4 Any and all matters pursuant to this agreement are governed by English Law and are under exclusive jurisdiction of the English Courts.

1.10.5 Supplier reserves the right to alter these Terms and Conditions at any time without prior notice, the latest terms and conditions can be found at the Suppliers web site at <http://www.designunderstood.com/terms-and-conditions.php> with a date of last update.

1.10.6 By accepting a quotation or making a payment of an invoice to use the services supplied, the Client acknowledges to have read, understand, and accept the Terms and Conditions of this Agreement, and agrees to be legally bound by these Terms and Conditions.

## 2. WEBSITE SERVICES : TERMS & CONDITIONS

The following terms and conditions apply to Design Understood website Services.

### 2.1 Definitions

2.1.1 The following terms and conditions document section 2.Website Services is a legal agreement between Design Understood hereafter "The Supplier" and the instructing party hereafter "The Client" for the purposes of web site design and/or development. These Terms and Conditions set forth the provisions under which the Client may use the services supplied.

2.1.2 The Supplier is an internet web design and development service provider offering the Client expert consultation, graphical design, content management system solutions, coding including but not limited to HTML, CSS, JavaScript, PHP, and other related computer programming.

### 2.2 Acceptance of Work

2.2.1 A quote for the services detailed within the quote document will be agreed by both parties. Following this the Client will be issued with an initial invoice, usually a pre-agreed percentage down payment of the total amount. No contract for the supply of services exists between the Client and the Supplier until the Supplier sends an invoice to the Client for payment. The invoice equals acceptance by the Supplier (or third party) of the Clients offer to purchase services from the Supplier and this acceptance of work is a valid contract between the Client and the Supplier regardless of whether the Client receives the invoice.

## **2.3 Procedure of Work**

2.3.1 The project time frame will be agreed by both parties. This time frame will include projected completion dates for selected areas. This will include projected deadline dates for the Client to provide any necessary information and content required by Supplier. Client agrees to provide the information in good time to enable the Supplier to complete a design or web site work as part of an agreed project.

2.3.2 During the Design Stage there is an amendment stage included in the price. This allows for the Client's feedback and changes to the proposed designs. There is a standard allowance for these amendments, the allocated time of which can vary due to project size and complexity and is dependant on the reasoning of the Supplier.

2.3.3 To conclude the Design Stage, the designs need to be approved and signed off by the Client. To sign off the designs, the Client must give written agreement by email or postal mail to conclude the Design Stage and progress to the Build Stage.

2.3.4 Amendments to the design made after the Design Stage has been signed off and the Build Stage is underway is largely time consuming and is priced at a higher hourly rate. The Supplier makes efforts to regularly inform the Client in an attempt to make sure this does not happen. Occasionally this is unavoidable and if circumstances are evidently out of the Client's control or reasoning then this price will be set at the Supplier's digression.

2.3.5 The Client agrees that a HTML page built from a graphic design may not exactly match the original design because of the difference between the display in design software and the rendering of HTML code by internet browser software. The Supplier agrees to try and match the design as closely as is possible when building the code.

## **2.4 Permissions & Copyright**

2.4.1 Copyright of the completed web designs, images, templates, source files and code including all HTML and related programming scripts are owned by the Supplier or 3<sup>rd</sup> party owner. Ownership agreements are available on request.

2.4.2 These terms grant the Client a non-exclusive licence to operate the website on its installed location on the server. Moving, changing and reselling or distribution of the website and its contents is prohibited without a specific written agreement made between the Supplier and the Client.

2.4.3 The Client agrees that the Supplier may include development credits and links within any code the Supplier designs, builds or amends. This includes but is not limited to a frontend link in the footer of the website.

## **2.5 Website Operation & Guarantees**

2.5.1 The website comes with no guarantees of sales, traffic or search engine rankings. The Supplier endeavours to create pages that are search engine friendly. The Supplier makes recommendations and configures the website to assist the Client in these areas but offers no guarantees that the site will become listed with search engines or of certain search results. In no event shall the Supplier be held liable for any changes in search engine rankings as a result of using the Supplier's code.

