

**1 DEFINITIONS**

As used herein and throughout this Agreement:

- 1.1 Agreement means the entire content of this Basic Terms and Conditions document, the Proposal document(s), Schedule A, together with any other Supplements designated below, together with any exhibits, schedules or attachments hereto.
- 1.2 Client Content means all materials, information, photography, writings and other creative content provided by Client for use in the preparation of and/or incorporation in the Deliverables.
- 1.3 Copyrights means the property rights in original works of authorship, expressed in a tangible medium of expression, as defined and enforceable under UK Copyright Law.
- 1.4 Deliverables means the services and work product specified in the Proposal to be delivered by New Start Design to Client, in the form and media specified in the Proposal.
- 1.5 New Start Design Tools means all design tools developed and/or utilised by New Start Design in performing the Services, including without limitation pre-existing and newly developed software including source code, Web authoring tools, type fonts, and application tools, together with any other software, or other inventions whether or not patentable, and general non-copyrightable concepts such as Web site design, architecture, layout, navigational and functional elements.
- 1.6 Final Art means all creative content developed or created by New Start Design, or commissioned by New Start Design, exclusively for the Project and incorporated into and delivered as part of the Final Deliverables, including and by way of example, not limitation, any and all visual designs, visual elements, graphic design, illustration, photography, animation, sounds, typographic treatments and text, modifications to Client Content, and New Start Design's selection, arrangement and coordination of such elements together with Client Content and/or Third Party Materials.
- 1.7 Final Deliverables means the final versions of Deliverables provided by New Start Design and accepted by Client.
- 1.8 Preliminary Works means all artwork including, but not limited to, concepts, sketches, visual presentations, or other alternate or preliminary designs and documents developed by New Start Design and which may or may not be shown and or delivered to Client for consideration but do not form part of the Final Art.
- 1.9 Project means the scope and purpose of the Client's identified usage of the work product as described in the Proposal.
- 1.10 Services means all services and the work product to be provided to Client by New Start Design as described and otherwise further defined in the Proposal.
- 1.11 Third Party Materials means proprietary third party materials which are incorporated into the Final Deliverables, including without limitation stock photography or illustration.
- 1.12 Trademarks means trade names, words, symbols, designs, logos or other devices or designs used in the Final Deliverables to designate the origin or source of the goods or services of Client.

**2 PROPOSAL**

The terms of a Proposal shall be effective for 30 days after presentation to Client. In the event the Proposal is not executed by Client within the time identified, the Proposal, together with any related terms and conditions and deliverables, may be subject to amendment, change or substitution.

**3 FEES AND CHARGES**

- 3.1 Fees. In consideration of the Services to be performed by New Start Design, Client shall pay to New Start Design fees in the amounts and according to the payment schedule set forth in the Proposal, and all applicable sales, use or value added taxes, even if calculated or assessed subsequent to the payment schedule.
- 3.2 Expenses. Client shall pay New Start Design's expenses incurred in connection with this Agreement as follows:
- (a) incidental and out-of-pocket expenses including but not limited to costs for telephone calls, postage, shipping, overnight courier, service bureaus, typesetting, blueprints, models, presentation materials, photocopies, computer expenses, parking fees and tolls, and taxis at cost and, if applicable, a mileage reimbursement at £0.40 per mile; travel expenses including transportation, meals, and lodging, incurred by New Start Design with Client's prior approval.
- 3.3 Additional Costs. The Project pricing includes New Start Design's fee only. Any and all outside costs including, but not limited to, equipment rental, photographer's costs and fees, photography and/or artwork licenses, prototype production costs, talent fees, music licenses, and online access or hosting fees, will be billed to Client unless specifically otherwise provided for in the Proposal.
- 3.4 Invoices. All invoices are payable within twenty eight (28) days of receipt. A 1.5 percent monthly service charge is payable on all overdue balances. Payments will be credited first to late payment charges and next to the unpaid balance. Client shall be responsible for all collection or legal fees necessitated by late or default in payment. New Start Design reserves the right to withhold delivery and any transfer of ownership of any current work if accounts are not current or overdue invoices are not paid in full. All grants of any license to use or transfer of ownership of any intellectual property rights under this Agreement are conditioned upon receipt of payment in full which shall be inclusive of any and all outstanding Additional Costs, Taxes, Expenses and Fees, Charges or the costs of Changes.

