



TERMS AND CONDITIONS OF SALE – SERVICES

BACKGROUND

These Terms and Conditions explain the basis under which the Service Provider will provide the Services to the Client for the price described at clause 4.

The Client should read these Terms and Conditions carefully to make sure that they understand what is agreed.

1 DEFINITIONS

In these Terms and Conditions, the following words and phrases have the following meanings:

'Client'	the person or company buying the Services
'Confirmation of Acceptance'	the Service Provider's confirmation that the Client's order has been accepted and a binding agreement has been formed for the supply of the Services
'Parties'	the Client and the Service Provider
'Party'	either one of the Client or the Service Provider
'Service Provider'	the person or company selling the Services; contact details at the end of these Terms and Conditions
'Services'	the services that the Client is purchasing
'Terms and Conditions'	this document detailing the rights and responsibilities of the Parties

2 SERVICES

- 2.1.1 the Service Provider is under a legal duty to supply the Services using reasonable care and skill.
- 2.1.2 the Services will be performed so far as reasonably practicable, at such time or times as the Service Provider and Client shall decide. Any times, dates or periods given by the Service Provider for provision of the Services are estimates only until confirmation from the Client. The Service Provider will make reasonable efforts to comply with any such time estimates and will perform the Services within the time. However, time is of the essence in respect of the Service Provider's performance of the Services.



3 ORDERING

- 3.1.1 by ordering Services from the Service Provider, the Client makes an offer to buy the Services for the price given by the Service Provider. There is no binding contract between the Parties at the time when the order/booking is made.
- 3.1.2 the Service Provider will contact the Client by email to confirm the order. This Confirmation of Acceptance is the Service Provider's acceptance of the order made by the Client. When the Confirmation of Acceptance is received, there will be a binding contract between the Parties in accordance with these Terms and Conditions. The binding contract will only be for the Services that are included in the Confirmation of Acceptance.

4 PRICE AND PAYMENT

- 4.1.1 the Client must make payments in accordance with any schedule agreed with the Service Provider.
- 4.1.2 no VAT will be charged.
- 4.1.3 a deposit from the Client will be required to secure any booking, the deposit is non-refundable
- 4.1.4 where an estimate of the total price has been provided by the Service Provider, the final price for the Services may be higher or lower than the estimate. Circumstances where the price may be different from an estimate include, but are not limited to:
 - 4.1.5 the Services taking longer to complete than could have reasonably been anticipated;
 - 4.1.6 the Client making any changes to the Services after the price is agreed; or
 - 4.1.7 changes to the prices charged by any of the Service Provider's suppliers.
- 4.2 without prejudice to any other legal right or remedy:
 - 4.2.1 if any agreed payment is not received by the Service Provider by the due date, they can charge interest on the outstanding sum or sums. Interest will be charged at 0% per annum above the Bank of England base rate, accruing daily from the due date until payment is made;
 - 4.2.2 if the amounts not paid to the Service Provider when due total 10% or more of the total value of the Services, the Service Provider is entitled to suspend the performance of any remaining Services until the outstanding payments are made; and
 - 4.2.3 the Client will not refuse to pay any amount which is owed to the Service Provider where there is only a minor or inconsequential defect or error in the performance of the Services.
 - 4.2.4 if the Client cancels 1 month before the event, then the Client must pay a cancellation fee which will be 40% of the remaining balance.



5 CLIENT'S RESPONSIBILITIES

- 5.1.1 the Client shall co-operate fully with the Service Provider in the performance of the Services. Co-operation shall include, but is not limited to:
 - 5.1.2 responding promptly and properly to any correspondence, request, query or communication from or on behalf of the Service Provider;
 - 5.1.3 promptly providing any information, documentation, instruction, support or other assistance as the Service Provider reasonably requires;
 - 5.1.4 promptly making any space, resources or facilities available as may reasonably be required by the Service Provider; and
 - 5.1.5 paying any and all sums due on time.
 - 5.1.6 the Service Provider shall always, act in a professional and courteous manner and shall attend all engagements on time.
 - 5.1.7 the Service Provider shall carry out every engagement to the best standard of ability and skill.
- 5.2 if the Client does not comply fully and properly with their responsibilities under this clause, the Service Provider may, without prejudice to their legal rights:
 - 5.2.1 charge the Client for any costs or expenses thereby reasonably incurred; or
 - 5.2.2 suspend the provision of the Services until such time as the Client complies, so far as reasonably practicable, with their responsibilities under these Terms and Conditions.

