

Ginger and Pickles Productions Terms and Conditions of Business

1. DEFINITIONS

In this document:

- 1.1 "Conditions" means these terms and conditions;
- 1.2 "Client" means the company, individual, sole trader, association, unincorporated body or partnership stated in the Order or as may be otherwise agreed in writing between the authorised representatives of G&P and the Client;
- 1.3 "Confirmation" means an acknowledgement issued by G&P of the Order (which shall include fax, email and verbally);
- 1.4 "Content" means audio or visual information contained on the Source Material;
- 1.5 "Digital Delivery" means all methods of delivery of Source Material and New Material, to and from the Client, but excluding physical delivery
- 1.6 "New Material(s)" means any material created by or for G&P in accordance with the Order or as may be otherwise agreed between the authorised representatives of G&P and the Client, including material created through the duplication or manipulation of the Content;
- 1.7 G&P means Ginger and Pickles Productions
- 1.8 "Order" means a request from the Client to G&P whether issued in writing (which shall include e-mail) or verbally for the supply of Equipment, New Materials, Personnel and/or Services;
- 1.9 "Personnel" means the personnel (if any) supplied by G&P to provide the Services and any or all of them;
- 1.10 "Proposal" means any written proposal that may be issued by G&P to the Client (including any proposal to which these Conditions are attached) setting out certain details, including, but not limited to, the Services, New Materials and/or Equipment to be provided as applicable and the charges, fees or costs (some or all of which may be stated to be estimates) relating to them, together with any subsequent amendment(s) as may be agreed in writing between the authorised representatives of G&P and the Client;
- 1.11 "Services" means the services to be provided by G&P (if any) in accordance with the Order, Proposal; or as may be otherwise agreed between the authorised representatives of G&P and the Client;
- 1.12 "Source Material" means the instrument on which the original Content is contained and delivered to G&P by or on behalf of the Client; and
- 1.13 "Term" means the period of the supply of the Services and/or supply of Personnel to the Client, as applicable. In the case of supply of Personnel, this shall commence on the first date of supply of the Personnel and terminate on the return of the Personnel to G&P's premises in accordance with the Order, Proposal or any extension agreed by an authorised representative of G&P.

General Terms and Conditions

2. APPLICATION

- 2.1 These Conditions alone shall govern and be incorporated in every contract made by or on behalf of G&P with the Client. They shall apply in place of and prevail over any terms or conditions contained or referred to in any documentation submitted by the Client or included in any correspondence, purchase order or elsewhere or implied by trade, custom or course of dealing unless specifically excluded or varied in writing by an authorised representative of G&P and any provisions to the contrary are hereby excluded or extinguished.
- 2.2 If, subsequent to any agreement which is subject to these Conditions, an agreement is made with the Client without reference to any terms and conditions, such agreement howsoever made shall be deemed to be subject to these Conditions.

2.3 Any agreement between the Client and G&P, whether verbal or written, which does not conform to these Conditions shall not be binding on G&P unless it has been accepted in writing by an authorised representative of G&P.

3. ORDERS and CANCELLATION

3.1 Each Order placed by the Client shall be deemed to be an offer by the Client to G&P subject to these Conditions. No Order placed by the Client shall be deemed to be accepted by G&P until a Confirmation is given by G&P or (if earlier) G&P delivers the Equipment, New Materials, Personnel and/or Services to the Client. The Client must ensure that the terms of its Order and any applicable specification are complete and accurate. If G&P issues a Proposal, the Client's written approval of such Proposal shall be deemed to be an Order.

3.2 All quotes provided by G&P will be valid for 14 days.

3.3 If the Client requires any change, variation, addition or deletion to the Order after it has been received by G&P, G&P will inform the Client of the effect of any such change, variation, addition or deletion on delivery times and the costs, fees and expenses and the Client will be responsible for these.