**4 CHANGES**

- 4.1 General Changes. Unless otherwise provided in the Proposal, and except as otherwise provided for herein, Client shall pay additional charges for changes requested by Client which are outside the scope of the Services on a time and materials basis, at New Start Design's standard hourly rate of £35 + VAT per hour. Such charges shall be in addition to all other amounts payable under the Proposal, despite any maximum budget, contract price or final price identified therein. New Start Design may extend or modify any delivery schedule or deadlines in the Proposal and Deliverables as may be required by such Changes.
- 4.2 Substantive Changes. If Client requests or instructs Changes that amount to a revision in or near excess of fifty percent (50%) of the time required to produce the Deliverables, and the value or scope of the Services, New Start Design shall be entitled to submit a new and separate Proposal to Client for written approval. Work shall not begin on the revised services until a fully signed revised Proposal and, if required, any additional retainer fees are received by New Start Design.
- 4.3 Timing. New Start Design will prioritise performance of the Services as may be necessary or as identified in the Proposal, and will undertake commercially reasonable efforts to perform the Services within the time(s) identified in the Proposal. Client agrees to review Deliverables within the time identified for such reviews and to promptly either,
- (i) approve the Deliverables in writing or
- (ii) provide written comments and/or corrections sufficient to identify the Client's concerns, objections or corrections to New Start Design. The New Start Design shall be entitled to request written clarification of any concern, objection or correction. Client

- acknowledges and agrees that New Start Design's ability to meet any and all schedules is entirely dependent upon Client's prompt performance of its obligations to provide materials and written approvals and/or instructions pursuant to the Proposal and that any delays in Client's performance or Changes in the Services or Deliverables requested by Client may delay delivery of the Deliverables. Any such delay caused by Client shall not constitute a breach of any term, condition or New Start Design's obligations under this Agreement.
- 4.4 Testing and Acceptance. New Start Design will exercise commercially reasonable efforts to test Deliverables requiring testing and to make all necessary corrections prior to providing Deliverables to Client. Client, within five (5) business days of receipt of each Deliverable, shall notify New Start Design, in writing, of any failure of such Deliverable to comply with the specifications set forth in the Proposal, or of any other objections, corrections, changes or amendments Client wishes made to such Deliverable. Any such written notice shall be sufficient to identify with clarity any objection, correction or change or amendment, and New Start Design will undertake to make the same in a commercially timely manner. Any and all objections, corrections, changes or amendments shall be subject to the terms and conditions of this Agreement. In the absence of such notice from Client, the Deliverable shall be deemed accepted.
- 4.5 Client Responsibilities. Client acknowledges that it shall be responsible for performing the following in a reasonable and timely manner:
- (f) coordination of any decision-making with parties other than the New Start Design;
- (g) provision of Client Content in a form suitable for reproduction or incorporation into the Deliverables without further preparation, unless otherwise expressly provided in the Proposal; and
- (h) final proofreading and in the event that Client has approved Deliverables but errors, such as, by way of example, not limitation, typographic errors or misspellings, remain in the finished product, Client shall incur the cost of correcting such errors.

**5 ACCREDITATION/PROMOTIONS**

All displays or publications of the Deliverables shall bear accreditation and/or copyright notice in New Start Design's name in the form, size and location as incorporated by New Start Design in the Deliverables, or as otherwise directed by New Start Design. New Start Design retains the right to reproduce, publish and display the Deliverables in New Start Design's portfolios and websites, and in galleries, design periodicals and other media or exhibits for the purposes of recognition of creative excellence or professional advancement, and to be credited with authorship of the Deliverables in connection with such uses. Either party, subject to the other's reasonable approval, may describe its role in relation to the Project and, if applicable, the services provided to the other party on its website and in other promotional materials, and, if not expressly objected to, include a link to the other party's website.

