

Terms and Conditions

Parties

“Assignor” and/or the term “Designer” is referred to in reference to Iris Designs LLC. And all parties associated therein, **while** “Assignee” is referred to in reference to the Authorized Client(s)

DESIGN SERVICES:

Professional Standard. Designer will provide the services identified in the Clients Agreement. Designers will provide these services in a professional manner, and in accordance with applicable professional standards.

Deliverables: Designer or Design Team will provide its deliverables to the Client in professional design formats. These formats may include Adobe Creative Suite Files such as Photoshop (.psd) and InDesign (.indd). The Client understands that it may need software and expertise to utilize the deliverables. If the Client would like its deliverables in a specific file format, the Client must request to have the format included in the Client Agreement.

CHANGE REQUEST:

A “Change Request” is any request for work outside the scope of the Client Agreement. If such a request is made, the Designer will notify the Client that it is a Change Request. If the Client still wants to proceed with the Change, the Designer will bill the work on a time and materials basis, at the Designers hourly rate up to \$120/hr. The designer may also extend its delivery schedule. If the Change Request alters the scope of the project by more than 20%, the Designer may submit a new proposal to the client.

PAYMENT:

Invoice: The Designer will the invoice the Client according to the Client Agreement. Client shall pay all invoices within 6-days of receipt.

Quotes: Quoted prices are good for 14-days from the date of receipt.

Rushed Project Fee: If the requested project timeline is greater than half of the quoted estimated timeline, then a 30% fee will apply. If the requested project timeline is less than or equal to half the quoted estimated timeline, then a 50% fee will apply.

Late (Installment) Payments: Assignee understands that once an installment payment is five (5) calendar days past due, a \$99 late fee will be added to the total amount due. Once the account is seven (7) calendar days past due, the assignee's project will be placed on hold with the assignee subject to a reinstatement fee equivalent to 15% of the remaining balance due to resume services.

Payment Installment Schedules: The 1st (first) Payment of a Clients Installment Plan is considered the Down Payment or Payment in Full required to begin services as identified in the Client Agreement. The 2nd (second or secondary) and additional payment(s) (identified within the Client Agreement) are due within 30-day repayment increments following the 1st (first) payments deposit date as a reference point

Expenses: In addition to the Designers fees, the Client will be invoiced for Designer’s expenses. Other Expenses incurred by the Designer in performing services to the Client will be invoiced to Client. Other Expenses might include, without limitation, photography and/or artwork licenses, shipping, presentation materials, production costs, music licenses, online access, software as a service, hosting fees, or contracting fees per the clients request for the contract.

Designer Agents: The designer may hire third party designers or service providers (“Design Agents) as independent contractors. The Designer is responsible for Design Agents compliance with this Agreement.

Testing & Acceptance: The Designer shall use commercially reasonable efforts to test Deliverables before providing them to the Client

Designer and Client Relationship

Non-Exclusive: This agreement does not create an exclusive relationship. The Deliverables are not a “work for hire” under Copyright Law.

Confidential Information: Each party shall maintain Confidential Information in Strict Confidence, and shall not use Confidential Information except (a) as necessary to perform tis obligations under the Agreement, or (b) as required by a court or governmental authority, Confidential Information includes property technical and business information, Preliminary works, and any other information marked “Confidential”

Exception: Confidential Information does not include (a) any information that is in the public domain, (b) becomes publicly known through no fault of the receiving party, or (c) is otherwise known by the received from a third party without an obligation of confidentiality.

Termination:

Discretionary Termination, Upon Notice. Either party may terminate this agreement in its business discretion upon sufficient advance notice. The amount of notice required is ¼ of the estimated project duration. For example, if the Client Agreement estimates the services will take 80 days from kick-off to final delivery, advance notice of at least 20 days will be sufficient for discretionary termination.

Discretionary Termination by Client. If the Client uses this discretionary termination provision, THEN: Designer will retain all payments already made as of the notification date, and Client shall pay Designer (a) for all expenses incurred as of the date of notification of termination, (b) an early termination fee equal to 25% of the total project fee, and (c) No IP rights will be transferred.

Discretionary Termination by Designer: IF: Designer uses this discretionary termination provision, THEN: (a) Designer will retain (or, if not paid in advance, will be due) all costs already incurred and prorated portion of the fees for services performed up to the termination date, (b) Designer will assist Client in transferring the project to a new designer, if applicable, and (c) Designer will assign sufficient IP rights to Client to allow Client to continue the project.