4. TERMINATION

4.1 Any agreement by G&P to supply New Materials, Personnel and/or Services to the Client may be terminated immediately by G&P giving written notice to the Client to that effect on the happening of any of the following events:

4.1.1 if the Client fails to pay any charges, fees or costs due to G&P in accordance with these Conditions within seven days of the same having become due (whether demanded or not); or

4.1.2 if the Client fails to observe or perform any other of its obligations set out in these Conditions; or

4.1.3 if the Client shall make any arrangement with its creditors; or

4.1.4 if in the opinion of G&P, the Client shall be unable to pay its debts as and when they fall due; or

4.1.5 if an order shall be made or an effective resolution passed for the winding up of the Client (other than for the purposes of a reconstruction or amalgamation); or

4.1.6 if an administrator, receiver or manager or administrative receiver shall be appointed of the whole or any part of the undertaking or assets of the Client, or

4.1.7 if, in the opinion of G&P, the Client, its employees, authorised agents and/or subcontractor(s) are guilty of dishonesty, misconduct, incompetence or wilful neglect of their duties.

4.1.8 Termination shall not affect any other right or remedy of G&P against the Client and shall not affect the right of G&P to recover from the Client any charges, fees or costs or other monies due to G&P at the date of such termination and shall not affect G&P's right to recover damages from the Client in respect of any breach of these Conditions.

5. CREDIT AND PAYMENT

5.1 Unless otherwise agreed in writing by an authorised representative of G&P, the Client shall pay to G&P the amount(s) invoiced (including any hire charges) in accordance with the Order, or as otherwise agreed in writing by an authorised representative of G&P and these Conditions (without retention or set-off), together with any VAT due thereon, within 14 days of the date of the invoice. For the avoidance of doubt, time for payment shall be of the essence.

- 5.2 All payments due to G&P shall be in UK Pound Sterling unless otherwise agreed in writing between the parties. No payment shall be deemed to have been received until G&P has received cleared funds. The Client shall be liable for any costs in relation to any currency conversion and exchange rates.
- 5.3 G&P reserves the right to withdraw any credit facilities granted to the Client forthwith if clause 5.1 is not observed.
- 5.4 In all cases where accounts are overdue for payment G&P reserves the right either to refuse to supply goods and/or services or to cancel all existing agreements without prejudice to any of its other rights contained in these Conditions or to any existing claim.
- 5.5 Notwithstanding clause 6.4, G&P shall be entitled to charge interest on all overdue payments at the rate of 8% above Barclays Bank Plc base rate from time to time from the due date for payment until actual payment, before and after judgment, calculated on a daily basis.
- 5.6 G&P reserves the right in relation to all Orders with a total price in excess of £5,000 to require a staged payment schedule to be agreed between the parties. With up to 50% of the total order price payable 14 days before the before the date of commencement of services.

6. RELATIONSHIP OF THE PARTIES

Both G&P and the Client are independent parties and the parties acknowledge that neither of them is an agent or partner of the other for any purpose and that each of them is entirely without authority to act on behalf of the other in any manner. G&P shall not be responsible to third parties for any claim arising out of the activities of the Client and the Client shall indemnify G&P against such claim.

7. LIABILITY

- 7.1 The Client agrees and acknowledges that G&P shall in no circumstances be liable (whether in contract, tort or otherwise) for any indirect, economic or consequential loss or damage (including any loss of profit or anticipated savings, loss of business or for any increased costs or expenses or otherwise) in connection with any act or omission by G&P (or any third party supplier engaged by G&P) including but not limited to any delay in delivery of the Equipment and/or New Materials and/or delay in performance or completion of the Services.
- 7.2 The Client places no reliance upon any representation or warranty made by G&P, whether written or oral, other than any representation given in writing by an authorised representative of G&P.
- 7.3 The Client agrees to indemnify G&P, any related company or any of its employees, agents, consultants or sub-contractors against all or any costs, claims, damages, demands and expenses arising as a result of any use of any material or documentation supplied by or on behalf of the Client infringing the intellectual property or any other similar rights of any other party, or arising as a result of any use of or reliance on any information or instructions issued by or on behalf of the Client.