**6 CONFIDENTIAL INFORMATION**

Each party acknowledges that in connection with this Agreement it may receive certain confidential or proprietary technical and business information and materials of the other party, including without limitation Preliminary Works ("Confidential Information"). Each party, its agents and employees shall hold and maintain in strict confidence all Confidential Information, shall not disclose Confidential Information to any third party, and shall not use any Confidential Information except as may be necessary to perform its obligations under the Proposal except as may be required by a court or governmental authority. Notwithstanding the foregoing, Confidential Information shall not include any information that is in the public domain or becomes publicly known through no fault of the receiving party, or is otherwise properly received from a third party without an obligation of confidentiality.

**7 RELATIONSHIP OF THE PARTIES**

- 7.1 Independent Contractor. New Start Design is an independent contractor, not an employee of Client or any company affiliated with Client. New Start Design shall provide the Services under the general direction of Client, but New Start Design shall determine, in New Start Design's 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. New Start Design and the work product or Deliverables prepared by New Start Design shall not be deemed a work for hire as that term is defined under Copyright Law. All rights, if any, granted to 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.
- 7.2 New Start Design Agents. New Start Design shall be permitted to engage and/or use third party New Start Designs or other service providers as independent contractors in connection with the Services ("Design Agents"). Notwithstanding, New Start Design shall remain fully responsible for such Design Agents' compliance with the various terms and conditions of this Agreement.
- 7.3 No Solicitation. During the term of this Agreement, and for a period of six (6) months after expiration or termination of this Agreement, Client agrees not to solicit, recruit, engage, or otherwise employ or retain, on a full-time, part-time, consulting, work-for-hire, or any other kind of basis, any New Start Design, employee or Design Agent of New Start Design, whether or not said person has been assigned to perform tasks under this Agreement. In the event such employment, consultation or work-for-hire event occurs, Client agrees that New Start Design shall be entitled to an agency commission to be the greater of, either (a) 25 percent of said person's starting salary with Client, or (b) 25 percent of fees paid to said person if engaged by Client as an independent contractor. In the event of (a) above, payment of the commission will be due within 30 days of the employment starting date. In the event of (b) above, payment will be due at the end of any month during which the independent contractor performed services for Client. New Start Design, in the event of nonpayment and in connection with this section, shall be entitled to seek all remedies under law and equity.
- 7.4 No Exclusivity. The parties expressly acknowledge that this Agreement does not create an exclusive relationship between the parties. Client is free to engage others to perform services of the same or similar nature to those provided by New Start Design, and New Start Design shall be entitled to offer and provide design services to others, solicit other clients and otherwise advertise the services offered by New Start Design.

**8 WARRANTIES AND REPRESENTATIONS**

- 8.1 By Client. Client represents, warrants and covenants to New Start Design that
- (a) Client owns all right, title, and interest in, or otherwise has full right and authority to permit the use of the Client Content,
- (b) to the best of Client's knowledge, the Client Content does not infringe the rights of any third party, and use of the Client Content as well as any Trademarks in connection with the Project does not and will not violate the rights of any third parties,

- (c) Client shall comply with the terms and conditions of any licensing agreements which govern the use of Third Party Materials, and Client shall comply with all laws and regulations as they relate to the Services and Deliverables.
- 8.5 By New Start Design
- (a) New Start Design hereby represents, warrants and covenants to Client that New Start Design will provide the Services identified in the Agreement in a professional and workmanlike manner and in accordance with all reasonable professional standards for such services
- (b) New Start Design further represents, warrants and covenants to Client that
- (i) except for Third Party Materials and Client Content, the Final Deliverables shall be the original work of New Start Design and/or its independent contractors,
- (ii) in the event that the Final Deliverables include the work of independent contractors commissioned for the Project by New Start Design, New Start Design shall have secure agreements from such contractors granting all necessary rights, title, and interest in and to the Final Deliverables sufficient for New Start Design to grant the intellectual property rights provided in this Agreement, and to the best of New Start Design's knowledge, the Final Art provided by New Start Design and New Start Design's subcontractors does not infringe the rights of any party, and use of same in connection with the Project will not violate the rights of any third parties. In the event Client or third parties modify or otherwise use the Deliverables outside of the scope or for any purpose not identified in the Proposal or this Agreement or contrary to the terms and conditions noted herein, all representations and warranties of New Start Design shall be void.
- (c) EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES STATED IN THIS AGREEMENT, NEW START DESIGN MAKES NO WARRANTIES WHATSOEVER. NEW START DESIGN EXPLICITLY DISCLAIMS ANY OTHER WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR COMPLIANCE WITH LAWS OR GOVERNMENT RULES OR REGULATIONS APPLICABLE TO THE PROJECT.

