



These general terms and conditions ("**Agreement**") outline the terms and conditions by which Happy Finish Limited, a company incorporated in England Wales under Company Number 05144546 with its registered office at Turnpoint, 26-28 Underwood Street, London N1 7JQ, United Kingdom, together with its subsidiaries and affiliates (as appropriate), ("**Happy Finish**") to you ("**Client**", as defined below) in conjunction with the Services (as defined below). Please read this Agreement carefully before completing your Order. By instructing Happy Finish, you warrant you have the right to agree to, and accept and perform the obligations set out in, this Agreement on behalf of the Client.

1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

1.1. Definitions:

Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Charges: the charges payable by the Client for the supply of the Services in accordance with clause 5.

Client Input Assets: any Works or other materials, and any data or other information provided by the Client relating the Services;

Commencement Date: has the meaning given in clause 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with clause 11.5.

Contract: the contract between Happy Finish and the Client for the supply of Services in accordance with these Conditions.

Control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of control** shall be construed accordingly.

Client: the person or firm who purchases Services from Happy Finish.

Client Default: has the meaning set out in clause 4.2.

Deliverables: the deliverables set out in the Order produced by Happy Finish for the Client but excluding any Working Assets or Happy Finish Input Assets.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, moral rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Happy Finish Input Assets: any Works or other materials, and any data or other information provided by Happy Finish relating to the Services but excluding any Working Assets or Client Input Material (and not included in the Deliverables).

Order: the Client's order for Services as set out in the Client's purchase order form **OR** Happy Finish's Statement of Work **OR** Happy Finish's estimate, as the case may be.

Services: the services, including the Deliverables, supplied by Happy Finish to the Client as set out in the Statement of Work.

Statement of Work: the description or statement of the Services provided in writing by Happy Finish to the Client.

Working Assets: any master working materials provided and retained by Happy Finish, but excluding any Deliverables.

Works: includes all records, reports, documents, papers, drawings, designs, transparencies, photos, graphics, logos, typographical arrangements, software programs, inventions, ideas, discoveries, developments, improvements or innovations and all materials embodying them in whatever form, including but not limited to hard copy

- and electronic form, and including but not limited to any Deliverable prepared by Happy Finish in connection with the provision of the Services.
- 1.2. Interpretation:
- (a) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
- (b) Any words following the terms **including, include, in particular, for example** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (c) A reference to **writing** or **written** includes email.
- 2. Basis of contract**
- 2.1. The Order constitutes an offer by the Client to purchase Services in accordance with these Conditions.
- 2.2. The Order shall only be deemed to be accepted when the Client confirms in writing their acceptance of the Order at which point and on which date the Contract shall come into existence (**Commencement Date**).
- 2.3. Any samples, drawings, descriptive matter or advertising issued by Happy Finish, and any descriptions or illustrations contained in Happy Finish's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.
- 2.4. These Conditions apply to the Contract to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.5. Any quotation given by Happy Finish shall not constitute an offer, and is only valid for a period of thirty (30) Business Days from its date of issue.
- 3. Supply of Services**
- 3.1. Happy Finish shall supply the Services to the Client in accordance with the Statement of Work in all material respects.
- 3.2. Happy Finish shall use its reasonable endeavours to provide the Services in accordance with the Statement of Work and as otherwise agreed between Happy Finish and the Client

- in writing from time to time, subject to these Conditions.
- 3.3. Happy Finish reserves the right to amend the Statement of Work if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and Happy Finish shall notify the Client in any such event.
- 3.4. Happy Finish warrants to the Client that the Services will be provided using reasonable care and skill.
- 3.5. The Client agrees and acknowledges that Happy Finish may deploy artificial intelligence ("AI") to enhance the supply of Services to the Client. Such AI may be used by Happy Finish to (inter alia) create art and narrative for visual artwork for such Client.
- 4. Client's obligations**
- 4.1. The Client shall:
- (a) ensure that the terms of the Order and any information it provides in the Specification are complete and accurate;
- (b) co-operate with Happy Finish in all matters relating to the Services;
- (c) provide Happy Finish, its employees, agents, consultants and subcontractors, with access to the Client's premises, office accommodation and other facilities as reasonably required by Happy Finish;
- (d) provide Happy Finish with such information and materials as Happy Finish may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- (e) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
- (f) keep all Happy Finish Input Assets and Working Assets at the Client's premises in safe custody at its own risk, maintain Happy Finish Input Assets and Working Assets in good condition until returned to Happy Finish, and not dispose of or use Happy Finish Input Assets and Working Assets other than in accordance with Happy Finish's written instructions or authorisation;
- (g) adhere to any policies and procedures published and updated by Happy Finish from time to time; and
- (h) comply with any additional obligations as set out in the Statement of Work.
- 4.2. If Happy Finish's performance of any of its obligations under the Contract is

