

# terms & conditions

These Terms and Conditions form part of a legally binding contract between the service provider, **Greg Matthews** (trading as **design by Greg** and hereinafter called **dbG**) and the client.

**1. Design:** No design work is undertaken on a speculative basis and will be charged in full as appropriate unless otherwise agreed in writing with dbG. In the case of cancellation of a design brief or rejection of work carried out according to the brief, by the client, such fees as are due in accordance with the amount of time taken and costs involved will be charged. In addition, dbG reserves all rights to the design and artwork files.

**2. Freelance:** In the case of freelance work carried out either on-site (within client premises) or off-site (from dbG studio) work is charged at a daily rate of £340 (up to 9 hours) or a half day rate of £170 (no more than 4 hours) - an overtime rate of £50 will be charged for every partial hour worked in excess of 9 hours. Under circumstances where an hourly rate needs to be calculated, this can be done by multiplying £38 for every full or partial hour of work. The minimum charge for any job undertaken on-site is £170. Cancellation of a freelance job with less than 24 hours notice will incur a statutory cancellation fee of £100.

**3. Responsibility:** The client remains liable for all costs for work carried out by dbG or subcontracted in full or in part to a third party (such as a printer or web hosting company) and dbG retains the right to seek payment from the client at all times. The client accepts full responsibility for the final sign-off and approval of digital artwork before publication. dbG accepts no liability in this regard (also see clause 5).

**4. Ownership:** Ownership of a *completed* design shall pass to the client on full payment of a final invoice; ownership may include photography (depending on the licence agreed with the photographer), but does not include digital artwork files which may be purchased for an additional fee. All web development code remains the exclusive property of dbG. dbG will retain full title to design concepts, imagery, text copy, logos and any other creative materials used in the design/development process. The copyright of logos and trademarks designed by dbG will be transferred in writing to the client upon settlement. dbG retains the right to use completed artwork to form part of a portfolio of work and for the purposes of promoting and advertising dbG services on the internet, TV and print media.

**5. Liability** - dbG shall not be liable for any loss to the client arising from delays not caused by dbG. Neither shall dbG be liable for any loss to the client associated with the response or performance of, or any legal action taken against the

client as a result of publishing, any material, nor for errors in that material once approval has been given by the client. Though every care is taken, the content of any material and the accuracy thereof is deemed to be the responsibility of the client. Approval by the client of such artwork and pre-press material as may be produced by dbG will be held as the client being in full agreement with, and legally responsible for, its contents. The client will be solely liable for all costs in rectifying any errors.

**6. Estimates and Pro-formas** - Print estimates are valid for 30 days, web estimates for 90 days and are calculated on the basis of the dbG standard freelance rates (see clause 2). Estimates are based on the work to be carried out in accordance with the initial design brief and any pre-production meeting(s) - a full breakdown of which will be supplied in the case of a Pro-forma - they are calculated according to the current cost of production and are subject to amendment on or at any time after acceptance, to meet any rise or fall in such costs. Changes in specification after acceptance of an estimate are the responsibility of the client and will be deemed to be instituting a fresh contract in addition to the existing contract and the associated estimates. Estimates which are given without sight of content (including copy and imagery), or without a detailed brief in writing are deemed to be ball-park figures only and dbG cannot be bound by them.

**7. Variations** - Any changes or alterations to material, once production is under way, will be charged to the client at the full rate. Changes that are requested, which are not mistakes but differences of opinion or preference may also be charged at the full rate at the discretion of dbG.

**8. Delivery** - Delivery of work shall normally be agreed on acceptance of tender. dbG will make every effort to ensure, but will not guarantee, that delivery dates are met (subject to clause 5). Unless otherwise specified, the price quoted will include delivery to the client's address as set out in the estimate. Should work be suspended at the request of, or delayed by, the client, whether due to changes to the design brief or default of payment, then delivery will be attempted as soon as reasonably possible following completion and approval of the digital artwork.

**9. Payment** - Full payment is due immediately after the invoice date and should be settled as soon as possible, payment instruction will be included on the invoice. Freelance contracts will generate a weekly invoice.

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design by 

#### 9. *Payment continues...*

For work quoted in excess of £1500, a commencement deposit of approximately 30% will be payable after the initial design stage and the remainder upon project completion. For web design projects, payment must be received before the website(s) can go live.

