



# HARKIMEDES

EST. 2002  
ENGLAND

## SERVICE TERMS & CONDITIONS

In these Service Terms & Conditions, “Harkimedes” means Daniel Harker trading as Harkimedes and “client” means any person, firm or company who requests services and/or consumables from Harkimedes.

costs, such as third party costs and/or labour costs.

3.3 The client shall agree to pay for any additional and/or unforeseen work not apparent from the information provided by the client for the purposes of providing Harkimedes' quote.

### 1 APPLICATION OF THESE TERMS

1.1 These Service Terms & Conditions govern the supply of all services and consumables by Harkimedes. All other terms and conditions (including without limitation any terms and conditions of the client) are excluded.

1.2 Any valid amendment or variation to these Service Terms & Conditions must be in writing and signed by a director of Harkimedes.

### 4 PAYMENT

4.1 All sums payable to Harkimedes shall be payable in pounds sterling, in full, without deduction, withholding or set-off. All prices and delivery charges are quoted exclusive of VAT unless otherwise indicated.

4.2 The client shall be responsible for all customs and other duties and all related costs and expenses payable on any international transaction.

### 2 ORDERING FROM HARKIMEDES

2.1 The client may order services and/or consumables online, by phone or written order.

2.2 All orders for services shall be binding on the client whether or not they are confirmed by Harkimedes.

2.3 Harkimedes shall not be responsible for any errors made by the client.

2.4 Harkimedes shall be entitled to assume that any person placing and/or signing an order on behalf of the client is authorised to do so.

2.5 Harkimedes reserves the right in its absolute discretion to refuse to accept any order.

2.6 Once an order has been accepted by Harkimedes, Harkimedes shall supply the services and/or consumables ordered in accordance with these Service Terms & Conditions.

2.7 Harkimedes reserves the right to produce work via the optimum method available to fulfil the order.

### 5 INTELLECTUAL PROPERTY RIGHTS

5.1 The client warrants that no copyright or other intellectual property right (including without limitation moral rights) of any third party, now existent or hereafter created, will be infringed by virtue of: 5.1.2 any services to be carried out by Harkimedes at the request of the client; or 5.1.3 the loading, storage and management of the client's images and other data by Harkimedes.

5.2 Where the client provides film, negatives, data, digital images and/or other materials to Harkimedes and requires Harkimedes to develop, process, manipulate and/or carry out other services in relation to the same, the client warrants that the client owns or controls all copyright and other intellectual property rights in such materials, or has obtained all necessary permissions, consents and waivers as are or will be required for the copying, processing, manipulation and other work to be undertaken by Harkimedes in relation to them. The client hereby irrevocably licenses Harkimedes to do all such copying, processing, manipulation and other work as is necessary in performing, or ancillary to, the services requested by the client.

5.3 The client agrees to indemnify Harkimedes against all losses, damages, claims or expenses (including legal costs on an indemnity basis) which Harkimedes may incur by virtue of any

### 3 CHARGES

3.1 All prices shall be as quoted by Harkimedes or calculated by reference to Harkimedes' current rates list as applicable.

3.2 Prices specified on Harkimedes' rates list may be subject to change without warning due to any variations in Harkimedes'



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breach of the warranties in clauses 5.1 or 5.2 or in the event of any claim (whether or not proceedings are issued) by any party against Harkimedes or its employees, agents or contractors, that any third party copyright or other intellectual property right (including without limitation moral rights) has been infringed by virtue of anything done by, on behalf of or at the request of the client.

5.4 The client warrants that no materials or data deposited with Harkimedes shall contain any material which is defamatory, blasphemous or obscene, or is otherwise contrary to any applicable laws, regulations or codes of practice.

## 6 STORAGE AND DELIVERY OF DATA AND OTHER CLIENT MATERIALS – CLIENT’S RESPONSIBILITY TO INSURE

6.1 All film, negatives, digital data and other materials (including but not limited to any data or materials created by or on behalf of Harkimedes at the request of the client) held by Harkimedes (whether online or otherwise) and all other materials belonging to the client or any third party and provided to Harkimedes by the client (for storage or otherwise) shall remain at the client’s risk at all times and the client shall be responsible for insuring the same at its own expense. Harkimedes shall not be responsible for the future integrity of digital data, nor for any failure to retrieve data from Harkimedes’ storage archive.

6.2 Harkimedes reserves the right to dispose of digital files after use, unless agreed otherwise with the client in writing. Accordingly, the client shall be solely responsible for ensuring that it holds adequate back-up copies of all digital data.

6.3 If any items deposited with Harkimedes by the client or produced by Harkimedes for the client are not collected by the client within 12 months of completion of Harkimedes’ work in connection with the same, then Harkimedes may dispose of or destroy such items.

## 7 INTERNET BASED SERVICES

7.1 The uptime and accessibility of internet based services is not guaranteed. Harkimedes will not accept liability for any failure of any internet based services as a result of computer

system failure, internet failure, software bugs, computer viruses, software or hardware breakdown, incompatibility of Harkimedes’ internet based services with any third party software being used by the client, or for any other reason outside of Harkimedes’ reasonable control.