2.5.2 The Supplier makes the best efforts to secure the website and its data against malicious activity and hacks however can not be held responsible for any successful hack on the website resulting in data loss, down time or server misuse. Security of code and systems is continually reviewed and from time to time the Supplier may offer the Client upgrades and improvements but has no obligation to do so. The Supplier recommends the Client has a daily backup service running on the server.

2.5.3 The Client agrees that it is their responsibility to have regular backups of their website and software made by themselves or third party services in case of a software or hardware failure. The Supplier can be tasked to manage these backups for the Client and the Supplier reserves the right to quote and invoice for this service, in which case a separate terms of service will be applied. Any data loss or hardware failure which occurs will be the responsibility of the Client or 3<sup>rd</sup> party supplier.

2.5.4 After site completion, if a Client or a third party of their choosing edits the web site code themselves to make updates and this results in functionality errors or the page displaying incorrectly, the Supplier reserves the right to quote for work to repair the web site.

## **2.6 Material & Content**

2.6.1 The Supplier reserves the right in its sole discretion to refuse to sell design or code to a Client who has a site which it deems is, including but not limited to, unlawful or inappropriate, contains a virus or hostile program, constitutes harassment, racism, violence, obscenity, harmful intent, spamming, contains adult content, commits a criminal offence, infringes privacy or copyright or any other questionable media at the Supplier's own discretion.

2.6.2 The Supplier reserves the right to refuse to sell design or code to those thought or known as competitors of the Supplier. The Client may not purchase design or code for use in development of their own product to directly compete with the Supplier's design or code.

2.6.3 The Supplier reserves the right to refuse sale for orders from suspect payment or address details or other reason at Supplier's own discretion. The Supplier reserves the right without notice to cancel, reject, refuse sale to or work with a Client without reason for such rejection or refusal.

## **2.7 Domain Names & Hosting**

2.7.1 If domains and/or hosting is purchased through the Supplier or its sister company 'Hosting Understood' they are bound by the Hosting Terms & Conditions which will be provided separately at the time of purchase.

2.7.2 If domain names and/or hosting are purchased by a 3<sup>rd</sup> party company. The Client agrees to take all legal responsibility for use of third party domain name, hosting and email services and hereby agrees to indemnify and hold harmless the Supplier from any claim resulting from the Client's publication of material and use of the domain name, hosting and email services. Any support or payment due relating to the domain name, hosting and email services are to be made between the Client and the third party service.

2.7.3 The Client agrees to pass on FTP details and any other access details relating to their domain name and hosting account which the Supplier requires to upload and work on the web site if required as part of a project.

2.7.4 The Supplier reserves the right without notice to refuse work with domain names or hosting and email services without reason for such rejection or refusal.

## 2.8 Web Browsers

2.8.1 The Supplier shall make every effort to ensure sites are designed to be viewed by the majority of visitors. Sites are designed to work with the main browsers Internet Explorer, Mozilla Firefox, Google Chrome, and Safari's latest releases. The Supplier endeavours to test the website in browsers on PC and Mac operating systems but Client agrees that the Supplier cannot guarantee correct functionality with all browser software across different operating systems.

2.8.2 The Clients agree that after handover of files any updated software versions of the main browsers Internet Explorer and Mozilla Firefox, domain name setup changes or hosting setup changes thereafter may affect the functionality and display of their web site. As such, the Supplier reserves the right to quote for any work involved in changing the web site design or web site code for it to work with updated browser software, domain name or hosting changes.

## 2.9 Payment Terms

2.9.1 The Client will be issued with an initial invoice, usually a pre-agreed percentage down payment of the total amount. The Client can then choose either to pay the full remaining cost in one payment on completion or in the case of larger projects can split the cost into 2 payments to be agreed with the Supplier. Specific payment instructions may be made on a Client and project basis and if so will be detailed on the quotes and invoices.

