

TERMS AND CONDITIONS
SAMPLE & HOLD LIMITED ("S&H")

INTRODUCTION

1. The placing of an order by a client and the acceptance of that order by S&H creates a contract on S&H terms and conditions as set out below.
2. In addition to these terms and conditions any special terms and conditions agreed between you and S&H prior to you signing the order form shall apply. Where there is inconsistency between terms agreed verbally and these terms and conditions, these terms and conditions shall prevail.
3. An order shall be deemed to be accepted when, following a quote provided by S&H, confirmation is received from you or your organisation. S&H may also provide a work order for clarity.
4. In exceptional circumstances and entirely at its own discretion S&H may accept an order given verbally by an existing or former client who has had notice of these terms and conditions; these terms and conditions shall apply equally to an order given and accepted.
5. In the case of S&H accepting an order verbally, you shall confirm such an order in writing as soon as practicable. In the absence of written confirmation S&H will not accept liability for any error in executing the order.
6. Any quotation given by S&H shall not constitute an offer, and is only valid for a period of 15 Business Days from its date of issue.
7. S&H reserves the absolute right to refuse any order whatsoever and for whatever reason. Particularly in cases where S&H has reason to believe that acceptance and execution of the order will lead to a breach and/or infringement by S&H of the laws of obscenity, libel and intellectual property rights ("IPR").

FEES AND PAYMENTS

FEES:

8. The fee payable by you for the execution of any order shall be as set out on the Quote, Work Order or as otherwise agreed in writing with you.
9. S&H shall be entitled to charge you for any expenses reasonably incurred by the individuals whom S&H engages in connection with its services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by S&H for the performance of its services and for the cost of any materials.
10. S&H reserves the right to make additional charges when completion of an order is requested/required in less than normal delivery time for the type of work ordered.

PAYMENT:

11. Except in circumstances where the order value is large (in which case S&H shall contact you regarding invoice and payment details) S&H shall invoice you on commencing of our services.
12. You shall pay each invoice submitted by S&H:
13. within 30 days of the date of the invoice; and
14. in full and in cleared funds to a bank account nominated in writing by S&H, and time for payment shall be of the essence of these terms and conditions.
15. All amounts payable by you under these terms and conditions are exclusive of amounts in respect of value added tax chargeable for the time being ("VAT"). Where any taxable supply for VAT purposes is made under these terms and conditions by S&H to you, you shall, on receipt of a valid VAT invoice from S&H, hold and pay to S&H such additional amounts in respect of VAT as are chargeable on the supply of our services at the same time as payment is due for the supply of the services.
16. Without limiting any other right or remedy of S&H, if you fail to make any payment due to S&H by the due date for payment ("Due Date"), S&H shall have the right to charge interest on the overdue amount at the rate of 3% per annum above the then current Bank of England's base lending rate accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment, and compounding quarterly.
17. You shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and you shall not be entitled to assert any credit, set-off or counterclaim against S&H in order to justify withholding payment of any such amount in whole or in part. S&H may, without limiting its other rights or remedies, set off any amount owing to it by you against any amount payable by S&H to you.

METHODS OF PAYMENT:

18. All cheques shall be payable to Sample & Hold Limited. In the event of a cheque not being honoured on presentation for whatever reason S&H reserves the right to charge an administration fee for each presentation and re-presentation of the cheque.
19. Payment may be made by bank transfer (BACS) using the following details:

UK and International Customers:

Account name: sample & hold ltd

Account number: 02263300

Sort code: 402312

HSBC Bank

EU Customers paying in Euros:

Account name: sample & hold ltd

Account number: 71375591

Sort code: 400515

HSBC Bank

EXCHANGE RATE:

20. All estimate / quotation prices are in GB Pounds unless otherwise agreed. Goods and services supplied from other countries will be calculated at the prevailing current rate of the Euro or other currency at the time of the event. S&H reserve the right to pass on to you exchange rate fluctuations in excess of 1% of the rate shown at the date payment is made or received.
21. Where payment is made in a currency other than GB Pounds, you will be responsible for paying any bank charges associated with the conversion of your payment into GB Pounds.

DESIGN, PRINT & PRODUCTION LIABILITY:

22. S&H will take all reasonable care in the handling and processing of all materials belonging to you.
23. Subject to paragraphs 24 & 25 below, the liability of S&H for loss or damage to your materials, shall be limited to such loss or damage which, at the time the order was placed, could reasonably have been foreseen as likely to arise directly as a result of the loss or damage to the materials.
24. Where original materials are deposited with S&H it shall be your responsibility to inform S&H of the value of such material either before or when they are placed on deposit. If you fail to inform S&H, the liability of S&H for the loss of or damage to any such material shall not exceed £50 per item.
25. Where original materials are submitted to S&H in the form of computer disks or any other electronic or digital erasable media it shall be the responsibility of you to maintain their own master copy independently of the material submitted to S&H. On computer disk or other electronic or digital erasable media of which you do not have another copy, you shall inform S&H of that fact either before or when the material/s is/are submitted to S&H. If you fail to inform S&H, S&H' liability for loss of or damage to any such material shall not exceed £50 per item.

