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CONSULTANT (COMPANY) DESIGNER'S AGREEMENT

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THIS AGREEMENT is made the
BETWEEN:

- (1) <<Name of Designer>> a [a company] registered under the laws of <<Country of Registration>> under number <<Company Registration Number>> whose registered office is at <<insert Address>> ("the Designer")
- (2) <<Name of Client>> [a company] registered under the laws of <<Country of Registration>> under number <<Company Registration Number>> whose registered office is at] **OR** [of] <<insert Address>> ("the Client")

WHEREAS:

- (1) At all material times the Designer has been engaged in the business of providing graphic design services to businesses and individuals.
- (2) At all material times the Client has been engaged in the business of <<insert description>> and wishes to acquire the services of the Designer.
- (3) The Designer hereby agrees to provide the services to the Client subject to the terms and conditions of this Agreement.

IT IS AGREED as follows:

1. **Definitions and Interpretation**

- 1.1 In this Agreement, unless the context otherwise requires, the following expressions have the meanings set out below:

"Business Day"

any day other than Saturday or Sunday) on which the business premises are open for their full range of services at <<insert location>>;

"Confidential Information"

information disclosed by either Party, information which is disclosed by the other Party pursuant to, or in connection with, this Agreement (whether orally or in writing), and whether or not the information is stated to be confidential or otherwise.

"Fee"

the fee payable to the Designer for the services provided pursuant to clause 5;

"Intellectual Property Rights"

rights in any patents, trade marks, registered designs, applications (and any of those rights) trade, business names, internet domain names and e-mail addresses, unregistered trade marks and service marks, know-how, rights in designs and other intellectual property.

any law, regulation, decree, order, statute or contract, and any right in paragraph (a);

any act or omission having or similar effect or nature as or to that described in paragraph (a) and (b) which now or in the future may be so described.

past infringements of any of the rights referred to in paragraph (a);

“Work”

“Consultant”

1.2 Unless the context

1.2.1 “writing”, and
communication
similar mean

1.2.2 a statute or
provision as

1.2.3 “this Agree
Schedules a

1.2.4 a Schedule i

1.2.5 a Clause or
(other than
and

1.2.6 a "Party" or

1.3 The headings used
no effect upon the i

1.4 Words imparting the

1.5 References to any g

2. **Engagement of the Design**

2.1 The Client hereby e
services as the Cli
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2.2 The Designer shall
Date”).

2.3 Prior to the Comple
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2.3.1 Initial design
shall be pro
<<insert date

2.3.2 Design pro
approval by

2.3.3 <<insert add

2.4 The Designer ack
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Accordingly, n the
Completion Date,
percentage>>% of
damages from the
that the Work is not

undertaken by the Designer as
and

whose name(s) is/are set out in
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reference in this Agreement to:

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e is a reference to that statute or
at the relevant time;

this Agreement and each of the
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ce to a Clause of this Agreement
agraph of the relevant Schedule;

parties to this Agreement.

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other gender.

provide the Work and such other
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<<insert date>> (“the Completion

shall use reasonable endeavours

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ent has a legitimate commercial
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edy if it is not so completed.
fails to complete the Work by the
sum>>] **OR** [a sum of <<insert
ay shall be deducted as liquidated
Designer for each Business Day
npletion Date, without prejudice to

