

MartinHopkins

Brand, design and
digital agency

TERMS & CONDITIONS – January 2017

1.0 These Standard Terms and Conditions apply to the supply of all products and services provided by Martin Hopkins Design, unless otherwise stated or agreed. For Martin Hopkins read 'designer', for customer read 'client'.

All work is carried out by Martin Hopkins Design on the understanding that the client has agreed to Martin Hopkins Design's Terms and Conditions. Copyright is retained by Martin Hopkins Design on all design work including words, pictures, ideas, visuals and illustrations unless specifically released in writing and after all costs have been settled.

If a choice of design is presented, only one solution is deemed to be given by Martin Hopkins Design as fulfilling the contract. All other designs remain the property of Martin Hopkins Design, unless agreed in writing that this arrangement has been changed.

2.0 Quotation & Costs

- 2.1 For the purposes of invoicing, the client who commissions us to produce the work will be deemed our customer and will be liable for any and all payments due unless agreed prior to commencement of work. It is the responsibility of the client to pursue reimbursement of the sum from their client. PLEASE NOTE: If we are requested to re-invoice to another body at a later date, an admin fee of £70 will be incurred and invoiced to the client making the request.
- 2.2 Quotations are based on the designers current cost/s of production, and unless otherwise agreed, are subject to amendment before final agreement to proceed.
- 2.3 Quotations are valid for 14 days from the date stated on the quotation.

- 2.4 The placement of an order for design and/or any other services offered by Martin Hopkins Design, by email, verbally or in writing, is deemed to be acceptance of these terms and conditions, which are freely available at www.martinhopkins.co.uk. An estimate validated by the customer's signature on the estimate or quotation form, constitutes acceptance of the estimate or quotation and agreement to comply fully with all the Terms and Conditions and forms a Contract for Business between the signatory and Martin Hopkins Design. In accepting our estimate or quotation, the client indicates acceptance of our Terms and Conditions and agrees to pay a non-refundable deposit of 50% of the total quoted fee which is payable before work commences. The outstanding balance will fall due upon completion of work and receipt of final invoice. No work will commence without signed agreement from the client.
- 2.5 Any work commenced and/or completed outside an agreed list of deliverables, not included in the original quote, or due to the client's changes, will be quoted and agreed on separately before commencing work.
- 2.6 Our costs exclude any outside costs incurred. i.e. printing, hosting, unless these have been requested as part of the original quotation. Our costs exclude VAT which will be charged at the current rate.
- 2.7 All work quoted by Martin Hopkins Design will be based on the normal working day (9-5pm). Any overtime will be charged accordingly unless agreed prior to commencement of work. Our normal hourly rate is charged at £70. Overtime working is charged at £85 for the first 3 hours, thereafter the rate is £100 per hour. Weekend working is also charged at £100 per hour.
- 2.8 Martin Hopkins Design operates a minimum charge of £70.
- 2.9 The cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals whom Martin Hopkins Design engages in connection with the Services, and the cost of any materials or disbursements shall be invoiced by Martin Hopkins Design at cost and shall be added to its invoices at the appropriate time.
- 2.10 All reversionary work or additional work requested by the client, which is requested following commencement of the Service and which is outside the scope of the quotation (including any services necessarily procured in order to carry out the Service) shall be regarded as additional to the cost given in the quotation and will be invoiced separately.
- 2.11 All prices are estimates and are subject to final confirmation of technical specification and final brief.
- 2.12 Charges include 10 minutes of amendments per hour of design work/artwork. Any additional work will be charged at Martin Hopkins Design's standard hourly rates.
- 2.13 Charges for design work do not cover the release of copyright design files including indd, psd, png, ai or any other source files; if the client requires these files, they will be subject to a separate quotation or 'buy-out' charge.

- 2.14 Martin Hopkins Design reserves the right to invoice for any 'work to date', in the event commissioned work extends or is on hold for a lengthy period of time.

3.0 Commencement of Work

- 3.1 The client agrees to provide written approval of the proposal by means of email or letter before any work is commenced as a statement of agreement between the client and the designer concerning the work outlined within said proposal. No work on a project will commence until acceptance of the quotation has been received by Martin Hopkins Design. At this point a non-refundable deposit of 50% of the total is due (see 2.4).

4.0 Use of Third Party's

- 4.1 The designer, if required, may act as the client's agent and directly or through an intermediary, ask another contractor and/or supplier ('Third Party') to carry out aspects of the project (i.e. printing).
- 4.2 The designer shall pay the charges of the Third Party's on the client's agreement, then recharge them to the client.
- 4.3 The designer will take all reasonable care in selecting and instructing a Third Party. However, the designer will have no control over the activities of appointed Third Party and therefore accept no liability for the services provided to the client by that Third Party Contractor or for any errors or omissions in its work or products.

