



**KATIE BIRKS BRANDING & DESIGN**  
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## **TERMS AND CONDITIONS**

The following terms and conditions apply to all Services offered by Katie Birks Branding and Design. By ordering Services from Katie Birks Branding and Design you are agreeing to the following terms and conditions.

### **1. Services**

#### *1.1 The Work*

Katie Birks Branding and Design agrees to produce project materials (the "Work" or "Services") at the request of the Client for fees agreed upon in advance and delivery of the Work by an agreed-upon deadline. Katie Birks Branding and Design will cooperate with the Client in editing and otherwise reviewing the Work prior to completion and launch. When the design meets the specifications set out in the quotation, Katie Birks Branding and Design will invoice the Client for the remaining amount due.

#### *1.2 Quotation*

Quotations are valid for thirty days from the date on the tender or quotation. All prices quoted may be subject to change after this period.

### **2. Fees and Charges**

#### *2.1 Deposit*

The Client agrees to pay Katie Birks Branding and Design a non-refundable 50% of the total project cost before any services are provided, and the remaining 50% is to be paid before any workable files are delivered. If the parameters of the Work change, or if it involves more time than estimated, Katie Birks Branding and Design will inform the Client and they can renegotiate the Work's cost.

#### *2.2 Payment*

Payment terms are strictly 30 days unless otherwise agreed. Whilst any payment due under the agreement remains outstanding, Katie Birks Branding and Design shall be entitled at its sole and absolute discretion to withhold provision of any goods or services it would otherwise be obliged to provide under the agreement. Katie Birks Branding and Design expects payment by cheque, electronic bank transfer or cash within 30 days of the date on the invoice. Payment must be made in GBP (£).

#### *2.3 Charges*

Any payment returned by the bank or credit card company will incur a £10 administration charge in addition to any charges made by the bank. This will be invoiced and will be added to the total outstanding debt owed by the customer.



#### *2.4 Late Payments*

In accordance with the Late Payment of Commercial Debts Act 1998 interest will be charged on all payments received outside of payment terms at the rate of eight per cent above the Bank of England Base Rate as applicable on the previous 31 December or 30 June whichever is the most recent.

In case collection proves necessary, the Client agrees to pay all fees (including all legal fees and court costs) incurred by that process. If for any reason whatsoever we are unable to provide an agreed product or service in accordance with these terms and conditions our liability shall be limited in its entirety to a proportional refund of any fees paid by you for the service or product.

#### *2.5 Unforeseen Additional Costs and Expenses*

In the event an amendment, feature, modification or other is required which has not been included in the quotation, Katie Birks Branding and Design will give notice prior to implementation of the surcharge and the cost will be added to the final invoice.

### **3. Delivery**

An anticipated timescale and delivery date will be agreed. Katie Birks Branding and Design will do its best to adhere to that however cannot guarantee to do so in the light of circumstances outside its control. Where in the instance where a project delivery date has been agreed, Katie Birks Branding and Design will not be responsible for any consequential losses to the Client if the deadline is not met.

### **4. Client Responsibilities**

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

4.1 co-ordination of any decision-making with parties other than Katie Birks Branding and Design;

4.2 provision of Client Content in a form suitable for reproduction or incorporation into the Work without further preparation, unless otherwise expressly provided in the Quotation;

4.3 if, during the development, the Client does not supply the content required in order to complete the Work within the anticipated time frame, Katie Birks Branding and Design may invoice additional costs involved due to the overrun of the project which impinges on the ability of Katie Birks Branding and Design to service other Clients;

4.4 final proofreading and in the event that the Client has approved Services but errors, such as, by way of example, not limited to, typographic errors or misspellings, remain in the finished product, the Client shall incur the cost of correcting such errors; and,

4.5 upon acceptance of the Work, the Client accepts responsibility for any further processes in which this work is used (e.g. film outpost, printing, etc.). Katie Birks Branding and Design is not responsible for errors occurring in this work or projects related to this work after acceptance of the Work by the Client.

## **5. Sub-Contracting**

If necessary Katie Birks Branding and Design reserves the right, and the Client hereby agrees, to allow the use of sub-contractors or agents to work on any aspect of the Work.

## **6. Copyright**

All material, both text and images, supplied by the Client and used in the construction of the Client's project, will remain the Client's property. All such material will be assumed to be the property of the Client and free to use without fear of breach of copyright laws. The Client shall indemnify Katie Birks Branding and Design against all and any claims arising from the use of materials of any sort provided by the Client or obtained under the direction of the Client from third parties such as graphic designers.

The copyright for all material provided by Katie Birks Branding and Design, such as HTML CSS code, graphics, photographs and text, will remain the property of Katie Birks Branding and Design until such time as payment has been made in full. They will then become the property of the Client with copyright shared between the Client and Katie Birks Branding and Design.

## **7. Promotion, Reference and Accreditation**

### *7.1 Promotion*

Katie Birks Branding and Design retains the right to reproduce, publish and display their Services and design elements as examples of their work in their respective portfolios, websites, and in galleries, design periodicals and other media or exhibits for the purposes of recognition of creative excellence or professional advancement.