- responsible for all insurance contributions or similar taxes or contributions in consideration payable under this Agreement.
- 4.2 The Designer hereby releases the Client in respect of any claims that may be made against the Client in respect of income tax or national insurance contributions or similar taxes or contributions, including interest and penalties, in connection with the Work undertaken by the Designer under this Agreement.
- 4.3 The Designer shall be responsible for its expenses and value added tax.
- 4.4 Nothing in this Agreement shall be construed as intended to create any partnership, joint venture or agency relationship or any employment relationship between the Client and the Designer.
5. **Fee**
- 5.1 [In consideration of the Work, the Client shall pay to the Designer the Fee of £<<insert sum>> [as set out in the Designer's quotation dated <<insert date>>].]
- OR
- [In consideration of the Work, the Client shall pay to the Designer the Fee of <<insert sum>> [as set out in the Designer's quotation dated <<insert date>>].]
- 5.2 Payment shall be made by the Client on completion of the Work and shall be made within <<insert number>> days of the invoice by the Client of the Designer's invoice for the same. Payment shall remain unpaid after the expiry of this period shall incur interest at the rate of <<insert percentage>>% per annum above the base rate of the Bank of England as published from time to time. Interest shall accrue from the due date for payment until the actual date of payment, whether before or after judgment. Any interest due shall be payable in full on demand.
- 5.3 All payments made by the Client shall be expressly exclusive of any value added tax chargeable on the Work.
- 5.4 No further payment shall be made by the Client above the entitlement set out in Clause 5.1 and, without limitation, no payment shall be made by the Client in respect of any expenses incurred by the Designer in connection with the Work.
6. **The Work and Intellectual Property**
- 6.1 Upon receipt in full of the Fee due under Clause 5, the Client shall assign to the Designer all Intellectual Property Rights subsisting in the Work and any other Intellectual Property Rights subsisting in the Work and the Designer shall be deemed to have waived any and all other Intellectual Property Rights in the Work and the Designer shall be free to use the Work for any purposes in connection with the Work, the purpose for which the Work was originally commissioned.
- 6.2 Following the assignment of Intellectual Property Rights under Clause 6.1, the Client shall be free to use the Work for any purposes in connection with the Work, the purpose for which the Work was originally commissioned.
7. **Warranties and Indemnity**
- 7.1 Any Consultant(s) named in the Designer's quotation and any other Consultant(s) engaged by the Designer shall warrant and indemnify the Client and experience to carry out the Work.

SAMPLE

Work.

- 7.2 The Designer shall use reasonable endeavours to ensure that the Work is original and shall not infringe any copyright, other Intellectual Property rights or rights of privacy, rights of publicity, or any other rights whatsoever.
- 7.3 The Designer hereby warrants that the Work shall, throughout the full period of copyright subsisting pursuant to the laws of the United Kingdom and/or the Berne Convention and/or the laws of any other country, be free from any third party's copyright, Intellectual Property rights or other rights in the Work.
- 7.4 The Designer shall not, nor shall he or she permit any third party to, encumber or otherwise dispose of or otherwise dispose of any rights of copyright or Intellectual Property in or to the Work except pursuant to the prior written consent of the Client.
- 7.5 Subject to the provisions of this Agreement, in the event of any actions, proceedings, claims, damages or costs (including, without prejudice to the generality of this provision, the Client on a solicitor and own-client basis) against the Designer or the Client in connection with the Work or the Client's use of the Work or the Client's infringement of any Intellectual Property Rights belonging to a third party, the Designer shall indemnify the Client from and against such actions, proceedings, claims, damages or costs.
- 7.6 Subject to the provisions of this Agreement, in the event of any actions, proceedings, claims, damages or costs (including, without prejudice to the generality of this provision, the Designer on a solicitor and own-client basis) against the Designer or the Client in connection with the Work or the Client's use of the Work or the Client's infringement of any Intellectual Property Rights belonging to a third party, the Client shall indemnify the Designer from and against such actions, proceedings, claims, damages or costs.
- 7.7 The indemnities set out in clauses 7.5 and 7.6 shall apply only if the indemnified Party:
- 7.7.1 notifies the indemnifying Party immediately in writing upon becoming aware of any claim, demand or costs;
 - 7.7.2 makes no admission of liability without the indemnifying Party's prior written consent;
 - 7.7.3 makes all relevant documents available to the indemnifying Party upon request;
 - 7.7.4 provides all relevant documents to the indemnifying Party upon request; and
 - 7.7.5 allows the indemnifying Party to have complete control over any relevant litigation and proceedings.

