

## **The Hamilton Project**

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## **Terms and Conditions**

These terms and conditions shall apply to the agreement between "The Hamilton Project Ltd" and the "Client" applying for the provision of services by The Hamilton Project Ltd.

These terms and conditions together with any documents expressly referred to in them, contain the entire Agreement between us relating to the subject matter covered and supersede any previous Agreements, arrangements, undertakings or proposals, written or oral: between us in relation to such matters. No oral explanation or oral information given by any party shall alter the interpretation of these terms and conditions.

In agreeing to these terms and conditions, you have not relied on any representation other than those expressly stated in these terms and conditions and you agree that you shall have no remedy in respect of any misrepresentation which has not been made expressly in this Agreement.

### **Office Hours**

The Hamilton Project office hours are 9am - 5.30pm, Monday to Friday. Telephone calls received out of hours will be diverted to our answering machine and dealt with on the next working day. Where staff mobile telephone numbers are provided, we ask that you exercise discretion when calling out of hours and only call in emergencies, as in some cases these are also the staff's personal telephones. We appreciate your understanding.

### **Provision of Materials**

You agree to provide us with the specific copy, images and information we require in order to create your product, or to advise us as to where we can locate such materials. We accept no responsibility for your site not being put live/product being completed by a specific date if we are unable to secure necessary and/or suitable information and/or materials from you. If you cannot supply the information you wish to feature in your product, we will do what we can to obtain it, but we accept no responsibility for errors, omissions or discrepancies which may be present on the final product, as these may arise through our lack of specialist knowledge regarding the content of your product. The time taken to compile the data, as well as any time required to correct errors, omissions or discrepancies which have arisen through your not providing us with adequate materials, will be charged to you at our standard rate, however not before consultation. We accept no responsibility for the delay caused in providing you with the final product as a result of your supplying us with insufficient or unsuitable materials. This does not apply if the additional cost could have been avoided but for unreasonable delay on the part of The Hamilton Project in ascertaining the unsuitability of the materials with which you provide us. Where you supply or specify materials, we will take every care to secure the best results in the finished product, but we accept no responsibility for imperfect work caused by defects in or unsuitability of materials so supplied or specified.

## Print



### Print Proof Agreement

If The Hamilton Project has provided you with a proof, your signing this agreement confirms that you agree to the design and contents of the printed document as depicted on the proof. By signing this agreement, or confirming digital proofs via email, you absolve The Hamilton Project of all liability for any errors, omissions or discrepancies which may be present on the proof. Once you have signed this agreement and proof if supplied, you are not able to make any changes to the final product, nor are you able to hold The Hamilton Project responsible for anything you are unhappy with. This contract revokes your right to take any kind of action against The Hamilton Project for any aspect of the work with which you are later dissatisfied. Signing this contract means that, as long as the finished product is as discussed and consistent with the proof if supplied, you must pay in full for the work. This fact applies whether or not you later take issue with any aspect of the product. These terms are final and non-negotiable. This is your final opportunity to make changes to the content.

### Making Changes After Proof Stage (Print Only)

If a change is requested, we will do everything we can to make the correction before the printing starts, but we cannot guarantee this. We accept no responsibility, under any circumstances, for any mistakes present on the completed work, as the signing-off of a proof absolves us of all liability (see "Proof Agreement" above). Once the proof is signed off or agreed via email, we incur a film / plate(s) charge and this is passed on to you as part of the total charge (see "Price Breakdown"). Any changes made after a proof is signed off will result in a further film / plate(s) charge.

### Print Quality (Print Only)

The Hamilton Project handle all print production relating to design work carried out by The Hamilton Project unless agreed to the contrary in writing. Every effort will be made to obtain the best possible colour reproduction on customer's work but because of the nature of the processes involved, The Hamilton Project cannot guarantee an exact match in colour or texture between any materials with which you supply us, and the printed article.

### Quantity Supplied (Print Only)

Every effort is made to produce the exact quantity of items ordered. However, some variation is inherent in the print process and so you accept that minor variations in quantity are possible. These do not affect the price charged.

### Claims (Print Only)

Advice of damage, delay or partial loss of goods in transit or of non-delivery must be given in writing to The Hamilton Project within three clear days of delivery (or, in the case of non-delivery, within 28 days of dispatch of the goods) and any claim in respect thereof must be made in writing to The Hamilton Project and the carrier within seven clear days of delivery (or, in the case of non-delivery, within 42 days of dispatch). All other claims must be made in writing to The Hamilton Project within 28 days of delivery. The Hamilton Project shall not be liable in respect of any claim unless the aforementioned requirements have been complied with except in any particular case where the customer proves that (i) it was not possible to comply with the requirements and (ii) advice (where required) was given and the claim made as soon as reasonably possible.

