



TERMS AND CONDITIONS

1. DEFINITIONS

1.1 For this agreement, the following words will have the following meanings:

1.2 **"We, our, us"** means "Katie Birks Branding & Design";

1.3 **"Client, you, your, they"** means the person or business purchasing services from Katie Birks Branding & Design;

1.4 **"Agreement, contract, terms"** means these terms and conditions and the agreement put in place between Katie Birks Branding & Design and the Client;

1.5 **"Work, services, deliverables"** means any final work including but not limited to deliverable art, creative materials, written documentation, content, products and services provided by Katie Birks Branding & Design to the Client;

1.6 **"Quote"** means the initial cost estimation and detailing of Services to be provided to the Client from Katie Birks Branding & Design;

1.7 **"Fees, payment"** means the fees for rendering Services as set out in the Quote and sent to the Client; and,

1.8 **"Intellectual property, property"** means Intellectual Property Rights, such as copyright, registered or unregistered designs, trademarks, patents, know-how and all other forms of intellectual property wherever in the world enforceable.

2. SERVICES

2.1 The provision of Services by Katie Birks Branding & Design is carried out on the understanding that the Client has read and agreed to our terms and conditions and any other contractual obligations in full.

2.2 Any variation to these terms and conditions or the contract of Services must be agreed in writing by Katie Birks Branding & Design.

2.3 All contracts between Katie Birks Branding & Design and the Client will be governed by English law and the parties agree to submit to the exclusive jurisdiction of the courts of England.

2.4 Katie Birks Branding & Design agrees to produce the Work requested by the Client for Fees agreed upon in the Quote.

3. CONTRACT COMMENCEMENT

3.1 The contract between Katie Birks Branding & Design and the Client consists of the Quote with its specifications and these terms and conditions.



3.2 It may not be necessary to have a signature for the contract to commence, verbal communication, email communication or another exchange making it clear that the Work specified is required to be carried out, constitutes commencement of the contract and a contractual agreement between the Client and Katie Birks Branding & Design exists based on the Quote and these terms and conditions.

3.3 Katie Birks Branding & Design cannot always start Work immediately, but a start date will be agreed upon with the Client as to when Work can commence, along with an estimated completion date.

4. FEES AND PAYMENT

4.1 The Client is required to pay the agreed Fees as outlined in the Quote. Katie Birks Branding & Design requires the Client to pay a non-refundable 50% deposit of the total Fees prior to commencing Work or Services.

4.2 The remaining balance is due and payable upon the Client's approval of the final Work and prior to the delivery of any final Work.

4.3 Payments are due within 14 business days of the date on the invoice, unless otherwise agreed. Whilst any payment due under the agreement remains outstanding, Katie Birks Branding & Design shall be entitled at its sole and absolute discretion to withhold provision of any Services it would otherwise be obliged to provide under the agreement. Payments are to be made by cheque, electronic bank transfer or cash.

4.4 Additional Fees shall be invoiced for the Services outlined in the Quote. If the parameters of the Work change, or if it involves more time than estimated, including the use of third-party media, or in the event that an unforeseen amendment, feature, modification or other is required, which has not been included in the Quote. We will give notice prior to the implementation of the surcharge and the cost will be added to the final invoice.

4.5 Katie Birks Branding & Design reserves the right to suspend work and/or withhold issuing any project documents if invoice payments are not received within a reasonable period of time from the invoice date. If any part of the work for this project is delayed for longer than 30 days, Katie Birks Branding & Design will invoice the Client for work completed.

4.6 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 Client.

4.7 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 8% above the Bank of England Base Rate as applicable on the previous 31 December or 30 June whichever is the most recent.

4.8 Should collection prove 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 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.



5. DELIVERY

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

5.2 Katie Birks Branding & Design will cooperate with the Client in editing and reviewing the Work prior to completion. When the design meets the specifications set out in the Quote, the Client will be invoiced for the remaining amount due.

5.3 Final Work excludes any preliminary Work, concepts or sketches. Any preliminary Work indicative of the final Work will be produced by Katie Birks Branding & Design for review and approval by the Client prior to the creation of the final Deliverables.