**9 INDEMNIFICATION/LIABILITY**

- 9.1 By Client. Client agrees to indemnify, save and hold harmless New Start Design from any and all damages, liabilities, costs, losses or expenses arising out of any claim, demand, or action by a third party arising out of any breach of Client's responsibilities or obligations, representations or warranties under this Agreement. Under such circumstances New Start Design shall promptly notify Client in writing of any claim or suit;
- (a) Client has sole control of the defence and all related settlement negotiations; and
- (b) New Start Design provides Client with commercially reasonable assistance, information and authority necessary to perform Client's obligations under this section. Client will reimburse the reasonable out-of-pocket expenses incurred by New Start Design in providing such assistance.
- 9.3 By New Start Design. Subject to the terms, conditions, express representations and warranties provided in this Agreement, New Start Design agrees to indemnify, save and hold harmless Client from any and all damages, liabilities, costs, losses or expenses arising out of any finding of fact which is inconsistent with New Start Design's representations and warranties made herein, except in the event any such claims, damages, liabilities, costs, losses or expenses arise directly as a result of gross negligence or misconduct of Client provided that
- (a) Client promptly notifies New Start Design in writing of the claim;
- (b) New Start Design shall have sole control of the defence and all related settlement negotiations; and
- (c) Client shall provide New Start Design with the assistance, information and authority necessary to perform New Start Design's obligations under this section. Notwithstanding the foregoing, New Start Design shall have no obligation to defend or otherwise indemnify Client for any claim or adverse finding of fact arising out of or due to Client Content, any unauthorised content, improper or illegal use, or the failure to update or maintain any Deliverables provided by New Start Design.
- 9.4 Limitation of Liability. THE SERVICES AND THE WORK PRODUCT OF NEW START DESIGN ARE SOLD "AS IS," IN ALL CIRCUMSTANCES, THE MAXIMUM LIABILITY OF NEW START DESIGN, ITS DIRECTORS, OFFICERS, EMPLOYEES, DESIGN AGENTS AND AFFILIATES ("NEW START DESIGN PARTIES"), TO CLIENT FOR DAMAGES FOR ANY AND ALL CAUSES WHATSOEVER, AND CLIENT'S MAXIMUM REMEDY, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT OR OTHERWISE, SHALL BE LIMITED TO THE NET PROFIT OF NEW START DESIGN. IN NO EVENT SHALL NEW START DESIGN BE LIABLE FOR ANY LOST DATA OR CONTENT, LOST PROFITS, BUSINESS INTERRUPTION OR FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES ARISING OUT OF OR RELATING TO THE MATERIALS OR THE SERVICES PROVIDED BY NEW START DESIGN, EVEN IF NEW START DESIGN HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