2.9.2 The Supplier reserves the right to remove it's work for the Client from the Internet if payments are not received.

## 2.10 Liability & Warranty Disclaimer

2.10.1 The Supplier provides the web site and the contents thereof on an "as is" basis and makes no warranties with regard to the site and its contents, or fitness of services offered for a particular purpose. The Supplier cannot guarantee the functionality or operations of their web site or that it will be uninterrupted or error free, nor does it warrant that the contents are current, accurate or complete.

2.10.2 The Client agrees that the Supplier is not liable for any bugs, performance issues or failure of 3<sup>rd</sup> Party software including but not limited to vBulletin or Magento, which are separate companies. Any bugs, performance issues or failure with the software will be directed to the 3<sup>rd</sup> party authors.

2.10.3 The Supplier endeavours to provide a web site within given delivery timescales to the best of its ability. However, the Client agrees that the Supplier is not liable for any claims, losses, costs incurred or compensation due to any failure to carry out services within a given delivery timescale.

2.10.4 Whilst every effort is made to make sure files are error free, the Supplier cannot guarantee that the display or functionality of the web design or the web site will be uninterrupted or error free. If after handover of files errors are found in code that the Supplier has created and the main browsers Internet Explorer and Mozilla Firefox, domain name setup and hosting setup are the same as when work began, then the Supplier can correct these errors for the Client at it's own discretion.

2.10.5 If after handover of files errors are found in code the Supplier has created and the main browsers Internet Explorer and Mozilla Firefox have released an updated software version, or the domain name setup or hosting setup has been changed, the Supplier can correct errors for the Client free of charge and reserves the right to

quote separately for any additional work needed as a result of changes to the browser software, domain name setup or hosting setup.

2.10.6 If invoices can not be paid or are refused to be paid, the Client is strictly prohibited from using the services, systems and any related website code which the unpaid invoices cover.

2.10.7 There are sometimes laws and taxes which affect Internet ecommerce. The Client agrees that it is their responsibility to comply with such laws and will hold harmless, protect and defend the Supplier and its subcontractors from any claim, suit, penalty, tax or tariff arising from the Client's exercise of Internet ecommerce.

2.10.8 The Supplier may from time to time recommend to the Client that updates to their site are required to comply with, including but not limited to, new legislations, software releases and web standards. Supplier reserves the right to quote for any updates as separate work. The Client agrees that the Supplier is not liable for any failure to inform or implement these updates to their site. The Client agrees that it shall defend, indemnify, save and hold the Supplier harmless from any and all demands, liabilities, costs, losses and claims arising from omission to inform or implement these updates.

## **2.11 Indemnification**

2.11.1 The Client agrees to use all the Supplier services and facilities at their own risk and agree to defend, indemnify, save and hold the Supplier harmless from any and all demands, liabilities, costs, losses and claims including but not limited to attorney's fees against the Supplier or its associates that may arise directly or indirectly from any service provided or agreed to be provided or any product or service sold by the Client or its third parties. The Client agrees this indemnification extends to all aspects of the project, including but not limited to web site content and choice of domain name.

## **3. GRAPHIC DESIGN SERVICES : TERMS & CONDITIONS**

The following terms and conditions apply to Design Understood Graphic Design Services.

### **3.1 Definitions**

3.1.1 The following terms and conditions document section 3. Graphic Design Services is a legal agreement between Design Understood hereafter "The Supplier" and the instructing party hereafter "The Client" for the purposes of graphic design services. These Terms and Conditions set forth the provisions under which the Client may use the services supplied.

3.1.2 The Supplier is a graphic design service provider offering the Client expert consultation and graphical design for digital and printed output.

### **3.2 Acceptance of Work**

3.2.1 A quote for the services detailed within the quote document will be agreed by both parties. No contract for the supply of services exists between the Client and the Supplier until the Supplier sends a quote and the Client confirms in writing via email that the Supplier may proceed with the agreed work. The acceptance by the Supplier (or third party) of the Client's confirmation to proceed is equal to an offer to purchase services from the Supplier and this acceptance of work is a valid contract between the Client and the Supplier.

