

Stratique Ltd

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Standard Terms and Conditions July 2014

These are the Standard Terms and Conditions of Stratique Limited company registration number 04856906 trading as Stratique and can be viewed on the Stratique website at www.stratique.com

Where there is any inconsistency between the provisions set out here and an order form the provisions of these conditions will apply. These conditions and any additional services agreement shall apply to the exclusion of any other terms and conditions, agreements, understanding, purchase orders and order forms.

1. Definitions

In this Agreement, unless the context otherwise requires, the following expressions have the following meanings: “**Agreement**” means the contract for, amongst other things, Design, Marketing, Print and PR services or the hire of space for exhibitions and promotional displays and/or services that the Client is permitted to promote and sell. Stratique means Stratique Limited and client means the company entering into this agreement.

2. Payment

2.1 Time for payment is inherent. Payment shall be made by such method as STRATIQUÉ LTD may reasonably select. All sums set out in quotations, agreements or order forms are exclusive of VAT unless otherwise specified.

2.2 Without any other prejudice to any other right of STRATIQUÉ LTD, If the Client fails to pay any amount in cleared funds by its due date, STRATIQUÉ LTD may immediately suspend provision of the Marketing Services or other obligations under the agreement (without STRATIQUÉ incurring any liability whatsoever) and commence charging interest on all monies owed. In this instance the contract will roll until such a time that written notice is received and 90 days elapses. All recurring invoices during this period must be paid in full before the contract is suspended.

2.3 Stratique reserves the right to charge back any costs incurred for collecting fees, including court costs, disbursements and solicitor’s fees may be charged back to the client.

2.4 The client shall not in any circumstances or for any reason whatsoever be entitled to make any deduction or withhold and sum from the fees payable to Stratique by way of set-off unless agreed in advance.

2.5 All licenses to use copy, design and intellectual rights remain the exclusive property of Stratique until all monies owed are paid. Once outstanding debts have been cleared a license will automatically be granted to use the collateral.

2.6 Where applicable, commission fees are charged at the agreed rates of the total sales generated by Stratique activities for the first 2 years, or for the duration of the contract if this is shorter.

2.7 Where applicable, commission fees are exclusive of VAT (which should be paid additionally to such fees if applicable).

3. Warranties

3.1 STRATIQUÉ LTD warrants and undertakes to the Client that it has the right, power and authority to enter into the Agreement.

3.2 The Client warrants and undertake to STRATIQUÉ LTD that it has the right, power and Authority to enter into the agreement and shall remain throughout the agreement.

4. Limitation of Liability

4.1 Nothing in the Agreement shall impose any liability on either STRATIQUÉ LTD in respect of any action or liability incurred by the Client.

4.2 STRATIQUÉ LTD shall not be liable to the Client for any loss of, damage to or costs in respect of: (a) loss of profit, anticipated profits, revenues, anticipated savings; (b) goodwill, enjoyment, business opportunity or publicity; (c) indirect or consequential loss or damage whether foreseeable, known, foreseen or otherwise.

4.3 While every effort will be made to ensure that all services are properly performed and all information provided by Stratique is accurate, no liability whatsoever in contract or tort (except for death or personal injury) is accepted by Stratique for any acts, errors, omissions or misleading statements and Stratique shall not be liable for any loss caused to the Client including economic loss.

4.4 The client shall indemnify and keep indemnified Stratique from and against all proceedings, claims, costs, damages, losses, expenses or liabilities which that party may incur or sustain as a result of or in connection with any information, representation, reports, data or material supplied, prepared or specifically approved by the first party including without limitation in relation to proceedings under the Trade Descriptions Act 1968. Any property or information made available by the Client to Stratique for purposes arising from or in connection with this agreement shall be and at all times remain at the sole and entire risk of the Client and Stratique shall not be subject to any liability for it.

5. Term and Termination

5.1 All fees owed / agreed should be paid in full before any termination of any project or monthly contract.

5.2 Without Prejudice to any other remedies available, either party shall be entitled to terminate the Agreement by giving 90 days written notice of termination to the other if:

- (a) The other commits a material breach of the Agreement which, in case of a breach capable of remedy, shall not have been remedied within 14 days of the receipt of the other of a notice identifying its breach and requiring its remedy. Upon remedy, the party in breach shall provide proof of remedy within 10 days thereof; or
- (b) If the other party passes a resolution for winding up (other than for the purpose of a solvent amalgamation or reconstruction) or it shall cease or threaten to cease to carry on its business of substantially the whole of its business or becomes or is declared insolvent, bankrupt or convenes a meeting of or proposes to make any arrangement or composition with its creditors or if a liquidator administrator, receiver or trustee or similar officer is appointed over the assets of it or any analogous step is taken in connection with insolvency or dissolution.