INTELLECTUAL PROPERTY RIGHTS:

26. It shall be your responsibility to ensure that all materials presented for processing, printing, copying, duplication, restoration or any other process of reproduction are free from any third party intellectual property claims.
27. You warrant to S&H that you own, or have otherwise obtained from the relevant rights owner a written and valid assignment of, all existing and future intellectual property rights in relation to any of the materials you supply to S&H.
28. You agree to indemnify and hold S&H harmless against all liabilities, costs, expenses, damages or losses (including any direct or indirect consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by S&H arising out of or in connection with the use by S&H of materials provided by you for the purposes of this order.
29. All intellectual property rights in or arising out of or in connection with any works created, adapted or revised by S&H shall be owned by S&H.
30. You are prohibited from reproducing, modifying, varying, and publishing any works created by S&H unless otherwise agreed in writing.
31. All materials on which original works are created by S&H shall remain the property of S&H and S&H undertakes to file and store all such original materials safely and to make them available for future reproduction within a 3 month period from completion of the project. After such date, S&H cannot guarantee the retention of the materials. Where S&H gives possession of original materials to you such material shall nevertheless remain the property of S&H and you acknowledges that ownership of any physical materials (such as models, prints, transparencies or digital files/disks) does not imply ownership of the intellectual property rights in them which remains the property of S&H.
32. You retain all the Intellectual Property Rights in any materials you supply to S&H.
33. You acknowledges that the infringement of certain intellectual property rights can be both a civil wrong and a criminal offence.

ARTWORK:

34. You shall ensure that artwork sketches and specific instructions supplied by you or your agents are accurate, unambiguous and clearly legible.

PROOFS & ADDITIONAL WORK:

35. Proofs may be submitted for your approval. S&H shall not be liable for any errors that have not been corrected by you. Where you make alterations, other than alterations arising from mistakes on the part of S&H, this may give rise to an extra charge. Additional work caused by omissions or ambiguity in your copy or instructions may also incur an additional charge. In either such case any additional charge shall be made, such reasonable amount as reflects the additional work which S&H has had to undertake.
36. The completed materials produced by S&H shall correspond with the description referred to on the quote, invoice and/or work order, and with any approved sample, illustration, descriptive material or artwork save where such sample, illustration, descriptive material or artwork has been made available by S&H for illustrated purposes only.

CANCELLATION:

37. Notice of cancellation or curtailment must be given in writing and is effective from the time of reception, during normal office hours 0900-1730 Monday to Friday, not including UK public holidays, by S&H.
38. Any cancellation within a 5 working day period before the commencement of an agreed job will incur a cancellation fee of 10% of the total invoice. Any cancellation within a 2 working day period before the commencement of an agreed job will incur a cancellation fee of 25% of the total invoice.
39. Where the order is cancelled before completion, S&H reserves the right to charge for work carried out plus a percentage of the total amount.

DELIVERY:

40. Dispatch of completed material will normally be by either internet upload or First Class letter post, delivery by S&H own delivery service or any other carrier chosen by S&H or you. Where and when applicable S&H will charge for postage, package and delivery. The carrier shall be deemed to be the agent of you and S&H shall not be liable for any loss or

damage occurring while the completed materials are in transit or held digitally by another agent.

41. You shall inspect the completed materials on delivery and shall within five working days of delivery notify S&H of any alleged defect, shortfall in quantity, damage or failure to comply with description or sample. If you so notify S&H shall return the completed materials together with all associated paperwork and packaging to S&H within seven working days of said notification. If you shall fail to notify S&H the completed materials shall be conclusively presumed to be in accordance with the contract and free from any defect or damage which would be apparent on a reasonable examination of the completed materials and you shall be deemed to have accepted the completed materials.
42. It is your responsibility to check that the completed materials comply with your requirements. While reasonable care is taken in carrying out the work under these terms and conditions, S&H does not in any way warrant the accuracy or completeness of work, or the fitness of the work for the purposes that the client intends to use it, and accepts no liability for any inaccuracies in or the incompleteness of any such information.
43. Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. S&H shall not be liable for any delay in delivery of a work or materials that is caused by a force majeure event or your failure to provide S&H with adequate delivery instructions or any other instructions that are relevant to the supply of a work or materials.
44. If you fail to take or accept delivery of any works/materials within 3 Business Days of S&H notifying you that the works/materials are ready, then, except where such failure or delay is caused by a force majeure event or S&H's failure to comply with its obligations under these terms and conditions:
- 44.1 delivery of the works/materials shall be deemed to have been completed at 9.00 am on the 3rd Business Day after the day on which S&H notified you that the works/materials were ready; and
- 44.2 S&H shall store the works/materials in their possession until delivery takes place, and charge you for all related costs and expenses (including insurance).
45. If 10 Business Days after the day on which S&H notified you that the works/materials were ready for delivery you have not taken or accepted delivery of them, S&H may resell or otherwise dispose of part or all of the works/materials.