**10 RIGHTS TO DELIVERABLES OTHER THAN FINAL ART**

- 10.1 Client Content. Client Content, including all pre-existing Trademarks, shall remain the sole property of Client or its respective suppliers, and Client or its suppliers shall be the sole owner of all rights in connection therewith. Client hereby grants to New Start Design a nonexclusive, nontransferable license to use, reproduce, modify, display and publish the Client Content solely in connection with New Start Design's performance of the Services and limited promotional uses of the Deliverables as authorised in this Agreement.
- 10.2 Third Party Materials. All Third Party Materials are the exclusive property of their respective owners. New Start Design shall inform Client of all Third Party Materials that may be required to perform the Services or otherwise integrated into the Final Art. Under such circumstances New Start Design shall inform Client of any need to license, at Client's expense, and unless otherwise provided for by Client, New Start Design shall obtain the license(s) necessary to permit Client's use of the Third Party Materials consistent with the usage rights granted herein. In the event Client fails to properly secure or otherwise arrange for any necessary licenses or instructs the use of third party art, Client hereby indemnifies, saves and holds harmless New Start Design from any and all damages, liabilities, costs, losses or expenses arising out of any claim, demand, or action by a third party arising out of Client's failure to obtain copyright, trademark, publicity, privacy, defamation or other releases or permissions with respect to materials included in the Final Art.
- 10.3 Preliminary Works. New Start Design retains all rights in and to all Preliminary Works. Client shall return all Preliminary Works to New Start Design within thirty (30) days of completion of the Services and all rights in and to any Preliminary Works shall remain the exclusive property of New Start Design.
- 10.4 Original Artwork. New Start Design retains all right and title in and to any original artwork comprising Final Art, including all rights to

display or sell such artwork. Client shall return all original artwork to New Start Design within thirty (30) days of completion of the Services.

10.5 Trademarks. Upon completion of the Services and expressly conditioned upon full payment of all fees, costs and out-of-pocket expenses due, New Start Design assigns to Client all ownership rights, including any copyrights, in and to any artworks or designs comprising the works created by New Start Design for use by Client as a Trademark. New Start Design shall cooperate with Client and shall execute any additional documents reasonably requested by Client to evidence such assignment. Client shall have sole responsibility for ensuring that any proposed trademarks or Final Deliverables intended to be a Trademark are available for use in commerce and registration and do not otherwise infringe the rights of any third party. Client hereby indemnifies, saves and holds harmless New Start Design from any and all damages, liabilities, costs, losses or expenses arising out of any claim, demand, or action by any third party alleging any infringement arising out of Client's use and/or failure to obtain rights to use or use of the Trademark.

10.6 New Start Design Tools. All New Start Design Tools are and shall remain the exclusive property of New Start Design. New Start Design hereby grants to Client a nonexclusive, nontransferable (other than the right to sublicense such uses to Client's Web hosting or Internet service providers), perpetual, worldwide license to use the New Start Design Tools solely to the extent necessary with the Final Deliverables for the Project. Client may not directly or indirectly, in any form or manner, decompile, reverse engineer, create derivative works or otherwise disassemble or modify any New Start Design Tools comprising any software or technology of New Start Design.

11 **RIGHTS TO FINAL ART**

11.1 Upon completion of the Services, and expressly subject to full payment of all fees, costs and out-of-pocket expenses due, New Start Design hereby assigns to Client all right and title in and to the Final Art. New Start Design agrees to reasonably cooperate with Client and shall execute any additional documents reasonably required to evidence such assignment.

12 **PRINT SERVICES**

12.1 These conditions shall be deemed to be incorporated in all Contracts of New Start Design to sell goods and in the case of any inconsistency with any order or form of contract sent by the Purchaser to New Start Design whatever may be their respective dates the provision of these Conditions shall prevail unless expressly varied in writing and signed by a director on behalf of New Start Design.

12.2 Notwithstanding that New Start Design may have given a detailed quotation no order shall be binding on New Start Design unless and until it has been accepted in writing by New Start Design.

12.3 Any times or dates given for completion or delivery of goods shall be binding on New Start Design, insofar as New Start Design undertake to carry out additional work for the Purchaser to double the value of the print element of any goods not supplied on time. Such liability shall not extend to delays beyond the control of New Start Design including, without prejudice to the generality of the foregoing defects in files or omissions of information, delays in approval of proofs, the non-performance of carriers, slow drying of paper and card stock, exceptional weather events and other force majeure.

12.4 By their nature goods do not have a redeemable value and no refunds or credits for goods correctly supplied will be entertained.

12.5 All goods shall be paid for within 28 days of the invoice being issued.

12.6 All prices are exclusive of Value Added Tax and this will be charged at the appropriate rate.

12.7 Any shortcomings or defects in goods supplied must be notified to New Start Design within 3 days of delivery. Such goods must be returned to New Start Design for inspection.