Termination for Bankruptcy. Subject to any restrictions imposed by law, either party may immediately terminate this Agreement, if the other party either: (1) ceases to do business in the normal course; (2) becomes insolvent; (3) admits in writing its inability to meet its debts or other obligations

Termination for Breach: If a material breach of this Agreement is not cured with 10-business days after a party's receiving notice of the breach, then the non-breaching party may terminate this Agreement immediately upon notice

Termination Procedure: Upon expiration or termination of this Agreement: (a) each party shall return (or, at the disclosing party's request, destroy) the Confidential Information of the other party, and (b) other than as expressly provided in this Agreement, all rights and obligations of each party under this Agreement, exclusive of the Services, shall survive.

Risk Allocation

Client Representations:

Client represents and warrants to Designer that: Client owns sufficient right, title, and interest in the Client Content to permit Designer's use of the Client Content in performing the Services, To the best of Client's knowledge, Designer's use of the Client Content will not infringe the rights of any third party, Client shall comply with the terms and conditions of any licensing agreements which govern the use of Third Party Materials, and Client shall comply with all laws and regulations governing the Services and Deliverables.

Designer Representations:

Designer represents and warrants to Client that: The Final Deliverables will be the Designer's original creative work, except that Designer may incorporate Client Content, work from its Designer Agents and third party material (for example, stock photos, or Software as a Service). For any Final Deliverable that includes the work of independent contractors or third-party material, Designer shall secure sufficient rights for Client to use the Final Deliverables for their intended purpose. To the best of Designer's knowledge, the final Deliverables will not infringe upon the IP rights of any third party. However, Designer will not be conducting any type of IP clearance search (for example, Designer will not be conducting a copyright, trademark, patent, or design patent clearance search).

Limitation of Liability

The services and the work product of the Designer are sold "as is." In all circumstances, the Designer's maximum liability to Client for damages for any and all causes whatsoever, and Client's maximum remedy, regardless of the form of action, whether in contract, tort or otherwise, shall be limited to Designer's net profit. In no event shall Designer be liable for any lost data or content, lost profits, business interruption or for any indirect, incidental, special, consequential, exemplary or punitive damages arising out of or relating to the materials or the services provided by Designer, even if Designer has been advised of the possibility of such damages.

Limited Warranty

Except for the express representations and warranties stated in this agreement, Designer makes no warranties whatsoever. Designer explicitly disclaims any other warranties of any kind, either express or implied, including but not limited to warranties of merchantability or fitness for a particular purpose or compliance with laws or government rules or regulations applicable to the project.

Force Majeure



Either party may invoke Force Majeure to excuse the failure of its timely performance, if such failure was caused by: fire; flood; hurricane, tornado, or other severe storm; earthquake; act of war; sabotage; terrorism; riot; interruption or failure of electrical or telecommunications service (for example, Internet failures); or failure of suppliers, subcontractors, and carriers to substantially meet their performance obligations.

A party invoking force majeure to excuse its failure of timely performance must show that the force-majeure event(s) and their relevant effects (i) were beyond the invoking party's reasonable control and (ii) could not have been avoided through the exercise of due care by the invoking party.

Indemnification

Applicability. This indemnification clause governs all obligations arising under this Agreement (if any) that require a party (the "Indemnifying Party") to defend an individual or organization (a "Protected Person") against a claim, for example, a claim made by a third party.

Indemnification. IF: A third party makes a claim that, if finally successful, would establish a breach of a representation or warranty of this Agreement; THEN: The party who made the representation or warranty will: (i) defend the Protected Person against the claim (as defined below), and (ii) indemnify each Protected Person against any monetary award entered on the claim (as defined below).

Indemnification Against Damage Awards. (a) The Indemnifying Party will indemnify the Protected Person against all monetary awards resulting from a final judgment or award from which no further appeal is taken or possible. (b) Such monetary awards include, for example, damages, penalties, interest, and attorneys-fee awards.

Defense Obligation. (a) If the Protected Person requests legal defense, the Indemnifying Party will provide a competent defense against the claim. (b) IF: A Protected Person fails to timely request a defense; THEN: The Indemnifying Party will not be responsible for any harm to the Protected Person that may result from the delay. (c) If the Protected Person does not request a defense against the claim, the Indemnifying Party may elect, its business discretion, to provide a defense anyway. (d) For the avoidance of doubt, the defense obligation of this section applies, without limitation, to any claim brought in a judicial, arbitration, administrative, or other

proceeding, including for example any relevant appellate proceedings in which the claim is at issue.