### *7.2 Reference*

Katie Birks Branding and Design retain the right to refer other prospective Clients to your website as testimonial or reference material and include a link to your website or other promotional materials.

### *7.3 Accreditation*

Katie Birks Branding and Design retains the right to be credited with authorship of the Services in connection with the uses of the Work.

## **8. Relationship of Parties**

Katie Birks Branding and Design is an independent contractor, not an employee of the Client or any company affiliated with the Client. Katie Birks Branding and Design shall



provide the Services under the general direction of the Client, but Katie Birks Branding and Design shall determine, in its sole discretion, the manner and means by which the Services are accomplished. This Agreement does not create a partnership or joint venture and neither party is authorised to act as agent or bind the other party except as expressly stated in this Agreement. The Work or Deliverables prepared by Katie Birks Branding and Design shall not be deemed a work for hire as that term is defined under Copyright Law. All rights, if any, granted to the Client are contractual in nature and are wholly defined by the express written agreement of the parties and the various terms and conditions of this Agreement.

## **9. Data Protection**

Where the operation of Services provided by Katie Birks Branding and Design involves the collection and administration of personal data the Client is deemed to be the Data Controller and as such is responsible for notification under the terms of the Data Protection Acts and related regulations.

## **10. Advice and Consultancy**

Any advice given in respect of software, hardware, design, purchasing, or any other advice, suggestion, recommendation or otherwise of any product or service provided by Katie Birks Branding and Design or by a third party, whether introduced directly or indirectly is accepted by you as an opinion and as such you agree that prior to acting on any of the aforementioned that you will first obtain professional advice. You further agree to indemnify Katie Birks Branding and Design of all liability with regard to any decision or action performed by you that may or may not be a direct or indirect result of any contact or dealing with Katie Birks Branding and Design.

## **11. Cancellation**

Both parties understand that the Client or Katie Birks Branding and Design may terminate the service at any time if, for any reason, the relationship is deemed unsatisfactory by either party. Upon written or verbal cancellation, the Client is responsible for payment for all expenses incurred and any work done towards the completion of the project based on the percentage of the Work completed that is determined by Katie Birks Branding and Design. Should the Client cancel the project following its completion, the Client is responsible for full payment as per the agreed upon estimate plus all expenses incurred. In the event of cancellation, Katie Birks Branding and Design retains ownership of all copyrights and original work created.

## **12. Consequential Losses**

If for any reason whatsoever Katie Birks Branding and Design is unable to provide an agreed product or service in accordance with these terms and conditions our liability shall be limited in its entirety to a proportional refund of any fees paid by you for the service or



product. The entire risk as to the quality and performance of the Work is with the Client. In no event will Katie Birks Branding and Design be liable to the Client or any third party for any damages, or any other circumstances beyond the control of Katie Birks Branding and Design, any lost profits, lost savings or other incidental, consequential, punitive, or special damages arising out of the operation of or inability to operate services, failure of any service provider, of any telecommunications carrier, of the Internet backbone, of any Internet servers, your or your site visitors' computer or Internet software, even if Katie Birks Branding and Design has been advised of the possibility of such damages.

### **13. Confidentiality**

Katie Birks Branding and Design acknowledges that in connection with the Client, each party may receive or have access to commercially or personally valuable technical and non-technical confidential or proprietary information ("Confidential Information") of the other party. Confidential Information includes all information, whether oral or written, which relates to the business of a party that is not generally known or available to others, creative works, marketing strategies, pending projects/proposals, including, without limitation, source code and documentation for software, customer lists, pricing strategies, marketing and business plans and other Confidential Information. Each party acknowledges and agrees that any Confidential Information received or obtained from the other party will be the sole and exclusive property of the other party and may not be used, disseminated or disclosed except as may be necessary to perform the obligations required under this Agreement or as may be required by law.

Unless strict confidentiality is requested by the Client in advance of the establishment of this contract, Katie Birks Branding and Design can display materials and final work created for the Client on the Katie Birks Branding and Design website (<http://www.katiebirks.co.uk>).

### **14. Modification**

This Agreement may be modified by Katie Birks Branding and Design at any time by publication through its website ([www.katiebirks.co.uk](http://www.katiebirks.co.uk)), except that such changes shall not effect Client Orders that have already been accepted.

### **15. Acceptance of Terms**

The contract between Katie Birks Branding and Design and the Client shall consist of the quotation with its specifications and the relevant terms and conditions. The Client promises to pay for the services rendered by Katie Birks Branding and Design for the Work as agreed upon.

It may not be necessary to have a signature for the contract to commence, verbal communication, email communication or other exchange making it clear that the Work specified is required to be carried out shall constitute commencement of the contract and a contractual agreement between the Client and Katie Birks Branding and Design shall exist



based on the quotation with its specifications and these terms and conditions. The Client agrees they have read, understood, and are considered legally bonded to these terms.

The provision of Work, Services or Deliverables by Katie Birks Branding and Design is undertaken on the understanding that the Client has read and accepted these and any other terms and conditions in full.