5.0 Delivery

- 5.1 The designer will deliver all products by email and/or post or courier, unless otherwise stated.
- 5.2 The Buyer shall be deemed to have accepted Goods 24 hours after delivery to the Buyer.
- 5.3 After acceptance the Buyer shall not be entitled to reject Goods which are not in accordance with the contract.
- 5.4 Any extra costs incurred upon request of an alternative method of delivery, must be met by the client.

6.0 Payment

- 6.1 Under the terms of the agreement payment will be made in two parts:
- 6.1.1 The first payment of half of the total balance to be made prior to commencement of all works.
- 6.1.2 The final balance will be settled in full within 14 days of completion and sign over of design project. Failure to do so will result in an additional £70 administration fee and Accounts which remain outstanding for 30 days after the date of invoice, will incur an extra charge of 25% per month of the outstanding amount.
- 6.2 Under the express terms of the agreement until full payment has been received all design work is the intellectual property of the designer. It is subject to copyright and the client could face a number of penalties if they use/continue to use it without the express written permission of the designer being sought and received.

- 6.3 Payment can be made by any of the following methods: BACS payment, online transfer, cash, cheque or (for overseas customers), Pound Sterling International Money Order or previously agreed electronic funds transfer.
- 6.4 Without prejudice the designer also reserves the right to refer any outstanding invoices that have not been settled within 28 days to a debt recovery company. It is their policy to pursue any outstanding invoices through the civil courts. This course of action will incur significant court costs to the client and may potentially be subject to the Late Payment of Debt Act at the rate of 10% above the current Bank of England base rate.
- 6.5 Publication and/or release of work done by Martin Hopkins Design on behalf of the client, may not take place before cleared funds have been received.
- 6.6 Returned cheques will incur an additional fee of £70 per returned cheque. Martin Hopkins Design reserves the right to consider an account to be in default in the event of a returned cheque.

7.0 Non-Completion of Services

- 7.1 In matters where the client has instructed the designer to undertake a service, the client will be responsible for any costs incurred providing that service, whether or not it proceeds to its conclusion.
- 7.2 An account shall be considered default if it remains unpaid for 28 days from the date of invoice, or following a returned cheque. Martin Hopkins Design shall be considered entitled to remove Martin Hopkins Design and/or the customer's material from any and all computer systems, until the amount due has been paid in full. This includes any and all unpaid monies due for services, including, but not limited to, hosting, domain registration, search engine submission, design and maintenance, sub-contractors, printers, photographers and libraries.

Removal of such materials does not relieve the customer of its obligation to pay the due amount. Customers whose accounts become default agree to pay Martin Hopkins Design reasonable legal expenses and third party collection agency fees in the enforcement of these Terms and Conditions. In addition to payment of all outstanding fees, an additional re-activation fee of £70 will be incurred.

8.0 Copyrights, Licensing and Trademarks

- 8.1 By supplying text, images and other data to Martin Hopkins Design for inclusion in the client's website or other medium, the client declares that it holds the appropriate copyright and/or trademark permissions. The ownership of such materials will remain with the client, or rightful copyright or trademark owner.
- 8.2 By supplying images, text, or any other data to Martin Hopkins Design, the customer grants Martin Hopkins Design permission to use this material freely in the pursuit of the design and agrees to fully indemnify and hold Martin Hopkins Design free from harm in any and all claims resulting from the client not having obtained all the required copyright, and/or any other necessary permissions.

- 8.3 The use of any images supplied by Martin Hopkins Design within a given project/design will remain the copyright of Martin Hopkins Design.
- 8.4 Any design, copywriting, drawing, idea or code created for the customer by Martin Hopkins Design or any of its contractors on behalf of the customer, will remain the property of Martin Hopkins Design and/or its suppliers is licensed for use by the client on a one-time only basis and may not be modified, re-used, or re-distributed in any way or form. The customer may request in writing from Martin Hopkins Design, the necessary permission to use materials (for which Martin Hopkins Design holds the copyright) in forms other than for which it was originally supplied, and Martin Hopkins Design may, at its discretion, grant this. Such permission must be obtained in writing before it will allow any of the aforesaid artwork, images, text, or other data to be used.
- 8.5 All design work - where there is a risk that another party make a claim, should be registered by the client with the appropriate authorities prior to publishing or first use or searches and legal advice sought as to its use. Martin Hopkins Design will not be held responsible for any and all damages resulting from such claims. Martin Hopkins Design is not responsible for any loss, or consequential loss, non-delivery of products or services, of whatever cause. The customer agrees not to hold Martin Hopkins Design responsible for any such loss or damage. Any claim against Martin Hopkins Design shall be limited to the relevant fee(s) paid by the customer.
- 8.6 Charges for design work do not cover the release of copyright design files including indd, psd, png, fla or any other source files; if the Client requires these files, they will be subject to a separate quotation or 'buy-out' charge.