12.8 Nothing herein shall impose any liability upon New Start Design in respect of any defect in the goods arising out of the acts, omissions, negligence or default of the Purchaser, its servants or agents including without prejudice to the generality of the foregoing, handling and storage of the good, errors in the original files.

12.9 Nothing herein shall have the effect of excluding or restricting the liability of New Start Design:

(a) For death or personal injury resulting from its negligence insofar as the same is prohibited by U.K. statute; or

(b) Under sections 12,13,14 and 15 of the Sale of Goods Act 1979 to a Purchaser who is dealing with a customer (as defined by section 12 of the Unfair Contract Terms Act 1977).

12.10 New Start Design shall not be liable for any costs, claims or damage arising out of any act of tort or omission or breach of contract or statutory duty calculated by reference to profits, income production or accruals or loss of such profits, income production or accruals or by reference to accrual of such, claim, damages or expenses on a time basis.

12.11 The liability of New Start Design to the Purchaser for any loss or damage of whatsoever nature and howsoever caused shall be limited to and in no circumstances exceed the price of the goods.

12.12 New Start Design work hard to ensure the printing we supply is perfect. In the unlikely event of work being unacceptable due to a shortcoming at New Start Design then we will urgently reprint or otherwise make the job good. New Start Design will not reprint & credit the same job.

12.13 If the Purchaser shall be in breach of any of their obligations under the Contract New Start Design may (without prejudice to New Start Design's rights subsequently to determine the contract for the same cause(should it so decide) suspend further deliveries of goods without notice until any defaults by the Purchaser are remedied.

12.14 No statement, description, information, warranty or recommendation contained in any catalogue, price list, advertisement or communication or made verbally by any of the agents or employees of New Start Design shall be construed to enlarge, vary or override in any way these conditions.

12.15 Any concessions made or latitude allowed by New Start Design to the Purchaser shall not affect the strict rights of New Start Design under the contract. If in any particular case any of these conditions shall be held to be invalid or shall not apply to the Contract the other conditions shall continue in full force and effect.

12.16 Upon sight of artwork and at its sole discretion New Start Design reserve the right to decline to print any item it deems to be inappropriate. Any payments made for work rejected by reason of this clause will be refunded in full.

12.17 In accordance with the New Start Design stated "Green Policy" jobs will always be printed with minimal overs. On occasions this may lead to a shortfall. Any such shortfall up to 10% will be remedied by a pro-rata credit against future orders rather than making up the deficit.

12.18 The Contract shall in all respects be governed by English law and shall be deemed to have been made in England and the Purchaser and New Start Design agree to submit to nonexclusive jurisdiction of the English courts.

12.19 Any print promotion offered by New Start Design applies to our standard product range only and not to bespoke product requests or orders.

12.20 Turnaround times quoted include the day that we receive your order provided that your order is received with artwork by 10.30am.

12.21 NEW Later Ordering Time For an uplift of 12.5% on your order value, turnaround times quoted will include the day of your order provided that your order is received with artwork by 4pm.

12.22 In order to achieve our turnaround times we require a Client Proof Copy with your work. New Start Design will not be responsible for any errors in the printed work where these errors were also on this proof.

12.23 If we receive incomplete files, corrupt files or files which are of inadequate quality to use for print then we will 'Stop the Clock' on the turnaround until the problem is resolved.

12.24 Where printing is despatched on time from New Start Design but is delivered late due to a shortcoming of our carriers, New Start Design will credit back, and be responsible for, the cost of the carriage only.

12.25 New Start Design working days are Monday to Friday excluding Bank Holidays.

12.26 New Start Design cannot take responsibility for damaged goods which have been accepted and signed for as being in good condition on delivery.

12.27 New Start Design cannot accept responsibility for short deliveries on consignments (missing boxes) unless this is recorded on the courier's delivery note.

12.28 Some types of paper and card need to be run at slower printing speeds and require extra drying time, which can have implications on the turnaround time as indicated. We reserve the right to extend turnaround where heavy solid prints require extra time to dry.