8. CONFIDENTIALITY

Each party agrees to treat as secret and confidential the business and trade secrets of the other party and in the Client's case such obligations shall extend to matters relating to the business practices and cost proposals of G&P. Neither party shall disclose copy or use for any purpose any confidential information of the other party. These obligations shall not apply to any information that is in the public domain other than due to a breach by any person of any

obligations of confidentiality or in relation to information that was already known by the other party prior to disclosure or which is required to be disclosed by law.

9. THE CLIENT'S OBLIGATIONS

- 9.1 The Client shall be responsible for those obligations and/or assumptions which are expressed to be the responsibility of the Client in these Conditions, any Proposal or are otherwise agreed between the parties in writing and shall ensure that those obligations are carried out fully and promptly by it or on its behalf.
- 9.2 The Client shall at all times comply promptly with all G&P's reasonable requests for information or approval. Any delay in complying with such requests shall automatically entitle G&P to extend any time schedule by an equivalent period.
- 9.3 The Client shall procure that any other contractor appointed by or on behalf of the Client in connection with the Order shall fully co-operate with G&P and comply with any reasonable instructions issued by G&P in connection with the Order. The Client shall be liable for the actions of such contractors and responsible for managing all such contractors in order to ensure compliance with the Conditions and all applicable rules and regulations and to ensure proper and timely performance of the Order.
- 9.4 In the event of the Client being responsible for the provision of any venue, auditorium or equipment relating to the Order, the Client shall be responsible for ensuring that all necessary and applicable laws, regulations and guidelines are fully complied with in relation to the same.

10. GENERAL

- 10.1 Any order or instruction required to be given to G&P by the Client shall be given by them or their duly authorised agent in writing. If given orally, it shall be confirmed in writing to G&P within three days. G&P shall not be liable for the consequences of any inaccuracies or misunderstandings resulting from any order or instruction by the Client not received by G&P in writing or so confirmed.
- 10.2 G&P reserves the right to sub-contract the provision of all or any part of the Services and to assign or otherwise deal in any way whatsoever with G&P's interest in the Equipment and/or New Materials.
- 10.3 The invalidity, illegality or unenforceability of any of the Conditions or any part of any Condition shall not affect the validity, legality or enforceability of the remainder.
- 10.4 Any forbearance or indulgence on the part of G&P, its servants or agents to enforce fully, or at all, any of the Conditions shall not constitute a waiver of G&P's rights and shall be entirely without prejudice to those rights.
- 10.5 Any notice to be given to either party under these Conditions must be in writing and sent by email to thecaligaris@gingerandpickles productions.
- 10.6 G&P shall not be liable for any delay or failure to perform its obligations if that delay or failure is caused by circumstances beyond its reasonable control including but not limited to acts of God, industrial dispute, civil disturbance, strikes or lock-outs or impossibility of or difficulty in obtaining source materials. G&P shall be entitled to a reasonable extension of time for the performance of such obligations.
- 10.7 The Client shall not be entitled to assign or transfer the benefit or burden of this contract to any other party without the prior written consent of an authorised representative of G&P.
- 10.8 In the event of any dispute arising out of this agreement, the parties shall attempt to settle it by negotiation. To this end, they shall use their respective best endeavours to consult or negotiate with each other in good faith and, recognising their mutual interests, attempt to reach a just and equitable settlement satisfactory to both parties. Negotiations shall be conducted between the respective senior executives of the parties who have authority to settle

disputes. If the parties do not reach such a settlement within a period of 21 days from the date when the dispute was brought to either party's attention, the parties will attempt to settle it by mediation administered by the Centre for Dispute Resolution (CEDR). To initiate mediation, a party must give written notice to the other parties to the dispute requesting mediation. The mediation shall be conducted in accordance with the CEDR Model Mediation Procedure current at the date of the referral which sets out the procedures to be adopted, the process of selection of the mediator and the costs involved, and which terms are deemed incorporate. The commencement of mediation will not prevent the parties commencing or continuing court proceedings.