- prevented or delayed by any act or omission by the Client or failure by the Client to perform any relevant obligation (**Client Default**):
- (a) without limiting or affecting any other right or remedy available to it, Happy Finish shall have the right to suspend performance of the Services until the Client remedies the Client Default, and to rely on the Client Default to relieve it from the performance of any of its obligations in each case to the extent the Client Default prevents or delays Happy Finish's performance of any of its obligations;
 - (b) Happy Finish shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from Happy Finish's failure or delay to perform any of its obligations as set out in this clause 4.2; and
 - (c) the Client shall reimburse Happy Finish on written demand for any costs or losses sustained or incurred by Happy Finish arising directly or indirectly from the Client Default.
- 5. Charges and payment**
- 5.1. The Charges for the Services shall be calculated on a time and materials basis:
 - (a) the Charges shall be calculated in accordance with Happy Finish's daily fee rates, as set out in the Order;
 - (b) Happy Finish's daily fee rates for each individual are calculated on the basis of an eight-hour day from 9.00 am to 6.00 pm worked on Business Days;
 - (c) Happy Finish shall be entitled to charge an overtime rate on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in clause 5.1(b); and
 - (d) Happy Finish shall be entitled to charge the Client for any expenses reasonably incurred by the individuals whom Happy Finish engages in connection with the Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by Happy Finish for the performance of the Services, and for the cost of any materials.
 - 5.2. Happy Finish reserves the right to increase the Charges on an annual basis with effect from each anniversary of the Commencement Date in line with the percentage increase in the Retail Prices Index in the preceding 12-month period and the first such increase shall take effect on the first anniversary of the

- Commencement Date and shall be based on the latest available figure for the percentage increase in the Retail Prices Index.
- 5.3. Happy Finish shall invoice the Client in accordance with the Order.
 - 5.4. The Client shall pay each invoice submitted by Happy Finish:
 - (a) within 30 days of the date of the invoice or in accordance with any credit terms agreed by Happy Finish and confirmed in writing to the Client; and
 - (b) in full and in cleared funds to a bank account nominated in writing by Happy Finish.
- time for payment shall be of the essence of the Contract.
- 5.5. Happy Finish reserves the right to charge a cancellation fee of twenty-five percent (25%) of the Order if the Client cancels the Contract after acceptance (as referred to clause 2.2). Cancellation after commencement of any of the Services may incur the cancellation fee and/or Happy Finish's standard charges for the Services to be carried out, whichever is greater.
 - 5.6. All amounts payable by the Client under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by Happy Finish to the Client, the Client shall, on receipt of a valid VAT invoice from Happy Finish, pay to Happy Finish such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
 - 5.7. If the Client fails to make a payment due to Happy Finish under the Contract by the due date, then, without limiting Happy Finish's remedies under clause 9, the Client shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 5.6 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
 - 5.8. All amounts due under the Contract shall be paid in full without any set-off, counterclaim, bank fees and charges, foreign exchange fees, deduction or withholding (other than any deduction or withholding of tax as required by law).

6. Intellectual property rights

- 6.1. All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Client) shall be owned by Happy Finish. For clarity, any Happy Finish Input Assets and Working Assets and Deliverables shall belong to Happy Finish, and any Client Input Assets shall belong to the Client.
- 6.2. Happy Finish grants to the Client, or shall procure the direct grant to the Client of, a fully paid-up, worldwide, non-exclusive, royalty-free licence to copy and modify the Deliverables corresponding to the relevant Statement of Work (excluding materials provided by the Client).
- 6.3. The Client shall not sub-license, assign or otherwise transfer the rights granted in clause 6.2.
- 6.4. The Client grants Happy Finish a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by the Client to Happy Finish for the term of the Contract for the purpose of providing the Services to the Client.

7. Data protection

The parties shall comply with the terms of Happy Finish's privacy policy (<https://happyfinish.com/privacy>) with regard to the processing of any personal data (or equivalent under applicable law).