6. CLIENT RESPONSIBILITIES

6.1 To allow Katie Birks Branding & Design to fulfil its obligations under this Agreement, the Client acknowledges that They shall be responsible for performing the following in a reasonable and timely manner:

6.1.1 co-operate with Katie Birks Branding & Design by providing clear and timely feedback or directions as necessary to the development and completion of the Work, including instructions and making themselves accessible via phone, in person or email, as appropriate;

6.1.2 co-ordinate any decision-making with parties other than Katie Birks Branding & Design;

6.1.3 provide accurate, complete and timely information, consents and material in a form suitable for reproduction or incorporation into the Work, and with the necessary rights and ownership for the project;

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

6.1.5 in accepting the Work, the Client accepts responsibility for any further processes in which this work is used (e.g. film outpost, printing, etc.). We are not responsible for errors occurring in this work or projects related to this work after acceptance of the Work by the Client.

6.2 If the Client or a third-party (non-sub-contracting) should omit or commit anything which impinges on the ability of Katie Birks Branding & Design to fulfil its obligations under this Agreement, including but not limited to 6.1, Katie Birks Branding & Design will notify the Client; and,

6.2.1 Katie Birks Branding & Design may invoice additional Fees due to the overrun of the project which may additionally affect Our ability to provide Services to other Clients;

6.2.2 Katie Birks Branding & Design will have no liability in the delay to the completion of the Services;



6.2.3 Katie Birks Branding & Design will notify the Client to any timescale and Service changes or modifications.

7. SUB-CONTRACTING

7.1 If required, Katie Birks Branding & 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.

8. DESIGN PROCESS

8.1 Quotes given by Katie Birks Branding & Design will be valid for 30 days from the date on the Quote.

8.2 During the process of branding and/or print design Services, Katie Birks Branding & Design will provide up to 2 initial concepts, 3 revisions and a final proof of the Work, unless otherwise agreed or outlined in the Quote.

8.3 Katie Birks Branding & Design endeavour to obtain the best possible colour reproduction, and reasonable variation of colour between final proof and the completed product is accepted, unless otherwise agreed.

8.4 Unless stated by the Client, at the sole discretion of Katie Birks Branding & Design will decide the final image quality, material and finish of the Work.

8.5 Katie Birks Branding & Design makes every effort to design web pages to current web standards, and;

8.5.1 Katie Birks Branding & Design makes every effort to ensure web pages display well in the most popular current browsers, but cannot accept responsibility for pages, which do not display acceptably in new versions of non-web standard browsers. One version of the website will be created that will display well in all web-standard browsers and at all usual display resolutions.

8.5.2 Katie Birks Branding & Design does not accept any responsibility for legal compliance of your website or its content. Our designers are not qualified to offer legal advice regarding the obligations you have whilst operating your website in the UK. If you have any doubts regarding the compliance of your website with UK or EU law, then you should seek specialist legal advice.

8.5.3 Katie Birks Branding & Design can accept no responsibility or liability if any search engine, online directory or search site chooses not to list a client's web site.

8.5.4 In instances where there is no additional agreement for ongoing website maintenance, it is the sole responsibility of the client to manage the site. Katie Birks Branding & Design will no longer be responsible for the site upon completion unless an alternative agreement has been reached.

8.5.5 Where the Client website is stored on a server and email services are provided under a contract between the Client and the chosen hosting or email provider or Internet Service Provider (ISP), the Client will be bound by the terms and conditions of that ISP.



8.6 Katie Birks Branding & Design makes no commission on the recommendation of Services or products, and does so in good faith and cannot under any circumstances be held responsible or liable for any shortcomings or losses incurred as part of that contract.

8.7 Additional costs incurred in the provision of design and website Services, including, but not limited to: stock photography; electronic software; domain registration; web space; Internet connection provided by third parties that are not included in the quotation, are non-refundable and are subject to surcharge.

9. SUPPLY OF CONTENT

9.1 Material 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.

9.2 The Client shall indemnify Katie Birks Branding & 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.

10. ELECTRONIC FILES

10.1 Katie Birks Branding & Design agrees to store electronic files created for the Client for a minimum of 2 years.

10.2 If the Client has specific requirements for how project files must be prepared, this must be communicated in writing, to Katie Birks Branding & Design before the project begins.

11. OWNERSHIP AND COPYRIGHT

11.1 Ownership and copyright for all Work created by Katie Birks Branding & Design, including but not limited to; graphics, photographs, text and source code, will remain the property of Katie Birks Branding & Design until payment has been made in full by the Client.

11.2 After final payment has been made in full the final Work provided will become the property of the Client with copyright shared between the Client and Katie Birks Branding & Design.

11.3 All preliminary Work, concepts or sketches indicative of the final Work remain the property of Katie Birks Branding & Design and cannot be used by the Client under this Agreement, unless otherwise agreed.