- 10.9 This agreement shall be governed by English law and the English courts shall have exclusive jurisdiction save in respect of the enforcement of judgments where such jurisdiction shall be nonexclusive.

Service-specific Terms and Conditions

11. CREATION, DUPLICATION AND/OR MANIPULATION OF MATERIAL

- 11.1 Where G&P provides Services to the Client involving the creation, duplication or manipulation of material (including, but not limited to, the creation of graphical elements, tape duplication, video editing, standards conversion, encoding and compression, archive restoration), the following conditions shall also apply:
- 11.2 G&P shall exercise due diligence in performing the Services for the Client.
- 11.3 The Client shall deliver the Source Material to G&P and shall ensure that each item of Source Material clearly identifies the Client and the Content of the Source Material. In the case of Digital Delivery, the Client shall also ensure that the Source Material is correctly addressed and accompanied by the Order and that the communication is virus free.
- 11.4 In the event that G&P considers that the Source Material is of a quality insufficient to allow it to perform the Services satisfactorily, G&P shall promptly notify the Client and shall be under no obligation to perform the Services.
- 11.5 To the extent permissible by law, G&P's liability in respect of the provision of the Services shall be limited to the value of the Source Material. For the avoidance of doubt, G&P shall not be liable for loss of Content from the Source Material and the Client should retain appropriate copies or insure against such potential loss.
- 11.6 G&P shall take reasonable care of any and all materials belonging to the Client in its possession but shall not be liable for any financial loss suffered or incurred by the Client or any third party or any other liability arising in respect of the replacement of such materials.
- 11.7 The Client warrants that it is either the owner of the Content contained in the Source Material or alternatively is authorised, in all cases, by the owner of all intellectual property rights to produce New Material in accordance with the Order. It further warrants that the duplication and/or manipulation of the Content and the provision of the Services will not infringe the intellectual property rights or any other rights of any third party.
- 11.8 The Client shall fully indemnify and keep fully indemnified G&P against all claims, loss, damages, expenses or proceedings suffered or incurred by G&P in consequence of any breach of undertaking, representation, obligation or warranty or as a result of the Content or New Material infringing the rights of any third party.
- 11.9 In the event that G&P believes that the Client is not entitled to give the warranties set out in clause 11.7, G&P shall be entitled to postpone performance of the Services until such time as it considers that it has received sufficient supporting evidence of such entitlement.
- 11.10 G&P shall use its reasonable endeavours to effect delivery of the New Material and return of the Source Material on the date set out in the Order but shall not be liable for non-delivery by a specific time or date or for any losses thereby incurred by the Client.

12. RISK AND TITLE

- 12.1 Upon delivery to the Client, the Client or its carrier, end user, agent or other representative shall sign for the New Material or, in the case of Digital Delivery, acknowledge receipt of the New Material by e-mail to G&P immediately upon request. In the event that the Client (or any carrier, agent or representative) is not available to provide a signature, G&P may retain the New Material and reserves the right to charge the Client for any resultant delivery and/or storage charges in accordance with its standard rates.
- 12.2 Notwithstanding such delivery, the legal and equitable title to and in the New Material shall remain with G&P (not withstanding that the New Materials have become incorporated in to other products) until G&P has received cleared payment of all monies plus VAT and any interest pursuant to Clause 6.5 due to it in accordance with the Order or as otherwise agreed in writing between the parties and with these Conditions and has received full cleared payment for any other New Materials, Personnel, Equipment and/or Services previously supplied to it by G&P.
- 12.3 Any copyright and all other similar rights in all original work and materials produced by or on behalf of G&P for the Client shall unless otherwise notified in writing to the Client by an authorised representative of G&P be the property of G&P (whether or not used by the Client) and unless otherwise specifically agreed by an authorised representative of G&P in writing the Client shall have no rights, title or interest in such property.
- 12.4 Any works and/or material referred to in clause 12.3 above shall be available for use by the Client only in respect of the activity set out in the Order and shall not be used by or on behalf of the Client for any other purpose other than with the written prior agreement of and on such terms as may be agreed by an authorised representative of G&P.
- 12.5 The Client shall not do or permit to be done any act or thing which may prejudice or infringe G&P's intellectual property rights and shall immediately notify G&P of such potential or actual infringement.
- 12.6 Any works and/or material provided by G&P to the Client which are subject to the rights of third parties shall be used by the Client strictly in accordance with the terms of any restriction notified by G&P and upon the terms of any licence provided.