6. General

- 6.1 The terms and conditions of the Agreement shall apply between the parties (and in the case of a monthly retainer agreement, in conjunction with a specific Marketing Services Agreement) in respect of the subject matter hereof to the exclusion of all other terms and conditions (including any terms and conditions that the Client purports to apply).
- 6.2 The Agreement and Marketing Services Agreement contains the entire understanding of the parties with respect of the matter hereof and supersedes all prior arrangements and may not be modified or amended by the parties unless by a written instrument signed by both parties.
- 6.3 STRATIQUE LTD shall not be liable to the Client for loss arising from or in connection with representations (except any made fraudulently), agreements, statements or undertakings made prior to the date of execution of the Agreement.
- 6.4 Subject to the Venue Owner being able to enforce the terms of the Agreement and the licence granted under it, for the purpose of the contracts (Rights of Third Party) Act 1999 and notwithstanding any other provision of the Agreement, the Agreement is not intended to, and does not, give any person who is not a party to it any right to enforce any of its provisions.
- 6.5 No failure of either party to exercise, and no delay in exercising, any right or remedy in respect of any condition herein contained shall operate as a waiver of such right or remedy.
- 6.6 Web Hosting: Stratique is prepared to host and create "in-progress" sites on its own hosting, but if the site is moved after (or near completion), then costs will be incurred based on the number of additional hours spent replicating and repairing the site after transfer, at the current hourly rate.
- 6.7 IT support: Stratique is not an IT company but occasionally gets asked to support clients setting up emails or assist with hosting issue. In this instance if we can help, the first 30 minutes is free of charge but thereafter will be charged at the current hourly rate.
- 6.8 For complex IT problems and exchange servers we will happily liaise with your IT company at the same hourly rate. For problems arising that are not down to Stratique hosting or are made complex by client systems / servers it may be necessary to bring in outside programming help, this will be charged additionally.

7. Design (Including Graphic Design, Website Design, Product Design and 3D Design)

- 7.1 Additional graphic design and print projects will be quoted as they occur.
- 7.2 Graphic design projects include 2 free design changes plus 1 free round of text amends. Thereafter amends will be charged at the current hourly rate.
- 7.3 Cost of postage, printing, delivery, photography, and Google charges are additional.
- 7.4 Stratique cannot accept any liability or perceived loss for amends or changes or reprint costs after a job has gone to print. It is the sole responsibility of the client to ensure that the content is correct and to their liking before going to print.
- 7.5 Stratique cannot accept any liability or perceived loss for amends or changes after a job has gone to manufacture. It is the sole responsibility of the client to ensure that the design is correct and to their liking before going to manufacture.
- 7.6 Any changes made after the sign off process will incur a charge in line with the current STRATIQUE LTD hourly chargeable rate.

- 7.7 Stratique use trusted 3rd party hosting solutions for website and email servers. In the event of systems upgrades and down times, Stratique will act in the best interest of its clients to resolve the situation in a reasonable timeframe. Stratique cannot be held liable for any downtime or loss of email services in the event of a systems failure or a malicious attack by a third party or for any attack by a third party or Trojan code.
- 7.8 Websites may be prone to attack by hackers and Trojan code. Clients are responsible for backing up their own website information/data.
- 7.9 It is the client's responsibility to back up their own data and emails. In the event of emails being lost during a transfer of domain or at any other time, the client should use their backup to reinstate this data. Stratique is not an IT support company and cannot be held liable for any lost email data for any reason.
- 7.10 If the client provides images for marketing use, the client indemnifies Stratique from any liability resulting from the use of the image or other intellectual property. If the client sends an image to Stratique for its use, this constitutes an expression that they have the rights to use the image. If the client has any doubts they must seek clarification from the photographer or the owner of the intellectual property. If the client supplies low resolution images, then the quality of the print will be low resolution. All images for print should be supplied in CMYK format at 300 dpi. Where the client supplies images in RGB format a small charge of £10 per image will be made to convert images from RGB to CMYK.
- 7.11 Search Engine Optimisation (SEO) services: Search engine rankings can go up as well as down due to many factors including changes to the search engines algorithm and or competitor activity. Stratique cannot be held liable as the parameters and algorithms that determine rankings with Search Engines are subject to change without notice or explanation
- 7.12 Social Media. Stratique cannot be held responsible or liable for the content of posts by 3rd parties on any social media sites.
- 7.13 All copyright and design rights remain the sole intellectual property of Stratique until payment is received in full. When payment is received, a license to use the design is automatically granted to the client. Stratique requests the right to use designs generated and in the public domain for its own marketing purposes in print and online.
- 7.14 The license to use stock images purchased by Stratique for use in the client's publications can be used in other materials by STRATIQUE LTD. Stock images cannot however, be emailed to the client in their raw form for use elsewhere. This contravenes the licensing agreement.
- 7.15 Where logos packaging and marks are designed, it is the client's responsibility to ensure that the correct searches are made to ensure infringement has not been made. Stratique can facilitate this service through a Trademark attorney. Stratique cannot accept any liability for any perceived or actual loss for any form of infringement.
- 7.16 Stratique will act in good faith to capture the design intent from any verbal or written instructions. Stratique will attempt to interpret the client's requirements and will produce drawings and proofs to represent the final design. Design proofs and drawings and dimensioned drawings will be sent to the client for approval, review or comment. Any misinterpretations or changes to the design can be amended before approval. Changes to text, design or dimensions can then be easily made at this stage in the process. It is the sole responsibility of the client to ensure that the design proofs, drawings or dimensioned drawings represent the true design intent and Stratique cannot take any responsibility or accept liability for perceived loss if dimensions are modified throughout the process. Design is an iterative process and assumptions will be made about layout, juxtaposition and

dimensions as the process continues. One instruction can typically contradict another later instruction in terms of design fit, form and function.