13 **PHOTOGRAPHS OF THE PROJECT**

New Start Design shall have the right to document, photograph or otherwise record all completed designs or installations of the Project, and to reproduce, publish and display such documentation, photographs or records for New Start Design's promotional purposes in accordance with Section 6 of the Basic Terms and Conditions of this Agreement.

14 **ADDITIONAL CLIENT RESPONSIBILITIES**

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

(a) Communication of administrative or operational decisions if they affect the design or production of Deliverables, and coordination of required public approvals and meetings;

(b) Provision of accurate and complete information and materials requested by New Start Design such as, by way of example, not limitation, site plans, building plans and elevations, utility locations, color/material samples and all applicable codes, rules, and regulation information;

(c) Provision of approved naming, nomenclature; securing approvals and correct copy from third parties such as, by way of example, not limitation, end users or donors as may be necessary;

(d) Final proofreading and written approval of all project documents including, by way of example, not limitation, artwork, message schedules, sign location plans and design drawings before their release for fabrication or installation. In the event that Client has approved work containing errors or omissions, such as, by way of example, not limitation, typographic errors or misspellings, Client shall incur the cost of correcting such errors;

(e) Arranging for the documentation, permissions, licensing and implementation of all electrical, structural or mechanical elements needed to support, house or power signage; coordination of sign manufacture and installation with other trades; and

(f) Bid solicitation and contract negotiation; sourcing, establishment of final pricing and contract terms directly with fabricators or vendors.

15 **ENGINEERING**

The Services shall include the selection and specifications for materials and construction details as described in the Proposal. However, Client acknowledges and agrees that New Start Design is not (if correct) a licensed engineer or architect, and that responsibility for the interpretation of design drawings and the design and engineering of all work performed under this Agreement ("Engineering") is the sole responsibility of Client and/or its architect, engineer or fabricator.

16 **IMPLEMENTATION**

Client expressly acknowledges and agrees that the estimates provided in the Proposal, at any time during the project for implementation charges such as, including, but not limited to, fabrication or installation are for planning purposes only. Such estimates represent the best judgment of New Start Design or its consultants at the time of the Proposal, but shall not be considered a representation or guarantee that project bids or costs will not vary. Client shall contract and pay those parties directly responsible for implementation services such as fabrication or installation ("Implementation"). New Start Design shall not be responsible for the quality or timeliness of the third-party Implementation services, irrespective of whether New Start Design assists or advises Client in evaluating, selecting or monitoring the provider of such services.

17 **COMPLIANCE WITH LAWS**

New Start Design shall use commercially reasonable efforts to ensure that all Final Deliverables shall be designed to comply with the applicable rules and regulations such as the Disability Discrimination Act ("DDA"). However, New Start Design is not an expert and makes no representations or warranties in connection with compliance with such rules, codes or regulations. The compliance of the Final Deliverables with any such rule, codes or regulations shall be the responsibility of Client. New Start Design shall use commercially reasonable efforts to ensure the suitability and conformance of the Final Deliverables.

18 **TERM AND TERMINATION**

18.1 This Agreement shall commence upon the Effective Date and shall remain effective until the Services are completed and delivered.

18.2 This Agreement may be terminated at any time by either party effective immediately upon notice, or the mutual agreement of the parties, or if any party:

(a) becomes insolvent, files a petition in bankruptcy, makes an assignment for the benefit of its creditors; or

(b) breaches any of its material responsibilities or obligations under this Agreement, which breach is not remedied within ten (10) days from receipt of written notice of such breach.

18.3 In the event of termination, New Start Design shall be compensated for the Services performed through the date of termination in the amount of

(a) any advance payment,

(b) a prorated portion of the fees due, or

(c) hourly fees for work performed by New Start Design or New Start Design's agents as of the date of termination, whichever is greater; and Client shall pay all Expenses, fees, out of pockets together with any Additional Costs incurred through and up to, the date of cancellation.

18.4 In the event of termination by Client and upon full payment of compensation as provided herein, New Start Design grants to Client

such right and title as provided for in Schedule A of this Agreement with respect to those Deliverables provided to, and accepted by Client as of the date of termination.