6 SUB-CONTRACTORS

- 6.1.1 the Service Provider can, at its absolute discretion, choose to retain or instruct sub-contractors to carry out the Services in whole or part if the Service Provider cannot attend due to unforeseen circumstances, the Service Provider will advise the Client within plenty of time.

7 AGENCY OR PARTNERSHIP

- 7.1.1 nothing in these Terms and Conditions is intended to or does imply any partnership, fiduciary relationship, joint venture, agency or any other relationship between the Parties, save as provided for in these Terms and Conditions.

8 LIABILITY AND INDEMNITY

- 8.1.1 nothing in these Terms and Conditions seeks to limit the liability of the Service Provider for fraudulent acts or omissions, death or personal injury caused in connection with the



provision of the Services, whether arising in contract, negligence, tort, breach of statutory duty or otherwise.

- 8.1.2 neither Party shall be liable to the other whether in contract, negligence, tort, breach of statutory duty or otherwise for any loss or damage sustained by the other Party indirectly or consequentially and including but not limited to economic loss or loss of profits, goodwill or business in general.
- 8.1.3 subject to the rest of this clause, the Service Provider's total liability to the Client will not, in any circumstances, exceed the total amount of the price payable by the Client.
- 8.1.4 in the event that the Client or their servants or agents breach these Terms and Conditions, or are negligent in their actions, the Client will, to the fullest extent permitted by law, indemnify the Service Provider against any liability, loss, claim, damage, expense suffered by the Service Provider as a result.
- 8.1.5 the Service Provider shall maintain public liability insurance to a minimum level of five million pounds and shall provide the client or venue with proof of such cover if requested.
- 8.1.6 the Service Provider shall comply with all rules and regulations relating to health and safety, fire prevention or general administration which may be in place at the venue of the engagement.

9 **PROPERTY AND INTELLECTUAL PROPERTY**

- 9.1.1 any property or intellectual property rights in any material owned by the Service Provider shall belong to the Service Provider and the Client shall not cause or permit anything to endanger those rights or title, or permit, assist or encourage others to do so.
- 9.1.2 any property or intellectual property rights in any material owned by the Client shall belong to the Client and the Service Provider shall not cause or permit anything to endanger those rights or title, or permit, assist or encourage others to do so.
- 9.1.3 this clause is subject to the right of the Parties to use any such material so far as is reasonably required to carry out the agreed Services.
- 9.1.4 the Client warrants that any material, whether comprising documents, data, records or any other materials, that it provides to the Service Provider does not infringe the intellectual property rights of any non-Party. The Client agrees to indemnify the Service Provider against any loss, damage, cost, expense or claim of any kind that may arise as a result of such an infringement.
- 9.1.5 the Service Provider shall ensure that any equipment in their ownership which is used during the Engagement meets basic safety standards and is in good working order



10 CONFIDENTIALITY

10.1.1 the Parties will use their best endeavours to keep confidential any confidential information relating to the other Party that is provided or otherwise accessed in the performance of the Services. Neither Party shall disclose any confidential information without the consent of the other Party, except to comply with an order of a court of competent jurisdiction or if required in connection with legal proceedings relating to these Terms and Conditions.

10.1.2 the Parties' obligations under this clause shall continue after the termination or completion of the Services unless or until the information concerned becomes public knowledge or is otherwise in the public domain through no fault of the Party bound to keep it confidential under this clause.

11 AMENDMENT AND TRANSFER OF RIGHTS

11.1.1 these Terms and Conditions can only be amended by the agreement of the Parties in writing with signatures on behalf of both.

11.1.2 the Service Provider is permitted to assign or transfer any rights or obligations under these Terms and Conditions or subcontract the same for performance to a third party. The Client is not permitted to assign or transfer any rights or obligations under these Terms and Conditions without the prior written permission of the Service Provider.

