

## TERMS AND CONDITIONS OF SALE

### General notice

Work will be completed by STORMGARDEN LIMITED exclusively on the basis of the following Terms and Conditions of Sale of STORMGARDEN LIMITED. By using STORMGARDEN LIMITED you agree to be bound by these Terms and Conditions of Sale. If you are entering into an agreement with STORMGARDEN LIMITED on behalf of your employer, the license granted and restrictions and limitations recited herein apply to your employer as well as to you as a representative of your employer. Should you cease working for your employer, your employer may continue to operate under these Terms and Conditions of Sale. By using any media files produced by STORMGARDEN LIMITED, whether via download, on cd-rom, DVD or other media you agree to be bound by these Terms and Conditions of Sale.

STORMGARDEN LIMITED cannot take any responsibility for any copyright infringements caused by materials provided by or requested to be used by clients. We reserve the right to refuse any material of a copyrighted nature unless adequate proof is given of permission to use such material. Where copyright material has been used under the request of a client of STORMGARDEN LIMITED it is the responsibility of the client to gain permission and license for the proper use of this material and STORMGARDEN LIMITED will take no responsibility for any copyright infringements gained by the improper use of this material.

### Definitions

"Digital Media Files" are any images, animations, videos or other audio/visual representations recorded in any format that are created, owned or controlled by STORMGARDEN LIMITED.

"Royalty Free" indicates that aside from the purchase price, no further fees or compensation are due regardless of how many times the Digital Media files are used or how many projects they are used for, provided that they may be used by only a single user in accordance with these Terms and Conditions of Sale and the license agreement set out by STORMGARDEN LIMITED, its suppliers, partners and 3<sup>rd</sup> party copyright owners.

"Restrictions" indicate some of the specific uses for the Digital Media Files that are NOT allowed. Regardless of whether a particular use is listed as a Restriction, any use of Digital Media Files that is not expressly permitted by these Terms and Conditions of Sale is not allowed. Please note that special licensing to obtain additional rights is only available by contacting STORMGARDEN LIMITED.

### Acceptance

All work is carried out on the understanding that the client has read, understood and agreed to these Terms and Conditions of Sale. It is the client's responsibility to read and understand these Terms and Conditions of Sale. If the client does not understand any clause it is their responsibility to clarify with STORMGARDEN LIMITED prior to the commencement of any project. The written confirmation of a firm booking for any project constitutes the acceptance of the STORMGARDEN LIMITED Terms and Conditions of Sale.

### Licenses

The Digital Media Files produced by STORMGARDEN LIMITED may be incorporated into a derivative work such as a film feature, video, broadcast, multimedia work, advertisement, live performance, internet website, presentation or print project. You are granted a limited, non-exclusive, personal and non-transferable Royalty Free license to use and modify the Digital Media Files, subject to these Terms and Conditions of Sale. You may not rent, lease, lend, sell or sublicense the Digital Media Files to another person, company or other entity. Anything you produce using the Digital Media Files must be for your own use, or for the use of your employer, client or customer, who must be the end-user of your work.

### Restrictions on Products for Resale

The Digital Media Files and any derivative work thereof may not, in whole or in part, be used, sold, sublicensed, reproduced, distributed, displayed, incorporated into or otherwise made available as templates, standalone backgrounds, stock elements, effects imagery elements or downloadable files. The Digital Media Files and any derivative work thereof may not, in whole or in part, be included in any other clip media/stock product, library, collection, or set of clips for distribution or resale. These Restrictions apply even if the Digital Media Files have been significantly altered.

### Restrictions & Use of visual material

Visuals, concept illustration, concept designs and mockups produced by STORMGARDEN LIMITED in the production of any project or service are the exclusive copyright of STORMGARDEN LIMITED and are made available to its clients to aid in the discovery and fulfillment of the project brief, and are not included in the deliverable or saleable materials produced by STORMGARDEN LIMITED. It is not permitted for these materials to be used for further development on any other project by anyone other than STORMGARDEN LIMITED and its agents and employees. STORMGARDEN LIMITED reserve the right to use all and any materials it produces for the marketing and promotion of its products and services across any medium or format and at any time.

### No Defamatory Use

The Digital Media Files may not under any circumstances be used in a way that would defame, malign, slander, asperse, libel, or vilify the persons, property, countries, races, customs, cultures, religions, governments or military visible on the Digital Media Files.

### Other Restrictions

The Digital Media Files may not under any circumstances be used in or in conjunction with, or as part of pornographic, obscene, fraudulent, libelous, infringing or illegal material.

### Modifications

Any additions/amends to project briefs provided will be carried out at the discretion of STORMGARDEN LIMITED. STORMGARDEN LIMITED reserves the right to charge additionally according to any further amendments.

### Storage

STORMGARDEN LIMITED are not responsible for the archiving of source files, project files or final files after a project has been finalised and completed. A project is deemed completed if no chargeable work has been undertaken on the said project for a period of 14 days. It is the responsibility of the client to request the deliverable files prior to this time.

### Time

The client agrees to make available as soon as is reasonably possible to STORMGARDEN LIMITED all materials required to complete the project, to the agreed standard and within the agreed timeline. STORMGARDEN LIMITED cannot be held responsible for missing deadlines or targets due to client changes and amends and will not be held accountable or liable for any costs incurred, compensation or loss of earnings, due to the failure to meet agreed deadlines.

