

**STANDARD TERMS AND CONDITIONS
FOR SUPPLY OF SERVICES BY
CAROLINE GIBSON**

This draft: 22.2.08

1 DEFINITIONS

In this document the following words shall have the following meanings:

- 1.1 "Agreement" means these Terms and Conditions together with the terms of any applicable Service Specification;
- 1.2 "Customer" means the organisation or person who purchases services from Caroline Gibson;
- 1.3 "Intellectual Property Rights" means all patents, registered and unregistered designs, copyright, trade marks, know-how and all other forms of intellectual property wherever in the world enforceable;
- 1.4 "Service Specification" means a statement of work, quotation or other similar document describing the services to be provided by Caroline Gibson;
- 1.5 "Supplier" means Caroline Gibson, 18 Maze Road, Kew TW9 3DE

2 GENERAL

- 2.1 These Terms and Conditions shall apply to all contracts for the supply of services by me to you.
- 2.2 Before starting the services, I shall submit to you a Service Specification which shall specify the services to be performed and the fees payable. You shall notify me immediately if you do not agree with the contents of the Service Specification. All Service Specifications shall be subject to these Terms and Conditions. Services shall commence once I receive email confirmation that the service specification and these terms and conditions are accepted and agreed.
- 2.3 I shall use all reasonable endeavours to complete the services within time frames estimated in the service specification but time shall not be of the essence in the performance of any services.

3 FEES AND PAYMENT

- 3.1 The fees for the performance of the services and payment schedule are as set out in the Service Specification.
- 3.2 Invoiced amounts shall be due and payable within 30 days of date of invoice. In the event that your procedures require that an invoice be submitted against a Purchase Order for payment, you shall be responsible for issuing such Purchase Order before the commencement of the services. you agree that this clause shall still apply in the event of any failure to obtain a purchase order and any late payment shall incur interest and charges as set out in clause 3.3 below.
- 3.3 Debt recovery costs and interest are chargeable in accordance with The Late Payment of Commercial Debts (Interest) Act 1998 as amended and supplemented by Late Payment of Commercial Debts Regulations 2002. I shall be entitled to charge interest on overdue invoices from the date when payment becomes due from day to day until the date of payment at a rate of 4.5% per annum above the current base rate of the Bank of England – see [Pay On Time](#) for up to date details.
- 3.3 I may, at my discretion, ask you to pay 50% of the project fee in advance of commencement of the work. In this circumstance, the balance of the fee will be invoiced on commencement and fall due at 30 days.
- 3.4 Once a project is started, the fee we have agreed between us for the full project is deemed to be incurred unless we have agreed payment milestones in the service specification. You have no right to withhold or reduce payment based on your critical response to, or appraisal of, the copy I write for you
- 3.5 In the event of cancellation or unlawful termination of this agreement, by you for any reason, other than a failure to agree on alterations to the service specification covered in section 6 below, the provisions of

section 10.2 will apply and I shall submit my final invoice for immediate payment, hereby cancelling the provision for payment within 30 days.

4 CUSTOMER'S OBLIGATIONS

- 4.1 To enable me to perform my obligations under this Agreement you shall:
- 4.1.1 co-operate with me;
 - 4.1.2 provide any information reasonably required by me;
 - 4.1.3 obtain all necessary permissions and consents which may be required before the commencement of the services; and
 - 4.1.4 comply with such other requirements as may be set out in the Service Specification
- 4.2 You shall be liable to compensate me for any reasonable expenses I incur as a result of your failure to comply with Clause 4.1.
- 4.3 In the event that you do not make use of any work that I produce for you in accordance with the service specification, you agree to absolve me of all responsibility for any loss of income or for any costs or damages suffered by you or by any third party as a result of any delay which has been caused to your business or to the business of any third party.

5. supplier's obligations

- 5.1 I shall provide the services in accordance with the provisions of the service specification. if, when you see a draft, you are dissatisfied with any work i have produced for you, i will do my best to resolve your concerns. you agree to discuss it with me at your earliest opportunity and confirm the reasons for your dissatisfaction in writing within 14 days of receipt of the draft or before a material deadline if earlier.
- 5.2 In the event that you or any third party, not being a sub-contractor of mine, shall omit or commit anything which prevents or delays me from undertaking or complying with any of its obligations under this Agreement, then I shall notify you as soon as possible and:
- 5.2.1 I shall have no liability in respect of any delay to the completion of any project;
 - 5.2.2 if applicable, the timetable for the project will be modified accordingly;
 - 5.2.3 I shall notify you at the same time if I intend to make any claim for additional costs.
- 5.3 Every effort will be made to ensure that copy is free of spelling mistakes and other literals. However, the responsibility for checking for spelling mistakes and literals is yours, and you absolve me of responsibility for any costs incurred as a result of the appearance of such errors in the final published form of any collateral in which you use the copy concerned, whether or not these errors appeared in any draft of the copy supplied by me.

6 ALTERATIONS TO THE SERVICE SPECIFICATION

- 6.1 The parties may at any time mutually agree upon and execute new Service Specifications. Any alterations in the scope of services to be provided under this Agreement shall be set out in the Service Specification, which shall reflect the changed services and fees and any other terms agreed between the parties.
- 6.2 You may at any time request alterations to the Service Specification by notice in writing to me. On receipt of the request for alterations, I shall, within five working days or such other period as may be agreed between the parties, advise you by notice in writing of the effect of such alterations, if any, on the fees and any other terms already agreed between the parties.

- 6.3 Where I give written notice to you agreeing to perform any alterations on terms different to those already agreed between the parties, you shall, within five working days of receipt of such notice or such other period as may be agreed between the parties, advise me by notice in writing whether or not you wish the alterations to proceed.
- 6.4 If the alterations are agreed, the service specification will be amended accordingly. If you do not wish to proceed, this agreement will then terminate and I will submit a final invoice for all work carried out by me to that point, payable in accordance with section 3.2 above.