8. Liability

- 8.1 This Clause 8 sets out the liability of the Parties to each other for any breach of this Agreement, including any misrepresentation, statement, omission (including, but not limited to, negligence and breach of statutory duty) arising out of or in connection with the Work.
- 8.2 Subject to sub-Clause 8.1, the Parties shall be liable to the other, whether in contract, tort (including negligence) or for breach of statutory duty or otherwise.

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opportunity, loss of a
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connection with this A

ss of goodwill, loss of business
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other Party that arises out of or in

8.3 Nothing in this Agree
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death or personal inju

lity of either Party to the other for
berate or wilful misconduct, or for

8.4 Nothing in this Agree
or in respect of any o

mit the liability of either Party under
s of Clause 7.

8.5 Without prejudice to
either Party arising
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payable by the Clie
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with this Agreement (whether in
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ited to 100% of the Fee paid or
or the sum of £<<insert sum>>,</p>
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<h2>9. Confidentiality</h2>
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<p>9.1 Both Parties unde
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<p>rovided by sub-Clause 9.2 or as
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or <<insert period>>] after its</p>
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<p>9.1.1 keep confide</p>
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<p>rmation;</p>
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<div data-bbox="233 447 401 463" data-label="Text">
<p>9.1.2 not disclose</p>
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<p>tion to any other party;</p>
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<div data-bbox="233 469 401 500" data-label="Text">
<p>9.1.3 not use any
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<div data-bbox="595 469 883 485" data-label="Text">
<p>n for any purpose other than as</p>
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<p>9.1.4 not make a
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<p>ny way or part with possession of</p>
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<div data-bbox="233 543 401 589" data-label="Text">
<p>9.1.5 ensure that
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<div data-bbox="595 543 883 589" data-label="Text">
<p>its directors, officers, employees,
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<p>9.2 Subject to sub-Cl
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<p>may disclose any Confidential</p>
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<p>9.2.1 any Consult</p>
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<p>k;</p>
</div>
<div data-bbox="233 654 401 671" data-label="Text">
<p>9.2.2 any of their</p>
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<p>tes, or suppliers;</p>
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<p>9.2.3 any govern</p>
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<div data-bbox="595 677 774 693" data-label="Text">
<p>or regulatory body; or</p>
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<div data-bbox="233 699 401 729" data-label="Text">
<p>9.2.4 any of their
sub-Clauses</p>
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<div data-bbox="595 699 883 716" data-label="Text">
<p>or those of any party described in</p>
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<p>9.3 Disclosure under s
necessary for the p
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<p>made only to the extent that is
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must first inform the recipient that</p>
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<p>Unless the recipient is a body
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keep the Confidential Information
poses for which the disclosure is</p>
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<p>9.4 Either Party may us
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<p>nation for any purpose, or disclose
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9.5 When using or disclosing information, the disclosing Party may not disclose Confidential Information.

9.6 The provisions of this Agreement shall remain in force in accordance with their terms, notwithstanding termination of this Agreement for any reason.

10. Termination

10.1 Either Party may terminate this Agreement at any time without notice and without giving any reason.

10.2 Without prejudice to the right of termination under Clause 10.1, this Agreement shall terminate, notwithstanding any other provisions and remedies the Parties may have, in the following circumstances:

10.2.1 either Party fails to perform its obligations under this Agreement within <<insert number>> days of the date of notice of such failure from the other Party; or

10.2.2 either Party becomes insolvent, is subject to compulsory liquidation, or is subject to a reconstruction or arrangement of its whole or any part of its assets.

10.3 The termination of this Agreement shall be without prejudice to any rights or obligations of the Parties which have already accrued.

11. Personal Information (Data Protection)

The Designer will only use personal information as set out in the Designer's <<insert document name>> available from <<insert location(s)>>.

12. Force Majeure

12.1 Neither Party to this Agreement shall be liable for any failure or delay in performing their obligations under this Agreement that is beyond their control. Such causes include, but are not limited to, war, civil unrest, failure, industrial action, terrorism, acts of war, or any other similar or dissimilar event or circumstance beyond the control of the Party in question.