18.5 Upon expiration or termination of this Agreement: (a) each party shall return or, at the disclosing party's request, destroy the Confidential Information of the other party, and (b) other than as provided herein, all rights and obligations of each party under this Agreement, exclusive of the Services, shall survive.

19 **GENERAL**

19.1 Modification/Waiver. This Agreement may be modified by the parties. Any modification of this Agreement must be in writing, except that New Start Design's invoices may include, and Client shall pay, expenses or costs that Client authorises by electronic mail in cases of extreme time sensitivity. Failure by either party to enforce any right or seek to remedy any breach under this Agreement shall not be construed as a waiver of such rights nor shall a waiver by either party of default in one or more instances be construed as constituting a continuing waiver or as a waiver of any other breach.

19.2 Notices. All notices to be given hereunder shall be transmitted in writing either by facsimile or electronic mail with return confirmation of receipt or by certified or registered mail, return receipt requested, and shall be sent to the to the addresses identified below, unless notification of change of address is given in writing. Notice shall be effective upon receipt or in the case of fax or e-mail, upon confirmation of receipt.

19.3 No Assignment. Neither party may assign, whether in writing or orally, or encumber its rights or obligations under this Agreement or permit the same to be transferred, assigned or encumbered by operation of law or otherwise, without the prior written consent of the other party.

19.4 Force Majeure. New Start Design shall not be deemed in breach of this Agreement if New Start Design is unable to complete the Services or any portion thereof by reason of fire, earthquake, labour dispute, act of God or public enemy, death, illness or incapacity of New Start Design or any national or international law, governmental order or regulation or any other event beyond New Start Design's control (collectively, "Force Majeure Event"). Upon occurrence of any Force Majeure Event, New Start Design shall give notice to Client of its inability to perform or of delay in completing the Services and shall propose revisions to the schedule for completion of the Services.

19.5 Governing Law and Dispute Resolution. The formation, construction, performance and enforcement of this Agreement shall be in accordance with the laws of the United Kingdom without regard to its conflict of law provisions or the conflict of law provisions of any other jurisdiction. In the event of a dispute arising out of this Agreement, the parties agree to attempt to resolve any dispute by negotiation between the parties. If they are unable to resolve the dispute, either party may commence mediation and/or binding arbitration through a forum mutually agreed to by the parties. The prevailing party in any dispute resolved by binding arbitration or litigation shall be entitled to recover its Solicitor's fees and costs. The parties hereby waive any jurisdictional or venue defences available to them and further consent to service of process by mail. Client acknowledges that New Start Design will have no adequate remedy at law in the event Client uses the deliverables in any way not permitted hereunder, and hereby agrees that New Start Design shall be entitled to equitable relief by way of temporary and permanent injunction, and such other and further relief at law or equity as any arbitrator or court of competent jurisdiction may deem just and proper, in addition to any and all other remedies provided for herein.

19.6 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall nevertheless remain in full force and effect and the invalid or unenforceable provision shall be replaced by a valid or enforceable provision.

19.7 Headings. The numbering and captions of the various sections are solely for convenience and reference only and shall not affect the scope, meaning, intent or interpretation of the provisions of this Agreement nor shall such headings otherwise be given any legal effect.

19.8 Integration. This Agreement comprises the entire understanding of the parties hereto on the subject matter herein contained, and supersedes and merges all prior and contemporaneous agreements, understandings and discussions between the parties relating to the subject matter of this Agreement. In the event of a conflict between the Proposal and any other Agreement documents, the terms of the Proposal shall control. This Agreement comprises this Basic Terms and Conditions document, the Proposal, Schedule A, and the following documents as indicated by the parties' initials:

By their execution below, the parties hereto have agreed to all of the terms and conditions of this Agreement effective as of the last date of signature below, and each signatory represents that it has the full authority to enter into this Agreement and to bind her/his respective party to all of the terms and conditions herein.

The supplier:  
**New Start Design**  
 The Workstation  
 15 Paternoster Row  
 Sheffield, S1 2 BX

Signed: .....

Company: .....

Date: .....