### 3.3 Procedure of Work

3.3.1 The project time frame will be agreed by both parties. This time frame will include projected completion dates for selected areas. This will also include projected deadline dates for the Client to provide any needed information and content required by the Supplier. The Client agrees to provide the information in good time to enable the Supplier to complete a design as part of an agreed project.

3.3.2 During the initial Design Stage there is an amendment stage included in the price. This allows for Client feedback and changes to the proposed designs. There is a standard allowance for these amendments, the allocated time of which can vary due to project size and complexity and is dependant on the reasoning of the Supplier.

3.3.3 To conclude the Design Stage, the designs need to be approved and signed off by the Client. To sign off the designs, the Client must give written agreement by email or postal mail to conclude the Design Stage and progress on to finalise the artwork for digital and/or printed output.

3.3.4 Once finalised and sent to the printers the Client will be provided with a digital proof, or a printed proof if requested. The Client must approve this final proof in writing, via email or postal service and this approval means the artwork is complete and ready to go to print. The Supplier will not be held responsible or liable for any costs incurred after final artwork as been approved, been sent to print and subsequently the Client has found reason for amendments to the approved artwork.

3.3.5 If a printed proof is request by the Client they must be aware that this can take up to 3-5 working days and can delay planned completion dates upon which a new time frame will be set. The Supplier accepts no responsibly or liability for such delays if the request for a printed proof was not made during the project when the current time plan was agreed.

3.3.6 Amendments to the design made after the Design Stage has been signed off and the digital stage is underway is largely time consuming and is priced at a higher hourly rate. The Supplier makes efforts to regularly inform the Client in an attempt to make sure this does not happen. Occasionally this is unavoidable and if circumstances are evidently out of the Client's control or reasoning then this price will be set at the Supplier's digression.

### 3.4 Permissions & Copyright

3.4.1 Copyright of the completed graphical designs, photography, images and digital output are owned by Supplier or 3<sup>rd</sup> party owner. Ownership agreements are available on request.

3.4.2 All printed output is the property of the Client pending all invoices are paid in full.

3.4.3 The Supplier reserves the right to take a small amount of samples from any printed output for a portfolio of work.

3.4.4 These terms grant the Client a non-exclusive licence to use the graphic output as defined on the quotes and invoices for the project. Reselling or distribution of the designs is prohibited without a specific written agreement made between the Supplier and the Client.

3.4.5 Individual licenses' may be applied to the produced work depending on the project circumstances. These licenses' further define the Client's allowed usage of the work.

### **3.5 Material & Content**

3.5.1 The Supplier reserves the right in its sole discretion to refuse to sell designs to a Client who it deems is, including but not limited to, unlawful or inappropriate, constitutes harassment, racism, violence, obscenity, harmful intent, contains adult content, commits a criminal offence, infringes privacy or copyright or any other questionable media at the Supplier's own discretion.

3.5.2 The Supplier reserves the right to refuse to sell designs to those thought or known as competitors of the Supplier. The Client may not purchase designs for use in development of their own product to directly compete with any of the Supplier's services.

### **3.6 Payment Terms**

3.6.1 The Client will be issued with a final quote. The Client can then choose either to pay the full remaining cost in one payment on completion or in the case of larger projects can split the cost into 2 payments to be agreed with the Supplier. Specific payment instructions may be made on a Client and project basis and if so will be detailed on the quotes and invoices.

3.6.2 If printing has been quoted the Client will be issued with an initial invoice to cover the total cost of any printing including delivery if applicable.

3.6.3 The Client is strictly prohibited from using any of the designs for any purpose if payments are not received.

### **3.7 Liability & Warranty Disclaimer**

3.7.1 The Supplier provides the graphic design and the digital output thereof on an "as is" basis and makes no warranties with regard to its contents, or fitness of services offered for a particular purpose. The Supplier cannot guarantee the validity of the contents, nor does it warrant that the contents are current, accurate or complete.