7 WARRANTY

- 7.1 I warrant that the services performed under this Agreement shall be performed using reasonable skill and care, and of a quality conforming to generally accepted industry standards and practices.
- 7.2 Without prejudice to Clause 6.1, and except as expressly stated in this Agreement, all warranties whether express or implied, by operation of law or otherwise, are hereby excluded in relation to the services to be provided by me.

8 INDEMNIFICATION

You shall indemnify me against all claims, costs and expenses which I may incur and which arise, directly or indirectly, from your breach of any of your obligations under this Agreement, including any claims brought against me alleging that any services provided by me in accordance with the Service Specification infringes a patent, copyright or trade secret or other similar right of a third party.

9 LIMITATION OF LIABILITY

- 9.1 Except in respect of death or personal injury due to negligence for which no limit applies, my entire liability to you in respect of any claim whatsoever or breach of this Agreement, whether or not arising out of negligence, shall be limited to the fees paid by you to which the claim relates.
- 9.2 In no event shall I be liable to you for any loss of business, loss of opportunity or loss of profits or for any other indirect or consequential loss or damage whatsoever. This shall apply even where such a loss was reasonably foreseeable or I had been made aware of the possibility of you incurring such a loss.
- 9.3 Nothing in these Terms and Conditions shall exclude or limit my liability for death or personal injury resulting from my negligence or that of its employees, agents or sub-contractors.

10 TERMINATION

- 10.1 Either party may terminate this Agreement forthwith by notice in writing to the other if:
- 10.1.1 the other party commits a material breach of this Agreement and, in the case of a breach capable of being remedied, fails to remedy it within 14 calendar days of being given written notice from the other party to do so;
- 10.1.2 the other party commits a material breach of this Agreement which cannot be remedied under any circumstances;
- 10.1.3 the other party passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect;
- 10.1.4 the other party ceases to carry on its business or substantially the whole of its business; or
- 10.1.5 the other party is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.
- 10.2 Without prejudice to any other rights to which I may be entitled, in the event that you unlawfully terminate or cancel the services agreed to in the Service Specification, you shall be required to pay to me as agreed damages and not as a penalty the full amount of any third party costs to which I have committed and, in respect of cancellations on less than five working days' written notice, the full

amount of the fee set out in the Service Specification, and you agree this is a genuine pre-estimate of my losses in such a case. For the avoidance of doubt, your failure to comply with any obligations under Clause 4.1 shall be deemed to be a cancellation of the services and subject to the payment of the damages set out in this Clause.

11 INTELLECTUAL PROPERTY RIGHTS

- 11.1 All Intellectual Property Rights produced from or arising as a result of the performance of this Agreement shall, so far as not already vested, become my absolute property, and you shall do all that is reasonably necessary to ensure that such rights vest in me by the execution of appropriate instruments or the making of agreements with third parties.
- 11.2 When you commission me to write copy for you, you are purchasing the copyright in the work I write for you, and this is assigned to you on receipt by me of full and final payment of all fees due. I retain the copyright until I have received the agreed payment. If I am not paid, I reserve the right to refuse the use of text I have written for any purposes.
- 11.3 I reserve the right to use extracts of any work produced for you in the promotion of CarolineGibson.co.uk.

12 FORCE MAJEURE

Neither party shall be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, fire, the act or omission of government, highway authorities or any telecommunications carrier, operator or administration or other competent authority, or the delay or failure in manufacture, production, or supply by third parties of equipment or services, and the party shall be entitled to a reasonable extension of its obligations after notifying the other party of the nature and extent of such events. Any alterations to the service specification necessitated under this section shall be subject to the provisions of section 6 above.

13 INDEPENDENT CONTRACTORS

We are contractors independent of each other, and neither has the authority to bind the other to any third party or act in any way as the representative of the other, unless otherwise expressly agreed to in writing by both parties. I may, in addition to my own employees, engage sub-contractors to provide all or part of the services being provided to you and such engagement shall not relieve me of my obligations under this Agreement.

A contract will exist only between you and I, and not between any client of yours and myself. You agree to indemnify me against any claim by any client of yours for compensation or damages brought about as a direct or indirect consequence of the use, or inability or unwillingness to use, the material which I write.

14 ASSIGNMENT

You shall not be entitled to assign rights or obligations or delegate duties under this Agreement without my prior written consent.

15 SEVERABILITY

If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any Court of competent jurisdiction such provision shall be severed and the remainder of the provisions herein shall continue in full force and effect as if this Agreement had been agreed with the invalid illegal or unenforceable provision eliminated.

16 WAIVER

The failure by either party to enforce at any time or for any period any one or more of these terms and conditions or the service specification shall not be a waiver of them or of the right at any time subsequently to enforce any provision of this Agreement.

17 NOTICES

Any notice to be given by either party to the other may be served by email, personal service or by post to the address of the other party given in the Service Specification and if sent by email shall unless the contrary is proved be deemed to be received on the day it was sent, if given by letter shall be deemed to have been served at the time at which the letter was delivered personally or if sent by post shall be deemed to have been delivered in the ordinary course of post.

18 ENTIRE AGREEMENT

This Agreement contains the entire agreement between the parties relating to the subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written. Unless expressly provided elsewhere in this Agreement, this Agreement may be varied only by a document signed by both parties.

19 NO THIRD PARTIES

Nothing in this Agreement is intended to, nor shall it confer any rights on a third party.

20 GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by and construed in accordance with the law of England and the parties hereby submit to the exclusive jurisdiction of the English courts.