12 SEVERANCE

12.1.1 if any of the provisions of these Terms and Conditions are unlawful, invalid or otherwise unenforceable, they will be severed from the remainder. The Terms and Conditions which are left will remain valid and enforceable.

13 THIRD PARTIES

13.1.1 for the purposes of the Contracts (Rights of Third Parties) Act 1999, these Terms and Conditions are not intended to and do not confer any rights on any person who is not a Party. Any person who is not a Party does not have the right to enforce any provision of these Terms and Conditions.

14 CIRCUMSTANCES BEYOND THE CONTROL OF THE PARTIES

14.1.1 the Service Provider shall not be liable for any delay or failure to perform any term or part of these Terms and Conditions due to circumstances beyond the reasonable control of the Service Provider. Such circumstances include – but are not limited to – industrial action, lock out, trade dispute, power failure, internet outage, fire, natural disaster, pandemics, lockdowns or outbreak of war (all types of force majeure) As soon as is reasonably possible after the discovery of such circumstances, the Service Provider will notify the Client in writing or telephone call of any anticipated or existing delay or failure in performance.



- 14.1.2 if the circumstances referred to in this clause continue for a period of longer than 30 days, the Service Provider can end the contract by giving 7 days' notice in writing/email to the Client.
- 14.1.3 All money that has been paid as a deposit to the Service Provider is non-refundable owing under these Terms and Conditions, but only if the Client cancels.
- 14.1.4 if the client has paid more than the deposit before the circumstances arose, the Service Provider will refund the money back but not including the deposit, monies owed shall be paid within 30 days.
- 14.1.5 If the Service Provider cancels, then the full amount of monies paid including the deposit will be refunded, in full within 30 days.

15 ENTIRE AGREEMENT

- 15.1.1 these Terms and Conditions and the Confirmation of Acceptance taken together are the entire agreement between the Service Provider and the Client and supersede any and all prior terms, conditions, warranties or representations to the fullest extent permitted by law.
- 15.1.2 the Service Provider can use any relevant photos to add to their social media for promotion of their business.

16 WAIVER

- 16.1.1 any failure or delay by the Service Provider in using rights or powers provided by these Terms and Conditions shall not constitute a waiver of the whole or any part of these Terms and Conditions. The partial or sole use of any rights or powers provided by these Terms and Conditions shall not prevent any additional use of the same rights or powers. The rights, powers and remedies in these Terms and Conditions are additional to the rights of the Parties provided by law.

17 GOVERNING LAW AND JURISDICTION

- 17.1.1 these Terms and Conditions shall be governed by and construed in accordance with English law and the courts of England and Wales will have exclusive jurisdiction in relation to them.

18 ATTRIBUTION

- 18.1.1 these terms and conditions were created using a template from Sparqa Legal, May 26, 2020



19 **GENERAL**

- 19.1.1 the Client agrees that if the Service Provider is threatened, abused verbally or physically by anyone present at the event then the Service Provider will be entitled not to perform, without penalty. All Fees will remain payable by the Client.
- 19.1.2 in the event that the Service Provider is unable to complete a performance due to a delay in the start of the performance schedule, where such delay is no fault of his own, the Client shall remain liable to pay the full Fee due.
- 19.1.3 the Service Provider is not obligated to finish any performance that has started late due to the Clients actions.
- 19.1.4 should the Service Provider be required by the Client to extend the length of the performance, a further fee may be charged as agreed between the parties.

20 **COMPLAINTS**

- 20.1.1 In the event of a complaint of any nature the Service Provider can be contacted using the details below.

21 **CONTACT DETAILS**

- 21.1.1 The Service Provider is ADAM SMITH MAGICIAN of 24 WHITEGATE CLOSE, TUNBRIDGE WELLS, KENT, TN4 9XW and can be contacted at 07469 241 313 or INFO@ADAMS-MAGIC.CO.UK. In circumstances where the Client is required to contact the Service Provider in writing, they can email them at INFO@ADAMS-MAGIC.CO.UK.

These Terms and Conditions 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.

Please sign below to indicate that **you** have read and agree to the **terms** presented in the **Terms and Conditions** agreement

Name: _____

Signed: _____

Date: _____