3.7.2 The Supplier endeavours to provide the graphic design service within the given delivery timescales to the best of its ability. However, the Client agrees that the Supplier is not liable for any claims, losses, costs incurred or compensation due to any failure to carry out services within a given delivery timescale.

3.7.3 If after handover of files errors are found in the content or design, the Supplier can correct errors and reserves the right to quote separately for any additional work needed as a result of the required changes.

3.7.4 If invoices can not be paid or are refused to be paid, the Client is strictly prohibited from using the services, designs and any related output which the unpaid invoices cover.

3.7.5 If any printed output and covering invoice has been paid but invoices for the graphic design services included on the printouts have not, the Client is strictly prohibited from using the printouts until payment for the design service has been made.

### **3.8 Indemnification**

3.8.1 The Client agrees to use all of the Supplier's outputted design services at their own risk and agree to defend, indemnify, save and hold the Supplier harmless from any and all demands, liabilities, costs, losses and claims including but not limited to attorney's fees against the Supplier or its associates that may arise directly or indirectly from any service provided or agreed to be provided, or any product or service sold by the Client or its third parties. The Client agrees this indemnification extends to all aspects of the project.

## **4. MEDIA & MOVING IMAGE SERVICES : TERMS & CONDITIONS**

The following terms and conditions apply to Design Understood Media & Moving Image Services.

### **4.1 Definitions**

4.1.1 The following terms and conditions document section 4. Media & Moving Image Services is a legal agreement between Design Understood hereafter "The Supplier" and the instructing party hereafter "The Client" for the purposes of media and moving image services. These Terms and Conditions set forth the provisions under which the Client may use the services supplied.

4.1.2 The Supplier is a Media & Moving Image service provider offering the Client expert consultation, video editing, filming, photography, animation, Flash ActionScript and related coding, Flash animation and interactive production, 3D imagery either still or animated and video file encoding.

### **4.2 Acceptance of Work**

4.2.1 A quote for the services detailed within the quote document will be agreed by both parties. Following this the Client will be issued with an initial invoice, usually a pre-agreed percentage down payment of the total amount. No contract for the supply of services exists between the Client and the Supplier until the Supplier sends an invoice to the Client for payment. The invoice equals acceptance by the Supplier (or third party) of the Client's offer to purchase services from the Supplier and this acceptance of work is a valid contract between the Client and the Supplier regardless of whether the Client receives the invoice.

### **4.3 Procedure of Work**

4.3.1 The project time frame will be agreed by both parties. This time frame will include projected completion dates for selected areas. This will also include projected deadline dates for the Client to provide any needed information and content required by the Supplier. The Client agrees to provide the information in good time to enable the Supplier to complete any media or moving image as part of an agreed project.

4.3.2 During the initial Planning & Testing Stage a short sample of the intended output quality, storyboard, or image mock up will be proofed / provided to the client which will set the precedent for the quality effecting the rest of the project. There is an amendment stage included in the price. This allows for the Client's feedback and changes to the proposed sample, storyboard, or image mock up. There is a standard allowance for these amendments, the allocated time of which can vary due to project size and complexity and is dependant on the reasoning of the Supplier.

4.3.3 To conclude the initial Planning & Testing Stage the sample, storyboard, or image mock up need to be signed off by the Client. To sign off, the Client must give written agreement by email or postal mail to conclude the initial Planning & Testing Stage and progress on to the Production Stage.

4.3.4 Amendments to the sample, storyboard, or image mock up procedure made after the Planning & Testing Stage has been signed off and the Production Stage is underway is largely time consuming and is priced at a higher hourly rate. The Supplier makes efforts to regularly inform the Client in an attempt to make sure this does not happen. Occasionally this is unavoidable and if circumstances are evidently out of the Client's control or reasoning then this price will be set at the Supplier's digression.