In regard of a Maintenance Contract, dbG will issue a Payment Schedule at the start of the contract detailing the work covered by the contract, the monthly charge and the payment due dates. A Standing Order should be placed by the client to ensure prompt payment. Any delay in payments will cause an immediate suspension of service until the account is brought back up-to-date.

Payment not received within 30 days of the invoice date will incur Interest at a rate equivalent to 16% APR from the invoice date as detailed in a Statement of Account which will then be issued. If after 90 days from the invoice date, payment has still not been received, a final demand notice will be issued 7 days prior to the initiation of court proceedings.

Should a Purchase Order number be required, it is the client's responsibility to supply this promptly – any delay in receiving a PO number will cause the invoice(s) to be backdated and interest will be charged from this date.

**dbG Payment Terms are NON-NEGOTIABLE and take full precedence** (see clause 16).

**10. Claims** - Advice of delay, damage or partial loss of goods in transit or of non-delivery must be given in writing to dbG within 3 days of delivery (in the event of non-delivery, within 28 days of despatch of goods). Any claim in respect thereof must be made in writing to dbG within 7 days of delivery (or in the case of non-delivery, within 42 days of despatch). All other claims must be made in writing to dbG within 28 days of delivery. dbG shall not be liable in respect of any claim unless the aforementioned requirements are adhered to except in any particular case where the client proves that: (a) it was not possible to comply with the requirements and; (b) advice, where required, was given and the claim made as soon as reasonably possible.

**11. Standing Material** - Metal, film, glass, digital information, computer disks and other materials owned by dbG and used by it in the production of type, plates, moulds, stereotypes, electrotypes, film-setting, negatives, positives, and the like shall remain the exclusive property of dbG.

**12. Client's Property** - Client's property and all property supplied to dbG by or on behalf of the client shall, while it is in the possession of dbG or in transit to or from the client, be deemed to be at the client's risk and the client should insure accordingly. dbG advises copies rather than original material whenever possible.

**13. Insolvency** - If the client ceases to pay his debts in the normal course of business or cannot pay his debts as they become due, or being a company is deemed unable to pay its debts or has a winding up petition issued against it, or being a person commits an act of bankruptcy or has a bankruptcy petition issued against him, dbG shall, without prejudice to other remedies, have the right not to proceed further with the contract or any other work for the client and be entitled to charge for work already carried out (whether completed or

not) - in which case, materials purchased for the client shall be an immediate debt due to dbG and, in respect of all unpaid debts due from the client, have a general lien on all goods and property in its possession (whether worked on or not) and shall be entitled on the expiration of 14 days notice to dispose of such goods or property in such a manner and at such a price as dbG sees fit and to apply the proceeds towards such debts.

**14. Illegal Matter** - dbG shall not be required to produce any material which it deems may be of an illegal or libelous nature or an infringement of the proprietary or other rights of any third party. dbG shall be indemnified by the client in respect of any claims (see also clause 5) costs and expenses arising out of any libelous nature or any infringement of copyright, patent, design or of any other proprietary or personal rights contained in any material supplied by the client. The indemnity shall extend to any amounts paid on a lawyer's advice in settlement of any claim.

**15. Force Majeure** - dbG shall be under no liability if it is unable to carry out any provision of the contract for any reason beyond dbG's control including (without limiting the foregoing) act of god, legislation, war, fire, flood, drought, failure of power supply, terrorist attack, lock-out, strike, or any other action taken by employees of dbG or of their sub-contractors. During the continuance of such a contingency the client may, by written notice to dbG, elect to terminate the contract and pay for work done and materials used but subject thereto shall otherwise accept delivery when possible.

**16. Precedence** - These Terms and Conditions take precedence and cannot be varied or altered, or overridden by the imposition of any such conditions by the client or any third party that negate or alter any of the material clauses in these Terms and Conditions of business.

**17. Commencement** - Full acceptance of these Terms and Conditions will be deemed to have been agreed by the client immediately upon the commencement of any work by dbG at the request of the client.

**18. Law** - The Terms and Conditions and all other express terms of the contract shall be covered and construed in accordance with the laws of England.

**19. Validity** - If any provision of these Terms and Conditions is found to be invalid by any court having competent jurisdiction, the invalidity of that provision will not affect the validity of the remaining provisions of these Terms and Conditions, which shall remain in full force and effect. Failure by either dbG or the client to exercise any right or remedy under or in connection with these Terms and Conditions does not constitute a waiver of that right or remedy.

**20. Headings** - The headings in these Terms and Conditions are for convenience only and shall have no effect on the interpretation thereof.