13. PRODUCTION AND EVENT SERVICES

- 13.1 Where G&P provides production services in areas including but not limited to video, interactive media, conferences, exhibitions and other live events and related communications consultancy the following conditions shall also apply:
- 13.2 In all cases, G&P shall supply a Proposal to the Client setting out details of the Services to be supplied, including, but not limited to, delivery dates and the charges, fees or costs (some of which may be stated to be estimates) relating to them.
- 13.3 Acceptance of the Proposal by the Client shall be deemed to be an Order.
- 13.4 Any subsequent amendment to the Proposal must be agreed in writing between the authorised representatives of G&P and the Client. G&P will notify the Client of any amendment to the Proposal as a result of late delivery of any materials by the Client to G&P in relation to the Services, and the Client agrees to be bound by these amendments.
- 13.5 If G&P agrees to accept cancellation of an Order, the Client agrees to be liable for a proportion of the total charges, fees or costs set out in the Order, determined by the length of notice of cancellation provided by the Client in writing as follows:
 - 14 days – 50% of the total Order value;
 - Up to 7 days – 100% of the total Order value.

- 13.6 Invoices issued by G&P pursuant to clause 13.5 shall be payable in accordance with clause 6 of these Conditions, and time for payment shall be of the essence. The parties agree that this amount constitutes a realistic pre-estimate of G&P's loss and is not intended to be a penalty. The payment of such cancellation fee shall not in any way prejudice G&P's right to recover from the Client full compensation for any loss or expense arising from such cancellation or variation.
- 13.7 The Client shall confirm a verbal order or instruction given to G&P pursuant to clause 10.1 in writing within three days. The Client's verbal order or written approval of, including but not limited to, the script, storyboards, visuals, designs, timetables and/or estimates shall give G&P authority to purchase, enter into production contracts, or enter into agreements/arrangements for any other facilities or services in connection with the Order.
- 13.8 Where G&P provides Services to the Client involving the creation, duplication and/or manipulation of the material, G&P shall retain any material that has been supplied by and/or produced by G&P for the Client in respect of the Services and notify the Client of the need to collect such materials. If such materials have not been collected for a period of two years after such notification, then G&P shall be entitled at its sole discretion to destroy such materials.
- 13.9 Upon receipt of written instruction from the Client, G&P may agree to retain the material including any New Material in a fiduciary capacity after the period specified in clause 16.8. G&P will advise the Client of any cost payable for such a service, including, but not limited to, the cost of repairs, alteration and/or renovation to stored items. Such charges should be settled within 30 days from invoice date pursuant to clause 5.
- 13.10 Any copyright and all other similar rights in all original work and materials produced by or on behalf of G&P for the Client shall unless otherwise notified in writing to the Client by an authorised representative of G&P be the property of G&P (whether or not used by the Client) and unless otherwise specifically agreed by an authorised representative of G&P in writing the Client shall have no rights, title or interest in such property.
- 13.11 Any works and/or material referred to in clause 13.10 above shall be available for use by the Client only in respect of the activity set out in the Order and shall not be used by or on behalf of the Client for any other purpose other than with the written prior agreement of and on such terms as may be agreed by an authorised representative of G&P.
- 13.12 The Client shall not do or permit to be done any act or thing which may prejudice or infringe G&P's intellectual property rights and shall immediately notify G&P of such potential or actual infringement.
- 13.13 Any works and/or material provided by G&P to the Client which are subject to the rights of third parties shall be used by the Client strictly in accordance with the terms of any restriction notified by G&P and upon the terms of any licence provided.