### Standing Material (Print Only)

All materials (including but not limited to film, plates, negatives and positives) produced and used by The Hamilton Project during the production process remain the property of The

Hamilton Project. Where these materials are provided by the client, they remain the property of the client. The Hamilton Project reserves the right to dispose of lithographic work immediately after the order is executed unless written arrangements are made to the contrary. In the latter event, rent may be charged for the safe-keeping of the materials.



#### **Payment Terms (Print)**

New customers agree to pay a deposit of 25% of the final bill upon ordering, and to pay the outstanding balance on delivery of the completed work. Existing customers agree to adhere to the terms stated herein. All deposit payments are non-refundable.

## **Web**

#### **Domain Name Registration and Transfer Out**

The registration and use of the client's domain name is subject to the terms and conditions of use applied by the relevant naming authority. The Hamilton Project will not be liable to any claim in respect of refusal to register a domain name.

The Hamilton Project normally holds domain name(s) in trust of its client. If the client wishes, we will transfer the domain name(s) to the client at any time without charge, provided full payment for the service has been received by us.

We accept no liability in respect of the use by you of any domain name; any dispute between you and any other person must be resolved between the parties concerned in such dispute. If any such dispute arises, we shall be entitled, at our discretion to suspend or cancel the hosting of website with the disputed domain name. We shall also be entitled to make representations to the relevant naming authority but will not be obliged to take any part in any such dispute. Should the client request transfer out of any domain name from The Hamilton Project's control, then an administration fee based on the charge levied by our suppliers, plus £15 will be payable. No guarantee, warranty or liability can be given or accepted in respect of timescale or accuracy as this is reliant on third party involvement.

#### **Web Design & Web Hosting**

The Client acknowledges and accepts that it bears sole responsibility, legal and otherwise for the content of all material appearing on the Clients web site designed or hosted by The Hamilton Project, or third parties.

We make no representation and give no warranty as to the accuracy or quality of information received by any person via the Server and we shall have no liability for any loss or damage to any data stored on the Server;

You shall effect and maintain adequate insurance cover in respect of any loss or damage to data stored on the Server;

You represent, undertake and warrant to us that you will use the Web Site allocated to you only for lawful purposes. In particular, you represent, warrant and undertake to us that;

You will not use the Server in any manner which infringes any law or regulation or which infringes the rights of any third party, nor will you authorise or permit any other person to do so;

You will not post, link to or transmit

(a) any material which is inappropriate or unlawful, threatening, abusive, malicious, defamatory,

obscene, pornographic, blasphemous, profane or otherwise objectionable in any way;

(b) any material containing a virus or other hostile computer program;

(c) any material which constitutes, or encourages the commission of, a criminal offence or which infringes any patent, trade mark, design right, copyright or any other intellectual property right or similar rights of any person which may subsist under the laws of any jurisdiction;



You shall keep secure any identification, password and other confidential information relating to your account and shall notify us immediately of any known or suspected unauthorised use of your account or breach of security, including loss, theft or unauthorised disclosure of your password or other security information;

You shall observe the procedures which we may from time to time prescribe and shall make no use of the Server which is detrimental to our other customers;

You shall procure that all mail is sent in accordance with applicable legislation (including data protection legislation) and a secure manner;

In the case of an individual User, you warrant that you are at least 18 years of age and if the User is a company, you warrant that the Services will not be used by anyone under the age of 18 years;

Any access to other networks connected to through The Hamilton Project must comply with the rules appropriate for those other networks. While we will use every reasonable endeavour to ensure the integrity and security of the Server, we do not guarantee that the Server will be free from unauthorised users or hackers and we shall be under no liability for nonreceipt or misrouting of email or for any other failure of email.

### **Warranty**

The Hamilton Project relies on third party suppliers to provide uninterrupted Services and to the extent Services are reliant on third parties products and services, therefore The Hamilton Project makes no warranties or representations that any Service will be uninterrupted or error-free, due to the nature of the services being provided by means of computer and telecommunication systems.

If a problem occurs subsequent to launch due to the malfunction of any web page, form, script, or other component, or due to the failure or cessation of the web server or service on which the pages are stored, The Hamilton Project will make every reasonable endeavour to correct the problem. If the failure cannot be corrected within 2 hours of labour, the client will be liable to pay for any extra time/labour or other resource needed to correct the site. If the failure is due to our hosting companies failure then with the clients agreement we will try to arrange re-hosting of the web to an alternative web server but the client will need to bear the full cost of this at our prevailing hourly rate and the full cost of problems with the domain name and full cost of the new web hosting business to host the site for the client.

As the original domain name purchase and web hosting facility was arranged through a third party without any recourse to The Hamilton Project on behalf of the client then The Hamilton Project its employees consultants and agents in no event will be liable to the Client for any direct or indirect or consequential loss or damage whatever (for example but not limited to loss of business, loss of opportunity, loss of profits). No refund by The Hamilton Project will therefore be due to the Client for any unused portion at the time the third parties services gave problems or ceased.