Control of the Defense. IF: The Indemnifying Party provides a defense against an indemnified claim; THEN: (a) The Indemnifying Party is entitled to control the defense of the claim. (b) The Protected Person must provide reasonable cooperation in the defense of the claim; the Indemnifying Party will reimburse the Protected Person for reasonable out-of-pocket expenses actually incurred in doing so. (c) The Protected Person must not make any non-factual admission concerning the claim without the Indemnifying Party's consent. (d) The Protected Person must not waive any defense to the claim without the Indemnifying Party's consent.

Control of Settlement. (a) The Indemnifying Party has discretion to settle the claim on behalf of the Protected Person, PROVIDED THAT the settlement terms do not (i) impose any obligation

or prohibition on the Protected Person, nor (ii) include any admission by the Protected Person. (b) Any other settlement of the claim by the Indemnifying Party requires the Protected Person's prior written

consent, not to be unreasonably withheld. (c) If the Protected Person settles the claim without the Indemnifying Party's prior written consent (not to be unreasonably withheld), then the Indemnifying Party will have no liability to the Protected Person in connection with the settlement.

Assumption of Control by Protected Person. A Protected Person may assume control of its defense. IF: A Protected Person does so; AND: The Indemnifying Party has previously tendered performance of its obligation to provide a defense; THEN: The Indemnifying Party will have no further responsibility or liability to the Protected Person (including for example defense and/or indemnity liability) in respect of the claim in question.

General Terms

Notices.

All notices shall be sent by email. Permissible addresses for notice include those stated in this Agreement and any other address reasonably communicated.

A notice that is sent by email but is not read by the addressee is nevertheless effective if, but only if, it has been (a) sent from an email account that has been designated for notice and (b) delivered to an email account that has been designated for notice. Email accounts designated for notice are identified at the top of this Agreement and may be amended only by written notice.

Dispute Resolution.

The Assignee and the Assignor, or Designer, agree that the arbitration of any claim or dispute between each party shall be administered by FORUM under the Code of Procedure for Resolving Franchise Disputes in effect when the claim is filed. Any award by the arbitrator(s) may be entered as a judgment in any court having jurisdiction.

Jurisdiction. The parties irrevocably consent to the jurisdiction of the state and federal courts located in Williamson County. The parties hereby waive any jurisdictional or venue defenses and consent to service of process by certified mail. Interpretation.

Governing Law. This terms and agreement and the associating Contractual Agreement entered into by both parties shall be governed by, and construed and interpreted in accordance with, the laws of and within the State of Texas, U.S.A. without regard to the choice-of-law principles thereof.

Design Terminology: Any design terminology in the Statement of Work is defined according to standard design industry usage. Any dispute as to the meaning or scope of design terminology will be determined in good faith by Designer.

IF / THEN Construction. Use of capitalized "IF:" and "THEN:" in a sentence is intended only enhance readability. It has no special meaning apart from its lower case meaning.

Modification & Waiver. Any modification of this Agreement must be in writing. Failure by either party to enforce any right or seek to remedy any breach under this Agreement shall not be construed as a waiver of such rights nor shall a waiver by either party of default in one or more instances be construed as constituting a continuing waiver or as a waiver of any other breach.

Severability. If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will remain in full force and effect.

Mutual Drafting. Any ambiguity or inconsistency in this Agreement is to be resolved in accordance with the most reasonable construction and not strictly for or against either party by virtue of that party's authorship.

Headings. Section headings are provided for convenience only and do not affect the meaning of any terms.

Integration. This Agreement comprises the entire understanding of the parties and supersedes all prior agreement and understandings.

Definitions.

Client Content - all materials, information, photography, writings, and other creative content provided by the Client for use in the preparation of and/or incorporation in the Deliverables.

Third Party Materials – works that are incorporated into the Final Deliverables, but not created by Designer or owned by Client. Third Party Materials includes, for example, stock photography or illustration.

Preliminary Works - all artwork including, but not limited to, concepts, sketches, visual presentations, or other alternate or preliminary designs and documents developed by Designer and which may or may not be shown and or delivered to Client for consideration but do not form part of the Final Art.

Deliverables - the services and work product specified in the Statement of Work to be delivered by Designer to Client, in the form and media specified in the Proposal.

Final Deliverables - the final versions of Deliverables provided by Designer and accepted by Client.