11.4 This Agreement excludes the Client the right to authorship credit, modification and resell, which is retained by Katie Birks Branding & Design. Work is produced with the intent it will be unique and We will not seek to resell or publish Work, except as noted. Katie Birks Branding & Design retains the right to have authorship attributions removed from copies of the final Work at any time for any reason.

11.5 Katie Birks Branding & Design may make use of and incorporate images and other source materials in the Work, which are the property of third parties and the use of which is governed by agreements with third parties. Katie Birks Branding & Design endeavour to inform and gain approval from the Client for the use of 3rd Party Media when legally and financially applicable.



11.6 Katie Birks Branding & Design agrees to make best efforts to ensure that any 3rd Party Media used in the creation of the Work is authorised, fully paid up, and free of limitations and other royalties or claims for use within the final Work.

11.7 Katie Birks Branding & Design makes no warranty that 3rd Party Media is free of limitations or claims associated with using the 3rd Party Media.

12. PROMOTION, REFERENCE AND ACCREDITATION

12.1 Katie Birks Branding & Design retains the right to reproduce, publish and display the Work, 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, including, but not limited to, any website that displays Design Works.

12.2 Katie Birks Branding & 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.

12.3 Katie Birks Branding & Design retains the right to be credited with authorship of the Services in connection with the uses of the Work. The Client agrees to include links to Katie Birks Branding & Design within electronic Work as is practical. The Client may not seek to mislead others that Work was created by anyone other than Katie Birks Branding & Design.

13. RELATIONSHIP OF PARTIES

13.1 Katie Birks Branding & Design is an independent contractor, not an employee of the Client or any company affiliated with the Client. We shall provide the Services under the general direction of the Client, but shall determine, in Our sole discretion, the manner and means by which the Services are accomplished.

13.2 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.

14. DATA PROTECTION

14.1 Any and all personal information that We may collect from and/or about the Client will be collected, used, and held in accordance with Client rights and Our obligations under the General Data Protection Regulation (GDPR);

14.2 In accordance with Our [Privacy Policy](#) We may use Your data for the following purposes:

14.2.1 to process, manage and provide Our Services to You;

14.2.2 to occasionally email important notices;

14.2.3 to reply to emails and website enquiries from You;

14.2.4 to supply You with emails You have opted-in to (e.g. newsletters), where You are given the choice to opt-out or unsubscribe at any time; and,



14.2.5 Market research

14.3 We will not pass on Your personal information to any third parties without Your express written permission.

15. ADVICE AND CONSULTANCY

15.1 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 & Design or by a third party, whether introduced directly or indirectly is accepted by the Client as an opinion and as such the Client agrees that prior to acting on any of the aforementioned they will first obtain professional advice;

15.2 The Client agrees to indemnify Katie Birks Branding & Design of all liability with regard to any decision or action performed by the Client that may or may not be a direct or indirect result of any contact or dealing with Us.

16. CANCELLATION

16.1 Both parties understand that the Client or Katie Birks Branding & Design may terminate the service at any time if, for any reason, the relationship is deemed unsatisfactory by either party;

16.2 upon written 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 & Design; and,

16.3 should the Client cancel the project following its completion, the Client is responsible for full payment as per the agreed upon Quote, plus any expenses incurred. In the event of cancellation, Katie Birks Branding & Design retain ownership of all copyrights and original Work created.

17. CONSEQUENTIAL LOSSES

17.1 If for any reason whatsoever Katie Birks Branding & 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 the Client for the Service or Work.

17.2 The entire risk as to the quality and performance of the Work is with the Client. In no event will Katie Birks Branding & Design be liable to the Client or any third party for any damages, or any other circumstances beyond Our control.

17.3 Katie Birks Branding & Design will not be liable for any lost profits, lost savings or other incidental, consequential, punitive, or special damages arising out of the operation of or inability to complete or operate Services, including but not limited to, the failure of any service provider, any Internet servers, the Clients' computer or Internet software, even if Katie Birks Branding & Design has been advised of the possibility of such damages.



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18. CONFIDENTIALITY

18.1 Katie Birks Branding & 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 of the Client.

18.2 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.

18.3 Katie Birks Branding & Design and the Client acknowledge and agree 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.

18.4 Unless an alternative contractual agreement or strict confidentiality is requested by the Client in advance of the Agreement or contract for Work, Katie Birks Branding & Design can display Deliverables and final Work created for the Client on the Katie Birks Branding & Design website (<https://katiebirks.co.uk>) and social media platforms.

This Agreement may be modified by Katie Birks Branding & Design at any time by publication through: <https://katiebirks.co.uk>.

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