12.2 [In the event that a Party cannot perform their obligations hereunder as a result of a Force Majeure event for a continuous period of <<insert number>> days, the other Party may terminate this Agreement by giving written notice at the end of such period. In the event of such termination, the Parties shall agree to a final payment for all work completed up to the date of termination. This payment shall take into account any prior payment made and shall be subject to the performance of this Agreement.]

13. Nature of the Agreement

13.1 This Agreement is a contract for the sale of a mortgage, or charge, or other security interest, of its rights hereunder, and the Designer shall not assign or otherwise delegate any of its obligations hereunder without the prior consent of the other Party, such

information under sub-Clause 9.4, the Designer shall not disclose any part of that information.

shall remain in force in accordance with their terms and remedies the Parties may have.

at any time without notice and without giving any reason.

Clause 10.1, this Agreement shall terminate, notwithstanding any other provisions and remedies the Parties may have.

the terms and obligations of this Agreement, and the Designer's failure of remedy, is not remedied within <<insert number>> days of the date of notice of such failure from the other Party; or

or liquidation – either voluntary or compulsory, or is subject to a reconstruction or arrangement of its whole or any part of its assets.

shall be without prejudice to any rights or obligations of the Parties under this Agreement.

personal information as set out in the Designer's <<insert document name>> available from <<insert location(s)>>.

liable for any failure or delay in performing their obligations under this Agreement that is beyond their control. Such causes include, but are not limited to, war, civil unrest, failure, industrial action, terrorism, acts of war, or any other similar or dissimilar event or circumstance beyond the control of the Party in question.

cannot perform their obligations hereunder as a result of a Force Majeure event for a continuous period of <<insert number>> days, the other Party may terminate this Agreement by giving written notice at the end of such period. In the event of such termination, the Parties shall agree to a final payment for all work completed up to the date of termination. This payment shall take into account any prior payment made and shall be subject to the performance of this Agreement.]

and neither Party may assign, sub-license, or otherwise delegate any of its obligations hereunder without the prior consent of the other Party, such

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13.2 This Agreement c
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13.3 Each Party acknow
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by law.

13.4 No failure or delay
Agreement shall be
either Party of a bre
be a waiver of any s

14. Severance

The Parties agree that, i
Agreement is found to be
provisions shall be deeme
remainder of this Agree

15. Notices

15.1 All notices under th
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notice.

15.2 Notices shall be de

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15.2.2 when sent, i

15.2.3 on the fifth
ordinary ma

In each case notice
address notified to t

16. Alternative Dispute Reso

16.1 Any dispute or d
Agreement or its s
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then President of t
conferred upon arb

16.2 The Parties hereby
and binding on both

17. Law and Jurisdiction

17.1 This Agreement (in
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17.2 Subject to the prov
or claim between t
contractual matters
shall fall within the j

ement between the Parties with
modified except by an instrument
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nto this Agreement, it does not rely
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itions, warranties or other terms
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cising any of its rights under this
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his Agreement shall be deemed to
e same or any other provision.

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erwise unenforceable, that / those
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writing and be deemed duly given
sed officer of the Party giving the

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ier or other messenger (including
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nd a return receipt is generated; or

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the most recent address or e-mail

en the Parties relating to this
ferred to a single arbitrator to be
agreement, to be appointed by the
rbitrator to have all of the powers
ngland and Wales.

of the Arbitrator shall [not] be final

ual matters and obligations arising
e governed by, and construed in
ales.

dispute, controversy, proceedings
is Agreement (including any non-
therefrom or associated therewith)
of England and Wales.

IN WITNESS WHEREOF this Agreement is executed and signed by the undersigned in the presence of two witnesses, before written

SIGNED by

<<Name of person signing for the
DIRECTOR
for and on behalf of <<Designer's

In the presence of
<<Name & Address of Witness>>

SIGNED by

<<Name and Title of person signing
for and on behalf of <<Client's Name

In the presence of
<<Name & Address of Witness>>

The Work

<<Insert full details of the Work to be performed by the Designer>>

Consultant

<<Insert full name of any named Consultant or Designer>>

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executed the day and year first

<<insert choice>>]

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