9.0 Data Formats

- 9.1 The client agrees to Martin Hopkins Design's definition of acceptable means of supplying data to the company.

Text is to be supplied to Martin Hopkins Design in electronic format as standard text (.txt), MS Word (.doc) on CD-ROM, or via e-mail / FTP.

Images which are supplied in an electronic format are to be provided in a format as prescribed by Martin Hopkins Design via CD-ROM, or e-mail / FTP. Images must be of a quality suitable for intended use without any subsequent image processing, and Martin Hopkins Design will not be held responsible for any image quality which the client later deems to be unacceptable.
- 9.2 Additional expenses may be incurred for any necessary action, including, but not limited to, photography and art direction, photography searches, media conversion, digital image processing, or data entry services, colour correction and alteration/retouching of images.

10.0 Design Project Duration

- 10.1 Any indication given by Martin Hopkins Design of a design project's duration is to be considered by the client to be an estimation. Martin Hopkins Design cannot be held responsible for any project over-runs, whatever the cause. Estimated project duration should be deemed to be from the date that cleared funds are received by Martin Hopkins Design for the initial payment or by date confirmed in writing by Martin Hopkins Design.
- 10.2 Martin Hopkins Design will only keep artwork on a live system for a duration of 12 months. Thereafter the artwork will be backed up and archived and will be subject to a retrieval fee of £70 per project required.
- 10.3 Martin Hopkins Design reserves the right to invoice for any work to date, in the event commissioned work extends or is on hold for a lengthy period of time.
- 10.4 The late supply of in-put material from the client may have an impact on Martin Hopkins Design's ability to deliver the Services within the estimated deadline. If Martin Hopkins Design's performance of its obligations under the Contract is prevented or delayed by any act or omission of the client, its agents, subcontractors, consultants or employees, Martin Hopkins Design shall not be liable for any costs, charges or losses sustained or incurred by the client arising directly or indirectly from such prevention or delay. Any overtime work incurred to meet the deadline, caused by the late supply of material from the client, will incur an additional charge unless otherwise agreed.

11.0 Website Design

- 11.1 Unless agreed in writing differently with a director of Martin Hopkins Design, a non-refundable deposit of 50% must be paid by the client on acceptance of Martin Hopkins Design's quotation and, in any event, before Martin Hopkins Design provides the Services. The balance of Martin Hopkins Design's charges must be paid prior to the website going live. If any charges are not paid on or before the date for payment, Martin Hopkins Design may suspend the provision of the Services and will not upload the website to their server or supply the website files to the client for use on any third party hosting server.
- 11.2 On approval, Martin Hopkins Design will have no liability for any errors or downtime due to changes being made to the website by the client or any third parties. Martin Hopkins Design reserve the right to charge an additional fee to rectify any problems arising from the aforementioned.
- 11.3 Where Martin Hopkins Design have been commissioned to supply a website that the client can maintain and edit themselves, if the client continues to request tech support or requests that we carry out these edits for them on a regular basis, the client will be charged accordingly. Alternatively at the outset, the client may be required to set up a monthly standing order to cover these services.
- 11.4 Where Martin Hopkins Design have been commissioned

to 'take over' an existing website and carry out additions and amendments, should extensive extra work be required, due to the method of website build from the previous originators, Martin Hopkins Design will submit a revised estimate for approval and signature before commencement of work.

- 11.5 Martin Hopkins Design cannot guarantee that website hosting will be available to the client at all times, especially in the event of a failure beyond Martin Hopkins Design's control.
- 11.6 Martin Hopkins design may request that clients change the type of hosting account used if that account is deemed by Martin Hopkins Design to be unacceptable because of poor service, lack of bandwidth or in any other way insufficient to support the website.
- 11.7 For the purpose of maintenance services, website hosting may have to be suspended for short periods of time. Martin Hopkins Design will endeavour to notify the client of any such periods.
- 11.8 Martin Hopkins Design will charge a fee, currently £60, for a domain name transfer. A domain name will only be transferred once Martin Hopkins Design has received the full domain name transfer fee.
- 11.9 Martin Hopkins Design cannot guarantee the availability of any domain name. Where Martin Hopkins Design is to register a domain name on behalf of a client it will endeavour to do so, but the client should not assume a successful registration.
- 11.10 Due to the infinite number of considerations that search engines use when determining a site's ranking, Martin Hopkins Design cannot guarantee any particular placement. Acceptance by any search engine cannot be guaranteed and when a site is accepted, the time it takes to appear in search results varies from one search engine to another. Rankings will also vary as new sites are added.