7.17 It is the clients' responsibility to ensure that no copyright infringements take place. The client will know their markets better than Stratique and any similarities to existing products with intellectual property rights attached should be assessed by the client before proceeding to market. The client is responsible for ensuring no copyright has been infringed. Where this is in doubt, Stratique will rely on the judgement of the Client. In circumstances where conflict arises, Stratique will refer the client and the 3rd party claiming Intellectual Property rights to ACID (Anti Copying in Design).

7.18 Whilst Stratique has a competency in design, the client will have greater knowledge of their products and market requirements. Once a drawing is sent to the client, it is their responsibility to ensure every detail has been interpreted as required. Stratique cannot be held responsible for any perceived loss. To avoid risk of error or commercial exposure, the client should check the drawings thoroughly and also follow the standard design and production processes. An example of this is below:

- 7.18.1 The clients must check proofs, CAD files and drawings for dimensional inaccuracies, fit, function, and conformance to standards, material suitability and legislative requirements;
- 7.18.2 Produce a prototype and check for inaccuracies, fit, function, conformance to standards and legislation;
- 7.18.3 Make adjustments accordingly and produce a final sample. (Repeat until all issues are resolved):
- 7.18.4 Run a pre-production build and produce a non-conformance (SER) report of any required changes:
- 7.18.5 Proceed to production only if all issues have been identified and resolved. If not, repeat the process again until satisfactory

8. Written Copy and Graphic Design.

8.1 Stratique will act in good faith to produce written copy and text for approval, based on discussions made with the client. Once approval has been given Stratique will disseminate the copy to the target markets through many different channels including the oriented press, trade journals, email, on websites, and through social media.

8.2 Stratique cannot be held responsible or liable for inaccuracies or disputes raised after approval. Once the client approves a press release Stratique will not be able to retrieve the article once it is in the public domain.

8.3 It is the sole responsibility of the client to ensure facts and claims made are accurate and that the client has the right to claim "ownership" of ideas, products and intellectual property. Clients should only supply images that they are allowed by copyright or license to use.

8.4 Stratique recommend printing off proofs to check thoroughly. Once read normally, reading proofs from bottom right to top left will also improve the effectiveness of this proofing process. Stratique will also check copy but it is the ultimate responsibility of the client to ensure all information is correct.

8.5 All information sent for review and sign off by the client should be thoroughly read and checked for accuracy, typos or errors before going to print. Stratique will of course rectify any of these issues (prior to sign off) as part of the agreement. Once artwork is signed off, Stratique cannot be held responsible or liable for errors discovered thereafter.

8.6 Press releases cannot be retrieved once signed off and sent for distribution

9. Changes to the specifications and or the brief may result in additional charges at the chargeable hourly rate.

10. Complaints Procedure

10.1 All complaints should be made by the Client in writing to Customer Services. Stratique takes any complaint very seriously and will endeavour to address all issues in a timely manner.

10.2 On receipt of the complaint Stratique will act in good faith to resolve any issues or reasonable requests within 14 days. The client shall be informed in writing of remedial actions for review and comment. The client will not withhold payment for any work reasonably completed under the agreement and within the terms of the brief once Stratique address the issues.

10.3 Retrospective complaints after a protracted non-payment period will not be accepted as reasonable. See section 2

10.4 Retrospective complaints will not be reasonable grounds for agreement dissolution after clients have failed to keep up payment.

10.5 If any provision of these terms and conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these terms and conditions and the remainder of the provisions in question shall not be affected thereby.

10.6 Any disputes arising between Stratique and the Client shall be governed by the law of England and both parties hereby submit to the exclusive jurisdiction of any court of competent jurisdiction in England.

11. Confidential Information.

11.1 Stratique acknowledges a duty not to disclose without the Client's permission during or after the term of this agreement any information of a confidential nature which is disclosed to Stratique pursuant to this agreement except as required by law or where that information has been in the public domain.

12. Employment of our staff

12.1 If any member of our staff leaves to take up employment with you then we reserve the right to charge you a recruitment fee. This fee will be charged at a rate of twenty per cent of their final annual salary with us. This fee is to reflect the cost to us of recruiting and training a replacement.

13. Force Majeure

Neither party shall be responsible to the other for any delay in performance or non-performance due to any causes beyond the reasonable control of the parties but the affected party shall promptly upon the occurrence of any such cause inform the other party in writing and thereafter take all action within its power to comply with these terms and conditions as fully and as promptly as possible.

14. Acceptance

By engaging with Stratique Limited you agree to adhere to and accept these terms and conditions in full.