8. Limitation of liability: THE CLIENT'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.

- 8.1. The limits and exclusions in this clause reflect the insurance cover Happy Finish has been able to arrange and the Client is responsible for making its own arrangements for the insurance of any excess loss.
- 8.2. References to liability in this clause 8 include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 8.3. Nothing in this clause 8 shall limit the Client's payment obligations under the Contract.
- 8.4. Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:
- (a) death or personal injury caused by negligence;
 - (b) fraud or fraudulent misrepresentation; and
 - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

8.5. Subject to clause 8.3 (No limitation in respect of deliberate default), and clause 8.5 (Liabilities which cannot legally be limited), Happy Finish's total liability to the Client shall not exceed the lesser of: (a) the value of the Order; and (b) one million pounds sterling (£1,000,000) in aggregate.

8.6. The caps on Happy Finish's liabilities shall be reduced by amounts awarded by a court or arbitrator, using their procedural or statutory powers in respect of costs of proceedings or interest for late payment.

8.7. Subject clause 8.3 (No limitation in respect of deliberate default), clause 8.4 (No limitation of Client's payment obligations) and clause 8.5 (Liabilities which cannot legally be limited), this clause 8.8 sets out the types of loss that are wholly excluded:

- (a) loss of profits.
- (b) loss of sales or business.
- (c) loss of agreements or contracts.
- (d) loss of anticipated savings.
- (e) loss of use or corruption of software, data or information.
- (f) loss of or damage to goodwill; and
- (g) indirect or consequential loss.

8.8. Happy Finish has given commitments as to compliance of the Services with relevant specifications in clause 3. In view of these commitments, the terms implied by sections 3 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

8.9. Unless the Client notifies Happy Finish that it intends to make a claim in respect of an event within the notice period, Happy Finish shall have no liability for that event. The notice period for an event shall start on the day on which the Client became, or ought reasonably to have become, aware of [the event having occurred **OR** its having grounds to make a claim in respect of the event and shall expire six (6) months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

8.10. This clause 8 shall survive termination of the Contract.

9. Termination

- 9.1. Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- (a) the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to

- remedy that breach within fourteen (14) days of that party being notified in writing to do so;
- (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- (d) the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 9.2. Without affecting any other right or remedy available to it, Happy Finish may terminate the Contract with immediate effect by giving written notice to the Client if:
- (a) the Client fails to pay any amount due under the Contract on the due date for payment; or
- (b) there is a change of control of the Client.
- 9.3. Without affecting any other right or remedy available to it, Happy Finish may suspend the supply of Services under the Contract or any other contract between the Client and Happy Finish if:
- (a) the Client fails to pay any amount due under the Contract on the due date for payment;
- (b) the Client becomes subject to any of the events listed in clause 9.2(c) or clause 9.2(d), or Happy Finish reasonably believes that the Client is about to become subject to any of them; and
- (c) Happy Finish reasonably believes that the Client is about to become subject to any of the events listed in clause 9.2(b).
- 10. Consequences of termination**
- 10.1. On termination of the Contract:
- (a) the Client shall immediately pay to Happy Finish all of Happy Finish's

- outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Happy Finish shall submit an invoice, which shall be payable by the Client immediately on receipt;
- (b) the Client shall return all Happy Finish Input Assets and Working Assets, and any Deliverables which have not been fully paid for. If the Client fails to do so, then Happy Finish may enter the Client's premises and take possession of them. Until they have been returned, the Client shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.
- 10.2. Termination of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 10.3. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.
- 11. General**
- 11.1. Force majeure.** Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.
- 11.2. Assignment and other dealings.**
- (a) Happy Finish may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.
- (b) The Client shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract [without the prior written consent of Happy Finish].
- 11.3. Confidentiality**
- (a) Each party undertakes that it shall not at any time during the Contract, and for a period of two years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 11.3(b).

- (b) Each party may disclose the other party's confidential information:
- (i) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 11.3; and
- (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- (c) Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

11.4. Entire agreement

- (a) The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- (b) Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation [or negligent misstatement] based on any statement in the Contract.
- (c) Nothing in this clause shall limit or exclude any liability for fraud.

11.5. Variation. Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

11.6. Waiver. A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further

exercise of that or any other right or remedy.

11.7. Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement. If any provision or part-provision of this Contract deleted under this clause 11.7 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

11.8. Notices.

- (a) Any notice [or other communication] given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business or sent by email to the main point(s) of contact.
- (b) Any notice or communication shall be deemed to have been received:
 - (i) if delivered by hand, at the time the notice is left at the proper address;
 - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
 - (iii) if sent by email at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 11.8(b)(iii), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- (c) This clause 11.8 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

11.9. Third party rights.

Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

11.10. Governing law. The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of England and Wales.

11.11. Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim

(including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

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