4.3.5 The Client agrees that a produced media or moving image output from a sample, storyboard, or image mock may not exactly match the original design because of the difference between the display in design software and the rendering of production software output. The Supplier agrees to match the design as closely as is possible when producing the work.

## **4.4 Permissions & Copyright**

4.4.1 Copyright of the completed media or moving images are owned by the Supplier or 3<sup>rd</sup> party owner. Ownership agreements are available on request.

4.4.2 Copyright of the all original source media produced by the Supplier or 3<sup>rd</sup> party owner are owned by the Supplier or 3<sup>rd</sup> party owner.

4.4.3 All rendered media or moving image output provided to the Client is the property of the Client pending all invoices relating to this output are paid in full.

4.4.4 These terms grant the Client a non-exclusive license to use the produced output as defined on the quotes and invoices for the project. Reselling or distribution of the media or moving image output is prohibited without a specific written agreement made between the Supplier and the Client.

4.4.5 Individual licenses' may be applied to the produced media or moving image output depending on the project circumstances. These licenses' further define the Client's allowed usage of the work.

## **4.5 Material & Content**

4.5.1 The Supplier reserves the right in its sole discretion to refuse to sell media or moving image output to a Client who it deems is, including but not limited to, unlawful or inappropriate, constitutes harassment, racism, violence, obscenity, harmful intent, contains adult content, commits a criminal offence, infringes privacy or copyright or any other questionable media at the Supplier's own discretion.

4.5.2 The Supplier reserves the right to refuse to sell media or moving image output to those thought or known as competitors of the Supplier. The Client may not purchase designs for use in development of their own product to directly compete with any of the Supplier's services.

## 4.6 Payment Terms

4.6.1 The Client will be issued with an initial invoice, usually a pre-agreed percentage down payment of the total amount. The Client can then choose either to pay the full remaining cost in one payment on completion or in the case of larger projects can split the cost into 2 payments to be agreed with the Supplier. Specific payment instructions may be made on a Client and project basis and if so will be detailed on the quotes and invoices.

4.6.2 If film or photography production has been quoted the Client will be issued with an initial invoice to cover the total cost of any related costs including but not limited to equipment hire, studio or room hire and disposable media.

4.6.3 The Client is strictly prohibited from using any of the media or moving image output for any purpose if payments of invoices are not made in full.

## 4.7 Liability & Warranty Disclaimer

4.7.1 The Supplier provides the media or moving image output thereof on an "as is" basis and makes no warranties with regard to its contents, or fitness of services offered for a particular purpose. The Supplier cannot guarantee the validity of the contents, nor does it warrant that the contents are current, accurate or complete.

4.7.2 The Supplier endeavours to provide the media and moving image service within the given delivery timescales to the best of its ability. However, the Client agrees that the Supplier is not liable for any claims, losses, costs incurred or compensation due to any failure to carry out services within a given delivery timescale.

4.7.3 If after handover of files errors are found in the content of the media or moving image output, the Supplier can correct errors and reserves the right to quote separately for any additional work needed as a result of the required changes.

4.7.4 If invoices can not be paid or are refused to be paid, the Client is strictly prohibited from using the services, media or moving image output and any other related output which the unpaid invoices cover.

4.7.5 If the media or moving image output and its covering invoice has been paid but invoices for any film or photography production used in the media or moving image output have not been paid, the Client is strictly prohibited from using the media or moving image output until payment for the film or photography production service has been made in full.

## 4.8 Indemnification

4.8.1 The Client agrees to use all of the Supplier's outputted media or moving image services at their own risk and agree to defend, indemnify, save and hold the Supplier harmless from any and all demands, liabilities, costs, losses and claims including but not limited to attorney's fees against the Supplier or its associates that may arise directly or indirectly from any service provided or agreed to be provided or any product or service sold by the Client or its 3<sup>rd</sup> parties. The Client agrees this indemnification extends to all aspects of the project.