TERMINATION:

46. Without limiting its other rights or remedies, S&H may terminate these terms and conditions by giving written notice to you if:
 - 46.1 you commit a material breach of these terms and conditions and (if such a breach is remediable) fails to remedy that breach within 7 days of that party being notified in writing of the breach;
 - 46.2 you suspend, or threaten to suspend, payment of its debts or are unable to pay your debts as they fall due or admit an inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply; or
 - 46.3 you suspend or cease, or threaten to suspend or cease, to carry on all or a substantial part of your business.
47. Without limiting its other rights or remedies, S&H may terminate these terms and conditions with immediate effect by giving written notice to you if you fail to pay any amount due under these terms and conditions or the order form on the date payment falls due.
48. Other than as set out above and without limiting its other rights or remedies, each party shall have the right to terminate these terms and conditions by giving the other party one month's written notice.
49. Without limiting its other rights or remedies, S&H shall have the right to suspend provision of its services if you become subject to any of the events listed clause 45 or if S&H reasonably believes that you are about to become subject to any of them, or if you fail to pay any amount due under these terms and conditions.
50. On termination of the Contract for any reason:
 - 50.1 the Customer shall immediately pay to Sample & Hold all of Sample & Hold's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Sample & Hold shall submit an invoice, which shall be payable by the Customer immediately on receipt;
 - 50.2 Sample & Hold shall return all of the original materials provided by the Customer to S&H;
 - 50.3 the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
 - 50.4 clauses which expressly or by implication have effect after termination shall continue in full force and effect.

GENERAL:

51. S&H shall not be liable to you as a result of any delay or failure to perform its obligations under these terms and conditions as a result of a force majeure event.
52. S&H shall not be liable to the other party for any indirect, special or consequential loss or damage, costs, expenses or other claims for compensation (whether for loss of profit, business, goodwill reputation or otherwise and whether caused by negligence or otherwise) which arises out of or in connection with this agreement.
53. If the force majeure event prevents S&H from providing any of its services for more than 4 weeks, S&H shall, without limiting its other rights or remedies, have the right to terminate these terms and conditions immediately by giving written notice to you.
54. S&H may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under these terms and conditions to any third party or agent.
55. You shall not, without the prior written consent of S&H, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under these terms and conditions.
56. A person who is not a party to these terms and conditions shall not have any rights under or in connection with it.
57. Except as set out in these terms and conditions, any variation, including the introduction of any additional terms and conditions, to these terms and conditions, shall only be binding when agreed in writing and signed by S&H.
58. These terms and conditions, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

LIEN & RETENTION OF TITLE:

59. S&H shall have a right to retain all of your materials in its possession and shall reserve the right to retain any such materials until all monies due and payable have been received.
60. In the event of non-payment in accordance with these terms and conditions for any works/materials created by S&H any licence that has been granted to you to use or reproduce the works/materials or images thereof shall be immediately revoked without further notice from S&H thereby rendering any reproduction of the image(s) by you a breach of copyright and/or other intellectual property rights for which S&H reserves the right to take such legal action as may be appropriate.

DEFINITIONS:

61. **"We", "us", "our" or "S&H"** means sample & hold Limited of 51-63 Ridley Road Market, London, E8 2NP; and
- 61.1 **"You"** means you, the client, the company and/or the organisation who this Agreement is made with and includes any person/s that we reasonably believe are acting with you, the client, the company and/or the organisations authority.
- 61.2 **"Agreement"** means this agreement including all subsequent amendments.
- 61.3 **"Business Days"** means a day (other than a Saturday or Sunday) on which banks in England are open for business (other than for the sole purpose of 24-hour electronic banking).
- 61.4 **"Information"** means any confidential and/or personally identifiable information or other information related to you, including but not limited to the following: name, email address, post/shipping address and phone number.
- 61.5 **"Materials"** means any models, prints, transparencies or digital files/disks.

Sample & Hold Limited
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Fax: N/A

Sample & Hold Limited
Registered in England.
Registered office: 51-63 Ridley Road Market London E8 2NP
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