7.2 The client shall be responsible for maintaining the confidentiality of all passwords for access to internet based services, and Harkimedes will not accept any liability for lost or stolen passwords, or for any unauthorised access to the client’s digital data held on any internet based service.

7.3 Harkimedes will not accept any liability to manage any data being stored and it is the responsibility of the client to manage their data. If the client uses Harkimedes’ internet based services to edit, retouch, and/or manipulate digital data, Harkimedes will not accept any liability for any resulting loss of digital data.

## 8 DELIVERY OF GOODS

8.1 The client may collect goods from Harkimedes or have them delivered by Harkimedes for an additional delivery charge.

8.2 The client must sign for delivered work, or Harkimedes will not be held responsible for losses arising from the delivery.

8.3 Whilst Harkimedes will make every effort to collect the client’s materials and deliver work as quickly as possible, it will not be liable for any losses arising from delays in delivery or collection.

8.4 Service times which are quoted are target times only. Harkimedes reserves the right to vary service times and accepts no liability for failure to comply with quoted service times resulting in any loss, direct or indirect.

8.5 Where Harkimedes has agreed to deliver goods to the client, goods shall be delivered to the delivery address specified by the client. If Harkimedes’ representative(s) is/are unable to gain access to the delivery address and/or if delivery is delayed due to any act or omission of the client, the client shall be responsible for any additional delivery costs incurred by Harkimedes as a result of rearranging delivery and shall pay hire charges as if the delivery had not been so delayed.

8.6 Immediately upon receipt or collection of any goods, the



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client shall inspect and satisfy itself as to its condition. If the client fails to notify Harkimedes, promptly after receipt or collection, of any defect in or problem with the equipment and/or if the client starts to use the goods, the client shall be deemed to have confirmed that the goods are in a satisfactory condition upon delivery or collection.

8.7 It is the clients sole responsibility to provide insurance cover for possible loss or damages incurred in delivery.

8.8 Where work is delivered digitally either by e-mail or by making it available online, Harkimedes will not be held responsible for any loss or corruption of or delay to the work caused by such digital delivery.

such delay or failure results from any cause or circumstance beyond its reasonable control, including without limitation any inability of Harkimedes to secure labour, materials, supplies or transport, scarcity of fuel, power or components, breakdown of machinery, fire, storm, flood, acts of god, internet failure, war, civil disturbance, strikes, lockouts or industrial action (each an “event of force majeure”). If any event of force majeure occurs, the date(s) for performance of Harkimedes’ affected obligation(s) shall be postponed for as long as is made necessary by the event of force majeure. If any event of force majeure continues for a period of or exceeding 60 days, the client may cancel the affected order (or the affected part(s) of it) by written notice to Harkimedes.

## 9 REPRODUCTION AND PRINT SPECIFICATION

9.1 Colour, density, tone and contrast of digital files: Harkimedes maintains all colour equipment at optimum print specification and grey balance. Please note that some colours may not accurately reproduce. Harkimedes cannot be held responsible for discrepancies for differences between images viewed on screen and prints produced from digital files

## 10 LIMITATION OF LIABILITY

10.1 Harkimedes’ liability in respect of lost or damaged negatives or film shall be limited to the replacement cost of the film and Harkimedes shall not be liable for the cost of retaking or re-shooting the material contained on such film. It shall be for the client to insure against such loss or damage.

10.2 Subject to the provisions of this clause 10.1, Harkimedes’ maximum aggregate liability under or in connection with any order shall not exceed the total sums payable by the client to Harkimedes in connection with the relevant order.

10.3 Subject to clause 10.1, Harkimedes shall not be liable for any loss of income or profits, loss of contracts or for any indirect or consequential loss or damage of any kind howsoever arising.

## 11 FORCE MAJEURE

11.1 Harkimedes shall not be liable for any delay in performing or failure to perform its obligations hereunder to the extent that

## 12 GENERAL

12.1 Harkimedes reserves the right to change opening or operating times.

12.2 Time shall not be of the essence with respect to the performance of any of Harkimedes’ obligations hereunder.

12.3 The client may not assign, sub-license or sub-contract any of its rights or obligations under these Service Terms & Conditions without the prior written consent of Harkimedes.

12.4 No person shall have any right under the contracts (rights of third parties) act 1999 to enforce any term of these Service Terms & Conditions.

12.5 These Service Terms & Conditions constitute the entire agreement and understanding between the parties with respect to their subject matter and supersede any prior agreement, understanding or arrangement between the parties, whether oral or in writing, with respect to the same. No representation, undertaking or promise shall be taken to have been given or be implied from anything said or written in communications between the parties except as set out in these Service Terms & Conditions. Neither party shall have any remedy in respect of any untrue statement made to it upon which it has relied (unless such untrue statement was made fraudulently) and that party’s only remedies shall be for breach of contract as provided in these Service Terms of business.