### Payment of Accounts

Any outstanding invoices for work completed by STORMGARDEN LIMITED or its associates are required to be paid in full, no later than 30 days from the date of the invoice unless by prior written arrangement with STORMGARDEN LIMITED. A deposit of 50% is required from any new client before any project work is undertaken. Accounts which remain outstanding for 30 days after the date of invoice, will incur an extra charge of 24% per month of the outstanding amount. If accounts are not settled or STORMGARDEN LIMITED has not been contacted regarding the delay, we will pass cases to the Small Claims Court and/or instruct a Solicitor to pursue payment through legal procedures. All work undertaken by STORMGARDEN LIMITED is charged based upon time and labour under taken at a client request and is not dependent upon completed work or final deliverables.

### Cancellation

Cancellation of a project will require formal notification in writing to STORMGARDEN LIMITED. The client will be invoiced for all work completed up to the

date of receipt of written notice of cancellation. Please note: any cancellation which is not formally confirmed in writing will be liable for the full quoted cost of the project.

For filming and video editing work, cancellations 5 business days or less will be charged at 50% of quoted filming costs. Cancellations 2 business days or less will be charged at 100% of quoted filming costs.

#### **Filming/Videoing**

STORMGARDEN LIMITED reserve the right to charge extra but not exclusively for hired goods and equipment, travel costs, congestion and toll charges, car parking, equipment insurance. STORMGARDEN LIMITED reserves the right to alter prices and equipment specifications without prior notice.

#### **Marketing and Promotion**

You hereby grant STORMGARDEN LIMITED the right to display any works within your possession or control that incorporate one or more of the Digital Media Files at tradeshows, in collateral, and/or via electronic distribution for STORMGARDEN LIMITED'S marketing, educational, and promotional purposes as examples of its creative portfolio.

#### **Limitation on Liability**

STORMGARDEN LIMITED will not be liable to you for any special, indirect, consequential, punitive, or incidental damages (including, without limitation, damages for loss of profits, business interruption, loss of business information, or any other pecuniary loss) arising out of the use of or inability to use the Digital Media Files. STORMGARDEN LIMITED'S entire liability and your exclusive remedy shall be limited to the amount paid for the particular digital media files.

#### **Ownership/Use**

All work produced for a client is the sole property of STORMGARDEN LIMITED until full payment/invoiced amount has been received in full. Upon receipt of full payment the client will own the agreed use license of the 'final' deliverable (video, illustration, design etc). STORMGARDEN LIMITED and its associates are the sole owners of all 'source' materials generated or used in the production of any materials. 3rd party software, photography, illustrations, coding, animation, models, video may be used in the production of certain projects and will remain the copyright of the originators and will be used for our clients under license. Our clients may request details of these licenses at any time.

#### **Indemnity**

You agree to indemnify and hold STORMGARDEN LIMITED, its licensors, and their officers, directors, agents and employees, harmless from and against any claims, demands, losses, damages, liabilities or expenses of any kind arising from your use of the Digital Media Files in any form, any breach of the Terms and Conditions of Sale, or your negligent act, omission or willful misconduct.

#### **Term and Termination**

These Terms and Conditions of Sale shall be effective as of the earliest of the date you first break the seal on a disc containing, or download, install, use or distribute, the Digital Media Files produced by STORMGARDEN LIMITED, and shall continue in effect until terminated. Unless expressly waived by STORMGARDEN LIMITED in writing, all license rights granted pursuant to these Terms and Conditions of Sale shall automatically terminate upon your breach of these Terms and Conditions of Sale.

#### **Warranty**

STORMGARDEN LIMITED makes no other warranties or representations with regard to the digital media files and any implied warranties of merchantability, fitness for a particular purpose, title or non-infringement are hereby disclaimed.

#### **Privacy**

STORMGARDEN LIMITED do not share or sell any clients details with third party companies, without express permission of the client. We will only email or contact you about work related matters.

#### **Severability**

If any term or provision of these Terms and Conditions of Sale shall to any extent be invalid or unenforceable, the remainder of these Terms and Conditions of Sale shall not be affected thereby. Each term and provision of these Terms and Conditions of Sale shall be valid and enforced to the fullest extent permitted by law.

#### **Applicable Law**

These Terms and Conditions of Sale are governed in accordance with the law of England and Wales and each party hereby irrevocably agrees to submit to the exclusive jurisdiction of the Courts of England and Wales over any claim or matter arising under or in connection with these Terms and Conditions of Sale.

#### **Force Majeure**

STORMGARDEN LIMITED shall not be liable or deemed to be in breach of these Terms and Conditions of Sale by reason of any delay in performing or any failure to perform any of the Company's obligations in relation to the Services, if the delay or failure was due to any cause beyond the Company's reasonable control. Without prejudice to the generality of the foregoing the following, shall be regarded as causes beyond the Company's reasonable control: Act of God, explosion, flood, drought, tempest, fire or accident, war or threat of war, sabotage, insurrection, civil disturbance, legislation, prohibitions or measures of any kind on the part of any government parliamentary or local authority, electronic file, data or material failure, inadequacy or unsuitability of any instructions, lockout or other action taken by employees, associates, freelancers, agents, difficulties or the inability to procure materials, labour, fuel, parts or machinery required for the fulfillment of the project, failure of power supply or breakdown in machinery.

#### **Entire Agreement**

This is the entire agreement between the parties with regard to the subject matter hereof. It supersedes all prior or contemporaneous agreements, understandings, or representations with respect to the Digital Media Files. These Terms and Conditions of Sale may not be modified or amended except in a writing signed by both parties. Any preprinted terms on your purchase order shall be given no force or effect and no terms of a purchase order that conflict with these Terms and Conditions of Sale shall be binding on STORMGARDEN LIMITED its licensors, officers, directors, agents and employees.

STORMGARDEN LIMITED reserves the right to change these Terms and Conditions of Sale at any time.