12.0 General Design

- 12.1 Where Martin Hopkins Design are asked to tender for the design work of a client or any other third party, or in any situation where Martin Hopkins Design are asked to produce design services before the client or a third party signs a quotation, or has chance to review these Conditions, the client or the third party acknowledges that Martin Hopkins Design will invest both time and money in producing the initial tender/design work and agrees that it will pay £1,000 to Martin Hopkins Design if Martin Hopkins Design does not secure the tendered/potential work and the client or third party, or any party connected to the client or the third party, then uses the design, or any design which, in the reasonable opinion of Martin Hopkins Design, is based upon Martin Hopkins Design's original design. The client or the third party acknowledges that this fee is a genuine pre-estimate of Martin Hopkins Design's costs in producing such design. Martin Hopkins Design may reduce this amount if its costs are substantially below this figure or in its absolute discretion. This sum must be paid within 7 days of the client or the third party receiving Martin Hopkins Design's invoice.

13.0 Photography

- 13.1 Where the client requires photography as part of the Services, this can be provided by Martin Hopkins Design, a third party of Martin Hopkins Design's choosing, a third party of the client's choosing or by the client itself. Martin Hopkins Design reserve the right to invoice for any commissioned work upon immediate completion of said commission.

14.0 Privacy Policies and Data Protection

- 14.1 The designer will use information held about the client to provide services and products to the client and for credit control. All information will be regarded as confidential and not released to any third party without prior agreement with the client.
- 14.2 The client has the right, by written request and on payment of a small fee, to a copy of any personal data (as defined in the Data Protection Act 1998), which the designer hold's about them.

15.0 Use of Work for Self-Promotion

- 15.1 The designer reserves the right to use any work we produce for the purpose of self-promotion.
- 15.2 The customer agrees to allow Martin Hopkins Design to place a small credit on printed material exhibition displays, advertisements and/or a link to Martin Hopkins Design own website on the customer's website. This will usually be in the form of a small logo or line of text placed towards the bottom of the page.

The customer also agrees to allow Martin Hopkins Design to place websites and other designs, along with a link to the client's site on Martin Hopkins Design own website for demonstration purposes and to use any designs in its own publicity and portfolios.

16.0 Changes to Terms

- 16.1 The designer reserves the right to make any changes to these terms and conditions from time to time.
- 16.2 The placement of an order for design and/or any other services offered by Martin Hopkins Design, by email, verbally or in writing, is deemed to be acceptance of these terms and conditions, which are freely available at www.martinhopkins.co.uk
- 16.3 Contracts between 'the designer' and 'the client' will be concluded in the English language and will be governed by English law.
- 16.4 All contracts will be subject to the exclusive jurisdiction of the English courts.

17.0 Cancellation

- 17.1 Cancellation of orders may be made initially by telephone contact, or e-mail, however, following this, Martin Hopkins Design will need formal notification in writing to the company's postal address. The client will then be invoiced for all work completed over and above the non-refundable deposit that will have been made at the time of first ordering. The balance of monies due must be paid within 30 days. Please note: any cancellation which is not formally confirmed in writing and received by Martin Hopkins Design within 14 days of such instruction being issued, will be liable for the full quoted cost of the project.

18.0 Force Majeure

- 18.1 Neither party shall be liable for any default due to any act of God, war, strike, lockout, industrial action, fire, flood, drought, tempest or other event beyond the reasonable control of either party.

19.0 Disclaimer

Martin Hopkins Design makes no warranties of any kind, express or implied, for any and all products and/or services that it supplies. Martin Hopkins Design will not be held responsible for any and all damages resulting from products and/or services it supplies. Martin Hopkins Design is not responsible for any loss, or consequential loss of data, or non-delivery of products or services, of whatever cause. While we take reasonable steps to investigate the materials we recommend, we accept no responsibility for the performance or quality of materials or any consequential loss arising from their failure. The customer agrees not to hold Martin Hopkins Design responsible for any such loss or damage. Any claim against Martin Hopkins Design shall be limited to the relevant fee(s) paid by the customer.

Martin Hopkins Design reserves the right to use the services of sub-contractors, agents and suppliers and any work, content, services and usage is bound by their Terms and Conditions. Martin Hopkins Design will not knowingly perform any actions to contravene these and the client also agrees to be so bound.

Martin Hopkins Design and its clients agree to comply with Printers Terms and Conditions which include disclaimers for non-completion on time and the flexibility to supply quantities within 10% of the total ordered. Martin Hopkins Design recommend that if an exact quantity is required, then 10% extra is added to the quantity and extra time made available should the job be delayed.

20.0 General

These Terms and Conditions supersede any previous Terms and Conditions distributed in any form. Martin Hopkins Design reserves the right to change any rates and any of the Terms and Conditions at any time and without prior notice.