In no event will The Hamilton Project be liable to the Client for any indirect or consequential loss

or damage whatever (for example but not limited to loss of business, loss of opportunity, loss of profits)



### **Bespoke Systems**

In the case of a bespoke solution (website), upon settlement of all outstanding monies due to The Hamilton Project for the development / design of such solution, full copyright and title will pass to the client.

### **Website Proofs**

Once a client has agreed a look and feel proof and instructed The Hamilton Project to proceed to build, any subsequent changes in style or design requested by the client will be charged for at the appropriate hourly rate.

### **Payment Terms (Web)**

New customers agree to pay a deposit of 25% of the final bill upon ordering, and to pay the outstanding balance on delivery of the completed work. Existing customers agree to adhere to the terms stated herein. All deposit payments are non-refundable.

## **General**

### **Copyright**

Unless negotiated and agreed in writing, the copyrights of general artwork, commissioned artwork, illustrations, website design, programming and copy belong to The Hamilton Project. If you supply us with material, it is your responsibility to obtain all necessary copyrights for its use, and we assume that you possess these. In such cases, the copyright belongs to you. By signing this agreement, or confirming via email, you agree to indemnify The Hamilton Project from any claim which arises regarding the use of material with which you supply us. We reserve the right to use any artwork or printing we produce for the purposes of promoting our services unless you request otherwise in writing.

### **Quotes**

All quotes for work are valid for thirty (30) days, after which time all proposed work will have to be re-quoted. We take no responsibility for a re-quoted price differing from an original quote.

### **Illegal Matter**

The Hamilton Project reserves the right not to print any matter deemed illegal, libellous or offensive, or which may be an infringement of the proprietary or other rights of any third party. This agreement indemnifies us in respect of any claims, costs and expenses arising out of any libellous matter or any infringement of copyright, patent, design or of any other proprietary or personal rights contained in any material printed for the customer. The indemnity shall extend to any amounts paid on a lawyer's advice in settlement of any claim.

### **Consequential Loss**

The Hamilton Project accept no liability whatsoever for consequential or third party losses, resulting in a delay in delivery howsoever caused.

### **Financial Loss**

The Hamilton Project accept no liability whatsoever for financial loss or loss of earnings arising from products or services provided by The Hamilton Project.



### **Force Majeure**

The Hamilton Project accept no responsibility if we are unable to carry out any provision of the contract for any reason beyond our control including (without limiting the foregoing) Act of God, legislation, war, fire, flood, drought, failure of power supply, lock-out, strike or other action taken by employees in contemplation or furtherance of a dispute or owing to any inability to procure materials required for the performance of the contract.

During the continuance of such a contingency you may, by written notice to ourselves, elect to terminate the contract and pay for work done and materials used, but subject thereto shall otherwise accept delivery when available.

### **Liability**

The Hamilton Project shall not be liable for any loss to the customer arising from delay in transit caused by circumstances beyond The Hamilton Project's control.

### **Price Breakdown**

The invoice we send you will be itemised, showing the cost of the design and research process, as well as the production itself. Supplying us with suitable material will, therefore, reduce the time spent on design and, thereby, the final charge. VAT is charged at the current Customs & Excise rates and according to current regulations, irrespective of whether or not it is included in a price quotation.

### **Jobs Put On Hold or Cancelled by the Client**

Jobs put on hold or cancelled by the client during production will be invoiced at current stage and materials. This invoice must be paid in full together with any VAT that falls due accordingly.

### **Credit Terms**

Our payment terms are 30 days from the date of the relevant invoice.

### **Insolvency**

Any customer ceasing to pay their debts in the ordinary course of business or proving unable to pay their debts as they become due or, being, a company, is deemed to be unable to pay its debts, or has a winding-up petition issued against it or, being a person, commits an act of bankruptcy or has a bankruptcy petition issued against it, The Hamilton Project, without prejudice to other remedies, shall (i) have the right not to proceed further with the contract or any other work for the customer and be entitled to charge for work already carried out (whether completed or not) and materials purchased for the customer, such charge to be an immediate debt due to it, and (ii) in respect of all unpaid debts due from the customer, have a general lien on all goods and property in its possession (whether worked on or not) and shall be entitled on the expiration of 14 days' notice to dispose of such goods or property in such manner and at such price as we think fit and to apply the proceeds towards such debts.

### **Data Protection**

The Hamilton Project agrees to keep the confidential information of its clients confidential, including all administration areas of websites and details of referrers and those who are referred. All such data recorded by a website will be completely secure, and all information will be treated as confidential in accordance with the Data Protection Act.